



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

**Response of the Kent Downs AONB Unit to Procedural Deadline 5
Interested Party Ref: 20035310**

**Comments on Applicant's responses to the Examining Authorities
ExQ1**

Q5.2.4 Nitrogen Deposition

Can the Applicant provide details regarding the tool which was used to calculate nitrogen deposition associated with the road ammonia (NH₃) component and explain how this tool was used to assess impacts on NH₃ on designated sites? Can the Applicant explain how the nitrogen deposition sites were selected? Can the Applicant also provide clarity on the link between impacted sites and compensation sites?

In response to the second half of this question relating to site selection and linkage between impacted and compensation sites, the Applicant signposts the ExA to Section 7.4 of ES Appendix 5.6: Project Air Quality Action Plan ([link](#)). Here, it is explained that the compensation sites were selected within the same ecological network of sites likely to be affected.

The AONB Unit maintains its concern, as set out at paragraphs 6.3 to 6.6 of its Written Representation ([link](#)) and elaborated on at ISH6 and its post hearing submission ([link](#)) that such an approach has resulted in an inequitable apportionment of compensation away from where impacts have been predicted to occur. 89 percent of the predicted impacts occur south of the river, the vast majority of which would be in the AONB, the remainder of which would be in its setting, yet the compensation strategy (as amended in Change Request MRC01) proposes just 40% of the compensation sites south of the river and only 21% in the AONB.

It is advised by the applicant that *'Habitat creation within the wider ecological network that affected sites lie within could improve the resilience of the affected sites and the network as a whole by providing a larger net area of the relevant habitat than in the existing ecological network with greater connectivity to other areas of habitat within the network.'* However, the primary impact of Nitrogen Deposition is to the quality of the habitat, as demonstrated in the submission documents (e.g., sensitive ancient woodland assemblages) rather than to ecological connectivity. We cannot see how providing new habitat in Essex would mitigate for the impacts of Nitrogen Deposition on the internationally important wildlife sites in Kent. Given the acknowledged importance of biological rich habitats to the Kent Downs AONB, which are specifically identified as one of the AONB's special characteristics and qualities (as set out in the Kent Downs AONB Management Plan 2021 to 2026, Section 1.2 page 5, [link](#)), such an approach would neither conserve nor enhance the special character and qualities of the AONB.

The AONB Unit therefore maintains its position that the adopted approach to Nitrogen Deposition compensation fails to provide appropriate compensation for identified harm that is predicted to occur to biodiversity rich habitats within the Kent Downs that are identified as being of international importance and that equivalent areas of compensation should be provided within the Kent Downs AONB, rather than north of the River Thames.

Q12.2.6 Landscape Character – Regrading of Sensitivity and Effects

Several IP's and Statutory Parties have identified that the Cobham Sub-area was assigned a 'very high' sensitivity in the 2020 version of the Landscape and Visual Impact Assessment (LVIA), and that no justification for the reduction in sensitivity to 'high' in the current assessment is provided and there has been no change in the baseline situation. The magnitude of effect on the West Kent Downs Sub-areas Shorne and Cobham has also been downgraded since the 2020 version from 'Moderate Adverse' to 'Minor Adverse' in the 2022 submission at Design Year resulting in a diminished significance of effect. Pursuant to DMRB LA 104 EIA Methodology, while 'moderate' residual effects can be considered to be material in decision making,

‘slight’ (or minor) residual effects are not material. The Applicant should provide justification for these downgrades as they have the potential to underplay the effects.

The Kent Downs AONB Unit has previously raised concerns about the use of a revised local landscape character area boundary for the Cobham sub area in the LVIA from that used in the Kent Downs AONB Landscape Character Assessment. Notwithstanding these concerns, the revised boundary that is used for the West Kent Downs (sub area Cobham) in the LVIA clearly excludes the A2 and High Speed 1 railway line from within this local LCA, as shown in Figure 1 below (the ‘official’ boundary by contrast does include much of the existing A2 as well as the railway line).

Therefore, we strongly disagree with the assertion in the response to this question from the Applicant that a reduced sensitivity from that previously assessed is justified on the basis that *‘due to the presence of the existing A2 corridor and HS1 along the northern boundary of this LLCA, the receptor has some ability to accommodate the Project without substantial loss of its overall integrity.’* Furthermore, no explanation is provided as to why a similar justification and grading is not applied to the West Kent downs (sub area Shorne) in which the highway infrastructure of both the A2 and HS1 lie, and which retains its Very High Landscape sensitivity from the 2020 version.

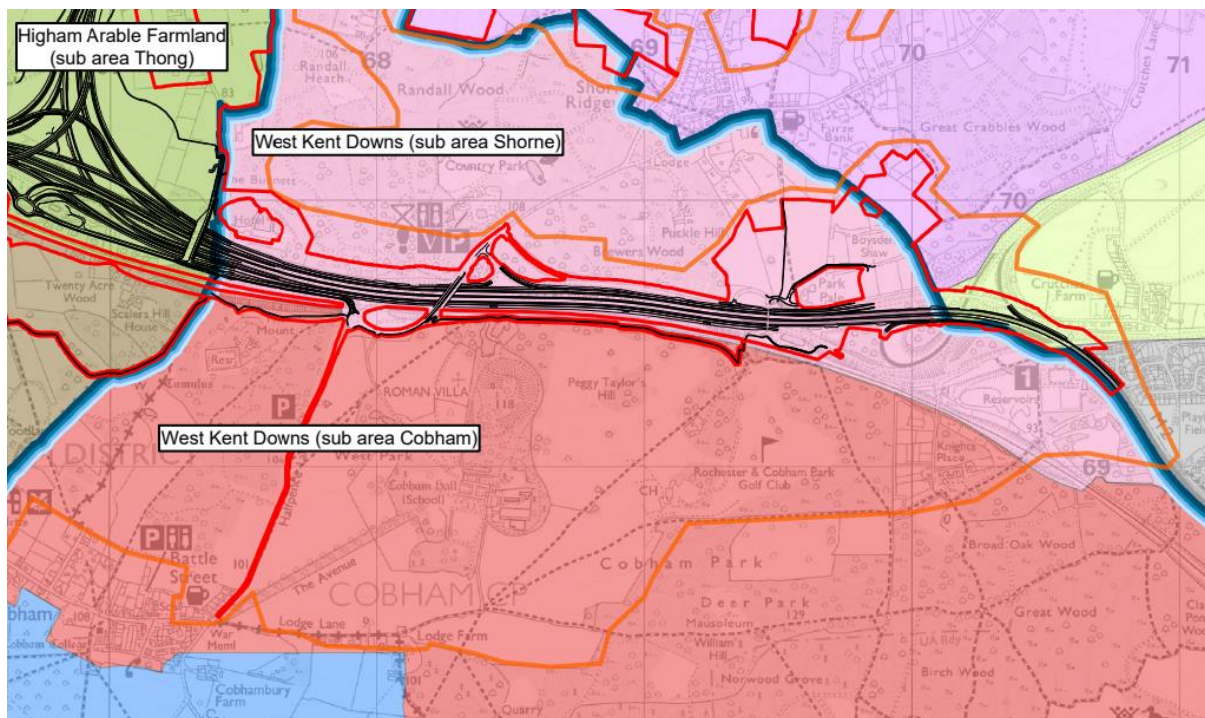


Figure 1 - Figure 7.2 of the ES, Local Landscape Character Areas

Q12.2.9 Compensation Fund

The ExA is concerned about the impact on the Thames Chase Community Forest as a greenspace and community endeavour. Why has the Applicant not considered Thames Chase for a community environmental compensation fund to aid its conservation and enhancement after project delivery?

The ExA is also concerned about the residual impact on the Kent Downs AONB and asks the Applicant to consider whether financial compensation for unavoidable harm

to the AONB is appropriate. The Kent Downs AONB Unit has identified precedent for financial compensation in its Written Representation [REP1-378] and the Applicant is asked to update the ExA with any progress on an agreed financial compensation proposal. It is noted from the Statement of Common ground between the two parties [REP1-062] that this is a matter still under discussion.

The applicant has responded advising that it is their intention *'that financial compensation would be provided to the Kent Downs AONB Unit through a Section 106 Agreement with Kent County Council. A draft Heads of Terms has recently been shared with the AONB Unit for review and comment.'*

The AONB Unit welcomes collaborative working with the applicant to establish a suitable means of securing compensatory enhancement elsewhere in the AONB should the Project be found acceptable. To be clear, such a provision would not overcome the Unit's fundamental concerns over the Project, but it would be in line with the Kent Downs AONB Management Plan principle SD12 (see page 33 of the AONB Management Plan, [link](#))

A draft Heads of Term was shared with the AONB Unit on 31/08/2023, which proposes the establishment of a landscape enhancement fund. It is disappointing this was provided without any prior discussion or indication on the proposed amount of compensation fund, nor in respect of the mechanics for delivery of the funding, despite on-going discussions regarding compensation since January 2021. The AONB will provide an update on its position regarding the proposal put forward once it has had time to fully consider the draft Heads of Terms and discussed this more fully with the Applicant.

Q12.3.2 Representative Viewpoints – Regrading of Sensitivity and Effects

The Kent Downs AONB Unit and Gravesham Borough Council have identified that the sensitivity of Representative Viewpoints with the highest degree of sensitivity (Very High) has reduced in number from 22 Representative Viewpoints in 2020 to 7 in 2022 (south of the River). The magnitude of effect and significance of effect on these receptors has also been notably regraded. For example, the overall magnitude/significance of effect on viewpoints S08 and S09 in Design Year has been assessed as 'Minor/Slight Adverse' in the 2022 documents (and therefore not 'significant') whereas in the 2020 documents they were both assessed as 'Major/Very Large Adverse' (i.e. the highest rating for negative effects) and therefore 'significant'. In addition, the overall effect on viewpoints S12, S13 and S14 has been assessed as 'Minor/Slight Beneficial' (and therefore 'not significant') whereas in the 2020 documents they were all assessed as 'Moderate/Large Adverse' (and therefore significant). The Applicant is required to clarify why the sensitivity and magnitude of effects have been notably regraded since the 2020 submission. Notwithstanding the information contained in Tables 3.1 and 3.3 in ES Appendix 7.10 - Schedule of Visual Effects [APP-385], the Applicant shall provide an additional Table similar to Appendix A in the Kent Downs AONB Written Representation [REP1-379] for all visual receptors north and south of the river with commentary to justify the regrading.

The applicant advises that the regrading is as a result of a 'thorough review of the visual impact assessment in the ES', including a review of sensitivity and further refinement of the Project design. We would comment that no details are provided however on what refinements to the Project design have contributed to the change in assessed impacts, either in the Applicant's written response to the ExQ1 and the associated 'Comparison of visual impact assessments from 2020 and 2022' table provided at Annex B, Doc 9.89 ([link](#)) nor in

the Applicant's Comments on WRs Appendix A – Statutory Environmental Bodies, Doc 9.53 ([link](#)).

In respect of the regrading of the sensitivity, we would comment that the 2020 Assessment used the same criteria as that used in the 2022 version to define visual sensitivities (i.e. DMRB LA 107 Table 3.41). In this, one of the 'typical descriptors and examples' for a Very High sensitivity is specified as '*Views from and of very important national/international landscapes, cultural/historical sites (e.g. National Parks, UNESCO World Heritage sites)*'.

Q12.3.5 Additional Photomontages

Concerns have been raised by Gravesham Borough Council, the Kent Downs AONB Unit and Natural England about the visual impact of the proposed road from representative viewpoint S-03 (view from Kent Downs AONB on footpath NS161). The ExA shares those views. The Applicant shall 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.

The Kent Downs AONB Unit welcomes the commitment from the Applicant to supply photomontages from Representative viewpoint S-03 at Deadline 5.

We note that the applicant advises, in the Applicant's Comments on WRs Appendix A – Statutory Environmental Bodies, Doc 9.53 ([link](#)), that '*The effects at Representative Viewpoint S-03 have been assessed as beneficial due to the establishment of ancient woodland compensation planting, which would largely screen views towards the A2 and HS1 corridors in keeping with the existing wooded character of the locality.*'

We would point out that while representative viewpoint S-03, located on public footpath NS161 is just located within an area of proposed woodland planting, the footpath would soon emerge and pass through an area proposed for grassland planting (for a length of over 250 metres), that would provide unfiltered and open views of the proposed Project. Furthermore, the AONB Unit, together with Gravesham Borough Council and Natural England have raised concerns over the appropriateness of woodland planting in this location, due to this not being in keeping with its current parkland character. In the event of the principle of the Project being found acceptable, we would wish to see modifications to the proposed woodland planting in this location, which would retain the existing open views southwards.