

The Planning Inspectorate
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Our ref: KT/2023/130951/01-L01
Your ref: 20035862
Date: 19 September 2023

Dear Examining Authority

Lower Thames Crossing (TR010032) Development Consent Order Application

Please find to follow our responses to the Examining Authority's First Written Questions on behalf of the Environment Agency in relation to the application for a Development Consent Order for the Lower Thames Crossing made by National Highways (NH).

I hope this is helpful.

Yours sincerely

Richard Penn
Environment, Planning and Engagement Manager

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Environment Agency Responses to the Examining Authority's First Written Questions

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ExQ1	Question to:	Question:	Environment Agency Response
2.3 Implications of Caselaw			
Q2.3.1	All IPs	<p>Carbon and Climate Considerations: R (oao) Boswell v Secretary of State for Transport</p> <p>What are the implications of the recent Boswell v Secretary of State for Transport High Court Judgement [2023] EWHC 1710 (Admin) in relation to the treatment of carbon and climate in NSIP decision-making for the A47 Blofield to North Burlingham, A47 North Tuddenham to Easton and A47/A11 Thickthorn Junction applications for the consideration of carbon and climate matters in the LTC Examination and decision?</p>	No comments.
3. Consideration of alternatives			
3.1 EIA Regulations			
Q3.1.1	All IPs	<p>EIA Regulations 2017: Consideration of Reasonable Alternatives</p>	No comments.

		<p>Regulation 11(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) imposes a duty on the Applicant to include ‘<i>a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment</i>’ within the Environment Statement (ES). This obligation needs to be met through consideration of alternatives in terms of ‘<i>design, technology, location, size and scale</i>’ (EIA Regulations Schedule 4). The Applicant has sought to meet this obligation in ES Chapter 3 [APP-141].</p> <p>The ExA is aware of issues raised in relation to this duty</p>	
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		in Deadline 1 and 2 responses. However, it is important that if any remaining IP considers that this duty has not been addressed, that they identify their position and the reasons for it in writing in response to this question. Any response must identify the specific element(s) of the duty that in the IP's view has not been addressed.	
4. Traffic and transportation			
4.1 Modelling			
Q4 .1.14	All	Modelled Traffic Effects: Lower Thames Area Model: TAG Compliance Does any party disagree with the Applicant's conclusion that the LTAM is TAG complaint? If so, please explain why.	No comments, outside of the Environment Agency's remit.
6. Geology and soils			
6.1 Contamination			
Q.6.1.2	Applicant Environment Agency (EA)	East Tilbury Landfill It has been stated by the Environment Agency that the East Tilbury Landfill has	Thurrock Council are responsible for the East Tilbury landfill. It is an historic landfill, which is not regulated by a permit from the Environment Agency.

		<p>potentially high levels of contamination including leachates. There are also concerns with the potential failure of the river frontage.</p> <ul style="list-style-type: none"> • How has the Applicant assessed the risk of the Proposed Development increasing the rate of failure of the river frontage? • Should the frontage show signs of deterioration either during the construction or operational periods, can the Applicant or the Environment Agency confirm that appropriate access routes and working space are available to enable works to reinforce the bank to take place? • Has the Applicant assessed the effect that such an event would have on 	<p>The East Tilbury Landfill Assessment (APP-428) confirms that there are no significant risks posed by the landfill as a result of the Lower Thames Crossing Project and the findings are in line with the Hydrogeological Risk Assessment investigations and findings (APP-458-9).</p> <p>The Environment Agency asks that nothing is built on the landfill that could impact its structure, integrity, or increase any pathways for leachate from the landfill. The Environment Agency agrees that REAC Commitment GS020 'East Tilbury access road' is appropriate (REP1-157 ES Appendix 2.2: Code of Construction Practice). Please see Statement of Common Ground matter 2.1.25 (REP1-059).</p>
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		<p>riverine/ marine biodiversity?</p> <ul style="list-style-type: none"> • Can the Applicant confirm that such risks are to be monitored and remediation will be undertaken if necessary? • How is monitoring and remediation secured in the dDCO? 	
7. Tunnelling considerations			
8 Waste and materials			
8.1 Waste and materials: General			
Q8.1.1	Applicant and Environment Agency	<p>Permitting</p> <p>Please provide an update in respect of the on-going permitting discussions? In the event that these do not progress as necessary can the Environment Agency set out the implications of this and whether any remedial mitigation could be secured through the DCO to overcome any outstanding matters?</p>	<p>Please refer to Statement of Common Ground matter 2.1.1 (REP1-059) and section 5 of the Environment Agency's Written Representation (REP1-225). Pre-permit application discussions are still ongoing. The main area of focus in the ongoing pre-permitting discussions is agreeing a permitting strategy. The Environment Agency is currently reviewing a permitting strategy issued by the applicant on 11 September. This will provide clarity on matters which will be covered by the permitting process and those which are covered by the Development Consent Order. Without agreeing this, the Environment Agency is unable to comment on timescales or provide representations on any matters covered by those permits. We will want to be able to resolve the</p>

			<p>outstanding issues but we cannot advise on the outcomes of these discussions with the level of detail we have at the moment. The pre-permitting discussions have been concentrating on the landfill permitting scenarios, which relate to whether we amend existing / third party permits, have over-lapping permits or a combination of both. We also need to permit other waste activities such as the transfer or treatment of waste, water abstractions and discharges to the environment. We require greater detail on individual sites within the project to ensure there is the time available to work through the process.</p> <p>The applicant is concerned there is a risk that the pre-existence of permits for waste management activities within the order limits held by third parties could hinder the applicant's ability to carry out the development, or that the development could interfere with the third parties' obligation to comply with their permits. Ideally and where necessary, relevant permits could be transferred in part or in whole to the applicant, but this usually requires the consent of all parties. Perhaps there is scope for the Development Consent Order to facilitate permit transfer if obtaining this mutual consent is problematic. This is a matter still under discussion in the Statement of Common Ground (matter 2.1.7, REP1-059).</p>
Q8.1.6	LPAs and Environment Agency	<p>Waste Management</p> <p>Beyond the matters secured by the dDCO as currently drafted, and the consenting/ environmental permitting requirements that will apply,</p>	<p>We do not have comments to make on this question; waste management issues would either be covered by environmental permitting or other regimes not regulated by the Environment Agency.</p>

		are there other matters in terms of waste management that you consider need to be clarified/secured?	
Q8.1.9	LPAs and Environment Agency	<p>Monitoring Consultation/ Approval/ Timescales</p> <p>Section 11.8 of ES Chapter 11 – Noise and Vibration [APP-149] deals with monitoring. Can you provide your views on:</p> <ul style="list-style-type: none"> • The Applicant's strategy for waste and material management during construction? • The Applicant's strategy for waste and material management during the operational phase? • The Applicant's suggested approach to consultation and approval of these matters through the dDCO [REP2-004], as currently drafted, and the associated 	<p>The Environment Agency knows the project has the potential to generate large volumes of inert and non-hazardous waste plus smaller volumes of hazardous waste. The report scopes potential sites that would be available and the capacity of waste facilities particularly the remaining landfill capacity.</p> <p>The Environment Agency continues to have ongoing discussions on the stockpiling and reuse of materials in line with the waste hierarchy as well as permitting implications on regulated sites within the order limits. It is accepted that the focus is to prioritise waste treatment and recovery to preserve landfill void and implement good practice to reduce quantities of waste requiring management. The applicant is already in discussions to implement the necessary permits and we are engaging with them to achieve this.</p> <p>The permitting strategy was issued to us on 11 September and we are currently reviewing it. Until we have reviewed the detail we are unable to offer a view on the strategy for material and waste management during the construction and operational phases, except to note that we expect to continue working with the applicant to ensure the appropriate permissions are in place.</p>

		REAC within the CoCP [REP1-157]?	<p>Draft DCO</p> <p>On 12 September the Environment Agency was provided with the drafting of a proposed Article within the draft Development Consent Order with respect to environmental permits issued under the Environmental Permitting (England and Wales) Regulations 2016 (as amended) that are held by third parties and may interact with land that is inside the Project's Order Limits and therefore the Project's construction operations.</p> <p>The Environment Agency is still considering the latest drafting, but it remains unlikely we will be able to agree to the inclusion of this Article in the draft Development Consent Order. In a meeting with the applicant on 5 September we raised concerns about the enforceability of such a proposal and are awaiting a response from the applicant on this point. This is still a matter under discussion in the Statement of Common Ground (matter 2.1.7, REP1-059).</p>
9 Noise and vibration			
9.4 Operation			
Q9.4.5	All IPs	<p>Mitigation</p> <p>ES Chapter 12 – Noise and Vibration [APP-150] contains tables with a column titled “Justification of significance conclusions”. This includes mitigation secured through the robust implementation off Best Practicable Means (BPM) to reduce noise levels</p>	No comments, outside of the Environment Agency's remit.

		below the Significant Observed Adverse Effect Level (SOAEL) with reference to a XXdB(A) figure. With regard to the mitigation methods proposed, do IPs agree that the figure indicated is achievable, if not please provide reasoning?	
10. Road drainage, water environment and flooding			
10.2 Managing Surface Water			
10.2.7	Environment Agency	<p>Embankments in Recognised Flood Plains</p> <p>Which if any proposed embankments are likely, in your view, to require to be registered as a reservoir or be of such a nature that they should be maintained in such a manner required of impounding reservoirs etc?</p>	<p>Background</p> <p>All large, raised reservoirs need to be registered with the Environment Agency. A large, raised reservoir holds or has the potential to hold 25,000 cubic metres of water above ground level.</p> <p>Tilbury Main Flood Compensation Area</p> <p>The bunds/embankments associated with this project are not designed to collect or store water. This is with the exception of the Tilbury main flood compensation area (between East and West Tilbury), which is new infrastructure with an intended function to retain up to 64,000m³ of water from the upstream catchment. Water flows are proposed to cascade downstream through four internal compartments.</p> <p>The compartments are proposed to be formed by embankments connected by culverts with high-level</p>

			<p>overflow spillways to convey exceptionally high flows through the flood storage area. The compensatory flood storage area is currently a conceptual design. Therefore, whilst it is likely to fall under the requirements of the Reservoirs Act 1975, the detailed design and proportion of the water storage volume to be retained above ground level is yet to be determined.</p> <p>Mardyke</p> <p>The primary highway embankments in the Mardyke flood plain are not water-retaining structures and therefore, in our opinion, would not need to be registered. The highway embankments are designed to allow the road to sit above the natural flood level above the floodplain, not to collect or store water. Post-development flood modelling scenarios for the Mardyke (in Flood Risk Assessment APP-472) show that there is no differential in flood depths either side of Highway embankments where these sit within flood inundation areas as flood flow conveyance is maintained through the flood plain. Therefore, the embankments do not dam or hold up water levels within the flood plain.</p> <p>Orsett Fenn</p> <p>The isolated raised bund alignment at Orsett Fen only results in a very localised increase in water level on its eastern flank, with water propagating to the west (rear) of it at flood depths equivalent to the depth seen in the floodplain to the east. The localised increase in levels is unlikely to equate to a differential change in flood volumes either side of the structure that would exceed</p>
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			<p>25,000m³ and is unlikely to fall within the requirements of the Reservoirs Act.</p> <p>Design Supervisory requirements</p> <p>We believe that the embankment associated with the western slip/service road, located approximately 1km north of the tunnel portal could potentially fall under the design supervisory requirements of the Reservoirs Act 1975. This is because flood mapping in 6.3 Environmental Statement - Appendix 14.6 - Flood Risk Assessment - Part 9 - Annex G APP-475 (<i>comparison of Pre-development drawing number HE540039-CJV-EFR-SZP_GNZZZZZZZZ-DR-LF-00908 with Post-development (with mitigation) drawing number HE540039-CJV-EFR-SZP_GNZZZZZZZZ-DR-LF-00938</i>) shows that the service/slip road embankment curtails an eastward flow/extent of flooding when compared to the pre-development baseline. Flood depths west of this embankment are approximately 0.25m above ground level in the 100 year 1% Annual Exceedance Probability (AEP) flood event in 2030 and the flood extent westwards covers an area of approximately 160,000m². This equates to a floodplain volume of 40,000m³ retained by parts of this embankment which exceeds the Reservoir Act threshold of 25,000m³.</p> <p>Reservoir Safety Reform</p> <p>In stating the above, we would like to make the Examining Authority aware that the Government is currently in the process of undertaking a reservoir safety reform programme which will be delivered over several</p>
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			years. This will involve a suite of new guidance, secondary legislation and new primary legislation to modernise the Reservoirs Act 1975.
10.4 Managing Water Supply			
10.4.5	Applicant Environment Agency Lead Local Flood Authorities (LLFA)	<p>Site Information</p> <p>In document 6.3 Appendix 14.5 – Hydrogeological Risk Assessment [APP-326] (paragraph 3.6.16), it suggests that watercourse flow could be seasonal. Descriptions are not clear as to the results of the investigation.</p> <ul style="list-style-type: none"> • Is this flow into ground observed or assumed? • Could it have gone anywhere else? • Could it be weather dependent and/or reactive to ground water levels? <p>Additionally, within the submitted plans, 6.2 Environmental Statement - Figure 14.1 - Surface Water Receptors and Resources [APP-322], there are a</p>	<p>Hydrogeological Risk Assessment</p> <p>There have been ongoing discussions between the applicant and a local licensed abstractor as to the mechanism of supply for their abstraction. The licence owner disagrees with the watercourse flow results produced by the applicant and states that their monitoring program was flawed/inadequate to identify the flow.</p> <p>However, the applicant has committed to protecting the water resource and continuity of supply to the Licence at risk. Please see Matter 2.1.47 of the Statement of Common Ground (REP1-059), which the Environment Agency has agreed.</p> <p>Ordinary Watercourses- Flood Risk</p> <p>For management of surface water (pluvial) volumes, the Lead Local Flood Authority (LLFA) are the statutory consultee to the planning process for Major development with surface water drainage. They have responsibilities under the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009 to manage local flood risk such as groundwater flooding, surface water run-off and ordinary watercourses.</p>

		<p>number of 'ordinary watercourses' delineated which are isolated and connect to nothing.</p> <ul style="list-style-type: none"> • Where do these watercourses discharge? • What effect could interference with these watercourses have on the ground water and biodiversity of the area? • What measures are being proposed to protect these watercourses and have these measures accommodated within the submission or what amendments will be required? <p>In Appendix 14.2 - Water Features Survey Factual Report (2 of 2) [APP-455], it suggests in Figure 2 that the southern Ditch has "...Heavy vegetation etc...and discharge route could not be determined.</p>	<p>Ordinary Watercourses- Biodiversity</p> <p>It is for the Lead Local Flood Authority (LLFA) to lead on, but this is of interest in the Environment Agency's general aquatic remit. Surveys of the ordinary watercourse ditch network are covered in the Lower Thames Crossing 6.3 Environmental Statement Appendices Appendix 14.2 – Water Features Survey Factual Report (2 of 2) October 2022 (APP-455). In this document, the ditch network is described as "heavily vegetated with no flow" although there may be standing water. Figure 8.27 in the Otter and Water Vole Surveys Results from 6.3 Environmental Statement Appendices Appendix 8.10 (water vole) (APP-399) showed the dry status of many of these ditches and their "negligible water vole suitability" (1.5.8). Therefore, there should be little interference with biodiversity from disturbance of these dry ditches. Measures are in place to mitigate impacts on aquatic biodiversity in the Environmental Statement.</p> <p>We do not maintain ordinary watercourses, so the advice of the LLFA should be sought on the southern ditch. Advice on construction and operational phase management is a matter to be determined by the LLFA and applicant.</p>
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		<p>Experience suggests that ditches not normally maintained from April to July or longer, dependent on a number of options. Is the provision of regular maintenance on these ordinary watercourses etc in this location considered to be particularly important?</p> <p>It was suggested that there was no ditch in the location. Was there culverts or other discharge arrangements?</p> <p>For areas where maintenance operations are not clear from the Water Features Survey, what is being proposed, particularly in areas that are proposed for biodiversity or Nitrogen deficiency mitigation?</p> <p>Who is expected to undertake such maintenance works both during the construction phase and during the operational phase?</p> <p>How has this lack of understanding been accommodated in the analysis undertaken for the</p>	
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		submission particularly in relation to the influence on biodiversity and/or flood risk? What effect would this have on the submission if not previously considered?	
10.5 Water Bodies and Watercourses			
Q10.5.1	Applicant Environment Agency	<p>Mardyke In ES Chapter 14 [APP-152], it is suggested in paragraph 14.5.15 that:</p> <p>“k. A raised bund would be constructed to prevent formation of the new flow path from Golden Bridge Sewer to the Mardyke in Orsett Fen. The bund would be designed to provide the intended function during storm events up to the 1 in 1000-year with climate change allowance to 2130 and incorporate a freeboard allowance of 60mm.”</p>	<p>Freeboard Allowance The applicant has confirmed that this is a typo and should read 600mm.</p> <p>Bund- Reservoirs Act The bund is intended to deflect and route flow rather than contain or store water. In this case the capability for storing water is controlled by the conveyance through the embankment, where the watercourse passes through to ensure that no differential in head arises upstream of the embankment.</p> <p>The indicative information we have, shows that the isolated raised bund alignment at Orsett Fen only results in a very localised increase in water level on its eastern flank, with water propagating to the west (rear) of it at flood depths equivalent to the depth seen in the floodplain to the east. The localised increase in levels is unlikely to equate to a differential change in flood volumes either side of the structure that would exceed 25,000m³ and is unlikely to fall within the requirements of the Reservoirs Act.</p>

		<ul style="list-style-type: none"> • 60 mm of freeboard seems small (just over 2 inches). What is the justification for the small freeboard allowance? What effect would a 'more normal' 300mm freeboard allowance have on the proposals? • Has the bund been considered as being subject to the requirements of the Reservoirs Act 1975? What effect would this designation have on the proposals? 	<p>The Examining Authority would need to request the detail from the applicant to confirm this.</p> <p>What effect would this designation have on the proposals?</p> <p>The design and construction would have to be supervised by a registered Reservoirs Act 1975 Construction Engineer appointed, by the applicant, from the contact list of All Reservoir Panel Engineers.</p>
10.6 Water Quality and Discharges			
10.6.2	Applicant Environment Agency	<p>Operational Surface Water Drainage Pollution Risk Assessment</p> <p>In Appendix 14.3 – Operational Surface Water Drainage Pollution Risk Assessment [APP-456] the assessment concludes that the objectives of the Water Framework Directive would not be compromised by</p>	<p>Water Framework Directive</p> <p>The applicant has followed the methodology set out in Design Manual for Roads and Bridges and identified proposed treatment measures (e.g. filter drains, ponds, etc) that will be put in place at each outfall, based on the risk posed by the individual highway drainage catchments.</p> <p>. Page 7 in Chapter 2 of the Environmental Statement (APP-140) refers to the Rochdale Envelope and states “..any changes to the Project within such parameters will</p>

		<p>discharge of routine runoff from the Project.</p> <ul style="list-style-type: none"> • As the project has to go through the Detailed Design phase, what measures are envisaged and can these be accommodated within the Rochdale Envelope? • How are the requirements to be secured to prevent the unintended dewatering of ecosystems during the construction phase? <p>Additionally, are all expected outfalls shown in the approximate location? What level of confidence is there that no further outfalls will be required? Paragraph 4.4.3 states “The results confirm that following treatment, with one exception, cumulative discharges do not result in pollution of the receiving water environment” and</p>	<p>not result in any likely significant effects not previously identified and assessed in this ES”.</p> <p>Provided Water Framework Directive objectives are achieved, we do not have objections to allowing the applicant some flexibility in the detailed design.</p> <p>Measures detailed in Table 4.2 of Operational Surface Water Drainage Pollution Risk Assessment (APP-456) include discharging into ponds (sediment forebays) and surface flow wetlands designed to mitigate the impact.</p> <p>This will be refined during Permit pre-application discussions/detailed design as methodologies are proposed. We have agreed a standard to be in accordance to REAC RDWE033 'Discharge from construction of South Portal, which has been included in the Code of Construction Practice (REP1-156). This includes specific parameters for water quality monitoring, in order to protect the supporting designated habitat features. Aspects such as monitoring and reporting frequency can be refined to ensure timely review and mitigation adjustments as/if required to maintain minimal negative impacts to ecological receptors throughout the Permitted activities.</p> <p>Dewatering</p> <p>The dewatering aspects of the scheme have already been addressed within the Environmental Statement. Environmental Permits, as detailed in the Consents and Agreements Position Statement (REP1-047), will be</p>
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		<p>describes the location and issue in paragraph 4.4.4.</p> <ul style="list-style-type: none"> • Is this acceptable? • What amendments would be required to nullify the potential pollution? 	<p>required for dewatering, discharges to surface or groundwater from construction.</p> <p>For groundwater dependent habitats such as the South Thames Estuary and Marshes Site of Special Scientific Interest / Thames Estuary and Marshes Ramsar site, assessments were completed using groundwater modelling techniques. The assessments indicated that tunnelling work would result in groundwater drawdown effects that would be “negligible, or undetectable in the field”.</p> <p>As part of REAC commitment HR008 Code of Construction Practice (REP1-156), the applicant will be required to confirm these conclusions by means of surveillance of groundwater levels in the vicinity of the tunnelling works for the duration of the construction period. Should any remedial measures be required, such measures would be agreed with Natural England and the Environment Agency.</p> <p>Outfalls It is for the applicant to confirm whether further outfalls are likely, but any new outfalls would require a revision to the Water Framework Directive assessment. If there are new outfalls then further mitigation measures may be appropriate such as more ponds and wetlands.</p> <p>Pollution Prevention Paragraph 4.4.5 (APP-456) states how the cumulative discharges will be addressed to achieve a pass, which is acceptable:</p>
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			<p>“....During detailed design, the treatment measures would be sized and configured to ensure the required retention times and through-flow rates to achieve this degree of treatment, such that, cumulatively, these drainage catchments would achieve a pass...”</p>
10.6.5	<p>Environment Agency LLFAs Natural England Wildlife Trusts Environment Agency Applicant</p>	<p>Mammal Ledges The Applicant proposes to introduce mammal ledges in culverts on watercourses that suggest that watercourses may be used by commuting or foraging mammals.</p> <ul style="list-style-type: none"> • Is it expected that the culvert should be designed to the full storm design parameters (including appropriate climate change additions) with the ledge remaining “dry”? • If not to what design storm should the culvert design reach? • What reduction in capacity is appropriate if the 	<p>We are not aware of research on the maximum length of culvert used by mammals, specifically water voles and otters. If otters in particular do not use the culvert due to its length (46 m) then fencing should be installed to prevent them crossing the carriageways.</p> <p>We are satisfied with the proposals in Report dated June 10, 2022, Lower Thames Crossing – 6.3 Environmental Statement Appendices Appendix 14.6 Flood Risk Assessment - Part 10 (APP-477).</p> <p>Protective Provisions The applicant would be required to apply to the Environment Agency under the Protective Provisions to deliver the culvert. Please see Statement of Common Ground Matter 2.1.3 (REP1-059). This culvert will not be owned or maintained by the Environment Agency but we will have a duty to inspect it so we would require culvert specifications.</p>

		<p>mammal ledge is submerged?</p> <ul style="list-style-type: none"> • What changes to the submitted documents are required if the proposals do not assume the culverts are sized to meet the full design storm with the ledges remaining “dry”. • What is the maximum length that it is considered that mammals will use such ledges? • What is the effect on the proposals if there are culverts longer than the longest appropriate length of culvert, or do not meet the suggested capacity for “dry” ledges, including what additional mitigation works are to be required? <p>Do the Environmental Consultees have an opinion?</p>	
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11 Biodiversity			
11.6 Structures			
11.6.2	Environment Agency	<p>West Tilbury Main Culvert</p> <p>The 'Main River Map' appears to be a statutory document that can be changed following processes within the Water Resources Act 1991.</p> <ul style="list-style-type: none"> • Should the Applicant review the proposals and offer an option to reroute the watercourse and reduce the culvert length, would the Environment Agency be content to redetermine the route and change the statutory map accordingly? • What information would the Applicant be required to submit to allow this to occur and to whom should the submission be to? <p>Noting the limitations identified in <u>ES Appendix</u></p>	<p>Tilbury Main Culvert</p> <p>Please refer to the Statement of Common Ground matters 2.1.29 and 2.1.30 (REP1-059) and section 4 of the Environment Agency's Written Representation (REP1-225). Although the Environment Agency objects to culverting, it is accepted that a culvert is the least environmentally damaging option in this location owing to the complexity, risks and impacts associated with alternative options. The main culvert has been reduced from 83 to 46 metres. To offset this and other scheme impacts there will be an increase of ditches by 21.8 km and watercourses by 900 metres and a reduction of culvert length of 400 metres. Three culverts are to be removed in the Tilbury area. Although the Environment Agency does not agree with the loss of Water Framework Directive habitat, we agree that the freshwater enhancements will provide an overall increase in freshwater habitat.</p> <p>Other measures that could be considered would probably relate to enhancing the ecological quality of the watercourses created or retained to provide optimal habitats for aquatic species as set out in the Environmental Statement and in the forthcoming detailed design phase.</p> <p>Natural England are the licensing authority for protected species; including water voles, as set out in the</p>

		<p>8.20 Paragraph 4.2.39 and comments submitted by the Environment Agency [RR-0298], what additional steps could be considered to overcome the effects from the installation of culverts both in terms of effectiveness and implementation impacts on the fragmentation of habitats?</p>	<p>Statement of Common Ground between National Highways and Natural England.</p> <p>Main Rivers Map If the watercourse were to be re-routed, then the applicant would need to apply to the Environment Agency under the Protective Provisions, please see Statement of Common Ground Matter 2.1.3 (REP1-059).</p> <p>The Environment Agency notifies the public and interested parties of our intentions to make a change to the statutory main river map and decides which watercourses are designated as Main Rivers following a legal process to determine and publish changes.</p>
<p>11.9 Habitats Regulations Assessment (HRA): Overarching Questions</p>			
Q11.9.1	<p>The Applicant, Natural England and Statutory Parties</p>	<p>Technical and Advisory Notes The ExA seeks clarification whether all technical notes and advisory notes being developed and shared between the Applicant and statutory bodies have also been submitted to the Examination? Please provide a table signposting to the location of these within the Examination Library, or, where notes have not been submitted, supply copies.</p>	<p>No comments.</p>

		<p>The following documents are noted as examples of those understood by the ExA as not having been supplied to the Examination, but this is not a closed list:</p> <ul style="list-style-type: none"> • Natural England Advisory note on inconsequential nitrogen dioxide (NOx), 11 April 2023. • Technical notes on Coalhouse Fort water supply, June 2022 and February 2023. • Technical advice on underwater noise, 24 April 2023. <p>Please also ensure that where copies of documents are provided that they are consistently titled and dated so that where references are made in the main text, it is clear which document they refer to.</p>	
Q11.9.5	The Applicant, Natural England and	<p>Pathways to Likely Significant Effects (LSE) on European Sites</p> <p>Please can IPs state whether they agree that the</p>	No comments.

	Statutory Parties	Applicant's HRA Report [APP-487] identifies all the potential pathways that could lead to an LSE on the European sites, and if not, identify any additional pathways they consider should be included in the assessment?	
Q11.9.8	The Applicant, Natural England and Statutory Parties	<p>In-combination Assessment Methodology</p> <p>The HRA Report [APP-487] states that it considered the list of plans and projects within ES Chapter 16: Cumulative Effects for the purposes of the in-combination assessment but notes that this was "amended for the HRA to ensure compliance" with that process. Several IPs have raised concerns in relation to the methodology for the selection of projects for the in-combination assessment and the ExA notes that there is ongoing discussion with NE in relation to the data used for traffic modelling.</p> <ul style="list-style-type: none"> • please can the Applicant provide a 	No comments.

		<p>list of the other plans and projects that were considered in the HRA in-combination assessment;</p> <ul style="list-style-type: none"> • please can NE and relevant IPs confirm if they are satisfied that the in-combination assessment correctly identifies other plans and projects that could potentially contribute to in-combination effects; and • please can NE and the Applicant provide an update on resolving the queries around the traffic modelling data used for the in-combination assessment? 	
<p>14. The draft Development Consent Order (dDCO), planning obligations, agreements and the adequacy of security</p>			

14.1 Response to dDCO Questions Raised at ISH2			
Q14.1.1	Statutory Party, Statutory Undertaker and other IPs who were not present at ISH2.	<p>ISH2 on the dDCO: Agenda Annex A Questions</p> <p>Issue Specific Hearing 2 (ISH2) on the dDCO was held on Thursday 22 June 2023. The Agenda [EV-015] for that hearing included Item 4(j) and Annex A, a set of questions on dDCO drafting, on which oral submissions were sought from invited IPs in order to enable an early start to be made in the Examination on the ExAs dDCO drafting observations. IPs participating in the hearing were requested to make written submissions on matters raising in the hearing (including the content of Agenda Item 4(j) and the Annex A questions) at Deadline 1. To the extent that they have already done so, such IPs do not need to respond to this question.</p> <p>However, this question does seek responses to the Annex A questions from</p>	No additional comments.

		<p>particularly Statutory Party and Statutory Undertaker IPs that did not participate orally in ISH2 or make written submissions on the matters questioned there at Deadline 1. Responses should address the questions in Annex A, but recognising that the Applicant has made changes to the dDCO in part to address these matters since ISH2 was held, intending respondents should review the latest version of the dDCO in tracked changes [REP2-005] and the latest Schedule of Changes to the dDCO [REP2-042] before doing so.</p> <p>Issue Specific Hearing 7 (ISH7) to be held on 11 September 2023 will examine matters arising from the Applicant's and IP's submissions on the dDCO at Deadlines 1 and 2. Remaining unresolved matters (if any) will be identified in the ExA's commentary on the dDCO</p>	
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		which will be published if it is required on 14 November 2023. Any remaining complex, multi-factor and multi-party matters bearing on the dDCO may also be included in an ISH to be held in November (subject to notice).	
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