

# Lower Thames Crossing

## **9.104 Draft Statement of Common Ground between (1) National Highways and (2) The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge**

Infrastructure Planning (Examination  
Procedure) Rules 2010

Volume 9

**DATE: September 2023  
DEADLINE: 4**

Planning Inspectorate Scheme Ref: TR010032  
Examination Document Ref: TR010032/EXAM/9.104

**VERSION: 1.0**

## Status of the Statement of Common Ground

**This is a Draft Statement of Common Ground with matters outstanding.**

National Highways considers that this draft Statement of Common Ground is an accurate description of the matters raised by The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge and the status of each matter, based on the engagement that has taken place to date.

## Lower Thames Crossing

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# 1 Introduction

## 1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge, otherwise known as Saint John’s College (hereafter referred to as “SJC”), and where agreement has not been reached. Where matters are yet to be agreed, the parties will continue to work proactively to reach agreement and will update the SoCG to reflect areas of further agreement.
- 1.1.3 This version of the SoCG has been submitted at Examination Deadline 4.

## 1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared in respect of the Project by (1) the Applicant, and (2) SJC.
- 1.2.2 The Applicant became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain, and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing the Applicant made provision for all legal rights and obligations of the Highways Agency, including in respect of the Project, to be conferred upon or assumed by the Applicant.
- 1.2.3 SJC possesses Category 1 interests in plots 09-01, 10-01, 10-13, 10-14, 10-15, 10-16, 11-68, 11-70, 11-71, 11-72 and 11-77 as outlined in the Land Plans [\[REP3-011\]](#) and Book of Reference [\[REP3-085\]](#).

## 1.3 Terminology

In the matters table in Section 2 of this SoCG, “Matter Not Agreed” indicates agreement on the matter could not be reached following engagement, and “Matter Under Discussion” where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Matter Agreed” indicates where the issue has now been resolved.

## 2 Matters

### 2.1 Outstanding matters

- 2.1.1 Engagement between the Applicant and SJC has been ongoing since September 2019. These discussions are summarised in Annex B of the Statement of Reasons [[REP3-081](#)].
- 2.1.2 Following submission of SJC’s Relevant Representation, discussions on matters have taken place between the Applicant and SJC. These discussions will be summarised in subsequent updates to Annex B of the Statement of Reasons [[REP3-081](#)].
- 2.1.3 The outcomes of discussions to date are presented in Table 2.1 which details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) SJC.
- 2.1.4 At Examination Deadline 4 there are nine matters of which eight are under discussion and one that is not agreed.
- 2.1.5 Subsequent versions of this SoCG will outline the changes between versions.

**Table 2.1 Matters**

Topic	Item No.	SJC Comment	The Applicant’s Response	Application Document Reference	Status
<b>Nitrogen Deposition (plots 09-01, 10-13, 10-14 and 10-16)</b>					
<b>Site Selection Methodology</b>	2.1.1	SJC consider the methodology employed in the Project Air Quality Action Plan (PAQAP) is not sufficiently robust to justify the compulsory acquisition of its land. SJC believes inadequate consideration has been given to the acquisition of third party land by private treaty, which would avoid the need for compulsory acquisition. Inadequate consideration has also been given to the availability of suitable land	The Applicant considers the methodology to be robust and sufficient to support the compulsory acquisition of land for nitrogen deposition compensation. The ability to acquire sites by agreement (i.e. without having to rely upon the compulsory acquisition of land) was a differentiator where equally suitable options were available on ecological preference and constraints bases, as reported in the PAQAP. Land that was	Project Air Quality Action Plan (PAQAP) [ <a href="#">APP-350</a> ]	Matter Under Discussion

Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		further from the project which would avoid the need for compulsory acquisition.	available and did not require compulsory acquisition was used wherever possible (e.g. where already owned by the Applicant (e.g. The Hole Farm site) or where the owner suggested the area as a potential site (e.g. the Buckingham Hill site)). No other sites that would not require compulsory acquisition were suitable when considered through the site selection methodology. Whilst the Applicant has therefore applied for compulsory acquisition in respect of the identified sites, in line with guidance the Applicant will continue to discuss with the affected landowners the acquisition of the sites by agreement before having to resort to compulsory powers.		
<b>Weighting of Agricultural Land</b>	2.1.2	SJC believe inadequate weighting has been attributed to the loss of Grade II agricultural land at a time where food security is of increasing national importance.	The Applicant recognises the impacts on best and most versatile land in Environmental Statement (ES) Chapter 10: Geology and Soils. The higher grades of agricultural land were also differentiators in the site selection methodology set out in the PAQAP.	ES Chapter 10: Geology and Soils <a href="#">[APP-148]</a> PAQAP <a href="#">[APP-350]</a>	Matter Under Discussion
<b>Compensation</b>	2.1.3	SJC are unclear whether compensation for nitrogen deposition is part of the Applicant's proposal and if so what form this is. The Applicant has determined, on a precautionary basis, the Project would have a negative effect of nitrogen deposition on	The assessment of significant impacts from nitrogen deposition is presented in ES Chapter 8: Terrestrial Biodiversity and ES Appendix 8.14: Designated Sites Air Quality Assessment.	ES Chapter 8: Terrestrial Biodiversity <a href="#">[APP-146]</a> ES Appendix 8.14:	Matter Under Discussion

Topic	Item No.	SJC Comment	The Applicant’s Response	Application Document Reference	Status
		<p>habitats in close proximity to the highway, although it is not clear that the actual effect on target species, if any, has been established. The Applicant has asserted that it needs to provide compensation for impacts on designated sites, such as Shorne and Ashenbank Woods SSSI of an equivalent area. LTC have explained that the purpose of compensation land is to provide connectivity between habitats of a similar type. It is not clear from the application why the area needs to be equivalent, rather than simply being capable of providing such connectivity. LTC’s proposals do not appear to provide connectivity between habitats of a similar type, for example the land to the west of the nitrogen compensation area appears to be under considerable pressure from recreational and other activity and is very open compared with the habitat to the east.</p>	<p>The assessment on designated sites and habitats follows National Highways and Natural England guidance on the assessment of air quality effects.</p> <p>The Applicant has set out in the PAQAP, in consultation with Natural England, that the dual objectives of the nitrogen deposition compensation are to achieve a comparable area of compensation habitat creation to the significantly affected area (across the Project) and achieve additional ecological connectivity within each identified ecological network that the affected sites lie within.</p> <p>The proposed nitrogen deposition compensation is located to provide additional ecological connectivity within the ecological networks that affected sites lie within. While most affected habitats are woodlands, some other habitats such as grasslands are also affected. Ecological networks include a range of semi-natural habitats and the juxtaposition of different habitats provides greater diversity than single-habitat stands. The additional connectivity achieved from the proposed habitat creation therefore includes all semi-natural habitats within the identified networks.</p>	<p>Designated Sites Air Quality Assessment  <a href="#">[APP-403]</a>,  <a href="#">APP-404</a>,  <a href="#">APP-405</a>,  <a href="#">APP-406]</a>  PAQAP  <a href="#">[APP-350]</a></p>	

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<b>Mitigation</b>	2.1.4	<p>There are no proposals for mitigation of effects. Reduction of speed limit below 70 mph was discounted without quantification and there are no other feasible methods of mitigation available.</p> <p>SJC consider the method of constructing 9m high barriers wouldn’t actually prevent nitrogen deposition and are not convinced it would be feasible anywhere. The only other method is speed reduction and this has only been considered to the legal limit, so SJC struggle to see why it would be classed as mitigation.</p> <p>SJC note that the largest single site affected by N deposition is Shorne and Ashenbank Woods SSSI . LTC do not propose to mitigate or compensate for the effects at this location, in situ effectively requiring compensation to be provided further away from the highway network and accepting major adverse effects at any sensitive site in close proximity to the highway.</p> <p>Compensatory measures are discounted under Section 7.3.5 et seq of the PAQAP. Part of the reasoning is that it is unlikely that suitable measures could be designed for every significantly affected site which are sufficiently additional (para 7.3.19 of PAQAP). SJC consider that this has not been sufficiently considered. Measures such as removing biomass or fencing to</p>	<p>Consideration of all mitigation options is set out in the PAQAP. Speed enforcement management measures on the M2 between junctions 3 and 4 are proposed as mitigation, but no other mitigation measures were assessed as feasible or effective.</p> <p>Physical barriers are a potential mitigation measure assessed in compliance with the Design Manual for Roads and Bridges (LA105 paragraph 2.110.1) as a quantifiable measure. The assessment in the PAQAP identifies no feasible barrier mitigation options for the Project.</p> <p>The PAQAP sets out the consideration of all mitigation and compensation measures in turn. The reasons for discounting measures on affected sites are given in the PAQAP. The rationale for a landscape-scale approach to compensation within the ecological networks that affected sites lie within is also given in the PAQAP.</p> <p>Remedial action to remove unnaturally high nitrogen levels in soils due to agricultural practices would be undertaken as part of the habitat creation measures, so that suitable conditions are created for habitat establishment.</p>	<p>PAQAP  <a href="#">[APP-350]</a>                      ES Chapter 5: Air Quality  <a href="#">[APP-143]</a></p>	<p>Matter Under Discussion</p>



Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p>reduce disturbance would be one-off measures, which would have longer term benefits and be considered as resilient and sustainable in perpetuity if the measures were committed to on an ongoing basis (see para 7.3.19 of PAQAP). The management measures described at 7.3.9 and 7.3.10 of the PAQAP would have considerable benefits at the sites affected which LTC discounts with limited justification in favour of taking no action to provide compensation or mitigation and compulsorily acquiring productive Grade 2 agricultural land with naturally high nitrogen composition, which has not been shown to be suitable for the type of species LTC seeks to compensate for (noting that LTC has not indicated in the PAQAP what these species are). LTC'S proposals have LTC appear to have also ruled out the possibility of any speed restriction on this section of the highway. Table 6.173 of Appendix 8.14 (Part 1 of 4) indicates that Operation - Ndep Base/DM/DS (max for site) kg N/ha/yr is 51.96 in the base, 47.9 in the DoMinimum and 49.55 in the DoSomething. SJC notes that the DS is lower than the base, without any mitigation. It is also noted that only the maximum increase is reported but it is suggested that 27.3 % of the entire site is affected, some 53.9 ha. It is</p>	<p>The assessment of the nitrogen deposition levels in the do something and do minimum scenarios are provided in ES Chapter 5: Air Quality.</p>		

Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		suggested that it would be more than 15 years before the nitrogen deposition from the proposed LTC would reduce to DM levels. It is not clear how this has been assessed.			
<b>Duration &amp; Term</b>	2.1.5	SJC are not convinced that land is required permanently in perpetuity for compensation of nitrogen deposition as this will reduce over time due to increasing reductions in the use of fossil fuelled vehicles. SJC cannot see how this has been considered.	The significant effects identified in the assessment are the effects of the Project over and above background levels in operation of the new highway. As such, they will be permanent additional effects irrespective of whether the background level changes. The response to a permanent effect must be permanent compensation.	N/A	Matter Under Discussion
<b>oLEMP</b>	2.1.6	SJC notes that the outline Landscape and Ecology Management Plan (oLEMP) are in outline only which unfortunately makes it difficult for SJC to be advised on whether the Applicants proposals are acceptable, necessary or justified.	The oLEMP sets out the outline design for consenting purposes, which would be implanted through detailed design to achieve the objectives set out in the oLEMP. The proposals have been developed and agreed in consultation with Natural England as an appropriate response to unmitigable effects of the Project.	Outline Landscape and Ecology Management Plan (oLEMP) <a href="#">[REP3-106]</a>	Matter Under Discussion
<b>Alternative design</b>	2.1.7	SJC suggest an alternative way of managing the land going forwards that a) achieves the habitat connectivity that the Applicant is seeking, b) reduces nitrogen inputs to the land and c) retains Grade 2	The alternative approach suggested by SJC would not achieve the necessary objectives of the nitrogen deposition compensation.  In particular, the alternative proposal suggested would not achieve sufficient	N/A	Matter Under Discussion

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		<p>farmland in sustainable production in the future.</p> <p>This has been focused on land within SJC's ownership, although we note from, aerial photography, that there are other smaller, less viable fields for agriculture, that look at least as suitable for these purposes in the surrounding area to both the north and the south of the route.</p> <p>In essence, SJC's proposals are to plant, close gaps and strengthen hedgerows, provide regenerative field margins to improve biodiversity and habitat corridors, and to reduce artificial fertiliser inputs to this land through regenerative farming techniques. This will improve the soil structure and retain it for future generations, contributing to food security. Please refer to the plan appended in Appendix B.</p> <p>SJC notes there is a desire to plant 70% of the land with trees, and would suggest that this should not be done on prime agricultural land if there is a reasonable alternative.</p>	<p>additional ecological connectivity within the ecological network that affected sites lie within, whilst meeting the twin objective of enabling the creation of a comparable area of compensation across the project in response to the existing areas of habitat that would be significantly affected.</p> <p>The site selection methodology is set out in the PAQAP which identifies the constraints and opportunities considered in selecting the sites.</p>		
<b>Ancient Woodland Compensation (plots 10-01, 11-72 and 11-77)</b>					
<b>Land Use Justification</b>	2.1.8	SJC consider the Applicant's justification for plot 11-77 for the creation of a site for ancient woodland planting has not been fully explained.	The Applicant details the approach to ancient woodland compensation planting in ES Chapter 8: Terrestrial Biodiversity, specifically in Section 8.5 Project design	ES Chapter 8: Terrestrial Biodiversity <a href="#">[APP-146]</a>	Matter Under Discussion

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			<p>and mitigation, paragraphs 8.5.31 - 8.5.34; and Section 8.6 Assessment of likely significant effects, paragraphs 8.6.9 – 8.6.11, paragraph 8.6.53, and Table 8.29.</p> <p>As reported, the design of ancient woodland compensation planting is intended to compensate for the direct loss of this habitat and to add resilience into the wider network of ancient woodland sites through strengthening green corridors between retained woodland habitat.</p> <p>Plot 11-77 is located immediately west of Plot 10-01, both sharing a boundary with Shorne/Brewers Woods which is designated ancient woodland and part of Shorne and Ashenbank Woods SSSI. The western edge of Plot 11-77 aligns with a strip of woodland running north from Shorne/Brewers Woods to Shorne Ifield Road. The inclusion of Plot 11-77 as part of the ancient woodland compensation planting in this area links this strip of existing woodland into Plot 10-01 creating a single large block of woodland planting. Its location links directly into the adjacent Shorne/Brewers Woods, building resilience into that network of woodland blocks, and would be managed to provide high quality</p>	<p>Environmental Masterplan Sections 1 and 2  <a href="#">[REP2-014]</a>                      and  <a href="#">[REP3-098]</a></p>	

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			<p>woodland habitat of similar composition to those woodland areas. The location of the ancient woodland compensation planting around Shorne and Ashenbank Woods SSSI, and the ancient woodland it encompasses, is reported in ES Figure 2.4: Environmental Masterplan Sections 1 and 2.</p>		
<b>Engagement &amp; Consultation</b>					
<b>Failure to engage</b>	2.1.9	<p>SJC considers only limited engagement has taken place between the Applicant and SJC. SJC believe the Applicant has not meaningfully considered the suggestions made by SJC and its advisors that alternative sites may be available to acquire by private treaty and which would not result in the loss of Grade II agricultural land</p>	<p>The Applicant does not agree that its engagement with SJC has been limited or that it has not meaningfully considered suggestions.</p> <p>In terms of engagement, Annex B of the Statement of Reasons records the material engagement between the parties. However, the Applicant believes it would be beneficial to set out the timeline of engagement which demonstrates that there have been extensive engagement and design accommodations where practicable:</p> <p>From the point at which the original plot (north of Shorne Ifield Road, plot 11-71) was identified and proposed for ancient woodland compensation (Supplemental Consultation, January 2020), the Applicant began engaging with SJC on</p>	<p>Statement of Reasons, Annex B  <a href="#">[REP3-081]</a></p>	<p>Matter Not Agreed</p>

Topic	Item No.	SJC Comment	The Applicant’s Response	Application Document Reference	Status
			<p>accommodation works, specifically agreeing an access route and rights from Shorne Ifield Road to the retained land.</p> <p>The parties had agreed the accommodation works design, on 20 April 2021, and the Applicant prepared and issued a letter to document the commitment on 15 September 2021.</p> <p>It was the Applicant’s understanding that SJC had no further issues, therefore a ‘non-object’ clause was included. However, the Applicant understands SJC took issue with this clause on 15 September 2021 and proceeded to outline their objection on the two grounds, (1) Justification for the extent of land acquisition for ancient woodland, and (2) justification for the location of land acquisition for ancient woodland</p> <p>In response to SJC objections, the Applicant updated and refined the Order Limits, at Local Refinements Consultation (May 2022) to align with SJC’s suggestion, made orally during a phone call with John Wootton, to move the majority of ancient woodland compensation to land they own south of Ifield Road (and adjoining the existing Shorne Woods Country Park), plots 10-01 and 11-77. The then agent indicated SJC would be far more amenable to this</p>		

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			<p>land being acquired rather than land north of Shorne Ifield Road.</p> <p>The Applicant also formally responded to SJC’s objections by way of email correspondence, outlining its justification and assessment of woodland compensation, on 2 February 2022.</p> <p>It was at this stage of the pre-application process that the Applicant identified, separately, a need for additional compensatory habitat to address the effects of Nitrogen Deposition. By a s.42 letter dated 1 February 2022, SJC was notified that their land further east had been identified as a potential site for Nitrogen Deposition compensation. SJC’s response dated 2 February 2022, included the following: <i>“please note that if National Highways proceed on this basis [i.e including NDEP compensation land], then the College would invest considerable resources in objecting to the proposal and doing all it can to oppose not just this element of the proposal, but the scheme as a whole”</i>.</p> <p>Shortly after receiving this communication SJC changed their agent. On 18 July 2022 the new agent requested copies of SJC’s consultation response to the Local Refinement Consultation (May 2022), where the</p>		

Topic	Item No.	SJC Comment	The Applicant’s Response	Application Document Reference	Status
			<p>Applicant identified the sites proposed for NDEP compensation. The Applicant forwarded copies on 19 July 2022 with a suggestion for a meeting.</p> <p>Engagement since the new agent has been instructed, has focused on NDEP. The Applicant has arranged four meetings with SJC’s agent to discuss land requirements.</p> <p>On 17 August 2022, the Applicant discussed project land requirements including NDEP in detail and forwarded the NDEP site selection methodology. The Applicant held a further, without prejudice, meeting on Thursday 22 September to discuss the NDEP land requirements and the potential way forwards.</p> <p>Following those meetings, between November 2022 and January 2023, the Applicant made numerous attempts to progress matters. The Applicant (i) invited comments from SJC as to how they wish to proceed, (ii) provided a summary of the Project’s voluntary agreement, and (iii) offered to consider commitments to mitigate impacts.</p>		



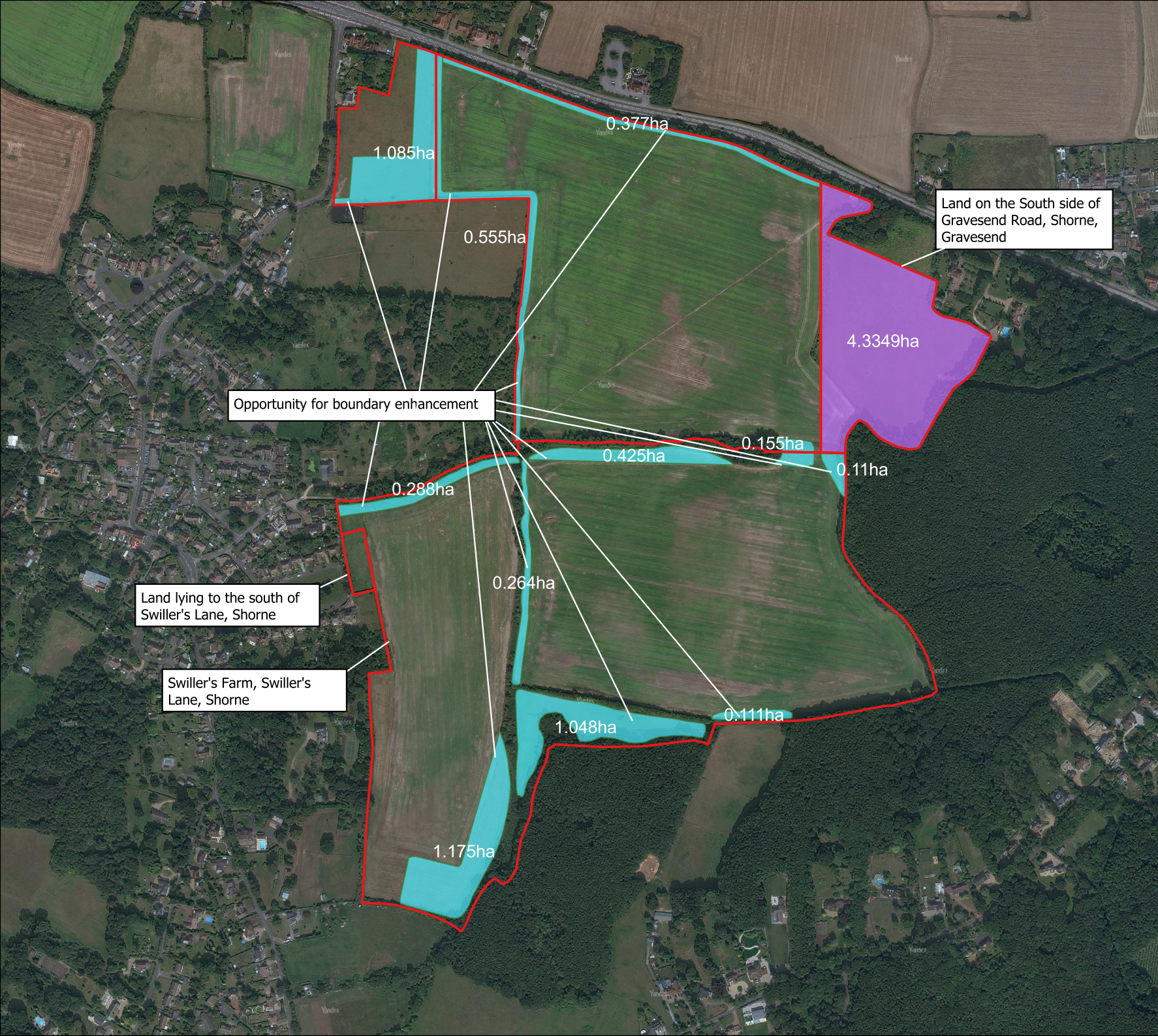
Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
			<p>Following DCO acceptance, the Applicant also signposted the agent to the relevant DCO documents.</p> <p>On 16 May 2023, the Applicant comprehensively responded to SJC's relevant representation, including confirmation that the Applicant is willing to reimburse part of the cost of SJC's expert air quality witness, in the spirit of constructive engagement. The Applicant has met with SJC's expert witness on two occasions, being 14 June 2023 which was a technical meeting addressing PAQAP queries and discussing way forwards, and 4 August 2023 which was a Without Prejudice meeting to explore scope of voluntary agreement for NDEP land (plots 09-01, 10-13, 10-14, 10-15 and 10-16).</p> <p>The Applicant remains willing to constructively engage with SJC in order to explore potential to mitigate impacts and seek a voluntary agreement should SJC be open to discussions, either on a Without Prejudice or open basis.</p>		

## Appendix A Glossary

Term	Abbreviation	Explanation
The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge	SJC	known as Saint John's College
Project Air Quality Action Plan	PAQAP	The section of the air quality assessment where the proposed viable mitigation measures are set out and assessed.
Environmental Statement	ES	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
Outline Landscape and Ecology Management Plan	oLEMP	A document which outlines the proposed management of the landscape and ecological elements of the A122 Lower Thames Crossing.
Site of Special Scientific Interest	SSSI	A conservation designation denoting an area of particular ecological or geological importance.

## Appendix B SJC Alternative Design



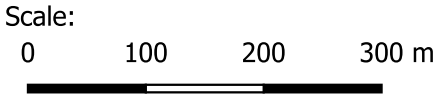


Map Showing Land Under Cambridge St Johns Ownership to the east of Shorne, Kent.

Identifying Land for Field Boundary Enhancement and Hedgerow Development.

**Legend**

- Cambridge St Johns Ownership
- Potential Land Parcels for Boundary Enhancement
- Whole Parcel of Land for Rewilding



Borders on all fields are suitable for enhancement to improve connectivity between existing hedgerows.

The complete parcel of land on the south side of Gravesend Road, Shorne could be fully rewilded to improve biodiversity.

Smaller parcels of land in fields within the study area have been identified for rewilding and/or border enhancement to improve existing nature corridors and biodiversity, including habitat for pollinators.

Total land for rewilding: 4.3349ha  
 Total land for border development: 5.593ha  
 Total land: 9.9279ha

Date: 07/07/2023  
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Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363