

Gravesham Borough Council

Issue Specific Hearing 6 (8 September 2023) – (ISH6) on Mitigation, Compensation & Land Requirements

Examining Authority's Agenda Item / Question	Gravesham Borough Council's Response	References
1. Welcome, introductions, arrangements for the hearing		
		REP1-181 9.8 Environmental Statement Addendum is relevant
2. Purpose of the Issue Specific Hearing		
3. Mitigation, Compensation and Enhancement		
a) Distinctions between Mitigation, Compensation and Enhancement		
<p>i. The ExA would like to understand how the three terms have been applied to the EIA biodiversity assessment and whether the assessment is explicitly clear about the amount and location of mitigation, compensation and enhancement areas proposed.</p>	<p>There is a hierarchy of avoid, mitigate and compensate. In general, for LTC the only way to avoid, is to do a scheme elsewhere (e.g. Dartford). Mitigate would include design changes to minimise impact (e.g. refining width of the utilities corridor on north side of A2 thereby reducing Ancient Woodland impact). Compensation only comes into play if there is no alternative, hence the various new areas of planting. Hence, there needs to be commitment to any compensation schemes beyond what is proposed is needed now, as part of the DCO.</p> <p>GBC support the point made by KCC that there needs to be more clarity on the proposed mitigation and how it is to be integrated. GBC want to see comprehensive mitigation plans, as indicated in the LIR</p>	

	(paras 8.38-8.40 of REP1-228). The Applicant's response to this concern has been to refer to a patchwork of different control documents but GBC does not consider that provides a satisfactory answer. GBC also emphasises that it has an enforcement function in relation to any made DCO and it is important that it can effectively police the compliance with mitigation measures, whether in requirements directly or in control documents, and the measures need to be readily identifiable.	
ii. Are there any notable disparities in the application material around what constitutes mitigation, compensation or enhancement that could have implications for the ExA's assessment?	Spills into landscape, where this is no possible mitigation (not to say may not be minor mitigation) and so there can only be compensation.	
b) Extent and Type of Landscaping		
i. There is a "landscape scale" strategy proposed for mitigating and compensating the loss of habitats, but the ExA would like to explore if this is the most appropriate method for mitigating and compensating for impact	<p>The oLEMP lists a set of proposals for a range of sites. These cover quite large areas (circa 240 ha in Gravesham depending on precise boundaries) but that is not a landscape scale strategy as it is made up of series of areas to meet various requirements. A strategy needs to be created that brings together landscape, biodiversity and heritage.</p> <p>Ms Val Hyland, landscape architect and landscape consultant for GBC made the following points:</p>	

	<p>There's a number of documents provided that describe the mitigation measures but they are across a number of documents and, as KCC has already said, the outline landscape and ecology plan sets out for a limited area the management and maintenance requirements for landscape and ecology mitigation. But this isn't a landscape-scale strategy. It's really about landscaping and the two are very different. We think landscape-scale would take, as has been said, a much broader, more holistic approach and take account of all components of the landscape. But we've noticed there are limited opportunities to mitigate within the scheme area so we think a broader approach is needed. For example, to make sure that areas that will suffer loss or damage, the mitigation should take place in that area. So we think a landscape-led strategy and a landscape-scale would provide an overarching strategy and it may have to look outside the border limits. GBC think that would be helpful.</p> <p>GBC asks:</p> <ul style="list-style-type: none"> • Proper integrated and holistic strategy to mitigation which takes a landscape-scale approach. 	
<p>ii. Whilst the type of species planting will be developed between all relevant parties during the development of the Landscape and Ecology Management Plan post</p>		

<p>consent, the Applicant will be asked to explain where it proposes to use non-native species and why this decision has been taken, especially if it includes designated/ protected areas?</p>		
<p>c) Biodiversity Net Gain (BNG)</p>		
<p>i. The Applicant will be asked to explain why, albeit not policy at present, it cannot commit to a minimum of 10% net gain.</p>	<p>GBC notes that the requirement for 10% BNG does not currently apply to NSIPs, but current policy in NNNPS does require the achievement of good design (para 4.31) and connects biodiversity improvements with good design (para 5.33). Thus, any failure to achieve 10% BNG is relevant to the question of whether the LTC represents good design. The Applicant has not used achieving that 10% as a scheme parameter/objective so when it says it has sought to 'maximise' BNG, that is only within the context of the parameters set.</p> <p>Also, for a flagship/exemplar project not to achieve 10% BNG, in the context that the timing of the implementation of the project has been delayed by 2 years and will therefore be taking place 'on the ground' in a changed policy context, is a retrograde step. GBC supports the inclusion of a requirement for the extent of BNG achievable to be reviewed during detailed design with a view to at least achieving 10% BNG. GBC has suggested how this could be done, relying on the A428 Black Cat scheme as a precedent,</p>	

	in its comments in the DCO appendix as part of its ISH7 post hearing submissions.	
ii.	Following comments from IPs, can the Applicant provide an update on whether it is considering a greater percentage of BNG, and what the implications are for increasing the BNG, e.g. to the land requirements, to the scheme cost, etc?	See above
iii.	Can the Applicant clarify if when calculating BNG it included in the metric any biodiversity mitigation proposed for this Project or that is currently in place for any other development (thus double counting)? Furthermore, do any of the change requests made by the Applicant so far impact the BNG calculations?	Kent is low on BNG across the scheme
iv.	The Applicant will be requested to discuss whether the metric used for BNG could be re-run using the latest metric (4.0) as requested by Natural England	
4. Green Bridges		
a) Purpose of Green Bridges		
i.	What is the overall purpose of the Green Bridges in this Project and what determined their location?	Green Bridges meet a number of objectives for biodiversity, access and landscape. Different disciplines have different objectives so there needs to be a mechanism for resolving such issues in a context where there is a clear overall objective – Gravesham
		Thong Lane North (86m width), Thong Lane south (41m) and Brewers Road (32m). ES Chapter 2 & LIR 8.33

	<p>would see landscape as the prime objective on those in Gravesham. With NE & AoNB unit cheekily suggesting new Green Bridge at Park Pale.</p>	
<p>ii. The ExA wants to understand what best practice design guidance has been used to inform the size, design and functionality of the green bridges and whether that guidance has been effectively deployed to this Project</p>	<p>General comment would be: The Landscape Institute guidance on green bridges recommends a width of at least 80 metres where the green bridge is to function at a landscape-scale or for an eco-system.</p> <ul style="list-style-type: none"> • Thong Lane North – is wide but could be wider • Thong Lane South – entry point to AoNB but poor connectivity to the south due to HS1. Could be wider but 40m short of the recommended width • Brewers Road – physical limitations due to HS1 and SSSI on north side (wider bridge would push utilities corridor into SWCP) but there may options the Council is not aware of <p>Ms Hyland, GBC’s landscape consultant, made the following points:</p> <p>We think the design criteria for the green bridges, in particular over the widened A2, as set out in the design principles – we think they’re not sufficient to provide the sort of mitigation we need for these adverse environmental effects. These bridges would need to be multifunctional to benefit wildlife, landscape and people, and in particular, the green bridges over Thong Lane south and Brewers Road, over the A2, are unlikely to provide the mitigation that we need to reduce landscape severance across the</p>	

	<p>transport corridor which runs within the Kent Downs AONB. The widened A2 is being accommodated into a constrained corridor, so there are few opportunities to provide landscape or ecological mitigation, so these two green bridges over the widened A2 are really important, as they're the only linking points for wildlife, and their landscape role is crucial due to the absence of other mitigation measures that might be possible to reduce severance, but also to screen and reduce the impact of the new road infrastructure.</p> <p>Now, there are also key elements of the recreation access network, and it's our opinion that this combination of usage of the bridges has not been fully considered, and the experience of users of the bridges, and notably walkers, cyclists and horse riders, has not been fully assessed. Bridge users will be exposed to the noise and lighting and visual intrusion from multiple lanes of traffic from the widened A2 and the feeder roads beneath these bridges, and in the case of Thong Lane south green bridge, proximity to the new A2 junction with the A122, which we think has multiple layers. So we think the bridges should be made as wide as possible, as a starting point, to make these bridges fit for purpose, to allow the full range of functions to be performed, and we would like the design of the bridges to be reviewed, and the bridges to provide enhancement as well as mitigation.</p>	
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	<p>There are two parts to the guidance that tend to be used. There's the Natural England guidance document, and the Landscape Institute technical guidance note, which we've talked about. The Landscape Institute builds on the Natural England work to examine the wider benefits of green bridges. Now, it's clear from both bits of the guidance that the best UK examples of green bridges, providing the mixed uses of biodiversity, connectivity, landscape severance and access, are the A21 Scotney bridge and Mile End in London. Now, we're not suggesting that the designs of these bridges should be applied to the green bridges over the A2, but we are saying there are elements of their designs and lessons from the use that might be applicable in forming the design of the green bridges south of the river. The summary of findings from the Natural England guidance document does also state that the planning of a green bridge should not be done in isolation, but should form part of a wider mitigation strategy, and it also states that the size and structure of the bridge should be based on the requirements of the expected use.</p>	
<p>iii. What is the target species for each of the green bridges and how are they specifically provided for?</p>	<p>Matter for detailed design</p>	
<p>b) Maintenance and Monitoring</p>		
<p>i. The ExA needs to understand how realistic the</p>	<p>Given limited soil depth, and therefore increased drought risk, there are obviously</p>	

	longevity/robustness of the planting is on the green bridges for biodiversity purposes given the restriction on landscaping growth and the proximity of vehicles.	limitations on what can be planted. To meet landscape objective needs to be visible above parapet height.	
ii.	What monitoring is expected to occur / be required and by whom to determine the effectiveness of the Green Bridges for biodiversity enhancement purposes and how is this secured in the DCO?	GBC expect National Highways to have a programme of monitoring all planting to evaluate its effectiveness. Assume for first 5 years it will be for the contractor to do logically and replace any failed plants. Beyond that need an agreed programme to check that the DCO assumptions are being met.	
5. Ancient Woodland Impact			
a) Methodology			
i.	What criteria is used to determine whether a tree is classed as veteran or ancient and are the criteria used robust?	Agenda Item 5 was deferred.	
ii.	The ExA would like clarity on whether physical surveys of woodland have been completed to show the full extent of affected habitat or has the level of importance assigned to trees been based on an agreed methodology with Natural England.		
iii.	The ExA will ask the Applicant to explain how it intends to create the replacement for lost ancient woodland, noting issues such as the benefits of		

<p>translocating soils, and whether it has considered how success would be monitored and any deficiencies addressed</p>		
<p>b)</p>		
<p>i. There is some conflict over whether The Wilderness should be regarded as ancient woodland. The ExA would like to hear from the Applicant and relevant IPs who have a view on this and what evidence they have to support their case either way</p>		<p>North of river</p>
<p>ii. Clarity is to be provided by the Applicant on the decision process to introduce a retaining wall to the south of this area and its potential impact to the area during construction and during the operation period?</p>		
<p>c) Calculation of Replacement Woodland</p>		
<p>i. What guidance was/should be followed in relation to the quantity, form and location of ancient woodland replacement?</p>		
<p>6. Nitrogen Deposition Compensation</p>		
<p>a) Mitigation Hierarchy and Site Selection</p>		
<p>i. The ExA needs to understand how the Nitrogen Deposition compensation approach aligns with the mitigation hierarchy?</p>	<p>Ndep sites were added at late stage (2022) - so very much an add on in the overall process. Most of the impact is south of the river, so expect most sites to be located there.</p>	
<p>ii. The Applicant will be asked to clarify how the size of the</p>		

	Nitrogen Deposition compensation area(s) has been determined and what their criteria were for selecting sites?		
iii.	What site surveys have been carried out on the proposed Nitrogen Deposition compensation sites to determine their suitability?	<p>Archaeology has not been done – but with 2 year delay allows time to do so</p> <p>GBC ask:</p> <ul style="list-style-type: none"> Necessary ecological, archaeology etc. Surveys be carried out and the overall strategy be discussed with stakeholders. This should include discussion with Parishes as to what functions local residents want 	
iv.	The Applicant will be asked to set out where and why areas of land for Nitrogen Deposition have been reduced.	No comment other than whether the reduced land area is adequate. Problem for all is that there is no clear national guidance	
v.	The ExA would like to hear from Stakeholders about whether the Applicant’s approach to Nitrogen Deposition is robust.	Not qualified to say that in detail	
b) Habitat Make-Up			
i.	It is reported that the mosaic of habitats for nitrogen deposition sites is expected to achieve a ratio of approximately 70% woodland to 30% other associated habitats. Is this approach well founded?	Can understand having an overall objective - but no technical basis to say whether that is correct or not. GBC would approach it from is this appropriate for each site in terms functionality for the local community, soils, landscape, archaeology, access etc.	
7. Shorne Woods SSSI Impact			
a) Shorne Woods SSSI Impact			
i.	The ExA notes the concerns raised in representations that recreational facilities proposed	<p>Agenda Item 7 was deferred.</p> <ul style="list-style-type: none"> — 	

	at the Shorne Woods Country Park could have a negative effect on the SSSI. Have the effects of the proposed facilities been assessed?		
ii.	What can be done to further minimise the effect on the SSSI during the detailed design period?		
iii.	Can the Applicant explain its understanding in relation to the boundary of the SSSI and any implications for the assessment should the boundary not be where the Applicant has assumed it to be in the assessment?		
8. Habitats Regulations Assessment			
a) Update on the Position			
i.	The ExA is aware of the current views of IPs on the HRA conclusions for Internationally Protected Sites but would like the Applicant and any other IP to provide a succinct update for each site as to where progress may have been made in agreeing conclusions and mitigation and compensation.	Natural England matter	
9. Delivery			
a) Delivery, Maintenance, Management and Monitoring			
i.	How will/should mitigation, compensation and enhancements be secured in the DCO?	Agenda Item 9 was deferred.	

<p>ii. Who will be responsible for implementing maintenance, monitoring and management (short or long term) of the range of measures along the length of the Proposed Development and how will associated funding for the responsible authority be secured? The ExA is of a view that the person or people involved should be suitably qualified in maintenance of species</p>		
<p>b) Post Consent Surveys</p>		
<p>i. The EIA sets out a number of surveys which are to be undertaken post consent but prior to construction, to inform the level and design of biodiversity mitigation. There are concerns raised about the time delay between surveys being undertaken, construction commencing, mitigation being delivered and in some cases mitigation maturing to a level of being effective. The ExA wants to explore the implications of this with the Applicant and relevant IPs</p>		
<p>ii. The ExA also wants to explore the potential risks of a harmful effect being discovered in post consent surveys that cannot be</p>	<p>·</p>	

mitigated or there is a requirement for mitigation which would be beyond the worst case scenario assessment in the EIA or even beyond the order limits.		
Next Steps		
Closing		