



PLANNING INSPECTORATE ISSUE-SPECIFIC HEARING

on

23 OCTOBER 2023

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PRESENT

PLANNING INSPECTORATE

RYND SMITH
JANINE LAVER
KEN PRATT
KEN TAYLOR

CASE TEAM

TED BLACKMORE
SPENCER BARROWMAN
ELLIOTT BOOTH
RYAN SEDGMAN

LOWER THAMES CROSSING

ANDREW TAIT KC
TOM HENDERSON
NICK CLARK
DR BRUCE LASCELLES
GARY HODGE
DR EMMA LONG
ALISON POWELL
RUSSELL CRYER
LISA DRISCOLL

LOCAL AUTHORITIES

MARK WOODGER (Essex County Council)
SUE HOOTON (Essex County Council & London Borough of Havering)
ANDREW FRASER-URQUHART (Kent County Council)
TIM BELL (Kent County Council)
MICHAEL BEDFORD KC (Gravesham Borough Council)
TONY CHADWICK (Gravesham Borough Council)
VAL HYLAND (Gravesham Borough Council)
DANIEL DOUGLAS (London Borough of Havering)
LYNN BASFORD (London Borough of Havering)
DOUGLAS EDWARDS KC (Thurrock Council)
DAVID BURGESS (Thurrock Council)
STEVE PLUMB (Thurrock Council)
CHRIS STRATFORD (Thurrock Council)
TRACEY COLEMAN (Thurrock Council)
SHARON JEFFERIES (Thurrock Council)
NAVTEJ TUNG (Thurrock Council)
SUSAN LINDLEY (Shorne Parish Council)

STATUTORY PARTIES

RICHARD PENN (Environment Agency)
TIM GARDINER (Environment Agency)
NICK GRANT (Natural England)
SEAN HANNA (Natural England)
KATHLEEN COVILL (Natural England)
ALICE APPLETON (Natural England)

INTERESTED PARTIES

VICKY ELLIS (CPRE Kent)

MIKE HOLLAND

NICK JOHANNSEN (Kent Downs Area of Outstanding Natural Beauty)

KATIE MILLER (Kent Downs Area of Outstanding Natural Beauty)

JACK TAYLOR (Woodland Trust)

1 MR PRATT: Morning, everybody. It's now 10.00; I'd like to welcome you all to today's
2 issue-specific hearing 9 for the Lower Thames Crossing. Now, before we all
3 introduce ourselves, I've got a few preliminary matters. First of all, case team
4 at the back and the audio-visual, can we be heard online, and are the recordings
5 and livestreams up and working? I see one set of yes; the appropriate thumbs
6 up are here, so to the introductions. I'm Ken Pratt; I'm a member of this panel,
7 and I'm going to have the pleasure of leading today's agenda. Now, I'm going
8 to ask the other panel members who are here today to introduce themselves. I
9 will start with the lady on my left.

10 MS LAVER: Good morning, everybody. Janine Laver, panel member. I can see most
11 of you.

12 MR TAYLOR: Good morning, everybody. Ken Taylor, panel member.

13 MR SMITH: And good morning, everybody. Rynd Smith, lead member of the panel
14 and also just to be clear that, whilst we were expecting Dominic Young to be
15 sitting with us today, he has actually been held up due to bad weather. We're
16 keeping a check on whether he's going to be able to be with us. We'll see how
17 we go. Clearly, I will flag that if he still has issues arriving here by tomorrow,
18 then tomorrow's business will proceed and myself and other members of the
19 panel will chair the relevant sections of tomorrow's agenda, so whatever
20 happens, there is a plan. I will just hand you back now to Mr Pratt.

21 MR PRATT: Thank you very much. This is Ken Pratt once more. Our Planning
22 Inspectorate colleagues who are working with us today at the back are Ted
23 Blackmore, Spencer Barrowman, and they're being assisted by Elliott Booth,
24 and we've got Ryan Sedgman in the virtual room.

25 Now, a couple of reminders: I'm sure I don't really need to do this, but all
26 devices and phones to silent. I'm told that there's no fire alarm today, so if it
27 does go off, it's the real thing, and we'll be trying to be running this hearing in
28 a series of sessions. Keep these to about an hour and a half as usual, and we'll
29 try and break at natural points as we have done previously, really, to allow
30 everybody to continue their train of thought. Sorry, I've just been –

31 MR SMITH: Yeah. No, he's in.

32 MR PRATT: He's in, yes.

33 MR SMITH: He's in.

1 MR PRATT: Sorry, I thought he was – my apologies for that. I’ll also intend to take
2 some comfort breaks, about 11.30 I reckon for the first one, as has been common
3 over these last few hearings. I think that’s all I need to say in preliminary. Has
4 anybody any questions? I very much doubt it.

5 MR SMITH: There’s probably one matter that I’ll speak to very briefly, and that is that
6 we clearly have a large agenda today, and we also have a very full room, both
7 physically and virtually, so we can anticipate that this might be a hearing that
8 maybe runs a little longer than some of the others. What I will flag is that we
9 will distinctly desire to accomplish the entire agenda by the end of the day, and
10 we would very much, therefore, like to ask for your forgiveness and forbearance
11 if we need to go beyond 5.00 p.m. We hope not to, but we’ll be keeping a check
12 on that as we move through the afternoon.

13 MR PRATT: Thank you, Mr Smith. I was almost coming to that.

14 MR SMITH: Apologies.

15 MR PRATT: Right, I’ll go to item 2 on the agenda, so this is, as I’ve said, issue-specific
16 hearing 9 for environmental and biodiversity issues, and we’re going to follow
17 the agenda that was published on 12 October on the infrastructure planning
18 website. This is the second hearing on this topic, and we’ve included some of
19 the items that were listed for the issue-specific hearing 6 agenda but were
20 deferred at that hearing. I’ve already said this is going to be livestreamed and
21 recorded. The recordings that we make are retained and published, and form a
22 public record that can contain your personal information, and to which the UK
23 general data protection regulation applies. Does anybody have any questions
24 about the terms on which our digital recordings are made? I’m not seeing any
25 hands in the room or externally, so I’ll just carry on.

26 Now, I think it’s time that we do what we normally do and introduce
27 ourselves. You’ve seen who’s on our table, so if that’s the case, I will ask – I’m
28 just going to go through alphabetical order – Essex County Council. May I have
29 an introduction, please?

30 MR WOODGER: Good morning, sir. Thank you for the introduction. My name is Mark
31 Woodger. That’s spelt W-O-O-D-G-E-R. I am a principal planner in the growth
32 and development team at Essex County Council and providing the planning
33 response on this DCO. I’m joined this morning by my colleague, Ms Sue
34 Hooton. Sue, would you like to introduce yourself? Thank you.

1 MS HOOTON: Good morning, everybody. Good morning, sir. My name is Sue Hooton.
2 I'm principal ecological consultant and supporting Essex County Council today.
3 Thank you, sir.

4 MR PRATT: Good morning to you. Kent is the next one. Thank you.

5 MR FRASER-URQUHART: Sorry, I was suddenly flummoxed by – you were saying
6 you were going alphabetically and then there seem to be some other authorities
7 above me in the alphabet. Never mind. For Kent County Council, sir,
8 Andrew Fraser-Urquhart, King's Counsel. I'll be assisted today by Mr Tim Bell
9 who is the head of ranger services for the authority.

10 MR PRATT: Thank you very much. What I'm intending to do is local authorities first,
11 people like the parish councils, and then other statutory parties. I maybe should
12 have said that at the beginning, which means, according to my list, it's
13 Gravesham's turn.

14 MR BEDFORD: Thank you, sir. Michael Bedford, King's Counsel, for Gravesham
15 Borough Council. I'm joined today by Mr Tony Chadwick, the NSIP project
16 manager, but I don't expect he will need to speak, and also by Ms Val Hyland,
17 the council's external landscape consultant, but again, I'm not envisaging she
18 will need to speak. Thank you, sir.

19 MR PRATT: Thank you very much, welcome. London Borough of Havering is on my
20 list next.

21 MR DOUGLAS: Good morning, sir. Good morning, everyone. My name's Daniel
22 Douglas; I'm a transport planning team leader at the London Borough of
23 Havering, and I'll ask my colleague, Lynn, to introduce herself.

24 MS BASFORD: Good morning, sir. Good morning, everybody. Lynn Basford here
25 from BasfordPowers Ltd, member of the Royal Town Planning Institute, and
26 also chartered town planner and transport planner, here supporting Havering on
27 all matters DCO.

28 MR DOUGLAS: I should also point out, sir, at this point, that Sue Hooton, who you
29 heard from earlier, is also representing the London Borough of Havering. I
30 won't ask her to introduce herself again as she's already done so, but she'll be
31 wearing two hats today, but when she does speak, she'll make it clear which
32 authority she's representing at that particular point in time. Thank you.

33 MR PRATT: Thank you very much. Yes, that would be most helpful for everybody
34 concerned. Thurrock.

1 MR EDWARDS: Yes, sir. Good morning, sir. It's Douglas Edwards KC, for Thurrock
2 Council. Before I ask the representatives for Thurrock who sit to my right to
3 introduce themselves, can I ask you to note that David Burgess is joining the
4 session today online, and he will contribute on behalf of Thurrock, principally
5 to agenda item 8 this afternoon.

6 MR PLUMB: Good morning, everybody. I'm Steve Plumb; I represent Thurrock
7 Council, providing landscape and ecology advice.

8 MR STRATFORD: Good morning, sir. Good morning, everybody. Chris Stratford,
9 planner representing Thurrock, and there are some other people online, as you
10 can see.

11 MR PRATT: The ladies online.

12 MS COLEMAN: Good morning. Tracey Coleman, chief planning officer for Thurrock
13 Council.

14 MS JEFFERIES: Good morning. Sharon Jefferies, supporting Thurrock Council.

15 MR TUNG: Good morning, Navtej Tung, strategic transport manager, Thurrock Council.

16 MR PRATT: Thank you and welcome. That's the end of the local councils. The next
17 person on my list is Shorne Parish Council.

18 MS LINDLEY: Good morning, sir. Susan Lindley. Not sure my camera's working now;
19 it wasn't earlier. Thank you, yes I'm representing Shorne Parish Council.

20 MR PRATT: It's nice to hear you. Unfortunately, as you suggested, your camera has not
21 come on. Don't worry; it's what you need to tell us that's important. We'll
22 work without the camera. Next, I would like to go to the statutory parties. I
23 believe the Environment Agency aren't here at present, or are they? Yes, there
24 are. Good morning.

25 MR PENN: Good morning, Richard Penn from the Environment Agency, environment
26 planning and engagement manager and overall coordination of our responses,
27 and I'm joined by Tim Gardiner.

28 MR GARDINER: Good morning, everybody. Good morning, sir. Thank you for that,
29 Richard. Yeah, I'm Tim Gardiner, biodiversity officer covering ecological
30 advice on the scheme.

31 MR PRATT: Thank you very much. It's Natural England.

32 MR GRANT: Good morning, sir. Nick Grant, counsel, here for Natural England. To
33 my right, you have Kathleen Covill, principal advisor in complex casework, and

1 behind us you have Sean Hanna, senior planning advisor, and Alice Appleton,
2 principal solicitor.

3 MR PRATT: Good morning to you all. Do we have either the Port of Tilbury or
4 Transport for London in the room? No, we don't. That's fine. Interested parties,
5 I suppose I'll go through them as on the list that I have in front of me. CPRE
6 Kent, are you represented today? Good morning.

7 MS ELLIS: Morning, yes. Vicky Ellis, general manager and biodiversity lead at CPRE
8 Kent.

9 MR PRATT: Can you just confirm, Ms Ellis, are you representing CPRE Essex as well?
10 Because I know that in the past, the two sections have had the one spokesperson.
11 Are you –

12 MS ELLIS: I haven't been asked to. No, I haven't been requested to do that, so it's just
13 Kent I'm representing.

14 MR PRATT: Thank you for that clarification. Next is Mr Holland; you have a number
15 of clients.

16 MR HOLLAND: Good morning, sir. Mike Holland, Holland Land & Property,
17 representing affected party landowners, with particular interest in agenda item 6
18 and to some extent 4. Thank you.

19 MR PRATT: Thank you very much. Good morning to you. Kent Downs AONB, is
20 there a representative? Good morning.

21 MR JOHANNSEN: Good morning, I'm Nick Johannsen. I'm director at the Kent Downs
22 Area of Outstanding Natural Beauty. You'll be pleased to hear that you won't
23 be hearing that much from me, because my colleague, Katie Miller, will be doing
24 most of the representations from us.

25 MS MILLER: Thanks, Nick. Yes, good morning, sir. I'm Katie Miller and I'm the
26 planning manager at the Kent Downs AONB unit.

27 MR PRATT: Good morning to you, and the Woodland Trust is last on my list as being
28 present. Is the Woodland Trust represented?

29 MR JACK TAYLOR: Morning, sir. Yes, Jack Taylor here. I'm the lead campaigner for
30 the woods under threat team at the Woodland Trust, and responsible for our
31 representations on Lower Thames Crossing.

32 MR PRATT: Good morning to you.

33 MR JACK TAYLOR: Good morning.

1 MR PRATT: Can I just check that the – there’s nobody representing the climate change
2 – climate emergency policy and planning unit, and nobody for the Port of
3 London Authority at this stage? And lastly, is there anyone representing the
4 Thames Crossing Action Group? Not this morning. If anybody who has an
5 interest and they are not here today, I’m just going to remind everybody that
6 there are the recordings; there’s the livestream and any written comments on
7 today’s – can always be submitted by deadline 6, which is only a number of days
8 away, being 31 October.

9 Can I also ask that for the benefit of the recording, when you’re intending
10 to speak, can you please make certain your mic is on? Do reintroduce yourself
11 by name and organisation, and also, if you’re referencing a document, can you
12 please slow down and be clear? It’s really to allow us to be certain as to the
13 correct reference. Before I go any further, it’s really remiss of me not to
14 introduce Mr Tait for the applicant. I assume you’re leading the applicant’s team
15 today. Would you care to introduce your team?

16 MR TAIT: Thank you, sir. Andrew Tait, KC, for the applicant. To my right, I have Mr
17 Tom Henderson, partner at BDB Pitmans. To my left is Nick Clark, the ecology
18 lead. His left, Dr Bruce Lascelles, who’s the agriculture and soils lead. To his
19 left, Mr Gary Hodge, who’s the highways technical lead, and at the end,
20 Dr Emma Long, who’s the environment design lead, and there may be others we
21 shall call on for other items, but that will be covering items 3 and 4 on the
22 agenda.

23 MR PRATT: Thank you very much, Mr Tait. Turning to today’s hearing, unlike where
24 we’ve just gone round everybody and then ended up with the applicant, I would
25 normally ask the applicant to speak first and then we’ll – the questions and other
26 interested parties after that, and as usual, we’ll provide an opportunity for the
27 applicant to make a reply. Now, before I get on to the actual business of the day,
28 session 1, does anyone have any burning questions of an introductory or
29 preliminary nature on the purpose of this hearing that needs to be resolved now,
30 and will not arise under any later agenda items? I don’t see any hands anywhere,
31 so without further ado, particularly as we’ve a long agenda, we’ll go to agenda
32 item 3, ancient woodland impacts.

33 Now, this topic was deferred from the issue-specific hearing 6 and I think
34 it would be really nice to hear from the applicant first, and then, as I said, I’ll

1 invite other parties to come in and make comment. I think if I may, Mr Tait, I'll
2 take the first three items first as a block, because they seem to be linked together,
3 so without further ado at this stage, can I have your thoughts, please, on the first
4 three questions, the three sections?

5 MR TAIT: Thank you, sir, and I'm going to go straight to Nick Clark to deal with each
6 of those three, so Mr Clark.

7 MR CLARK: Good morning, sir. Nick Clark for the applicant. In relation to the first
8 point on the agenda item, 'Which guidance was followed by the applicant?' the
9 applicant's been in discussion with Natural England for a number of years
10 around the approach the project should take to compensating the loss of ancient
11 woodland. The guidance we've received goes back to advice from the Defra
12 family in 2018, detailed in annex 1 of annex C.1 to the statement of common
13 ground between the applicant and Natural England, and that's reference
14 REP5-038. This highlights the importance of habitat connectivity, looking to
15 extend and buffer existing habitats, and more specifically, create a strong link
16 between Great Crabbles Wood and Randall Wood along the A2 corridor, all
17 measures that have been adopted by the applicant.

18 The applicant has also followed published government guidance
19 developed by Natural England and the Forestry Commission, and published on
20 the government website on ancient woodland, ancient trees and veteran trees.
21 The guidance states that when looking to compensate for the loss of ancient
22 woodlands, measures could include: creating new native woodland and allowing
23 natural regeneration, improving the condition of woodland; connecting
24 woodland and ancient and veteran trees with green bridges, tunnels or
25 hedgerows; producing long-term management plans for new woodland and
26 ancient woodland; planting and protecting individual trees that could become
27 veteran and ancient trees in the future; and monitoring the compensation
28 planting.

29 All these recommendation have been included with the application, and
30 are secured within the design principles – REP4-146 – the outlying landscape
31 and ecological management plan – REP4-140 – and the environmental master
32 plan, and there are numerous numbers for that. I can go through them now, or
33 we can provide it afterwards, if you'd prefer.

1 MR PRATT: If there's going to be a long list, I think it's probably better to present them
2 in writing after the event.

3 MR CLARK: Of course.

4 MR SMITH: And indeed, pick them up if you're making a specific reference to the
5 particular paragraph, the item in a document, so that we know where that item
6 is, but yes, other than that, in writing.

7 MR CLARK: Noted. Okay, thank you. The applicant's overarching objective in terms
8 of ancient woodland compensation planting has been to create new areas of
9 high-quality woodland habitat which act to join up existing retained woodland
10 habitats at a landscape scale. In the statement of common ground between the
11 applicant and Natural England, REP5-038, at item 2.1.64, Natural England
12 states, 'Whilst Natural England does not endorse the impacts to ancient
13 woodland, it's held constructive discussions with the applicant regarding the
14 mitigation and compensation measures that would be required if the scheme is
15 granted consent. Natural England considers the proposed compensation
16 measures will be of particular benefit where they help build nature recovery, and
17 Natural England supports the landscape-scale approach that has been taken to
18 identify the proposed compensation areas, with its aim of enhancing the
19 resilience of the affected sites by strengthening the ecological connectivity
20 between them.'

21 Whilst the applicant acknowledges that the loss of irreplaceable habitats
22 such as ancient woodland cannot be mitigated, we believe that its approach to
23 ancient woodland compensation is robust and in line with government guidance.

24 MR TAIT: Turning to 3(a)(ii).

25 MR CLARK: Nick Clark for the applicant, this looks at the criteria used to determine
26 whether trees or woodland are classified as veteran or ancient. The national
27 planning policy framework, which has been updated in 2023, defined ancient
28 woodland as an area that's been wooded continuously, since at least 1600 AD.
29 It includes ancient semi-natural woodland and plantation on ancient woodland
30 sites. The applicant used Natural England's ancient woodland inventory and the
31 Woodland Trust's ancient tree inventory to inform the identification of this
32 habitat type, as detailed in the environment statement, chapter 8, terrestrial
33 biodiversity, APP-146 in table 8.2. In addition to this, the applicant also used
34 site survey information, and has identified woodland areas which aren't listed in

1 these inventories as ancient woodland because of the presence of ancient
2 woodland indicator species and the woodland's presence on historic mapping,
3 and an example of this is Rainbow Shaw local wildlife site, north of the River
4 Thames.

5 The national planning policy framework defines an ancient or a veteran
6 tree as a tree which, because of its age, size, and condition has exceptional
7 biodiversity, cultural or heritage value. All ancient trees are veteran trees, but
8 not all veteran trees are old enough to be ancient, but they are old relative to
9 other trees of the same species. Very few trees of any species reach an ancient
10 life stage. The criteria applied to identification of an ancient tree is therefore
11 age-related. An ancient tree is defined as one that has passed beyond maturity
12 and is old or aged in comparison with other trees of the same species. A veteran
13 tree is one which exhibits some of the physical attributes associated with an
14 ancient tree but without the requirement for it to be aged in comparison with
15 other trees of the same species. A veteran tree would therefore be a mature
16 specimen which, through the rigours of life, shows signs of ancientness.
17 Physical attributes of veteran trees would typically include: a large girth for the
18 particular species, crown retrenchments, decay to the stem, branches or roots,
19 and the presence of wood-decaying fungi.

20 A tree survey methodology is set out in the environmental statement,
21 appendix 7.12, arboricultural impact assessment, reference APP-387,
22 paragraphs 2.5.13 to 2.5.18 inclusive. The tree survey was conducted with
23 reference to the methodology detailed within the British Standard,
24 BS 5837 (2012), trees in relation to design, demolition and construction. Where
25 possible, the applicant has looked to rely on veteran and ancient trees with
26 [inaudible] records, and where this was not possible – sorry, where this was
27 possible, the term 'verified' has been used within the arboricultural impact
28 assessment. Where this was not possible, veteran and ancient trees identified
29 solely via tree survey, where relevant criteria are met, are described as potential
30 veteran or ancient trees within this report. Both potential and veteran trees are
31 valued as nationally important. That concludes our point on point (ii) of the
32 agenda. Shall I move on to point (iii)?

33 Okay, agenda item point (iii), the applicant can confirm that physical
34 surveys of ancient woodland within the order limits have been undertaken.

1 These are reported in the environmental statement, appendix 8.2, plants and
2 habitats, APP-391, and appendix 7.12, arboricultural impact assessment,
3 APP-387. This also includes Rainbow Shaw local wildlife site, which is not
4 included in the ancient woodland inventory managed by Natural England. The
5 valuation of importance assigned to trees and woodland and all other relevant
6 ecological receptors is reported in chapter 8, terrestrial biodiversity, APP-146 in
7 section 8.3, assessment methodology, specifically, paragraphs 8.3.44 to 8.3.46,
8 and in table 8.5. This approach follows the design manual for road and bridges,
9 terrestrial biodiversity standard, LA 108, and aligns with good practice guidance
10 published by the Chartered Institute of Ecology and Environmental Management.
11 All ancient woodland and veteran trees have been valued as nationally important
12 in our application.

13 MR TAIT: So that concludes our comments on those first three items.

14 MR PRATT: Thank you very much. Before I openly open it out to other interested
15 parties, I believe my colleague, Ms Laver, would like to raise a question or a
16 comment.

17 MS LAVER: Yes, thanks. Mr Clark, I realise the question for part (iii) was framed about
18 surveys of current woodland, but could you just give some commentary on
19 surveys of sites where you're looking to put compensation for ancient
20 woodland? If you could just give me a quick summary on the surveys, thanks.

21 MR CLARK: Nick Clark, for the applicant, so the sites that we've – we're looking to
22 put compensation for ancient woodland are all within the order limits of the
23 project. These would have been picked up during our phase 1 habitat surveys.
24 I don't have the references to hand, but we can provide them afterwards.

25 MS LAVER: Thank you very much.

26 MR PRAT: Mr Smith.

27 MR SMITH: Yes, I think it's probably worth making a general overarching remark
28 before we take these items out to submissions from other interested parties,
29 because essentially, our purpose in placing these items on the agenda, really, is
30 to make sure that we have clarity about any remaining degree to which there are
31 concerns or disputes around guidance, methodology, good practice approaches,
32 etc. that are argued as being potentially relevant, ought to be relevant, should
33 have been used but were not, etc, so that we do not go away from this room with
34 any outstanding lack of clarity about these really quite important foundational

1 points, and hopefully by placing this discussion at the start of today, it actually
2 helps us make sure that we have solid foundations for the rest of the day too, so
3 I thought it was worth just making sure that everybody was clear on those points.

4 MR PRATT: Thank you very much. Any other comments from the bench? No, in that
5 case, can I have a show of hands of who would like to speak on this? And I must
6 admit: I'm glad Natural England has put their hand up. Right, I'll take Natural
7 England first because they're the respective body, I suppose, is the nice way of
8 putting it, and then I see there's a number in the virtual room, so we'll go to
9 them, so Natural England, if you'd care to...

10 MS COVILL: Thank you, sir. Kathleen Covill for Natural England. I think I'd start just
11 by saying that we don't use the term 'replacement' when we're talking about
12 ancient woodland compensation. Ancient woodland, by its very nature, is an
13 irreplaceable habitat, so we're talking about compensation when we're talking
14 about habitat creation for ancient woodland. I'd agree absolutely with what
15 National Highways have said, sir, in terms of we have advised the applicant to
16 apply the Natural England and Forestry Commission standing advice which was
17 published in 2014. That has been submitted to the examination library. That's
18 at REP4-336, and we're satisfied that National Highways' landscape scale
19 approach to compensatory planting reflects that standing advice, particularly, as
20 has been mentioned, in terms of that buffering and connectivity approach,
21 looking to connect those remaining woodlands and to expand them as well.

22 I wanted to mention that we do also welcome National Highways'
23 commitment to soil salvage from ancient woodland sites that will be lost, and
24 the use of deadwood and coppice stools as well, because we really want to see
25 the best use made of those materials, which are extremely precious and would
26 otherwise be lost. We welcome their commitment in the oLEMP at REP4-140
27 that this process will follow the good practice guidance, such as Anderson and
28 Groutage. It's very important it's done at the right time of year and with the
29 right methodology for it to have any chance of success, and we also welcome
30 the commitment to monitoring what is a relatively novel process to see how
31 ecologically effective it can be.

32 We did want to raise the point around we really welcome the fact that the
33 oLEMP at REP4-140 sets out the areas of ancient woodland compensation, but
34 we were also awaiting a refinement to the oLEMP, which would say that those

1 areas of habitat creation for ancient woodland loss, and also from SSSI loss,
2 would be managed in perpetuity. There was a commitment made by National
3 Highways in one of their earlier documents, which I'll find the number for,
4 which said that that change to the oLEMP would be made, so we're still hoping
5 that that will come in, because it's particularly important for those areas of
6 ancient woodland compensation that they have that long-term management and
7 monitoring because of the time that it takes for them to become ecologically
8 functional, so that's our response for 3(i). Shall I move on to 3(ii)?

9 MR PRATT: Please do. Ken Pratt, panel member. Please do, if you go through the first
10 three points and then we'll – I'll open it further.

11 MS COVILL: Yeah, for 3(ii), probably got a very short response, to be fair, because
12 again, we feel that National Highways has used the correct definitions for both
13 ancient woodland and for ancient and veteran trees, and they've already
14 referenced the relevant documents in terms of the veteran trees management
15 handbook and the keepers of time policy document that was published last year
16 as well, and the national planning policy framework as well, and their own
17 DMRB LA 108 guidance as well, so we're happy. We're content with what's
18 been used there.

19 In terms of 3(iii), we don't have any concerns about the survey
20 methodology that's been used. We did talk about the CIEEM 2021 good
21 practice guidance in our deadline 4 response at REP4-324. We're referencing
22 that, really, because it's a very useful summary of all of the good practice
23 guidance for habitats and species survey management, monitoring and
24 mitigation, and it does include the standards that National Highways referenced
25 in their oral advice. So again, we're content with what's been proposed in terms
26 of the survey methodology, and we're not expecting any further action from
27 National Highways on that matter.

28 MR GRANT: Sir, Nick Grant for Natural England. Just add to the missing reference
29 where the commitment can be found that Ms Covill referred to, it's REP2-046
30 at the top of paginated page 10.

31 MR PRATT: Thank you very much. Are you finished talking to – about the first three
32 items?

33 MS COVILL: Yes, thank you.

1 MR PRATT: Can I just ask what could almost be classed as a silly question, but what do
2 you mean by long-term maintenance or long-term management? Are you
3 talking, I suppose, length of time? Are we talking ad infinitum? What do you
4 mean by long-term?

5 MS COVILL: I think in terms of woodland management, it's 50 years-plus for
6 compensation planting to start to become ecologically functional and really start
7 to be seen as replacement habitat for what's been lost, so I know National
8 Highways have talked about in perpetuity management before, and I think that
9 is seen as just ongoing forever.

10 MR PRATT: Thank you for that. Ken Pratt, panel member. I'm going to put the
11 applicant on notice; could you please let me know when you come to respond at
12 the end what your assumption is for the long-term management of the trees?
13 Because I've seen 'perpetuity' and I've seen 'long-term' in different places
14 within your – in the documents. Well, it would be nice to just get some clarity
15 on that point, if I may. If that's Natural England now finished, the other hand
16 that I have up at present is from the Area of Outstanding Natural Beauty. Ms
17 Miller.

18 MS MILLER: Thank you, sir. Yes, Katie Miller, planning manager, Kent Downs AONB
19 unit, and the point I want to make is in response to the first question on the
20 agenda, and specifically about the location of the proposed ancient woodlands
21 compensation planting. The AONB unit doesn't raise any concerns about the
22 location in terms of ecological benefits and ecological connectivity, but the point
23 we want to make is that we're concerned that landscape character hasn't been
24 taken into account as fully as it should have been in determining the best
25 locations for the replacement planting, and our specific concern is in respect of
26 the land just north of Park Pale, between Great Crabbles Wood and Brewers
27 Woods.

28 At the moment, the land has a very historic parkland character. It's got a
29 gently undulating nature and it comprises several mature specimen trees. It
30 makes a real contribution to the landscape and scenic beauty of the AONB in its
31 current form. That would be lost with the woodland planting, which is a concern
32 to us, and we just feel that landscape character wasn't taken into account when
33 the compensation planning was being determined, and we were very much, we

1 feel, presented with the proposals rather than actively involved in any discussion
2 as to potential detrimental impacts to landscape character rising from this.

3 MR PRATT: Thank you for that. Right, the point's noted. I don't have any questions
4 on that. Has any of my colleagues? No, right. Thank you for that. At one stage
5 I saw a hand up from the Woodland Trust, but it's now gone. I assume that the
6 item or the issue has been dealt with. I don't see any other items on the... Hang
7 on.

8 MR JACK TAYLOR: Sorry, sir. Jack Taylor, Woodland Trust. Just to clarify that, and
9 the point I was going to talk about was already covered by Natural England,
10 regarding the 'replacement' wording versus 'compensation', so yeah, just
11 agreeing that the terminology used should be compensation planting rather than
12 replacement. Thank you.

13 MR PRATT: Thank you very much. I don't see other – any hands up in the virtual room,
14 and there's no other hands up in the physical room, so that one I thought might
15 take a little bit of time, but we actually got through it relatively quickly. There
16 is an ongoing issue that I've – a question that I've got, but it actually will fit in
17 with one of the later questions, so I will leave it to that point there, so we're
18 going to question (iv), really, which is in relation to the previous one about
19 surveys. Have all the potential areas of ancient woodland been agreed and
20 accepted? Does everybody know where they are or is there any places that have
21 been missed? Mr Tait.

22 MR TAIT: Thank you, sir. Would it be convenient if I just picked up a couple of points
23 from the last three?

24 MR PRATT: By all means. I apologise; I should have given you the option to come
25 back.

26 MR TAIT: Sir, the first point relates to the wording in the – in various places as to –
27 you've seen 'perpetuity' and you've also seen 'long-term'. We will try and have
28 convergence to ensure that there is a singular expression. It's clear what is
29 meant, but it is intended, as is set out in REP2-046, for that to have a
30 permanence, but we'll respond in writing on that. Secondly, in relation
31 specifically to the question of ancient and veteran trees, there are the REAC
32 commitments at LV030, 31 and 32, which is in REP5-048, which, in addition to
33 what is set out in the oLEMP, also govern the position about relocating lost
34 veteran trees, veteran tree replacement and veteran and ancient tree fencing, so

1 that's just to complete the picture in addition to what is set out in the oLEMP.
2 And on the third point in relation to the compensation planting and the extent to
3 which landscape character has been taken into account, we'll come back to you
4 in writing on that, but very briefly, Dr Emma Long may be able to give a concise
5 response which we can elaborate on

6 DR LONG: Morning, sir. Dr Emma Long for the applicant, so we did discuss – I think
7 fairly early on when we were looking at planting in that particular area – the
8 importance of maintaining key views, particularly key landscape views, and
9 that's been designed into the open areas within that area of compensatory
10 planting, but also align with the public open space that sits within that block of
11 the woodland planting as well. So we have sought to try and keep key views
12 that were felt to be particularly important from a landscape perspective open, so
13 that they're not closed off by woodland planting in that location. Thank you.

14 MR TAIT: Coming on to 3(a)(iv) and mapping and documentation on the location and
15 size extent of ancient woodland, again, I'll ask Mr Clark to respond on that,
16 please.

17 MR CLARK: Nick Clark for the applicant. I have a list of areas in the application where
18 we refer to ancient woodland impacts and ancient woodland compensatory
19 planting. Would it be useful if I went through those briefly?

20 MR SMITH: Possibly, but is there a summary map that we can pull up on screen?
21 Because I think quite a lot of people are itching to see geography, planners that
22 we are.

23 MR CLARK: Nick Clark for the applicant. There are a number. I'll start, if I may, with
24 figure 8.33, the reference being APP-294, so figure 8.33 shows all of the areas
25 of ancient woodland in and around the order limits for the project which are
26 shown in the light green hatching. The dark green hatching, striped hatching,
27 shows ancient wooden compensation planting. The purple shows areas of
28 ancient woodland impact, ancient woodland loss, and the grey areas show
29 nitrogen deposition compensatory planting, some of which is in there for
30 degradation of ancient woodland. So that figure shows areas in and around the
31 order limits, but there are impacts beyond those as a result of nitrogen deposition
32 along the affected road network. And we have figures in appendix 8.14,
33 'designated sites air quality assessment', which is APP-403, which show those.
34 I think this is figure 1 of that reference, so what this shows is all designated sites

1 along the affected road network, including ancient woodland, so it's at quite a
2 high level.

3 We have another figure, figure 2, which zooms in a little bit more so you
4 get a bit more clarity, and then beyond those we have each individual site which
5 is affected by nitrogen deposition. So we have – there is an awful lot of
6 information in the application, but I take the point that there's a lot of
7 information out there, so it could be difficult to negotiate.

8 MR SMITH: Thank you very much, and it's very helpful just to be reminded of where
9 the information rests. Mr Pratt.

10 MR PRATT: Thank you that much. Well, in that case I will now move on to question (iv)
11 which is about the surveys, and the simple one is, 'Have all the potential
12 [inaudible] of ancient woodland been agreed and accepted and everybody knows
13 where they are?' And I suppose you've almost answered that with what you've
14 just delivered. I'll open that out to the rest of the body. Is everybody clear on
15 existing locations of ancient woodland or is anything missing?

16 MS COVILL: Kathleen Covill, Natural England, just to say we're content, just so you
17 have it on record.

18 MR PRATT: Thank you very much for that. I don't see any other hands anywhere, so
19 without further ado, I will move on to the next question, so as far as we're aware,
20 all the areas are known about and it's now accepted that ancient woodland
21 cannot be replaced. The next series of questions were really based on the
22 presumption that within the documentation there was suggestions that
23 translocation of soils and other measures are proposed. There are consequences
24 for soil movement that will be required for the compensation, and what I'm
25 really looking for is for the applicant to explain the methodologies in moving
26 the soils, particularly managing them. How can you stop contamination? Things
27 like that, and then going back to what was said earlier on in response to the first
28 question about creating new areas of high-quality woodland habitat, the trees
29 and the woodland has a high degree – or there is a fauna – different bits of fauna
30 that support that, and how is that being assisted to survive?

31 At that point I think I've probably said enough and I will allow Mr Tait to
32 answer the questions and carry on from there.

33 MR TAIT: Thank you, sir.

1 MR SMITH: Just to be clear before we move on, we're bundling these in terms of
2 response to items (v) and (vi) in one hit, so to speak, Mr Tait, if that helps you
3 and then we'll obviously go out to the rest of the room in relation to individual
4 responses that arise from those items.

5 MR TAIT: Sir, in relation to (v), the fourth item and also the sixth item, I'm going to ask
6 Mr Clark to respond to that, but before doing so, in relation to the first three
7 items of (v), I'm going to ask Dr Bruce Lascelles to speak. He's the lead
8 agriculture and soils on the project. He was formerly president of British Society
9 of Soil Science and he's one of the authors of the CIRIA guide called, 'Habitat
10 translocation: a best practice guide', and he's on the CIEEM ecological
11 restoration and habitat creation special interest group committee, leading on soil
12 guidance in relation to habitat creation, restoration and translocation, so I'm
13 going to ask Dr Lascelles to respond to the first three items, please, of 3(v).

14 DR LASCELLES: Thank you. Good morning, sir. Dr Bruce Lascelles for the applicant.
15 If I can start with some references, first of all, to key documents. The creation
16 of compensatory habitat for lost ancient woodland is detailed in the outlined
17 landscape and ecology management plan which is APP-490. The equipment to
18 ensure the appropriate reuse of soils aligned to the required land use or habitat
19 is set out in paragraph 10.5.8 and it's bullet (g) of that paragraph of
20 environmental statement, chapter 10, geology and soils, which is APP-148. That
21 paragraph references commitment GS009, as set out in the register of
22 environmental actions and commitments in the environmental statement,
23 appendix 2.2, code of construction practice, first iteration of environmental
24 management plan, which is APP-336. And then finally section 8.23.7 of the
25 outline landscape and ecology management plan, which again is APP-490, states
26 that where practical, the aim is to utilise as much of the existing soil resource as
27 possible from the ancient woodland areas directly affected by the project.

28 So I'd firstly like to note that the salvage and reuse of soils is not a
29 determining factor in the design or the extent of the compensation planting
30 proposed. As has already been stated by Mr Clark, the overarching objective in
31 terms of ancient woodland compensation planting has been to create new areas
32 of high-quality woodland habitat which have to join up existing retained
33 woodland habitats, so before I talk about the how, if I can address the question
34 of the benefits of translocating soils. There's limited published evidence on the

1 value of salvaging and reusing ancient woodland soils, stools and deadwood.
2 However, there are some important documents. In 2022, HS2 published a
3 lessons learned document on ancient woodland soil translocation, and on page 2
4 of that report they state, the following: ‘HS2 Ltd believes that reusing ancient
5 woodland soils will provide a better outcome for these important soil resources
6 which have developed over hundreds of years, compared to, for example, the
7 disposal of this material or its use in civils elements.’

8 Alongside that, as part of my involvement in other National Highways
9 projects, I’ve supported two MSc projects with Cranfield University looking at
10 the physical, chemical and microbial characteristics of translocated ancient
11 woodland soils compared to undisturbed ancient woodland soils, and these are
12 two of the very few studies which have been done, and so they are an important
13 step forward in our understanding. And these studies looked at the A2/M2
14 Cossington Fields ancient woodland translocation, a scheme which is cited as an
15 example of best practice, and the A22 – sorry, the A21 Tonbridge to Pembury
16 ancient woodland translocation as well, and these research projects have shown
17 that disturbance of the soil does result in changes to its characteristics, and across
18 those two projects, those differences are evident three and 18 years following
19 translocation of the soils.

20 But really importantly, the translocator soils in both those studies were
21 much closer in their microbial community composition to undisturbed ancient
22 woodland soils, compared to soils associated with compensatory woodland
23 planting on either just arable soil or on subsoil. And aligned with that, the
24 10-year ecological monitoring programme at Cossington Fields concluded that
25 the salvation and reuse of ancient woodland soils had had a positive impact on
26 the successful establishment of a range of ground flora species which were not
27 seen in that timeframe in areas of woodland planted just on arable soils. So
28 overall, I would conclude that there are benefits in salvaging and reusing, where
29 practical, the soil stools and deadwood material from areas of ancient woodland
30 affected by the project.

31 In terms of how this will be done and where the soils will come from, as I
32 noted at the start, the outline landscape ecology management plan, which is
33 APP-490, sets out the approach which would be followed, and just in summary,
34 those steps would be preconstruction botanical surveys to provide an updated

1 baseline for the donor areas and the receptor sector areas, importantly. Really
2 critical to this, then, is a soil survey to include both sampling and testing, and
3 the sampling is to understand the profile characteristics, and the testing is to
4 understand both nutrients, pH, but also to look for any contamination, and that
5 will be done to confirm the compatibility of the receptor sites in terms of the soil
6 characteristics of the donor sites, as well as looking at general sites
7 characteristics such a slope and aspect and so on, which are all important.

8 So both surveys together would confirm the extent of soil which could be
9 salvaged from the areas which you've seen on the plans recently, and that would
10 take into account constraints such as presence of invasive or weed species,
11 contaminated materials, fly tipping and so on, which we have seen on other
12 projects. And that information – essentially, that gives us the baseline and the
13 comparison from which to develop a detailed specification for the translocation
14 process which would be undertaken and developed in consultation with the
15 advisory group, and that would include stringent soil protection measures and
16 new tree planting plans, and that specification, [inaudible] statement, would be
17 submitted to the advisory group for comment prior to being finalised for use, but
18 would, as I said, be based on all the survey data.

19 And then essentially the works would comprise – again in summary – the
20 preparation of donor areas for soil removal, so essentially the felling of the trees,
21 but making sure that the soil conditions were not – the soils weren't damaged as
22 a result of that vegetation clearance. Receptor area preparation, which in all
23 likelihood would require – because they're put on the arable fields, would
24 require the removal of the top soil to remove any high nutrient loading, and also
25 then making sure that the subsoil was not – had not become compact, but would
26 be de-compacted, should it be needed, following the removal of the top soil, and
27 then soils from the donor areas would be stripped, again very carefully, stools
28 lifted where it was felt that they would regenerate once moved, deadwood
29 collected, and that would be translocated to – or moved to the receptor areas.

30 Generally, we would be looking at that to happen within a single day, so
31 soils lifted, moved and respread within a single day as far as it's practicable, and
32 then as a final step there would be tree planting across the new areas, as has
33 already been discussed. And again it's already been mentioned, but the detail
34 specification for the translocation process would be based on both professional

1 expertise, and on published guidance, and three perhaps key documents are the
2 CIRIA report – so CIRIA’s the Construction Industry Research and Information
3 Association – so CIRIA 2000, their ‘Habitat translocation: a best practice guide’,
4 and the reference to that document is C600. There’s an English Nature report in
5 2006, ‘Guidance on understanding and managing soils for habitat restoration
6 projects’, and that’s their research report 712. And then, as I mentioned, the
7 HS2 report published in 2022, ‘Ancient woodland soils translocation – HS2
8 learning legacy’, and if I can hand over now to my colleagues, Mr Clark to pick
9 up on the final points.

10 MR TAIT: Sir, just before Mr Clark comes in, the references that were given just then
11 were to some of the original documents and those references are all accurate, but
12 for the updated documents, the oLEMP is REP4-141 and the specific ancient
13 woodland provision at LE 8.2, but also the individual management areas in
14 section 5 and 6, and for the REAC – that’s now REP5-048 – for the specific
15 commitment GS009. Turning to Mr Clark.

16 MR CLARK: Nick Clark for the applicant. Just to make a point in addition to the
17 measures relating to ancient woodland soils that Dr Lascelles was just talking
18 about, the application includes commitment, within the code of construction
19 practice, which is REP1-157, item LV031, to relocate intact hulks of felled
20 veteran trees and retained timber from unavoidable felling of ancient woodland.
21 Veteran trees can be retained in log piles within adjacent woodland habitat. The
22 individual ancient woodland compensatory planting management areas are
23 described in sections five, six, and seven of the outline landscape and ecological
24 management plan, REP 3 – actually, I think the REP’s been updated. Sorry.

25 MR TAIT: REP4-141 – 4-140, I think.

26 MR CLARK: I think you’re right, apologies. The aim of the suggested monitoring
27 programme within that document is to ascertain whether the outline measures of
28 success have been achieved, whether maintenance opportunities or remedial
29 actions are required. After a five-year establishment period, long-term
30 monitoring would be undertaken to assess the success of the woodlands in terms
31 of developing into relevant target priority habitats. This would include fixed
32 point or arial photography to record overall habitat development within any
33 given management area, as well as surveys following commons standards
34 monitoring guidance for woodland habitat, published by JNCC. These surveys

1 would continue once every five years within the detailed monitoring, with the
2 detailed monitoring approach being refined over this period as part of the
3 advisory group discussions.

4 The applicant recognises that the loss of ancient woodland cannot be
5 mitigated for, but we're proposing significant areas of woodland planting, both
6 north and south of the River Thames to help compensate for these impacts.
7 These are detailed in chapter 8, 'Terrestrial Biodiversity', APP-146. In this
8 assessment, at paragraph 8.6.55, we recognise that it would be expected that
9 newly planted semi-natural woodland would take in excess of 30 years to
10 become sufficiently established and mature to compensate for these predicted
11 losses. In characterising our impacts, and in line with relevant guidance, our
12 assessment includes the duration of an impact and whether it would be considered
13 temporary or permanent. These are reported in section 8.6 of APP-146, and we
14 therefore account for this time lag as part of the consideration of our impact
15 level, not only for the habitat itself but also for any species receptors that those
16 habitats may support. The creation and establishment of habitats is secured
17 through the details of the outline landscape and ecological management plan,
18 REP 4-140, section 8.23.

19 MR TAIT: So those are our comments, at this stage, on both APP-5 and 6.

20 MR PRATT: Thank you very much. Mr Smith, I know you want to come in at this point.

21 MR SMITH: Yes. Now I've got one or two supplementaries that I would like to follow
22 up on. I'm going to chop them up into parts, in no particular order other than
23 the time sequence in which they arose. The first observation that I wanted to put
24 back to the applicant related to a matter that I know has also concerned Ms
25 Laver, and this is the question about the initial surveys undertaken on the
26 compensation sites, particularly around, I guess, the question of characterising
27 the nature and soil types of those receiving sites because I just wanted to test
28 there, whether there are circumstances in which translocation can be adversely
29 affected by, for example, soil characteristics in the receiving environment. I'll
30 give you a couple of examples: soil taken from a 'wet' donor area to a dry
31 receiving site, or, for example, from a low nutrient donor area to an immediately
32 ex-arable high nutrient receiving site, and whether those sorts of circumstances
33 affect likely performance and success.

1 Now, jumping on from that, embroidering that with one final little bit of
2 detail, is then the question about the degree to which there needs to be, or
3 whether you believe this has already been dealt with, particular performance
4 specifications to address those sorts of issues. Is that something that – and if
5 you need to come back to us on that in writing then, again, by all means, but –

6 DR LASCELLES: Yeah, thank you for the question. Dr Bruce Lascelles, for the
7 applicant. Absolutely, the assumption there, that if the soil conditions between
8 the areas being translocated and the donor areas are divergent, then you are going
9 to affect the success of the project. So the process that I outlined, in terms of the
10 surveys and the process for actually moving the soils and preparing the receptor
11 sites, is all designed to minimise any potential divergent in the site
12 characteristics. So, in particular, I'm thinking generally about the site, so
13 topography, the relief, the angle of the slope, the aspect, they're all important
14 considerations. Generally, as I said, the receptor areas are probably going to
15 require the topsoil to be removed, on the assumption that it is likely to have had
16 fertiliser added to it, maybe chemicals added to it as well, and also the fact that
17 we want to be moving the topsoil from the ancient woodland sites as well.

18 So the key is then making sure that the subsoil in those receptor sites is
19 comparable in terms of its texture, its drainage, its pH, to the subsoils that are
20 present in the donor sites as well. So we haven't done all those detailed surveys
21 as yet. We have a wealth of information on the soils from the agricultural land
22 classification surveys, which have been undertaken, and they are presented in –
23 if I can just find the reference – in environmental statement chapter 10, geology
24 and soils, which is APP-148, and its relevant appendix, and we'll reference the
25 appendix later.

26 So we have a wealth of soil information, but that was designed specifically
27 to understand the agricultural land classification grades. We do need to do some
28 supplementary work to assess that, and as I said, in summary I suppose, the
29 process, the surveys we undertake and the testing we do, and the process by
30 which the soils are moved and the receptor areas are made ready, is all designed
31 to make sure that those differences don't exist. Absolutely, if we've got wet
32 pockets and depressions, we will try to recreate wet pockets and depressions to
33 move those soils to.

1 MR SMITH: Thank you. That's a clear answer, but in then takes me to another
2 supplementary on, essentially, almost the same ground, which is the observation
3 that was made in one of the answers to the initial question around the delivery
4 of translocation where practicable. And again, my focus here being, what
5 specific indicators at this juncture do we have about where practicable and where
6 not?

7 And also, the question about when there is that supplementary data, is
8 there a need for, for example, the sign-up of a supplementary methods statement
9 to assure relevant stakeholders that certain measures and certain outcomes are
10 practicable in certain locations so that the work that you're flagging that needs
11 to be done a) is done, and then b) we don't end up in circumstances where,
12 inadvertently, potentially beneficial soil bodies are lost or translocated to the
13 wrong spot, or something happens that actually leads you to not delivering the
14 best outcome for the compensation sites that the underlying science that you've
15 done suggests that you can?

16 DR LASCELLES: Yeah, thank you. Dr Bruce Lascelles, again, for the applicant. If I
17 could just pick up on perhaps the centre of that question, around where
18 practicable. The guiding principles there really are invasive weed species and
19 contamination, I think, would be the three aspects, or from my experience the
20 three aspects, which have prevented us from translocating all the ancient
21 woodland soils. There shouldn't be any other significant constraints. It's not an
22 easy process to do because you're trying to remove soils from around roots; very
23 often, particularly on dry sites, the soils are very, very thin as well.

24 But there are some very, very competent contractors, the specialist
25 contractors I've worked with, who can achieve that. So really, it's just
26 identifying if there's anything and, generally, from my experience, I've seen this
27 as a woodland edge issue, where you've got lots of bramble growing, for
28 example, you've had fly tipping and asbestos and so on.

29 So we can set out what those characteristics would be and, obviously, the
30 information from the surveys would be shared so that we could clarify the
31 difference between, perhaps, the full extent of the ancient woodland being
32 affected and the areas where we believe it is possible to salvage material from.
33 And maybe just the point of the level of detail, the guidance documents I refer
34 to, particularly the HS2 guidance document, it talks about setting out a grid

1 pattern. So you essentially identify a grid network and the soils from each unit
2 of that grid are moved to a particular place, so again, you're matching up, at a
3 fine scale, the characteristics of the donor site and the soils, and where they're
4 being moved to on the receptor sites as well.

5 MR SMITH: So in relation to that, essentially, thought processes around, again, whether
6 or not any additional control document signed off by what mechanism is
7 required, or whether we've got enough. And I'll leave that question on the table,
8 and it might well be something that others can respond to, and then the applicant,
9 you can pick up in your response.

10 Now there's one final group of issues that emerged, I think, in relation to
11 those responses, and this is the duration of monitoring in terms of the
12 establishment of compensation woodland. And particularly, I'd like Natural
13 England to pick up the adequacy of a monitoring period, and looking at the
14 establishment timescales, and the applicant is talking about in the order of 30
15 years, whereas I think Natural England's was to in the order of 50 years
16 establishment period, plus or minus, for compensation in these circumstances.

17 So again, our throwback to both of you is, so, at what point does it become
18 reasonable no longer to be expecting to engage in detailed management
19 interventions to secure the success of establishment? And how long is detailed
20 monitoring and management required for? We'll go to the applicant on that for
21 an initial stab, but we will ask you as we come through. Okay, to the applicant,
22 please.

23 MR TAIT: Andrew Tait, for the applicant. So I think the position is set out in the
24 oLEMP, REP4-141, in relation to monitoring. And at 418, it deals with the
25 monitoring party to work collaboratively with the advisory group, which is set
26 out, and provides for an annual monitoring report to be prepared by the
27 monitoring party, and then there is extensive consideration of the role of the
28 advisory group and the terms of reference for that. So the reference to 30 years
29 isn't a constraint within the body of that document; it's an output from whatever
30 the monitoring party and the advisory group processes indicate is appropriate,
31 so that's the broad response.

32 MR SMITH: Understood, and I guess, to maybe provide you with a little bit more clarity
33 about the intent in my question, I wouldn't expect a monitoring plan that runs
34 all the way out to 30 or indeed 50 years, but where's the taper? Where's the

1 highest risk of lack of success? Where are you saying that you actually need
2 active interventions and management, and a monitoring feedback loop, and how
3 quickly does that taper off?

4 MR TAIT: Now I will pass over to Mr Clark.

5 MR SMITH: Yes, I thought so.

6 MR CLARK: Nick Clark, for the applicant. In terms of monitoring any habitat that the
7 applicant creates and its ongoing management, the ongoing management is
8 secured as part of the outline landscape and ecological management plan. Its
9 monitoring is integral to that management. You can't really undertake
10 management without appropriate monitoring because you don't know what
11 actions you need to put in place to appropriately manage that habitat. So the
12 management and the monitoring go hand in hand, and would be long term, as
13 secured in the application.

14 I guess, in terms of intensity, you would always look to monitor and
15 manage more intensely in those first creation and early establishment period.
16 Quite often, you'll do annual monitoring for the first five years, and then, as part
17 of the discussions that we would have with the advisory group, we'd look to
18 maybe extend those out on a bi-annual basis, and then possibly moving out to
19 every five years. I would consider five to 10 years to be a minimum period that
20 you'd want to do regular monitoring to inform future management.

21 MR SMITH: Okay, thank you very much. Mr Pratt.

22 MR PRATT: Thank you, Mr Smith. I suppose the pointed nature of some of those
23 questions, Natural England, I think you're first on the block.

24 MR SMITH: It's not a block. It's much friendlier than a block.

25 MS COVILL: Thank you, sir. Kathleen Covill, for Natural England. I would agree with
26 National Highways, in terms of monitoring and management, that normally it's
27 the early establishment period, that first five to 10 years, is the really crucial one.
28 And also, in terms of if you have extreme weather events as well, where you
29 might get sudden die-off that needs to be addressed at that early stage. I think
30 where I was talking about 50 years, I was really thinking about ecological
31 functionality. I would say 30 years would be a minimum to where you're getting
32 an ecologically functional woodland that's starting to become more biodiverse
33 and starting to establish itself.

1 I know that with the A21, we worked with National Highways there, on a
2 slightly wider monitoring programme, which really did start to look at that
3 ecological functionality and looked at how the woodland and habitats there were
4 establishing for the non-protected species, the birds and some of the amphibians
5 that we would want to see present in an ecologically functional woodland. And
6 we'd be really interested in having that kind of monitoring approach for Lower
7 Thames Crossing as well, which goes slightly beyond just monitoring for the
8 protected species and the mitigation that's being put in for them, and also just
9 the kind of standard habitat monitoring. But that's something we're in
10 discussion with National Highways about.

11 I was also pleased that you picked up that word practicable because we
12 would really welcome that deeper explanation because we would really
13 welcome that deeper explanation of how much soil salvage is actually practically
14 achievable for this scheme and having that set out in the oLEMP as well. Thank
15 you.

16 MR PRATT: Can I just ask a question – Ken Pratt, panel member. They were talking
17 about soil translocation; in your view, as Natural England, is the soil
18 translocation from the mature sites, the ancient woodland sites, is that an
19 absolute? Should that be looked at in all cases? In other words, should the
20 compensatory planting use the translocated soils in all cases?

21 MS COVILL: I'm aware that I don't have our woodland or our soil specialist here today,
22 so I'm speaking slightly off the cuff, so we probably will come to you in writing
23 on that one.

24 MR SMITH: And it can be embroidered in writing. Yes, by all means.

25 MS COVILL: Yes, absolutely. Yeah, I think, off the cuff, we would say it's best practice,
26 given the fact that there is a fairly limited evidence base, but all be it that the
27 evidence base is growing in favour of soil translocation, so we would want to
28 see it wherever possible because otherwise those materials are lost.

29 MR PRATT: Thank you. And one more specific question to yourselves: I've seen a lot
30 of correspondence on the adequacy of the compensation proposals, I suppose
31 area where I've seen it mainly, so a general area comment, where the suggestion
32 is that the applicant should provide a greater area of compensation for the loss
33 of ancient woodland. Does Natural England agree that what's being offered is
34 a reasonable quantity of compensation for what's being lost?

1 MR SMITH: And actually, if I may, very briefly, because there is the opposite end of
2 the spectrum there too, and there are submissions that are taking a view that
3 because there is insufficient certainty of positive outcome that, for example,
4 moving into the compulsory acquisition planned, that land is being taken that
5 ought not be, and the extent should be reduced. So if you can briefly look at that
6 from both ends of the measure, that would be much appreciated.

7 MS COVILL: Again – Kathleen Covill, for Natural England – I would flag that our
8 woodland specialist isn't here, so this is me speaking from previous experience.
9 I know our standing advice with the Forestry Commission recommends a
10 bespoke approach to compensation for ancient woodland. It doesn't support a
11 particular ratio of replacement to loss.

12 So that's generally how we work with developers, is we're looking at site
13 specifics and a bespoke approach that applies the compensation principles that
14 are set out in the standing advice, and that's what National Highways have done
15 in this instance. I think bigger, better, more joined up, in terms of the Lawton
16 review, is always important when you're thinking about ecological
17 compensation, and that's what we'd be wanting to see, that the compensation is
18 working with those principles, essentially. So we tend not to use a ratio
19 replacement.

20 MR PRATT: Thank you for that. At this point, I think I'll open it to the rest of the room.
21 Does anybody else wish to comment on – Gravesham Borough Council, by all
22 means.

23 MR BEDFORD: Thank you, sir. Michael Bedford, Gravesham Borough Council. Sir,
24 the issues that we have raised as a concern in relation to the 'how', in relation to
25 the compensatory provision for loss of ancient woodland, is concerned not so
26 much with what you might call the micro, the techniques that we've just been
27 discussing, but more concerned with the macro, in terms of the how; that is to
28 say, the strategy for selecting the compensation sites. In terms of the context, in
29 our local impact report, which is REP 1-228, at paragraphs 8.38 to 8.40, we set
30 out our concerns that, effectively, the approach the applicant had taken was not
31 sufficiently comprehensive or strategic across all environmental disciplines.
32 And therefore, we did not consider that it was a suitable approach, and in
33 particular, we didn't consider that it had properly taken into account the impacts
34 that the selected sites for compensatory woodland planting would have in terms

1 of landscape, in terms of cultural heritage, both above ground and below ground,
2 and in terms of the biodiversity, looking beyond simply ancient woodland.

3 So that concern that we expressed there, and which we also touched on, I
4 think, at ISH6, was responded to by the applicant in their comments on our local
5 impact report. That's in REP 2-058, and effectively, the applicant's response
6 was, 'We think we've provided you with comprehensive strategy documents.
7 We think we've taken a sufficiently comprehensive approach,' and they referred
8 us to the documentation that we had already considered when making our own
9 comments.

10 So sir, I suspect that this issue, which we maintain, probably ends up in
11 your, as it were, matters that you may have to adjudicate on box, rather than a
12 meeting of minds box. But I do raise it again now, and draw it to your attention,
13 and I also echo the comment which was made by the Kent AONB unit. I know
14 it was under the methodology item of the agenda, but it actually relates to the
15 same point, that we're not persuaded that the strategy for the selection of
16 compensation sites has taken a sufficiently comprehensive approach.

17 But with that by way of context, so far as the detail that you heard from
18 particularly Dr Lascelles, the only specific point we just want to highlight is that
19 – we're not sure, but we're happy to be corrected if we're wrong – we're not
20 sure that we have seen where the archaeological implications of soil stripping
21 from the new sites, which are to provide the compensatory provision, has been
22 assessed, in terms of do they have cultural heritage value, in terms of the soils
23 that would be removed in order to prepare them for the translocation. Now if
24 there's a reference to that, we'd be grateful to receive it. But we're just not, at
25 the moment, clear that we've seen that.

26 MR PRATT: Thank you very much. I see a hand in the virtual room from Kent Downs'
27 Mr Johannsen.

28 MR JOHANNSEN: Yes, thank you. Nick Johannsen, director at the Kent Downs Area
29 of Outstanding Natural Beauty. I hesitated to know when to come in, put the
30 point that Gravesham Borough Council has made is, effectively, the point I was
31 seeking to make. The hearing, so far, has exclusively covered the biodiversity
32 element of ancient woodland, which is very important, but has neglected entirely
33 the cultural and landscape elements of ancient woodland, and the hearing title is
34 'environment and biodiversity'. So again, this might be one for later, but at the

1 beginning, Mr Smith said that the hearing wished to sort out foundational
2 questions with regards to ancient woodland, and if we consider only
3 biodiversity, we neglect many other foundational questions with regards to
4 ancient woodland. And so – many issues, including loss of mitigation from
5 previous loss of ancient woodland, from previous schemes.

6 So at the moment, and just from an AONB perspective, the inclusion of
7 this area of land, the affected area of land, in the AONB, is very importantly
8 connected to the previous amount of ancient woodland in the area. So I think,
9 just adding support to the wider, big picture point that Gravesham Borough
10 Council made, and add some detail from the landscape, the nationally important
11 landscape perspective, of the AONB.

12 MR SMITH: I will follow that up then. There's a general point for both the AONB and
13 indeed Gravesham, and it's the same question that I've put, essentially, to
14 Natural England, which is around, to the extent that we have a range of
15 submissions before us, running from the 'there is insufficient compensation' to
16 'there is far too much', for reasons typically related to individual CA of land,
17 either of you, if you have a general observation on the broad appropriateness of
18 the strategy that's been put in front of us by the applicant in this project, feel free
19 to make those points briefly now. So if I can go to Gravesham first, then I'll
20 come back to the AONB unit.

21 MR BEDFORD: Thank you, sir. Michael Bedford, Gravesham Borough Council. Sir,
22 I don't think our concern is, as it were, a quantum issue; it's a, as it were, site
23 selection issue. We're not sufficiently persuaded that there has been a sufficient,
24 as it were, across all environmental disciplines approach to site selection. We're
25 not saying either there's too much compensatory woodland, or there's not
26 sufficient compensatory woodland, it's the actual choice of site. Are they the
27 right places?

28 MR SMITH: Is it in the right place?

29 MR BEDFORD: Yeah.

30 MR SMITH: No, I did take that away from your submissions, and I do note that. But I
31 guess I'm trying to put the ruler beside this and just get a little bit of a gauge, all
32 other things being equal, even though you may say it is in the wrong place for
33 reasons – obviously we'll give that very careful consideration – whether,
34 broadly, the quantum was about right.

1 MR BEDFORD: Yeah, we're not – we're not taking a quantum point.

2 MR SMITH: Yeah, okay. And if I can then go to Mr Taylor – apologies, not Mr Taylor,
3 I was going to go to the AONB unit, Mr Johannsen.

4 MR JOHANNSEN: My colleague, Katie Miller, has raised her hand as well. I think the
5 primary point I was making was, if we are to deal with the foundational matters
6 with regards to ancient woodland, there's much more to ancient woodland and
7 ancient trees than biodiversity. But Katie may – and it's thus far ignored and is
8 really important from the national landscape perspective. So we must always
9 remember, it's a nationally important landscape; the ancient woodlands and trees
10 are also of national importance. But I don't know whether Katie wishes to add
11 to that point.

12 MS MILLER: Thank you. I was just going to come back on the specific question from
13 the inspector. In terms of quantity of replacements, we would concur with the
14 view expressed by Gravesham; we don't have an issue with that. There is a
15 reasonable amount of proposed compensation land provided within the AONB,
16 which we feel does respond to the amount of ancient woodland lost in the
17 AONB. But just referring back to my previous response, in terms of whether or
18 not it's appropriately located, that's our primary issue.

19 MR SMITH: Thank you very much. Now, do we have one more person in the room?

20 MR PRATT: Mr Taylor has had his hand up, so –

21 MR SMITH: Yes, that's Woodland Trust

22 MR PRATT: Woodland Trust.

23 MR JACK TAYLOR: Morning, sirs.

24 MR SMITH: I think we've got the same question, then, firing its way in your direction.

25 MR JACK TAYLOR: Thank you. I think the clarification I would like to make is that
26 we have to think of translocation as a salvage operation. When you are creating
27 these new ancient woodlands – or, sorry, woodlands on a translocated soil,
28 you're not creating new areas of ancient woodland, you're not creating
29 equivalently ecological habitat. What you're creating is new areas of woodland
30 on soil that is a little bit better than other soil, effectively. You're not able to
31 replicate the range of other ecological niches and conditions that make ancient
32 woodland important. That's going to be impossible in any sort of reasonable
33 timeframe.

1 So we talk about success of translocation a lot, but what is the success
2 meant to look like? If the success is meant to be that you're creating ecologically
3 equivalent habitat, that's not going to be achievable. So what is the success that
4 you're looking for on this? Is it just creating new areas of habitat that will
5 hopefully, one day, in some way, kind of replicate the ancient woodland that
6 was lost? It's unclear what they're looking to achieve with the translocation
7 other than that. What does success look like, effectively?

8 And I think Natural England pointed out that it is quite a novel method,
9 translocation. So actually, we have no idea whether it is going to work. I don't
10 think there are many projects that have undertaken it in the past, or any projects
11 that have undertaken it and that we now have a picture of what it looks like 30
12 years on, or even 50 years on. So we just don't know whether it is a method that
13 actually works in any kind of way. And then in terms of the Woodland Trust
14 position, I think, for us it would be, what we want to see is, what steps have
15 National Highways taken to avoid the loss of these habitats in the first instance?
16 I know we'll be coming onto that on 3(b), so yeah, we'll wait for that part.

17 MR SMITH: Yeah, indeed. Just before we move away, finally, from these
18 supplementaries on supplementaries, there's just one final point, and I would
19 like to take this back to Natural England, but then, sensibly, back to Gravesham,
20 and the AONB unit, and the Woodland Trust, because you all have interests in
21 this question, and that simply is in relation to the oLEMP and the simple
22 question, do you see what you believe you need to see in that document, as it
23 presently stands, or are there degrees to which it needs to change? Now again,
24 very conscious there's a lot of detail that underlies that very simple question,
25 and if it needs a follow up in writing, fine, but I didn't want to move on without
26 giving you all the opportunity. Just give me a broad yes/no, and if it's a no, to
27 come back in writing.

28 MS COVILL: Thank you, sir. Kathleen Covill, for Natural England. I think the two
29 standout changes that we'd like to see is the clarification around 'in perpetuity',
30 and also the clarification around 'where practicable' for the soil salvage
31 operation. Those are the two things.

32 MR SMITH: We've already got notes of those, so thank you very much for that
33 clarification. Mr Bedford, anything that you wish to add into that space?

1 MR BEDFORD: Michael Bedford, Gravesham Borough Council. Sir, no, the oLEMP
2 in its current format, doesn't include an explanation of, as it were, the choice of
3 the sites. It simply describes the sites and then what is proposed. We understand
4 that, but it's the [prior set?] – that's the issue.

5 MR SMITH: I am conscious of the thrust of your submission, but I did think it would be
6 remiss to go around the table and not give you the opportunity.

7 MR BEDFORD: Thank you.

8 MR SMITH: Can I just go to Ms Miller, please, for AONB unit?

9 MS MILLER: Thank you, sir. I'd like to revert to you in our written response on that,
10 please, once I've had another look at the oLEMP.

11 MR SMITH: Fine, I'll certainly note that's a very reasonable request. And finally,
12 Woodland Trust, any need to come back on that point?

13 MR JACK TAYLOR: No thank you, sir.

14 MR SMITH: Thank you very much. Apologies, Mr Pratt.

15 MR PRATT: That's fine. In that case, is there anybody else who wants to speak on this
16 matter? In that case, Mr Tait, the floor is yours to respond.

17 MR TAIT: Thank you, sir. I think, in relation to the question of site selection, the
18 locational queries, we will respond to you in writing. I think that's the most
19 effective way to explain that story, although we have explained it previously,
20 but we will reiterate that and identify various pointers. In relation to the point
21 Mr Smith raised about the 'where practicable', and I appreciate that's a matter
22 Natural England have also raised in response, I might just ask Dr Lascelles to
23 indicate a response to that, please, at this stage.

24 DR LASCELLES: Yeah, thank you. Dr Lascelles, for the applicant. In terms of 'where
25 practicable', and the question was asked, or posed, could soil translocation be
26 mandatory everywhere? I just wanted to clarify that, that the purpose of the
27 surveys and the assessments undertaken are to understand the current, existing
28 condition and nature of that soil. We would want to then, in our design, try to
29 replicate that soil profile and, therefore, we wouldn't be looking to spread the
30 topsoil from the ancient woodland donor sites thinly across the receptor sites.
31 So we would be looking to move the soil from the donor sites into a comparable
32 area to try to replicate as much as we can the natural characteristics of the ancient
33 woodland soils.

34 MR TAIT: So that concludes our response, but we'll elaborate on that in writing.

1 MR PRATT: Thank you very much. I'm having a look at the time, and I said we'd try
2 and break about 11.30. So I suggest that we have a 15 minute break at this point
3 in time, and I suggest that we come back at 11.55. So if we come back at 11.55.
4 Thank you.

5
6 **(Meeting adjourned)**
7

8 MR PRATT: Good morning, everybody. It's now 11.55. This is Ken Pratt, panel
9 member. We're going into session 2 of issue-specific hearing 9. Good morning.
10 Right, I think we stopped at a very opportune moment there. So we'll move
11 onto item 3(b). The last question, we were really looking for clarity on woodland
12 lost. We're now going into, really, the question of could other, less damaging
13 alignments have been followed, even if the same general route remained
14 unchanged? At this point, Mr Tait, I think we'll listen to your representations
15 first.

16 MR TAIT: Thank you, sir. It will be Mr Gary Hodge, together with Mr Clark, where
17 relevant. And I think we're able to refer to some of the plans that were presented
18 at ISH3, which are REP4-211, and possibly also the project design report,
19 part D, which is APP-511. So if I can start with Mr Hodge, please.

20 MR HODGE: Hello, sir. Gary Hodge, for the representative – sorry, for the applicant.
21 I'd just like to start by saying, in regard to the impact of ancient woodland, that
22 the applicant has carefully considered loss and damage to all woodland,
23 especially ancient woodland and veteran trees, as part of its iterative process for
24 design and development, communicated within the ES at chapter two, project
25 description, application document APP-140, and chapter five of the planning
26 statement, which is application document APP-495. And we recognise that
27 these are key constraints. So turning to the plans, I'd like to obviously go to the
28 specific locations highlighted by the examining authority in the agenda, and
29 starting with the A2-M2 LTC interchange, and specifically the Shorne Woods
30 section, which is from Thong Lane through to Brewers Road. It's highlighted
31 on the screen, sir.

32 The highway alignment along this section is constrained by HS1, to the
33 south, and the northern limits are the existing A2 corridor. The applicant aimed
34 to keep the road widening within the existing highway boundary. This has

1 resulted in the loss of woodland in the central reserve, which is not ancient
2 woodland or SSSI. But it meant that, by doing that, we could keep the highway
3 footprint within the limits of the highway boundary. The ancient woodland
4 north of the A2, in Shorne Woods, is impacted by utility diversions of works
5 numbers G1A, which is the installation of a medium-pressure gas pipeline, and
6 NU7, which is the installation of diverted or underground utilities. It was
7 concluded that it was not feasible to place the utility diversions under the new
8 road and the utility corridor was required on the north side of the existing
9 highway.

10 Southern Gas Network, the relevant statutory undertakers, would be
11 resistant to installing installation of a gas pipeline under the roads forming part
12 of the strategic road network. SGN will require access to their assets for
13 maintenance and, therefore, they could not be placed under the highly trafficked
14 strategic road in this area due to the significant disruption or loss of capacity any
15 maintenance would cause. Through ongoing design refinement, the applicant
16 has reduced the land take required for the utility relating to the works from 16
17 metres at statutory consultation by approximately 30 to 35 metres along this
18 section between Thong Lane and Brewers Road, which is a distance of about
19 600 metres.

20 Moving on to the section further to the east, which is Shorne Brewers
21 Wood, by aligning a gas main diversion under Park Pale, and the existing
22 footpath, we have removed the impact of Shorne Brewers Wood north of Park
23 Pale on this section. There is a small piece of ancient woodland within the
24 junction where we cross over that is largely affected.

25 If I now go to Claylane Wood, so this is the section hopefully being
26 highlighted now. The ancient woodland north of the A2, Claylane Wood, is
27 impacted by local connections from Gravesend East to the M2 eastbound, and
28 the LTC northbound link. The plan that has been put now is showing the existing
29 situation. The impact of this link is limited to the southern edge of the woodland.
30 The Gravesend East link – I don't know whether it's worth – can we go back to
31 the plan, please. Yeah, that one there. So the impact of the – I think it's – we
32 can try and point out the link from Gravesend East junction and that comes
33 through the junction, and it connects to the M2 eastbound. This was included

1 after feedback from stakeholders and members of the public at the statutory
2 consultation.

3 I think, as explained in ISH3, the constraints of HS1 to the south, the
4 village Thong to the east, and the alignment north through the pinch point
5 between Riverview and Thong, made this a constricted area. The alignment
6 geometry of all the links in this area have been carefully considered and set out
7 to minimise the impact on all constraints of the southern edge of the wood.

8 The wood is also affected by utility diversions including an overhead power
9 line which is works number OH1, and three gas pipelines, works numbers G1(b),
10 G2, and G3. For further details of the works, refer to chapter two, project
11 description – which is application document APP-140.

12 The utility diversions are consequential upon the works of the highway
13 corridor. Through the pre-application design process, the applicant sought to
14 minimise the extent of the utilities work in Claylane Wood, and we've ended up
15 with 4.2 hectares of ancient woodland affected and 0.42 hectares attributed to
16 the road, and the remainder attributed to the utility works.

17 Moving now to the M25 LTC interchange. I don't know whether – do
18 you want to look at some of the before and afters on the Claylane Wood, sir?

19 MR SMITH: I think that would be helpful. Yes, please.

20 MR HODGE: So we go back to – if I can just talk through the – so the slide shown at
21 the moment is the existing situation. Then the next one shows the – that's the
22 Stat Comm design without the link from Gravesend East coming through the
23 middle of a junction. And in this situation the actual Clay Lane was also affected
24 by the utilities, but with adding the link in from Gravesend East to the M2
25 eastbound, that actually did take the bottom portion of Claylane Wood. So that's
26 what's shown. I don't know whether you can bring it up on the... And then
27 that's the actual DCO coming through now.

28 So shall we move on to the M25? So with the actual location of the M25
29 and LTC junction at Ockendon, there is no impact on the ancient woodland or
30 veteran trees, but as we go through the main line through the M25 junction, it
31 needs to be widened from three to four lanes, north and southbound, and this has
32 a minor impact. Approximate distance of 10 metres either side of the existing
33 highway over a distance of 250 metres on both north facing slip during
34 construction, which are adjacent to ancient woodland. Retaining walls have

1 been included between the slip road and the main line to avoid the slip road
2 having to be realigned. However, a narrow width of ancient woodland is
3 required to enable the construction.

4 Now, I think if we move to the next plan. That's the existing – so it's the
5 actual – the north of the scheme – that's right, those two slip roads there. So
6 that's the existing situation. The next one I think shows the statutory
7 consultation, which is just affecting the corner, and then if we go to the next one,
8 you'll see the retaining walls have been put in to try to restrict any impact on the
9 ancient woodland. The total loss is 0.95 hectares of ancient woodland. In
10 undertaking these works on the slip road, the applicant is providing
11 compensatory planting immediately adjacent to the woods. That concludes the
12 M25. Sorry, I've just been corrected. It's not 0.95. It's 0.4 hectares. Sorry, sir.

13 So if we now move to other parts of the alignment, on compounds within
14 woodland lots, we've got Rainbow Shaw Wood, which is between Chadwell St
15 Mary and Linford, and is a local wildlife site and contains an area of ancient
16 woodland. This was identified and confirmed through project surveys. The road
17 alignment through this area is constrained by a significant amount of overhead
18 power lines stretching from Tilbury and then running north to Chadwell St Mary.

19 MR SMITH: And just to be clear again here, this was specifically inspected as part of
20 the ASI. We walked around the area potentially subject to loss in that wood.

21 MR HODGE: That's right, sir.

22 MR SMITH: Yeah.

23 MR HODGE: If the road alignment had been put further south to avoid the wood, it
24 would have required additional significant overhead power cable realignment
25 and restringing and resulted in the utilities moving closer to residential areas at
26 Chadwell and West Tilbury. Application document APP-141, chapter 3 of
27 environmental statements, paragraph 3.28.24 explains why. The wood is also
28 impacted by the provision of the Hoford Road green bridge because we need to
29 keep on or as near as possible to its original alignment as it is an important flight
30 line. The total loss is 1.2 hectares of ancient woodland.

31 So responding to the working areas in compounds, the applicant does not
32 require any vegetation clearance for compound or utility hubs that would affect
33 ancient woodland or veteran trees. Now just going on to the veteran trees that
34 are affected. The project has identified the potential loss of six veteran trees,

1 three south of the river and three north, and their references are: T41, which is
2 sweet chestnut; T133, which is oak; T145, which is oak; T362, which is ash;
3 T363, which is ash; T570, which is oak; and these figures are shown – the
4 locations of these – on page 3 of 51, 25 of 51 and 43 of 51 of the tree removal
5 and retention plans, figures 7.24 of application document APP-261.

6 Through the design process, loss of veteran trees was reduced from 12 to
7 six. It was not possible to amend the preliminary design to reduce this further.
8 However, design principle LSP.01 and REAC item LV001 provide a
9 commitment to retain trees where possible through detailed design and into
10 construction. That concludes the presentation.

11 MR TAIT: Thank you, sir. Yes, nothing further to add, nor from Mr Clark at this stage.

12 MR PRATT: Thank you very much. Does anybody else wish to – or any of my
13 colleagues first – wish to make any comment or do anybody sitting either in the
14 room or in the virtual room want to raise any points at this stage? Right. I see
15 two or three hands in the room. I will start at the top of the table with Kent. We
16 haven't heard from you this morning yet.

17 MR FRASER-URQUHART: Thank you, sir. Andrew Fraser-Urquhart for Kent.
18 Everyone seems to be surprised I haven't said anything yet, which is...

19 MR SMITH: Your reputation precedes you.

20 MR FRASER-URQUHART: Clearly. On this occasion, however, I'm just going to pass
21 straight to Mr Tim Bell.

22 MR BELL: Hello. Tim Bell, Kent County Council. I just wanted to bring up, under the
23 sections of woodland lost through the compounds, by the A2 compound
24 proposal which we went to on the guided site visit, that strip of land on the west
25 side of Thong Lane, whether there is a strip of woodland that is lost, and there
26 was the potential on the other side.

27 MR PRATT: Excuse me. Is it possible for the applicant to put the plan on the screen,
28 please? I think they're trying to get it. If you can continue, it will come up in a
29 second.

30 MR BELL: Yeah, it was just to make a note that obviously it's farmland, effectively, on
31 the other side, and hedgerow, and not part of the SSSI or woodland loss, and in
32 that area of woodland strip we've got oak trees which aren't veterans or ancient,
33 but we would consider them potential future veterans because of the absence of
34 trees between 200 and 500 years old. We would look to try and protect them as

1 future veterans to replace those other ones, so although small, it's an important
2 bit of woodland loss. And obviously we feel that there was potential for
3 realignment of that onto the other side so that you didn't have that damage, and
4 we haven't really heard a reason why, yet, that we can't do that.

5 MR PRATT: Thank you very much. Moving round, Mr Edwards, you had your hand
6 up.

7 MR EDWARDS: Yes, sir. Thank you. Douglas Edwards for Thurrock Council.
8 Thurrock has some concerns about the decision taken to encroach into the
9 woodland at Rainbow Shaw. I'm going to ask Mr Plumb to explain that, but I
10 wonder if I can invite the applicant to put the slide back on the screen of the
11 scheme as it affects Rainbow Shaw. I'm going to hand over to Mr Plumb, if I
12 may.

13 MR PLUMB: Thank you, sir. Steve Plumb for Thurrock Council. The point regarding
14 – we've heard a bit about some of the reasons for the choice for the alignment.
15 I think it's a – what I want to do is cover the approach, because in the second
16 part of the question it says, 'The applicant will be asked to explain why it was
17 decided to undertake works affecting the ancient woodland areas, and not to
18 realign, redesign, substitute land use to protect the woodland veteran trees.'

19 I think the important thing which didn't get covered just now was that the
20 original preferred option from 2017 did not affect the ancient woodland. The
21 decision was taken to move the route, realign the route slightly, to affect the
22 ancient woodland rather than move the overhead power lines. We've heard
23 about the reasons, the benefits to residents of Chapel St Mary, but the distances
24 are – this is a memory from about 2017, 2018 – so it was about 140 metres. So
25 the significance of the effects on residents is not really that great. So the decision
26 was based purely on trying to avoid the realignment of the pylons, rather than
27 addressing the objective that NPPF and NPS to give protection to the ancient
28 woodlands. So I think it's just important to consider it was actually a decision
29 to affect the ancient woodland, rather than to avoid it. Thank you, sir.

30 MR SMITH: If I can just briefly follow up on that, there's a technical clarification there,
31 because if one looks at the two transmission towers closest to Rainbow Shaw
32 Wood, in terms of the relatively small amount of the woodland margin that's
33 affected, I guess a kind of initial response in design terms would have been that
34 it might have been possible to step those two towers back a relatively short

1 distance which would then have required re-conductoring from the pair
2 immediately to the south-east of the Hoford Road, to a pair of repositioned
3 towers, and then again to re-joining the existing alignment at the next pair which
4 don't have a convenient landmark next to them, but I think we know which ones
5 we mean.

6 Now, clearly there are additional issues in relation to that sort of
7 movement, for example that the conductor line would not be running straight on
8 from the two pairs that would receive the change in direction, which means that
9 either they will also need to be replaced, or alternatively they would need
10 substantial works to enable them to take a directional change of the conductor
11 line, which could extend the effects of the works out to include 10 – five pairs –
12 of transmission towers, rather than six.

13 Now, I just wanted to check whether that analysis is recognised by both
14 Thurrock Council and the applicant, and therefore in terms of looking at the
15 relative potentially costs and benefits of responding to the wood and moving the
16 alignment, essentially are we talking about moving two transmission towers and
17 affecting four, or moving two and affecting a further at least six, or maybe 10?

18 MR TAIT: Can I just check with the oracle behind who has come forward?

19 MR SMITH: I think you now have your expert.

20 MR PLUMB: So if I can just – whilst we're waiting. Steve Plumb for Thurrock Council.

21 I think the important thing to mention is it's not a part of the – it's not like a
22 sliver of the ancient woodland. It's basically half the ancient woodland would
23 be lost. So again that's the important point to make, and again, it's this issue of
24 the alternatives of how much it could be realigned to minimise the effect on the
25 woodland.

26 MR TAIT: Thanks, sir. Mr Keith Howell who is the utilities lead.

27 MR HOWELL: Thank you. Good morning, sir. Keith Howell for the applicant. From
28 what I heard there, your assumption with regards to the alignment heading west
29 is correct. The northern lines would have moved onto the southern alignment
30 and then a new alignment would have been made south. However, that would
31 have been continued around the corner, and essentially continued south. That's
32 because there's two types of pylons. So there's suspension, which holds the line,
33 and tension, on which you can string through, and the pylons each side typically
34 go tension, suspension, suspension, suspension, so we would have extended our

1 works simply further south. But I will follow up with more detail in writing, but
2 your assumption is right heading west, but incorrect heading south-east.

3 MR SMITH: Okay, thank you. Thank you very much. And apologies for that
4 intervention but I just thought it very clear to understand what, in precise terms,
5 that trade-off ended up being.

6 MR TAIT: Sir, I don't think we have anything further to add at this stage. We will see
7 what's set out in writing and then respond accordingly at the next opportunity.

8 MR PRATT: Thank you very much. Mr Bedford, I believe you had your hand up.

9 MR BEDFORD: Thank you, sir. Michael Bedford for Gravesham Borough Council. So
10 my query was actually a clarification rather than to make a substantive point. I
11 just wanted to clarify that this agenda item was focused on the premise that the
12 route choice is as the route choice is, and therefore it's realignment within that
13 context, and on that premise, we don't have any issues that we wanted to raise
14 about, is there scope for further realignment to reduce the impact, particularly in
15 relation to the ancient woodland loss on the A2/M2 corridor. And again, without
16 re-opening wider matters, you know that we think that the junction shouldn't be
17 made any smaller by losing any elements of it in order to limit functionality, so
18 I just wanted to clarify that was the scope of your concerns and therefore that's
19 why we're not raising any particular issues.

20 MR PRATT: Thank you very much for that point of clarity. I see Ms Miller on the – in
21 the virtual room. If she would like to...

22 MS MILLER: Thank you, sir. So the project involves two areas of ancient woodland
23 loss in the AONB, both of which are north of the A2/M2 corridor, and we've
24 just heard from National Highways that this is primarily as a result of the utilities
25 diversions and in particular the relocation of the gas pipeline. In respect of the
26 ancient woodlands to the immediate east of the Inn on the Lake, which is part of
27 Shorne Woods, this is proposed to be removed to accommodate the relocated
28 gas pipeline, but the area of woodland that is proposed to be lost, it appears to
29 us to go well beyond that which is required to facilitate the relocated gas pipe
30 and its associated wayleave.

31 In respect of the ancient woodland further east, to the east of the Nook Pet
32 Hotel, it's difficult for us to understand why ancient woodland is proposed to be
33 removed in this location. Amendments to the project throughout its evolution
34 involved relocating the gas pipeline from immediately adjacent to the A2

1 corridor to underneath Brewers Road and Park Pale Lane, which we felt was a
2 positive amendment to the scheme. But it doesn't appear to have resulted in any
3 significant reduction to the amount of ancient woodland lost in this location,
4 which we're having difficulty understanding.

5 So overall, we consider attempts to minimise the ancient woodland loss in
6 the AONB don't go far enough. We also heard this morning that it's not
7 considered feasible to relocate the gas pipeline under the widened A2 corridor,
8 but we haven't had any explanation as to why it couldn't be relocated elsewhere,
9 for example under existing highways infrastructure further to the north, which –
10 yes, while this might still be within the AONB, because it would be underneath
11 existing highways infrastructure, the impacts to the AONB landscape wouldn't
12 be nearly as significant.

13 A further concern to us is the proposed replacement landscape treatment
14 where the ancient woodland is proposed to be removed, and in most cases this
15 seems to involve either species which – grassland, or shrubs with intermittent
16 trees, and we feel that you really need to be replacing woodland loss here with
17 replacement woodlands and this is all the more important in view of the
18 woodland loss that has occurred – or that would need to occur – in order to
19 facilitate the scheme south of the A2 because this would involve loss of
20 woodland planting which was put in as mitigation for High Speed 1.

21 And just to finally maybe just give a brief explanation about how
22 important the woodland character, and ancient woodland in particular, is to the
23 AOMB in this location, this is something that's specifically referenced in the
24 various landscape character assessments that cover this part of the county, and
25 in particular in the landscape character assessment of the Kent Downs where it's
26 stated, in relation to the local character area around Shorne, 'The local character
27 area of Shorne has been severed from the more extensive landscape of similar
28 character to the south by the A2 road corridor.' It says, 'The extent of woodland
29 is the distinguishing feature here, and the area contains ancient woodland which
30 contains several notable and veteran trees and generate a strong sense of
31 enclosure.' So trying to recreate or maintain and retain that strong wooded
32 enclosure is felt really important in terms of AONB impacts here.

33 I think the importance of the ancient woodland in this location to the
34 AONB is also elevated by its specific inclusion in the AONB. Everywhere else

1 along the AONB boundary to the north here is formed by the A2/M2, and it's
2 only this small area where the boundary does actually extend beyond the A2.
3 And this was something that was considered in depth when the A2 boundary
4 was being decided back in the late 1960s. It was because of the specific wooded
5 character and presence of the ancient woodland that it was felt appropriate in
6 this location only. Although representations were put forward for the AONB
7 boundary to extend north of the A2 further to the east, it was only in this area
8 around Shorne where it was felt important to include an area north of the
9 highways infrastructure because of its important woodland and specifically
10 ancient woodland. So that just gives a little bit of background of how important
11 the ancient woodland is in this location to the AONB. Thank you so much.

12 MR SMITH: I very deliberately didn't interject to throw Ms Miller off her stride there,
13 but it would be useful – is there a summary plan that we can get on screen that
14 will show the utility works, relocated pipeline, as essentially an overlay against
15 the ancient woodland loss in this location? Is there something we can look at
16 that just simplifies down to those two key elements? I think it would really help
17 us appreciate the points at issue here. And if there isn't such a plan, then it might
18 be useful if one was created for deadline 6, but we'll – I think there is. I just
19 can't call up the reference number.

20 It's being worked on, Ms Miller. If we get something on the screen, I will
21 just return to you very briefly and ask if there are any clarifying observations
22 you want to make in the light of it. Don't worry. We are very conscious that
23 there are many, many documents including many, many papers and many, many
24 plans. The very fact that I couldn't lay my hands on it suggested that it wouldn't
25 be easy to find. Right. What reference is this document, please?

26 PARTICIPANT: It's REP4-031.

27 MR SMITH. Thank you very much. Okay. Can we just briefly run through the
28 significance of the notations shown on the plan? We don't have the key in front
29 of us. Oh, we do now. It's so small to read.

30 MS LAVER: So if the applicant could take us through the key, that would be helpful –
31 with the cursor on the screen – because we can't read that tiny writing.

32 MR HOWELL: Good afternoon. Keith Howell for the applicant. If I could ask to scroll
33 up to show the alignment. So within in the area, the gas pipeline is denoted by
34 the orange line that runs through there, and then you have the green hatch which

1 is grassland planting, and then the black crosshatched area is ecological
2 mitigation land in that context.

3 MR SMITH: Okay. Ms Miller, anything else you need to say just by way of clarifying,
4 now that we have that on screen in front of us and therefore the alignment itself
5 is very clear?

6 MS MILLER: Thank you, sir. What this plan doesn't of course show is the area of
7 ancient woodland which does pretty much extend up to the existing highway
8 boundary. So if we could zoom back in to where we were, please. So the gas
9 pipeline and the proposed working area does all involve ancient woodland loss,
10 so I suppose the point that we're making in respect of the land to the immediate
11 east of the Inn on the Lake Hotel is that better attempts to reduce that working
12 area – we totally understand that if the gas pipe can't be relocated elsewhere and
13 it does have to be in this location, then it will involve loss and a wayleave
14 requirement, but we think better attempts at reducing that working area which
15 extends significantly beyond into the ancient woodland should be looked into.

16 But in respect of the area further east, to the east of the Nook Hotel, if we
17 could just zoom in on that area, please, you can see that the gas pipeline is now
18 proposed underneath the slip roads which, as I said, was an improvement –
19 potentially an improvement – but nonetheless an area of ancient woodland in
20 that landlocked triangle immediately east of the Nook Pet Hotel is still proposed
21 to be removed and there doesn't seem to be a logical reason for that given that
22 there's no utilities diversions in that area anymore.

23 And we also think the land immediately north of the on slip to the
24 eastbound carriageway of the A2 there also involves ancient woodland loss
25 without any utilities diverts – thank you – in that area there. The utilities
26 diversions aren't there, and as I said, we heard in the introductory explanation
27 that the ancient woodland loss is primarily required as a result of the utilities
28 diversions, but that doesn't seem to stack up in this particular location.

29 MR SMITH: And indeed, Ms Miller, that detailed explanation of your opposition is
30 noted, and I think probably the best way to take this forward would be twofold.
31 Firstly, I think at deadline 6 it would assist us – and I know this is information
32 we already have on two plans – but I think given that this issue has been raised
33 and may well end up needing to be dealt with in a relevant section of the report,
34 have a single inset plan with an overlay of both the utility diversion information

1 and the location of the ancient woodland on one plan, so that we can extract that
2 and use it if we need to.

3 But secondly, the questions about the eastern end, and particularly the
4 movement of the utilities into both the road up past Shorne Wood Country Park
5 and then down the slip alignment – that point that Ms Miller has made is taken
6 and so therefore an understanding of whether there's a residual impact on ancient
7 woodland that could be avoided now, and so is it just a case of marking up plans
8 to show a revision, or alternatively it can't, so what's the remaining justification
9 for it? Ms Miller, are you content that you've reached the end of that item?

10 MS MILLER: Yes, thank you, sir.

11 MR SMITH: Thank you very much.

12 MR PRATT: Thank you, Mr Smith. I must admit, I was surprised – is that the right
13 word? – to have a potential veteran tree. I thought every tree that was put in the
14 ground presumably was a potential veteran, not just the ones of significant age.
15 Could the applicant put another drawing up for me, please? One that will show
16 the A2 compound, please. It's really to have a look at these potential veteran
17 trees that Kent County Council was talking about.

18 Thank you. Just for the record, can someone let us know what the
19 reference is? Mr Fraser-Urquhart, my intention is to come back to you and your
20 colleague to talk about these potential veteran trees with the guidance of a plan.
21 Is that which has been produced adequate for your purposes, or would you like
22 something a little bit more detailed, or not?

23 MR FRASER-URQUHART: I think Mr Bell nods, so that guides me to say yes.

24 MR PRATT: By all means.

25 MR BELL: Yeah. So as part of our veteran tree management into the future, we identify
26 future candidate veteran trees that can potentially fill the gap of trees that are
27 already veterans and trees that are maybe 150, 200 years old, and then we can
28 identify trees that we can actually do veteranisation techniques to replicate the
29 habitat that is in the veteran trees to try and enhance that for the long-term future.

30 So particularly in this bit of Kent, a lot of the trees were harvested for the
31 war[?], the cement works, things like that, so we have got a massive gap between
32 the really old veterans – the official veterans of ancient trees – and the glut of
33 100-year-old sweet chestnuts, 150-year-old oaks. So we identify specific trees
34 we could carry out these veteranisation techniques on to replicate that habitat so

1 that when the veteran or ancient trees collapse or fall over in the wind or
2 whatever, we've got that habitat created so that the invertebrates that are really,
3 really rare can move into those future veteran trees we've identified and carried
4 out those works on. So in that particular bit of woodland – there's lots of
5 bramble, but that particular strip there has a line of oaks that follow almost the
6 boundary of Thong Lane which obviously were planted historically along the
7 road edge, which if there was any way of not losing, we would want to keep
8 them and potentially manage them as future veteran potential.

9 MR SMITH: I'm just going to ask a very simple question in this respect which the
10 applicant can pick up. Certainly in a number of construction sites and
11 compounds for much smaller developments than this, you see a line trees with a
12 paling and some avoidance notices. Is it possible to take a 'keep in situ'
13 approach to trees that might otherwise remain in a construction compound area?

14 MR FRASER-URQUHART: Perhaps we've made it not quite clear. These trees are not
15 in the compound.

16 MR SMITH: No they're in the –

17 MR FRASER-URQUHART: They're on the alignment of the proposed footpath running
18 south from the potential car park which we discussed last week. Our point
19 simply is that the line of the footpath currently seems to contemplate removing
20 these trees. Our simple point is, if we move it to the other side of the road, these
21 trees which are the candidate veteran trees, they can be preserved, and the
22 footpath can still be in place but just on the other side of the road, so we can't
23 see why that shouldn't happen.

24 MR SMITH: Indeed. Very good point.

25 MR PRATT: I suppose, Mr Smith, with that, we raise the question of whether it can be
26 moved to the other side of the road as well. So whether they – I think the
27 applicant might like to consider that within the response to your point about that
28 – fencing them off.

29 MR TAIT: Two points. First of all, that plan is REP4-084, and secondly, we will take
30 that away. To a degree it comes up under 5(3), further refinement during the
31 detailed design stage, and I may be in a position to give you further information
32 at that stage, but for the moment I think we'll take that away and reflect on that.

33 MR PRATT: Mr Fraser-Urquhart, is there anything else you want to add to that last
34 series?

1 MR FRASER-URQUHART: No thank you, sir.

2 MR PRATT: Thank you very much.

3 MS LAVER: It's to your colleague, Mr Fraser-Urquhart, just on this point. In your
4 submissions that you've made, have you made any illustrations within that
5 submission about what you think you'd like to see? The applicant's responding
6 to a question and whether you've actually illustrated it in some sort of plan form,
7 and if not, whether it would be helpful if you did.

8 MR FRASER-URQUHART: I'm told we haven't yet, but we can submit it for deadline
9 6.

10 MS LAVER: Yeah, I think that would be helpful so that we all know what it is that
11 you're specifically looking for. Sometimes a plan is more helpful than just the
12 words. Thank you.

13 MR PRATT: Right. Is there anybody else who wishes to comment on this particular
14 item? I don't see any hands anywhere. Mr Tait, do you want to make any further
15 comments?

16 MR TAIT: Only two short points, bearing in mind that we will respond in writing to all
17 those matters that have come up. First of all, there was a reference to the tree
18 removal and retention plan in relation to the veteran trees – figure 7.24 and the
19 reference for that is REP1-151. I think the reference was given slightly earlier,
20 at 2.61, but you'll find that at REP1-151, and the second point is just to refer to
21 the design principles that would mitigate and rather minimise woodland impact
22 at the detailed design stage, and in particular, in relation to these two areas,
23 woodland north of the A2/M2 corridor, it's S101, which requires existing
24 planting along the northern edge to be retained, as far as reasonably practicable,
25 and in relation to Claylane Wood, it's S206 – Claylane Wood, which is in similar
26 terms. That's REP4-146.

27 MR PRATT: Thank you very much. Any of my colleagues got anything else to add at
28 this stage? In that case, do we want to start with the wilderness?

29 MR SMITH: I have a suggestion in that respect, and that, essentially, was that we are
30 approximately 10 minutes earlier than where we thought we would necessarily
31 be for once. This is probably the first occurrence in this entire examination of
32 such an outcome. What I'm going to suggest we might do is we maybe break
33 just a little earlier than we would normally have intended, because everybody
34 will have a sense that the structure of the agenda was to move from general

1 matters of principle to site-specifics. My feeling would be that if we move to
2 our first site-specific item, but then only have what amounts to 10 to 15 minutes
3 of hearing time for it, we're likely to end up having to stop part way through,
4 which is disruptive. So my suggestion, Mr Pratt, would be break now but
5 capture the win and return a little earlier.

6 MR PRATT: That sounds fine by me. If we take the hour as we would normally, that
7 would be about 1.50.

8 MR SMITH: 1.50.

9 MR PRATT: So I suggest we take a break now and stop this session, and we'll return in
10 an hour at 1.50. Thank you very much.

11
12 **(Meeting adjourned)**
13

14 MR PRATT: Good afternoon, everybody. Ken Pratt, panel member here. We're in the
15 third session of issue-specific hearing number 9. Can I just check that the
16 recording's on and the livestream's functioning this afternoon? Thank you very
17 much. Well, we left just as we were about to start item 4: the wilderness. This
18 has been brought to our attention on a numerous amount of occasions, and for a
19 change, I think the first question really needs to be aimed at Natural England,
20 and then I'll open it further, about, 'What is the current designation? Is it being
21 reviewed, and what's the consequences of that potential review if one is
22 happening?'

23 MS COVILLE: Thank you, sir. Kathleen Coville for Natural England. Our position on
24 this remains the same as set out in our deadline 4 submission, which was
25 REP4-324. On the basis of evidence submitted to date to the Ancient Woodland
26 Inventory, we've concluded that the wilderness woodland is long-established,
27 but not ancient, woodland.

28 Long-established woodland is defined in Defra's *Keepers of Time*
29 document, which was published last year, in 2022, and it describes long-
30 established woodland as woodland that has been present since at least 1893, and
31 it says that, 'Whilst not ancient, these woodlands are still very important. They
32 have had many decades to develop rich biodiversity, and they often contain
33 important older growth features and deliver a range of ecosystem services,' so
34 that's the formal definition.

1 Speaking to our woodlands specialist, she advised that long-established
2 woodland doesn't currently have any specific protections. It falls between
3 ancient woodland and other semi-natural woodland habitat in the hierarchy of
4 value detailed in the *Keepers of Time* policy. She did acknowledge that further
5 evidence has been submitted by the Lower Thames Action Group, and that that
6 will be reviewed, and she has said that they will try and review that and come
7 back to the examination with an answer before the examination closes in
8 December.

9 MR PRATT: Thank you. Mr Smith.

10 MR SMITH: Yes. I mean, it probably is in relation to that last point, that we want to
11 make sure that if the assessed status of the site, as you see it, were to shift, and
12 the policy consequences of that then were to shift, then principally, if it were
13 deemed to be ancient woodland, then clearly we would wish to be able to take
14 that fully into account, and I'm sure all the parties sat around the table would
15 want to be able to take that fully into account, ideally before the end of the
16 examination, rather than us being at circumstance where we have to leave what
17 amounts to an outstanding action on the desk of the Secretary of State.

18 So look, I know you have an enormous amount to do. I know you're
19 always in the middle, in terms of receiving requests from interested parties in
20 relation to matters such as this, but if we were in a situation where if there were
21 any likelihood of review leading to a conclusion different from the one that
22 you've just given, I think to set you a target to tell us that by deadline 6 would
23 be unreasonable, but I'm then looking at the remaining deadlines in the
24 examination, and I was going to ask whether deadline 7 might work.

25 MR GRANT: Sir, Nick Grant for Natural England. We are very, very alive to the fact
26 that ExA probably doesn't want this hanging over them at the end, and even if
27 we were to come back the day before the end of the examination, that is equally
28 unhelpful. It is not within the control of the project team. We have made those
29 in whose control it is aware both of the impending deadlines and the importance
30 of getting an answer to you in time for it to be useful, rather than just getting it
31 done by the latest deadline it could be. From our perspective, of course, the team
32 tasked with making that decision also can't prejudge the outcome and give any
33 hint that it is.

1 So the request for, at least, some indication by deadline 7 has been noted.
2 As far as we can go today is to say that we're very conscious of what's required
3 and by when, and we're trying to do everything we can internally to get the ExA
4 and the applicant something useful in time for it to be useful.

5 MR SMITH: I hear everything that you say there, and we're very grateful for anything
6 that can reasonably be done. Obviously, we're not asking people to prejudge on
7 facts that are not in their hands or anything of that nature, but if they are in a
8 position to put something to us by deadline 7, then in fairness, what that would
9 enable us to do is to deliberate on the potential consequences on it, and, if needs
10 be, put further questions back to the applicant. It gives also, essentially, the
11 applicant and indeed local communities the opportunity to respond to a change
12 in the circumstances of the site if that was to eventuate. Okay. I think we'll end
13 up with an action in the action list on that one.

14 MR PRATT: On that point, would the applicant like to make a comment? I suppose one
15 answer, or one question that comes back at that one is: have you any evidence
16 that you've either submitted in the documentation or presented to Natural
17 England just describing whether the woodland is one thing or the other, I
18 suppose is the starting point, but Mr Tait.

19 MR TAIT: Thank you, sir. Andrew Tait for the applicant. We set out our position at
20 REP1-183, on page 64, which was a response to ISH1 matters, and in summary,
21 phase one habitat surveys, and bryophyte and lichen surveys of the wilderness
22 were completed, and there were no ancient woodland indicator species found to
23 be present. So that's the first point.

24 Secondly, there has been a detailed consideration of historic mapping
25 going back to the 17th century, and none of that supports any ancient woodlands
26 status. So we concur with Natural England's current position that none of the
27 evidence supports any status as ancient woodland, and we note that Natural
28 England are considering any further evidence, and we look forward to hearing
29 from them as soon as possible, as they well understand.

30 MR SMITH: Yes. If I can briefly come back on that, one area that certainly previous
31 examining authorities have found is very useful in practice terms and
32 circumstances where the designation of the site or asset is potentially an issue
33 that might change is to ask an applicant to provide to what amounts to a without-
34 prejudice position, where if one were, for example, to take the view that the site

1 was ancient woodland, without prejudice, ‘What would your position be?’,
2 noting that, of course, it’s your view that a) it is not and b) it should not be, but
3 the virtue in doing that is that at least you are, at an absolute worst-case scenario
4 from your perspective, a month or so in advance of the position that you would
5 otherwise be in, if things were to change in a way that was adverse to your
6 position. Would you be able to able to assist us by outlining a without-prejudice
7 case?

8 MR TAIT: Yes, sir, we’ll seek to address that.

9 MR SMITH: Okay. Well, we’ll take that as an action as well, please.

10 MR PRATT: Thank you, Mr Smith. Does any other interested party have any comment
11 to make about the wilderness? Thank you. I will...

12 MR EDWARDS: Yes, sir. Douglas Edwards for Thurrock Council. Essentially,
13 Thurrock Council’s position aligns with the current position of Natural England
14 as it’s been conveyed to the Examining Authority this afternoon. Bearing in
15 mind the wilderness is in Thurrock’s administrative area, I’m just going to ask
16 Mr Plumb just to explain briefly what Thurrock’s investigations are – the basis
17 of its current position.

18 MR PLUMB: Thank you, sir. Steve Plumb for Thurrock Council. As we’ve heard from
19 Natural England, the wilderness is not included on the Ancient Woodland
20 Inventory. It hasn’t been identified as a local wildlife site, and any of the
21 reviews. Local wildlife sites in Essex automatically designate any ancient
22 woodland remnant, irrespective of size, and we agree that the historic mapping
23 doesn’t show the majority of the site as woodland. The council has been show
24 a copy of an estate map from 1767, which shows a small shelterbelt along the
25 southern boundary labelled as ‘the wilderness,’ so obviously, there was a very
26 small section of established woodland at that time.

27 I have been on site, but not at an optimum time for doing woodland
28 surveys, and you can see there’s bluebells, spindle and small-leaved lime, which
29 are all indicators present, but not in any significant numbers. Part of the issue is
30 that the woodland, obviously, had a lot of elm in it, historically. With Dutch
31 elm disease, you’ve lost a lot of the older trees, so that’s a possible reason for
32 some hesitation, but certainly, there’s very little documentary or ecological
33 evidence – certainly, most of the site is definitely not ancient, because it’s not
34 shown on the maps. It’s shown as avenues and formal gardens. It’s just the

1 southern section, which, unfortunately, is the bit which would be completely lost
2 due to the construction of the LTC. Thank you.

3 MR PRATT: Thank you. Ms Ellis, CPRE Kent, I noted your hand was up. Have you
4 anything to add to this discussion? I notice it's now down.

5 MS ELLIS: I did, and I don't. I think what I'll do is I'll put it in writing, if that's okay
6 with you, because it's a little bit complicated.

7 MR PRATT: That's –

8 MR SMITH: Is it complicated in the sense that it requires us to use a hearing for what
9 it's for, which is to actually tease out the complication, or is it complicated – I'm
10 just a little bit reluctant that we just don't touch on something because it's
11 complicated, if that makes sense.

12 MS ELLIS: Well, according to various websites that I've gone on to research this, what
13 seems to be a common denominator in determining whether something is an
14 ancient woodland or not is not necessarily how old it is, and not necessarily
15 ancient woodland indicators, but the species of tree that is within the wilderness
16 that we're talking about now. So for instance, birch will age much quicker than,
17 say, oak, which could take 400 years, but a birch will take 150 years. So I
18 wonder whether it's probably easier if I put that in writing.

19 MR SMITH: Fine, yep. No, I think that's fair, but that's understandable complexity
20 rather than something that we need to particularly tease out.

21 MR PRATT: That sounds fair enough to me. Thank you very much for your intervention.
22 Mr Tait, is there anything that you wish to add at this stage on this item?

23 MR TAIT: No, sir. Not to add, no.

24 MR PRATT: Mr Smith.

25 MR SMITH: In which case, before we move on from the wilderness, I have one further
26 follow-up, that we, I think, will again address in actions. Now, this of course
27 rests on the hypothetical. It rests on the without-prejudice position that we might
28 be dealing with something that is designated, as opposed to something that isn't.
29 So it needs to be seen very strongly in that context, but that would be that,
30 if in relation to that hypothetical position, we are dealing with something that is
31 designated ancient woodland, then just as in relation to the other known ancient
32 woodland sites – there have already been questions earlier in this agenda about
33 the detail of avoidance to the extent that you were able to – we will frame an
34 action that asks for an equivalent response around avoidance to the extent that

1 you were able to, and therefore, a residual position – ‘Why do you end up taking
2 the amount that you take?’, if that makes sense.

3 Now, the reason that we haven’t asked that to date is because we’re not
4 viewing this as a site that is ancient woodland, per se, with the policy protections
5 that apply. However, in the hypothetical sense we would be, so we will ask that
6 question, but I thought it was very clear, before we set it as an action, that I will
7 put that embroidery on the cloth to make clear that your response is hypothetical,
8 and ours is almost a double hypothetical, but again, it’s about us being in front
9 of ourselves, as well as you being in front of yourselves, if that makes sense.
10 Are you content on that basis?

11 MR TAIT: Yes, sir, and to an extent, it flows across into the next item. I appreciate that.

12 MR SMITH: Indeed.

13 MR PRATT: Indeed it does, and we’ll just carry on to the next item, now that that’s
14 appropriate. The background to this is primarily the accompanied site inspection
15 was useful, and it raised those two questions that we’ve put down. Really cutting
16 to the chase: the retaining wall – how is it envisaged that less woodland would
17 be lost, and how will the watercourses be dealt with? Mr Tait, I leave it in your
18 hands at present.

19 MR TAIT: Thank you, sir. I’m going to ask Dr Emma Long to respond to that.

20 DR LONG: Thank you, sir. Dr Emma Long for the applicant. So we’ve got a map up
21 on the screen for everybody to see, and just to explain the map, probably before
22 we start on the explanation, the road in the location where it goes through the
23 wilderness is in cutting, and for the most part, we have an embankment, if you
24 like, as a result of that in cutting, and you can see the area where we’ve put the
25 retaining walls in, where it’s hard against the round boundary, if you like.

26 So that has served to pull any removal, as much as possible, as far south
27 as we could do. If we had simply maintained an open-face cutting along there,
28 rather than a retaining wall, then you can see how much the diverted water
29 course and subsequently, the utility diversions would have to push north to avoid
30 the top of the cutting, as it were.

31 So that’s just the visual to try and half-explain that, yeah, if we didn’t have
32 the retaining wall there, then we think we’d lose another 25 to 30 metres’ width
33 of woodland off the top of the proposed area where we’re cutting through at the
34 moment. So that would increase the loss of the wilderness woodland in that

1 location, hence the application of the retaining wall to try and pull everything as
2 far south as we can. So we think that the proposed approach that we have
3 currently does save some area of woodland. Admittedly, not probably as much
4 as everybody would like us to, but it's definitely retained more than would have
5 otherwise been the case without that design intervention.

6 I think just to touch on the point that's been raised about the site
7 inspection, obviously, the discussions that have been held since we
8 acknowledged that the sensitivity of the wilderness, and the need to fight to try
9 and minimise woodland loss in that area, and although we have the existing
10 REAC commitment, which is LV001, which is found in REP5-048, which states
11 that, 'The detailed design for the project, including diverted utilities, will aim to
12 reduce the amount of removal of trees and vegetation, as far as reasonably
13 practicable, and in accordance with the LEMP and the environmental
14 masterplan.'

15 So we already have a commitment to look at this in more detail anyway,
16 but we've taken steps to try and accelerate that, given the concern that has been
17 flagged, to see what more we think can be done within the limits of deviation
18 that we have currently for the design. We think it may be possible to further
19 extend the extent of the northern retaining wall slightly further east, so to pull
20 the location of the water course further south in conjunction with that change, to
21 give us some more headroom, and we also have a proposed REAC amendment
22 as well, to go into the code of construction practice for the temporary utilities
23 diversion that would make a commitment to ensure that there was no loss of
24 woodland as a result of the utility diversion.

25 So that would potentially help us to retain another 4,000 metres squared
26 of the wilderness, compared to the baseline that we're showing currently there
27 in the outline design.

28 MR TAIT: So we anticipate those two additional commitments coming forward at
29 deadline 6 next week.

30 MR PRATT: Just one comment from me, considering our earlier discussion, and that
31 was the two words 'reasonably practicable' – no doubt you'll take thought of
32 what was said earlier on in that sort of scenario.

33 DR LONG: Yes, we will, sir. Thank you.

1 MR PRATT: Do you want to carry on to the last part of the question? And then I'll open
2 it out to everybody else. The watercourses and the water habitat.

3 DR LONG: Yes. So in part three of the question, we've been asked, 'What measures
4 are expected to be required to prevent the loss of the waterside and water-based
5 habitat in the works in the wilderness, and are these measures in place, and are
6 they adequate?' So I'll just give you the explanation for that. The watercourse
7 that flows from the north to south through the wilderness would largely remain
8 undisturbed. It currently discharges into a watercourse that flows east-west on
9 the bottom of the woodland, and at the moment, that watercourse is broadly on
10 the alignment of the Lower Thames Crossing, so that's the section that needs
11 diverting.

12 Going to the short reach and also the downstream section that connects in,
13 the diversion, which is ref D-EFR-4-02 is described in further detail in part 10
14 of the flood risk assessment, which is application document APP-477. This
15 diversion would not result in a transfer of flow into or out of the hydrological
16 catchments, so there's no change within which the wilderness is located, and as
17 a result, the overall hydrological regime that supports the water-based habitat
18 would be maintained.

19 In line with best practice, the watercourse diversion would be established
20 prior to the existing watercourse being removed. Watercourse diversion
21 channels would be designed to reflect the size and form of the existing channel
22 to accommodate the same level of baseline flow and sediment regimes, and
23 would also be of a naturalised nature, so not just a canalised stream, but
24 something that's got some ends and naturalised beaches within it, and that's
25 secured by design principle S910, which is in application document REP4-146.

26 The watercourse network within the area of the wilderness eats into the
27 Mardyke, which is a Water Framework Directive designated waterbody. The
28 impacts of the project on this waterbody and the potential for project activities
29 to cause water deterioration of any quality elements that support its status
30 assessed in section 4 of the water framework directive assessment, which is
31 application document APP-478, and that concludes that there's a negligible risk
32 of any waterbody deterioration as a result of diversion.

33 Finally, due to the highway alignment, the southernmost point within the
34 wilderness would be lost under the footprint of the road, but we've made

1 provision for a replacement pond nearby in order to reduce any further impact
2 to the wilderness through provision of new pond creation within the woodland,
3 and the new pond is located adjacent to North Ockendon Pit metropolitan sink,
4 which is an area of high-quality open mosaic habitat. Thank you.

5 MR PRATT: Thank you. Is that the end of –

6 MR TAIT: That's the response. Thank you.

7 MR PRATT: That's the response. Thank you very much. In that case, I will open it out
8 to other interested parties, if you can signal that you would like to – I see
9 Thurrock Council.

10 MR PLUMB: Thank you, sir. Steve Plumb, Thurrock Council. Mainly focusing on
11 point two of the question, we agree that the retaining wall would be a better
12 option for reducing the damage to the woodland, rather than using –
13 embankment in taking more land, and we welcome the information we've been
14 given about the potential increase in – or reduction in the area of woodland to
15 be lost.

16 I think the main point we want to make, though, is that there's been talk
17 about minimising the loss of woodland. The applicant confirmed in the 2020
18 supplementary consultation, APP-085, with the reason for the route realignment
19 to extend into the woodland was solely to avoid the former landfill site to the
20 south. This was due to concerns regarding the potential for contamination, or
21 suitability for construction. No detailed technical evidence has been presented
22 to demonstrate that there was any actual issues with the original alignment over
23 the landfill. It's assumed, therefore, that this was undertaken as an easy way to
24 reduce potential risks, and therefore reduce costs. Thank you.

25 MR PRATT: Thank you. Any –

26 MR EDWARDS: Yes, sir. Can I add at this stage two matters? First of all, in respect of
27 your invitation to National Highways to consider matters on a without-prejudice
28 basis, and if the wilderness does include an area that comes to be subject to any
29 particular designated woodland, how that would be addressed. Sir, would it be
30 appropriate for Thurrock to address that matter on the same basis as we have?
31 Certainly, our views on what would follow, should that eventuality arise.

32 MR SMITH: Absolutely. Look, that point was put to the applicant at that particular
33 point, but certainly, it had been my intention before we close this entire item out
34 to say that, given that we'd raised it, and that we'd started the conversations with

1 Natural England for very good reasons, and now we've pushed it onto the
2 applicant, and I think, sensibly, any other interested party with a clear
3 engagement with this question is reasonably invited to deal with the without-
4 prejudice point, and in that respect, to avoid us having to go back there and this
5 conversation yet again at the end of this item, I do note that there is a missing
6 party, to a degree, here, because Thames Crossing Action Group, to a degree,
7 raised these issues in their original engagement with Natural England, and also
8 their nomination to us of the necessity for an accompanied site inspection at the
9 wilderness, which we have then carried out, and so on the record, I also thought
10 it was important that they, equally, have an opportunity to put something to us
11 in writing, reflecting the fact that we are examining this issue today, that they
12 haven't been here in person, but they may wish to write to us on both scenarios:
13 the scenario that the status of the site remains unchanged in policy terms, or
14 alternatively, that it changes.

15 MR EDWARDS: Yes, sir. Second follow-up point from Thurrock concerns agenda item
16 4(a)(iii), which is, broadly, the hydrological impact of the proposed works
17 within the vicinity of the woodland. We hear what's said by Dr Long on behalf
18 of National Highways, that they don't anticipate there being any adverse
19 hydrological effect on the remaining part of the woodland. What Mr Burgess
20 and others on the Thurrock team are struggling with is to find out where that is
21 set out and what the analysis leading to that position of behalf of National
22 Highways is.

23 Put bluntly, we think they are probably right, but we are struggling to find
24 where their analysis that supports that is, so it would be helpful if that can be
25 confirmed in due course, in writing or otherwise. We will then scrutinise it and
26 confirm our position accordingly.

27 MR PRATT: I'm tempted to say you took the words out of my mouth. Just on that issue,
28 one thing that struck me on that site visit was almost the lack of flow within the
29 ponds, and I note your comments today, and the drawings which suggest that
30 alternative watercourse provision is proposed. I suppose the added question to
31 that is, really, how you're intending to keep the water in the ponds to maintain
32 their structure and their biodiversity at present. If that response comes in
33 writing, I'm quite happy to accept it as such, as, I think, our friends at Thurrock
34 Council, as for a list of the hydrological analysis. Mr Tait, you can come back.

1 MR TAIT: Thank you, sir. No, I think we will accept that invitation to put it in writing,
2 and also, the earlier point raised by Thurrock about the selection process, which
3 requires a multidisciplinary response, so it's much better to have that in writing,
4 I think.

5 MR PRATT: Thank you. Has anyone else got any comments to make on this particular
6 item? Noting that people who aren't here can always respond by the next
7 deadline.

8 MR SMITH: There's just one more item that's flashing across my DCO brain, but I do
9 note that we have Vicky Ellis in the virtual room with her hand up, so maybe go
10 to her, and then we'll just finally look at security issues.

11 MR PRATT: Ms Ellis.

12 MS ELLIS: Hi, yes, just – Vicky Ellis, CPRE in Kent. Just very quickly, I'd like to
13 know how long the mitigation ponds would be protected for, only because we've
14 ended up having to try to save mitigation ponds in the past for the HS1, and it'd
15 be nice to know that these ponds are protected into the future. Thank you.

16 MR SMITH: Which, actually, leads me directly to the point that I was going to ask,
17 which was, essentially, about the security for relevant for mitigation on this
18 point, and that mitigation will be provided if specific needs emerge for it, and if
19 provided, will be retained and maintained.

20 MR TAIT: I'll ask Mr Clark to come back on the generality of that first.

21 MR SMITH: Thank you very much.

22 MR CLARK: Nick Clark for the applicant. In terms of the security of the mitigation and
23 the longevity of its management, this would be in line with all the essential
24 mitigations proposed as part of the project. It would be managed in the long-
25 term – managed and maintained in the long-term.

26 MR PRATT: I'm only going to say one word about that, Mr Smith: define 'long-term.'

27 MR TAIT: We've definitely got that as an action. I indicate it's intended to have a
28 permanence about it, so we will find the language to make that clear.

29 MR PRATT: Thank you very much. I think we probably can come out of the wilderness
30 now. The next item on the agenda, item 5, is Shorne Woods, SSSI impact. The
31 question in front of you, A1 – what I would also be interested in confirming is:
32 what type of facilities are expected to be delivered? We're talking about the
33 facilities here. So Mr Tait.

1 MR TAIT: Thank you, sir, and in this context, it's Alison Powell, who's the population
2 and human health lead, who will be principally responding. So I think I'll pass
3 over to her straight away.

4 MS POWELL: Thank you. So Alison Powell for the applicant. So in terms of the
5 question that's been proposed, the concerns that have been raised, that the
6 recreational facilities at the Shorne Woods Country Park could have a negative
7 effect on the SSSI, I thought it would be useful to start by just summarising what
8 those recreational facilities that are proposed are likely to be. I suppose there
9 are three areas that I wanted to highlight. Firstly, there's the creation of the new
10 car park on the site of the A2 construction compound, once that use has been
11 completed. The facilities proposed there comprise an area of hardstanding
12 appropriate for around 100 vehicles.

13 A further aspect is the access from the car park into the country park,
14 which is facilitated by a pegasus crossing over Thong Lane, and a short section
15 of New Bridle Way, which then connects into existing walking, cycling and
16 horse-riding routes within the country park, and then the third area being the
17 section of footway, cycling and horse-riding track along the eastern side of
18 Thong Lane, which we touched on earlier, which follows the line of the current
19 footpath at that location, and I think it's just worth just drawing your attention
20 to the fact that that footpath is being re-provided at that location following earth
21 works, which are taking place at this location here, as part of the works necessary
22 to construct the Thong Lane green bridge to the south.

23 So it's not necessarily the provision of the recreation route that is driving
24 any loss of vegetation in that area, but the earth works themselves, primarily,
25 and I wonder if we want to go into that in a little bit more detail as part of the
26 third element of the question, in terms of the detailed design. Otherwise, we
27 might distract us from the question in hand.

28 So going back, then, to the recreational facilities in their whole. The car
29 park has been described as an 'environmental enhancement' in paragraph
30 13.5.39 of chapter 13 of the environmental statement: 'population and human
31 health,' and that's APP-151, and it's also secured by a design principle, S2.11,
32 which is REP4-146. We do note that Kent County Council has been supportive
33 of the principle of the proposed car park at Thong Lane, and that is noted in their
34 statement of common ground, which is REP1-103, and that's item 2.1.5 in there.

1 Then in terms of the assessment of the proposed facilities, so going back,
2 then, to ES chapter 13, ‘population and human health,’ APP-151, within that
3 document, paragraph 13.6.144 and table 13.69 both make reference to the car
4 park as part of the assessment of potential impacts on community land during
5 operation, and note that the new car park provides that additional means of
6 access into the country park, and wider countryside.

7 So our position is that the effects of recreational facilities on the SSSI have
8 been assessed by the applicant, and a more detailed assessment has been
9 provided in appendix A of the environmental statement addendum, and the most
10 recent version of that is REP5-062, and that assessment has considered the usage
11 of the car park, together with accompanying recreational facilities, such as café,
12 toilet, cycle hub as a worst-case assessment, and that assessment has been based
13 on professional judgement, and makes reasonable assumptions around usage
14 based on current visitor numbers and some visitor behaviours at Shorne Woods
15 Country Park, and the assessment has considered a range of both direct and
16 indirect visitor impacts, and it’s concluded that there would be no significant
17 effects on the Shorne National Bank Woods, SSSI, as a result of the provision
18 of those new recreational facilities.

19 Now, we know that Natural England made further comments in relation
20 to this assessment in their deadline 2 submission, which is REP2-090, requiring
21 further clarity in relation to a number of matters, including further detail around
22 the number of vehicles using the car park, and the number of additional visitors
23 accessing the SSSI, and a broad breakdown of activity of car park users.

24 We’ve held two further meetings with Natural England since then to
25 explore these issues in further detail and understand them more, and then we’ve
26 also shared, informally, with Natural England, at our last meeting, a more
27 detailed annual profile of estimated visitor numbers to the Thong Lane car park,
28 based on occupancy and vehicle turnover assumptions to provide further
29 reassurance there, and that profile has taken into account evidence-based
30 assumptions from the existing Shorne Woods Country Park. So for example, in
31 relation to the average length of stay of visitors, and that information, together
32 with a broad breakdown of activity of car park users, so setting out the likely
33 proportion of walkers, cyclists, and horse-riders, will be provided as part of the
34 responses to the further written questions that were set out by the Examining

1 Authority to be submitted at deadline 6, and that was questions 11.4.1 and
2 11.4.2, so we're providing that further information within our response there.

3 So it's our position, really, that this assessment and the effects identified
4 are considered appropriate, and that no additional mitigation is required, and we
5 do note that from the Shorne Woods Country Park management plan, currently,
6 that in terms of visitor objectives, public enjoyment and recreation are obviously
7 a key feature of the site, and the site does aim to attract more visitors at all times
8 of year and to educate and inform the public on conservation and environmental
9 issues, but it's also providing that balance between other objectives as well.

10 MR PRATT: Thank you for that.

11 MR TAIT: On the first part at 5(a)(i) –

12 MR PRATT: Can I just ask a very simple question, really, on the car park itself? Are
13 you literally just proposing an area with some sort of granular surfacing, or is it
14 proposed to have toilet facilities, or a café, or anything like that? And...

15 MR TAIT: So sir, the additional facilities have been assessed in the ES, but as part of
16 this DCO, they're not included – the authorisation for that is not included, so
17 there'd need to be a separate planning permission for that. However, it's been
18 assessed.

19 MR PRATT: Thank you for that clarity. Sorry. I'm just reading the thing here. I
20 suppose, at this instance, I should open this out to the rest of the room on this
21 particular position, and I've got a hand up from Gravesham, a hand up from
22 Kent, Natural England. On these items, seeing as it's SSSI, I'll go to Natural
23 England first, and then I'll pick up the two councils, and there is a hand in the
24 virtual room as well. There's a couple, which I'll come to in due course. So
25 Natural England, if you please.

26 MR HANNA: Thank you, sir. Sean Hanna for Natural England. Our advice has long
27 been and remains that we're generally supportive of a low-key car park in this
28 area that could be part of an overall integrated access management strategy for
29 various public open spaces and recreation within the Kent Downs itself, and by
30 'low-key,' we mean a car park, not the associated facilities, so not the cycle hub,
31 the kiosk and additional facilities, so it's literally just the car park where we were
32 feeling that could be part of an integrated plan. As the applicant said, we
33 provided our detailed comments on their updated recreational impacts

1 assessment in our deadline 2 response, document REP2-090, and that we still
2 consider that further information requested is still needed.

3 In summary, this included details of the likely number of vehicles using
4 the car park each day, clarity on the additional number of visitors to be using the
5 car park and recreating within the designated site will be facilitated by the new
6 parking provision, an indication of the breakdown of the different types of
7 activity users, so walkers, cyclists and horse-riders, and then if the assessment
8 showed that there would be impacts, then details of the mitigation measures that
9 they're going to propose.

10 One point of clarity: we've been working carefully with the applicant, as
11 we've said in two meetings. We understood that a further assessment was going
12 to be supplied, but it would be helpful, I think – in your comments, you were
13 saying that all you were going to do was respond to the question. We understood
14 that a further assessment addressing all of our concerns would be submitted, so
15 it would be helpful if that could be clarified, and if that is going to be submitted,
16 then we'll of course provide our further advice, but at the moment, we don't feel
17 the assessment is robust, in terms of impact to the designated site. Thank you.

18 MR PRATT: Thank you. Pardon me. Thank you. Next, I'll go to Kent County Council,
19 if I may.

20 MR URQUHART Thank you, sir. Andrew Fraser-Urquhart for Kent. For my part, I just
21 want to remind the examination of the discussion that we had last Thursday
22 about the practicable ability and the viability of the car park being provided on
23 the austere basis that Natural England seem to advocate, as we made quite clear
24 that, without the ability of that car park to generate a suitable income stream via
25 additional facilities, enabling it to be financially viable, it's not something that
26 Kent County Council is able to take on at all, and therefore, it's welcome that
27 the additional facilities have been assessed in the environmental statement. I
28 understand we had a contribution into some of those discussions, because
29 without those additional facilities, I think, effectively, it doesn't happen at all,
30 and it's important in having this discussion to remember that point, and Mr Bell,
31 I think, just wants to add a little bit of detail about the approach we take to
32 management within the SSSI.

33 MR BELL: Tim Bell, Kent County Council. Just the point we want to make is that it's
34 worded that the recreational facility is proposed at Shorne Woods Country Park

1 – it's not at Shorne Woods Country Park. It's the A2 compound outside of our
2 boundary, and right at the outset of us discussing this with National Highways a
3 long, long time ago – because it was an idea we put forward in the first place –
4 this was all about access to the wider countryside, so access to Chalk Park – you
5 go over Thong Lane, and there's Scotland Lane that links into Jeskyns and
6 Ashenbank, and the wider Darnley trail, which connects to the North Downs
7 Way, so this car park was all about being connections into the wider countryside,
8 and not just the Shorne Woods, SSSI. So there's a bit of a grey area going on
9 with the past, because, as we discussed earlier, there's that funny strip of land
10 down the side that's currently proposed to be part of some form of development.

11 If the pathway that's existing – the Darnley trail that's been there since
12 2008 – is the point at which the proposal connects into the country park, and
13 we're only using the existing path, then our suggestion – again, at the outset
14 when we met Natural England onsite – was that we surface the section of the
15 Darnley trail from the boundary by Thong Lane, right through to where it meets
16 our shared user route, and within the park, we've got, probably, a mile and a
17 half, two miles, of surface routes that connects key bits of the country park, and
18 this corrals people to stay on those paths, stops the spread, stops them going off
19 into areas which won't be disturbed, and it's been really successful, and Natural
20 England has supported us with that management over the last 30 years where
21 we've been developing the park.

22 So in terms of us protecting the SSSI, we would recommend that that
23 section of the park was surfaced up to the existing shared user route, but we
24 would also encourage everyone to remember this is access to the wider
25 countryside, and is not a recreational facility purely for Shorne Woods Country
26 Park.

27 MR PRATT: Thank you for that. Gravesham.

28 MR BEDFORD: Thank you, sir. Michael Bedford, Gravesham Borough Council. Sir,
29 in relation to the impacts on the SSSI itself, obviously, we defer to Natural
30 England as the expert assessor to advise you on that. You'll be aware from our
31 earlier representations and discussions on this topic that we have raised a
32 greenbelt issue as a policy issue about this car park, but I don't want to get, in a
33 sense, distracted by that, but that's obviously part of our concerns.

1 The particular issue – it would be helpful to have some clarification from
2 the applicant through the comments that Ms Powell was making. We
3 understand, particularly given what Mr Tait has said, that effectively, nothing
4 other than a surface car park is provided for through the powers of the
5 development consent order.

6 So in terms of any physical works that the development consent order
7 would authorise, it is merely the provision of a surface level car park, but Ms
8 Powell has then gone on to explain that the environmental statement addendum
9 has assessed on a worst-case basis what would be the position if other facilities
10 were added to that car park, and just a point of clarification, we thought when
11 we were reading the environmental statement addendum that the facilities – this
12 is, I think, at paragraph A3.4 of the addendum, and obviously, in our post-
13 hearing submissions, I'll give you the REP number for that – but we thought that
14 what had been assessed was space for approximately 100 vehicles, provision for
15 suitably surfaced parking for 10 to 12 horse boxes, a building with provision for
16 a kiosk, toilets, changing and storage facility, and then an area for cycle hire and
17 cycle wash facility.

18 So the word 'kiosk' is capable of meaning many things to many people,
19 but we heard the reference to 'café' in – and obviously, there is something of a
20 difference between those two. It would be helpful to know what it was that
21 actually was assessed in the ES addendum, and it's not just words, because
22 obviously, there are, as it were, spatial land use activity and patronage
23 [inaudible] issues of different types of things. So sir, I think you understand our
24 position on principle, but we'd just welcome – on the detail. Thank you.

25 MR PRATT: Thank you. Yes.

26 MS LAVER: I'd like to come in on the back of Gravesham, just to put the applicant on
27 notice just to go a little bit further when they come to respond to that. Given
28 that none of the extra facilities are being proposed by the applicant, they're not
29 part of the application, there's no funding for them, I'm just intrigued as to why
30 they were assessed in the first instance, given they don't really form part of the
31 DCO at all, and ultimately, what we've got is something which says, 'Oh, look,
32 these things would be really nice to have and we've assessed them, but over to
33 you, Kent, or some other provider, to come along and deliver them.' So I'm just
34 intrigued to know why those additional things, other than a car park – because

1 that's all that's been offered – has been assessed. That's not for answering now.
2 That's for when we come back to the applicant towards the end.

3 MR SMITH: Indeed, and in taking that, there is a very closely related point, which is: if,
4 amongst other things, this is, essentially, a means to manage what otherwise
5 appear to be costs associated with full reinstatement – so in other words,
6 decommissioning a compound, and not reinstating it to prior/underlying use and
7 condition, then it would be useful to, I guess, have a frank acknowledgment that
8 that is the starting point – will enable us to think about the relationship between
9 it, the benefits that emerge from it, and the Kent County Council's submissions,
10 which are quite clear. Of course, in fairness, I should go to Mr Fraser, and ask
11 if he wants to put anything else on that point, but hopefully it's a clear one.

12 MR FRASER-URQUHART: Sir, I've made our position clear more than once and unless
13 I need to do so again, I won't.

14 MR SMITH: No, I just thought I'd check.

15 MR PRATT: We'll give the applicant a moment or two to think about the answer. I'll
16 go to Shorne Parrish Council next if I may. Ms Lindley.

17 MS LINDLEY: Thank you, sir. I'm not sure if you can see me or not this time. Where
18 to start? Well, basically, we think that this is completely and utterly
19 inappropriate. It should not form part of the development consent order at all
20 and we agree with Mr Smith that the land should be reinstated. It hasn't been
21 purchased, whether compulsory or voluntary or whatever it is, in order to create
22 another visitor centre for the country park, which is what Kent seemed to be
23 wanting to create. To suggest that it isn't going to cause damage to the SSSI, I
24 think is amazing, really. I mean, one of the mercies of the current visitor centre
25 at the country park, which has of course expanded over time, is that the majority
26 of visitors don't actually move very far from the visitor centre, so the remainder
27 of the park is still relatively quiet and undisturbed.

28 I appreciate that Mr Bell said that they've been trying to keep some areas
29 quiet, but by opening up the rides, making them available for a lot more bicycle
30 use, there has been considerable increase in disturbance. I think to have another
31 major entrance to the country park at the western side is only going to cause
32 damage. There's a conflict of aims, really, that local people just want to live
33 here in as quiet a way as possible as they were used to previously, whereas other
34 people seem to want to turn it into a countryside and theme park, really. We're

1 not quite clear why it should be a major visitor attraction for the whole of
2 southeast London and other areas of Kent. Well, that's it, that's our view. Thank
3 you very much.

4 MR PRATT: Thank you, and Mr Taylor from the Woodland Trust. Mr Taylor.

5 MR TAYLOR: Thank you, sir. Apologies first if this is not deemed relevant, but I
6 assume that it would be because we're talking really about Shorne and
7 Ashenbank Wood SSSI here. So you'll likely be aware that the Woodland Trust
8 owns Ashenbank Wood, the large area of partly ancient woodland, another
9 mixed woodland area to the south of the A2/M2, which is also within that SSSI
10 designation. National Highways are intending to reroute national cycle route
11 177 through the northern part of our Ashenbank Wood sites along the existing
12 Darnley Trail, which is currently an unsurfaced path, has a lot of really important
13 ecological features, including veteran trees and archaeological features as well,
14 associated with World War II encampments.

15 So what we're not clear on is whether the impact on our site from rerouting
16 the cycle route through this part of our site, what impact it's going to have on
17 our site, on those important features, on the SSSI features for which it's
18 designated, and on our ability to manage the site and control visitor access as
19 well. The site can get very muddy in the winter months. Allowing more cycling
20 through the site would be pretty deleterious to the woodland, both its ancient
21 features and otherwise. So, yeah, I haven't seen anything from National
22 Highways in that respect, and would appreciate further clarification on what
23 considerations have been made.

24 MR PRATT: Thank you, Mr Taylor. Ms Lindley, is that hand that's just come up again
25 or is that from the last time? It's gone away, so I assume that was from the last
26 time. Right, Mr Tait. Actually, that brings me to – before I pass across to you,
27 there was one thing that was mulling away in my head and that was increasing
28 visitors to a SSSI site. Is that environmentally beneficial? Are they likely to be
29 damaged? And I know that our friend from the Woodland Trust there made a
30 similar comment, but with that in mind, would you like to make any further
31 comments?

32 MR TAIT: Thank you, sir. Shall I pick up the other points at the same time? First of
33 all, in relation to Mr Hanna's point about further information, we're more than
34 happy to provide further information that we've indicated to him, and Ms Powell

1 confirms that's the intention, that any further information we will be providing
2 to you. Secondly, in relation to the genesis of the car park idea, as was made
3 clear by Mr Bell, it's very much in line with KCC's aspirations, so it was
4 responded to as a proposed legacy rather than to avoid reinstatement.

5 That is the purpose of it, but we now have with absolute clarity the position
6 of Kent County Council about the position with or without the additional
7 facilities, and we will be reflecting on that and the other stakeholders comments
8 with our own internal adjudication box, if I can call it that, because we hear what
9 people are saying and the way in which submissions have been framed, so we
10 don't wish to be unresponsive to that, and in relation to Ms Laver's comment
11 about, 'Well, why have we assessed those additional facilities?' It is because
12 there was, at that time, a prospect, and there is a prospect of a planning
13 application being made by Kent County Council.

14 So it was important to avoid any suggestion of salami slicing from the
15 point of view of the EIA assessment, that we include that to ensure essentially
16 on a cumulative basis – it's not part of our proposal, but we need to include it in
17 the event that that does come forward, but as I indicated, we are reflecting
18 carefully on all the points that have emerged, and I think in relation to Mr
19 Bedford's point, it is a kiosk that we have assessed, not a restaurant facility or
20 anything larger. Where a cafe fits in this scale, it is probably above the kiosks
21 that we have assessed. So it is a kiosk that we have assessed. So essentially,
22 that is the position, apart from your last questions about increasing visitors to
23 the SSSI and the balance of how that affects the environment. I don't know
24 whether I can – yes, we'll – that could be a long answer, so I think we'll come
25 back in writing, if that's all right.

26 MR PRATT: Yes, that's fine.

27 MR TAIT: It has been assessed and we will draw on those strands and add anything
28 additional.

29 MR PRATT: Thank you very much. Ms Laver.

30 MS LAVER: Yes, thanks. I just want to come back more for KCC because the
31 suggestion you made, Mr Tait, is that KCC were looking to push a planning
32 application for that particular part of the order limits for the additional facilities,
33 and I'm going to put an action for KCC to respond to that point because I think,
34 as a panel, we really need to understand why you've cumulatively assessed

1 something which isn't before us, and I don't believe a planning application has
2 been made, but it's more an action that will come for Kent County Council to
3 respond, in submissions, to what's just been said.

4 MR TAIT: Yes, thank you, ma'am. I'll take instructions on our position on that matter.

5 MR PRATT: That, I think, closes down that item. Has any of my colleagues got anything
6 to add to that? We're all good. In that case we can move on to the final bit of
7 this question, which is really asking about the reinstatement or otherwise of land
8 that's going to be temporary occupied. At the background of this, are there any
9 other, or likely to be any other, good ideas coming forward at a later date for
10 other areas and have those been considered at all?

11 MR TAIT: Is that the third item?

12 MR PRATT: That's the third item, yes.

13 MR TAIT: We've got a very brief response from the second one, if that would be helpful.

14 MR PRATT: Oh, sorry. My apologies. We're on the second one, which is, 'Can Natural
15 England and the applicant confirm that the disputed boundary has been
16 resolved?' and what we're just wanting to check is all the data relevant to the
17 assessment at the location is considering that agreed boundary.

18 MR TAIT: I'm going to pass over to Mr Clark very briefly to explain the references, but
19 then there's a short answer.

20 MR CLARK: Good afternoon. Nick Clark for the applicant. The applicant responded
21 at REP2-046 to the Shorne and Ashenbank Woods SSSI boundary issue raised
22 by Natural England in their written rep, REP1-262, but identified an error
23 between their published data set and their internal boundary mapping records.
24 Our response was to update our assessment using this newly received boundary.
25 Our conclusion is that the new boundary does not change our original assessment
26 of the likely significant effect on the SSSI. In their deadline 4 submission,
27 REP4-324, Natural England acknowledged the revised assessment and
28 requested that the applicant provided a revised figure showing the amended SSSI
29 boundary. We've submitted that revised figure to the statement of common
30 ground between the applicant and Natural England at deadline 5, REP5-038 in
31 annex C-16. This statement of common ground refers to this matter and the item
32 2.1.104 as a matter under discussion. It is the applicant's view this can now be
33 moved to a matter agreed. Thank you.

34 MR PRATT: So I presume the short answer is yes.

1 MR CLARK: Yes, from our perspective.

2 MR PRATT: Mr Tait, yes?

3 MR TAIT: Yes, sir, indeed.

4 MR PRATT: Thank you. Natural England?

5 MR HANNA: Yeah, I think we're content with the plan, but given the importance of it
6 as an examination document, the reason we requested this plan was because
7 we're conscious in previous developments where compensation has been
8 proposed for SSSIs, it gets lost in the mists of time and then future developments
9 come in and take out the compensation. So because of the importance of this
10 plan, we would rather it becomes a formal, secured document rather than just
11 being through the statement of common ground, so either secured through the
12 REAC commitments or as an addendum to the environmental statement, simply
13 so, again, it doesn't get lost 20 years down the line where Natural England staff
14 or the applicant staff move on and another development on the A2 corridor could
15 come forward. So that's just a simple procedural request from our end.

16 MR PRATT: Thank you very much for that. It sounds very reasonable to me. I'm
17 assuming nobody else wants to speak on this matter, but I'm quite happy for a
18 hand to go up, should it be necessary, and I'm glad to see that everybody is quite
19 content. So we will now go to item 3.

20 MR SMITH: Apologies. Mr Tait, on that final point around securing the document –

21 MR TAIT: We've noted that, sir, and we'll take that away and look at the best way to
22 give comfort to Natural England.

23 MR SMITH: Excellent. Thank you. Apologies.

24 MR PRATT: No apology necessary, Mr Smith. Item 3. As I said, this is going to the
25 applicant to start off with any further refinement of the use of the SSSI in the
26 detailed design stage.

27 MR TAIT: Excellent. I wonder if I might ask Ms Powell to begin with to respond on
28 that please.

29 MS POWELL: Alison Powell for the applicant. So I was just going to elaborate a little
30 bit further on the footpath along the eastern edge of Thong Lane as part of our
31 response to this question. So we have got the plan on the screen at the moment
32 which shows some of the construction activities in that location. So I suppose
33 the points that we wanted to raise here are that the proposed level of Thong Lane
34 lifts by around two and a half metres from north to south, and that measurement

1 is taken from the central point of the proposed new carriageway such that it can
2 meet the required elevation for the Thong Lane green bridge to the south.

3 This elevation obviously needs to be supported by earthworks and the
4 footpath heading north/south along the eastern side of Thong Lane is then re-
5 provided on the top of the embankment that's been created. So again, to
6 emphasise the changes as a result of the earthworks and not as a result of the
7 creation of the new footpath, and we anticipate, taking into account the
8 comments that Kent County Council made earlier, that there will be refinements
9 as part of the detailed design and taking into account relevant design principles.
10 So we have LSP-01, retention of existing vegetation, which is in design
11 principles REP4-146, and then also measures contained in the register of
12 environmental actions and commitments, including LV-001, and that document
13 is REP5-048.

14 Measure LV-001 relates to reducing the removal of trees and vegetation
15 as far as reasonably practicable in accordance with the LEMP and the
16 environmental master plan. I just wonder if it'd be useful just to show up the
17 plan on the screen, which is REP2-072 – if we just focus in on the – which shows
18 the walking and cycling routes within the area that we're currently discussing.
19 We can just see the solid red line, which is that section of the Darnley Trail that
20 we provided along the area to the east of Thong Lane that's on top of the
21 embankment, and then connects into the Shorne Woods Country Park to the east
22 and connects across the Thong Lane green bridge to the south. That's all I was
23 going to mention at this point.

24 MR PRATT: Thank you. I will open this one up to those attending.

25 MR FRASER-URQUHART: Andrew Fraser-Urquhart, Kent County Council. So I'm
26 taking what I've just heard as a suggestion that the detailed design process may
27 enable the trees with which we are concerned to remain in situ without undue
28 disturbance, and I wonder if that is a possible outcome, whether we would be
29 able to see some form of diagrammatic representation of how that might be
30 achieved. I don't want to have the applicants micro design their scheme at this
31 stage, but some indication of how and whether it's possible would certainly be
32 welcome here.

33 MR PRATT: Mr Tait?

1 MR TAIT: Yes, so we have been in discussion and we do anticipate perhaps providing
2 at least in the first instance between Kent and ourselves, and then developing a
3 section just to show what is possible, what may be possible.

4 MR SMITH: I think it is also fair to indicate that in discussion at lunchtime, we were
5 contemplating framing an action that might do exactly that job. So you've
6 beaten us to it, but, yes, that feels like it would be a very wise approach on both
7 sides.

8 MR TAIT: Great minds think alike, sir.

9 MR SMITH: I don't know about the great bit.

10 MR TAIT: Fools seldom differ.

11 MR SMITH: Okay. Touché.

12 MR PRATT: Okay, in that case, Gravesham, I saw your hand up.

13 MR BEDFORD: Thank you sir. Michael Bedford, Gravesham Borough Council. Sir,
14 our point is a slightly different point and it may be – I'll just briefly touch on it,
15 but it may be that it's a matter we can simply leave to our deadline 6 submissions.
16 It concerns the treatment of the overall compensation proposals for the SSSI and
17 the applicant submitted at deadline 5, a draft statement of common ground
18 between the applicant, Natural England, that's REP5-038, and within that there
19 is an appendix which is the Shorne and Ashenbank Woods SSSI compensation
20 proposals and they are then illustrated on plans and described in text.

21 And we do have a concern which we've raised in our local impact report
22 and in the cultural heritage appendix to the local impact report, which is REP1-
23 232, about the treatment of the open mosaic grassland element of the SSSI
24 compensation that is north of the part of Thong Lane that we've just been talking
25 about, and it relates to the homes for heroes, the 1920s dwellings, which I'm
26 sure you're familiar with their location, and the open parcel of land to the east
27 of those, but as I said, given that it's a somewhat different point – I mean, I'm
28 happy to elaborate on it now, but equally, because it arises from what the
29 applicant has put in at rep 5, we can respond to that anyway in writing at deadline
30 6. So I'm perfectly happy to leave it until we do that or I'm happy to explain a
31 little bit more if you want to hear anything further this afternoon.

32 MR PRATT: Thank you for your offer, but I think we'll take it in writing, if you don't
33 mind.

34 MR BEDFORD: Thank you, sir.

1 MR PRATT: There doesn't look to be anybody else on this item. Mr Tait, is there
2 anything you wish to add at this point?

3 MR TAIT: Sir, only in relation to an earlier point raised by the Woodland Trust, which
4 probably does come under this head, although I didn't respond to it under the
5 earlier head, and that relates to the surfacing of the diverted N1-77 to the south
6 of the A2, and just to point out, there is a specific design principle there which
7 is S-105, I think, but I'll check that, but it expressly deals with the way in which
8 surfacing is to be addressed and we can provide a bit more detail on some of the
9 methods that relate to that in due course. I think that might come up tomorrow
10 afternoon, I suspect, in any event. So I should have the reference by tomorrow
11 afternoon.

12 MR PRATT: I would expect so, yes. Thank you very much. Well, if that's the end of
13 that particular item – I note that we came back early from lunch. We're probably
14 a little bit early to go for a break at this point, but I think it's a nice place to close.
15 So can we have 15 minutes from now? To make life simpler, 3.25. Return at
16 3.25.

17 MR SMITH: Indeed, and in that respect, just before we go for the break, I would note
18 that we have then got three items in the remaining session. Looking at the
19 average pace of this agenda, it feels to me as though we may need just a little bit
20 of time after 5.00 p.m. – hopefully not too much, certainly not much more than
21 about 5.30 – but if I can again emphasise the virtue in us being ready to move
22 into that space if needs be, in order to absolutely conclude all of the items on
23 this agenda, then I'd be very, very grateful indeed. Thank you very much.

24
25 **(Meeting adjourned)**

26
27 MR PRATT: Good afternoon everybody. This is the fourth session of issue-specific
28 hearing number 9 and I'm assuming that it's all okay on the virtual side. Right,
29 we'll go straight onto agenda item number 6, Coalhouse Fort. Just to reiterate
30 before we start that this is not discussing anything to do with the habitats
31 regulations assessment because that's been achieved through a written process,
32 but there are a couple of questions and Mr Tait, I would like to take them both
33 together at this point in time. We'll see if we can try and get finished by 5.00,
34 so to speak. Mr Tait.

1 MR TAIT: Thank you, sir. Just reverting back to the reference I gave you just before
2 the break. It is in fact S-105 in response to the Woodland Trust, but I appreciate
3 we're coming back to that tomorrow. So on Coalhouse Fort, I'm going to ask
4 Mr Russell Cryer. He's the HRA lead, but is also able to deal with these matters
5 as well. So, Mr Cryer.

6 MR CRYER: Thank you, sir. Russell Cryer on behalf of the applicant. So the objectives
7 of the wetland creation as set out in the oLEMP are to create scrapes and ditches
8 and grassland, and this can be seen in the master plan as you can see on the
9 screens at the moment. You'll see there are large areas of water, a lot of ditches
10 and scrapes, and interspersed with grassland. Those habitats will enhance the
11 habitat for any existing species that are on that site already. So if we move to
12 the phase 1 map on the screens. So if you look at the site at the moment it's
13 primarily arable farmland, cultivated land with a straight linear ditch going
14 through the middle of it. So the arable land has very little of interest biologically
15 or for species.

16 The ditches have some interest for the likes of micro invertebrates and the
17 flood bank has some rough grassland on it which also has some interest, but the
18 habitats that we'll be creating will enhance those habitats. So the flood banks
19 won't be changed at all. So there'll be no difference there. They'll be retained.
20 There'll be much more ditch habitat that will be suitable for any species that are
21 using that single straight ditch at the moment. So I don't think there's any
22 necessity to propose any measures to reduce effects on the species that are there
23 at the moment because they will be enhanced inherently by the propulsions that
24 we have, but even if we do find that there are some features of interest there –
25 design principle LSP-01, retention of existing vegetation.

26 The design principle states that all existing vegetation should be retained
27 as far as reasonably practicable in order, amongst other things, to preserve its
28 intrinsic ecological value. So if we did find anything of intrinsic ecological
29 value, we would want to retain it and then enhance around it, build on that value,
30 rather than replacing it with something else. In terms of the second bullet in the
31 question, the only rough grassland we're aware of is on the flood embankments
32 themselves and they will be retained as they are. So we won't be replacing that
33 habitat. You can see from the phase 1 habitats on the screen it is primarily an

1 arable site and the wetland creation is only done on the low lying arable land
2 and not on the surrounding banks.

3 MR PRATT: Thank you. Is there anything you want to add at this stage?

4 MR CRYER: No, thank you, sir. That's the response.

5 MR PRATT: Thank you. At this stage, I'll put it out around the room. Anybody wants
6 to speak, can put up their hands, please.

7 MR PLUMB: Thank you, sir. Steve Plumb, Thurrock Council. Just to confirm we agree
8 with everything that's just been said. It is a site which is at the moment almost
9 completely arable farmland and this provides an opportunity to achieve some
10 quite valuable additional habitat. Thank you, sir.

11 MR PRATT: Mr Holland.

12 MR HOLLAND: Thank you, sir. Mike Holland for the Mott family, the current owners
13 of the land and the farmers. It may not be the right hearing, but given that we're
14 on the subject, I'm still struggling to arrive at a conclusion that justifies the
15 extent of land that's being taken for this purpose. There's nearly 90 acres of
16 arable land there and it's quite an extensive habitat that's proposed. So my
17 question to the applicant remains, which is, please point me to the justification
18 for it across the scheme as part of the scheme's mitigation objectives and
19 obligations.

20 MR PRATT: Thank you. Natural England, I saw your hand up.

21 MR GRANT: Thank you, sir. Nick Grant for Natural England. This is just by way of
22 flagging, my expert, on both this item and the next agenda item, isn't here today
23 because it's half term, so we'll be coming back in writing on things and I just
24 wanted to put the marker down, that we'll be quiet now, but it'll be coming back
25 in writing if that's alright.

26 MR PRATT: Thank you very much. Is there anybody else who wants to raise any issues
27 on this matter? Mr Smith.

28 MR SMITH: What I will say is – noting that we don't have the relevant expert from
29 Natural England here, in terms of responding to the point that Mr Holland is
30 making on behalf of Mr Mott, what we will need to see is a clear position from
31 all public authorities with an interest in this at deadline 6. So a clear position
32 from Thurrock and a clear position from Natural England, and indeed, any
33 remaining explanation set out from the applicant so that – and this is where an

1 action begins to emerge, Mr Holland, I'm afraid. You, on behalf of Mr Mott,
2 can – you know the shape of the target that you're shooting at, at deadline 7.

3 MR HOLLAND: Thank you, sir. That would be very helpful.

4 MR SMITH: Okay, we'll try and capture that.

5 MR PRATT: Yes, I have one little bit to add. In your response to the original question,
6 if we find features of interest, if it's reasonable and practicable – that word again,
7 and just how is that going to be secured? I presume this goes back to the stage
8 where you've still got site investigations to do, but again, it's how is this going
9 to be secured and dealt with in the future if you find things and who determines
10 whether they're reasonable and who determines whether they're practical or
11 not?

12 MR CRYER: Russell Cryer for the applicant. The detailed design process will look at
13 what you want to achieve and also how you're going to achieve that, and they
14 will be investigating what features there might be in order to fulfil the design
15 principle of retaining what vegetation is necessary to retain. All of the decisions,
16 eventually, on anything in detailed design, will end up as the – the Secretary of
17 State would be the arbiter in approving the LEMP before it is delivered, but in
18 this case, there's a very low possibility of finding anything of particular interest
19 there, because we've surveyed it and as you can see from the phase 1 habitat,
20 it's arable fields with a straight agricultural ditch going through the middle of it.
21 It's not going to be a massive biodiversity hotspot.

22 MR PRATT: That's very true. I'll leave it at that, but at some point I might tell you a
23 wee story. Unless there's anybody else who wants to come back with anything
24 on that, I think we can go straight to agenda item number 7, which I was going
25 to have – oh, sorry.

26 MR HOLLAND: I'm so sorry, sir. Given that we're on the subject, there is one other
27 question that I would quite like to have some comfort on from the applicant,
28 which relates to the management of water from – without prejudice to what I've
29 just said, my client's objection to a lot of this land. If these mitigation proposals
30 are brought forward, I'd note that we've got a saltwater network proposed within
31 the wetland habitat, as I understand it correctly, which is proposed to be
32 managed from a sluice opening out onto the river.

33 The whole network of drainage at the moment runs back literally round
34 the top of the East Tilbury Marsh landfill, back out through Bowaters sluice,

1 acknowledging the applicant has built in a weir design, the northern part of that
2 drainage scheme coming out of the wetland habitat, so that the saltwater doesn't
3 go back into the freshwater network. One of the questions that I have is how
4 that would be maintained and managed long term, to use everyone's terminology
5 today.

6 MR SMITH: To use that wonderful term, and again, to be clear here, that that weir feature
7 that I take it the cursor is sat upon right now, would be intended long term to
8 form the termination of a saline environment and the commencement of an
9 enduring freshwater environment that would be managed and have effects in
10 those terms and that therefore, the remaining drainage around Bowaters sluice
11 would remain freshwater. Is that your concern, Mr Holland?

12 MR HOLLAND: Yeah, that's correct. Acknowledging that they've designed it in, it's
13 understanding who would then be responsible for the maintenance.

14 MR SMITH: Who looks after it, and how it stays there.

15 MR HOLLAND: Thank you. Sorry for the interruption.

16 MR SMITH: Not at all. Important point.

17 MR CRYER: Russell Cryer for the applicant. So the new water regime will be very
18 similar to the existing water regime, that river water will be let on through a new
19 structure, but at the moment, river water is let on through the moat system of
20 Coalhouse Fort. So in that respect, the hydrological and salinity levels will be
21 the same, and in fact, we've been talking to Natural England who are advising
22 that we want to maintain those salinity gradients across this site because it's the
23 gradient that provides the variability for different types of invertebrates, for
24 example. So there won't be any change in those. In terms of the long term
25 management, the prescriptions for that will be set out during detailed design.
26 They're secured through the oLEMP. National Highways will be responsible
27 for that and any third party that they use to carry out those prescriptions that are
28 set out in the EMP iteration 3.

29 MR PRATT: Thank you. Sorry, I was about to ask a question that's actually part of the
30 written question set that you're dealing with now, so I'll park that one. Unless
31 there's anything else to add to the Coalhouse Fort part, I think we can go onto
32 the Hole Farm Community Woodland. There is an element of confusion around
33 this because there seems to be a number of references that suggest that it's a
34 legacy for this particular scheme, yet it will go ahead, and it's got a planning

1 application, REP4-213, initially purchased by the applicant by agreement in
2 2021 to provide a community woodland. Yet in another rep, it suggests, REP4-
3 216, that the initial capital costs for developing the community woodland
4 scheme are expected to be funded by National Highways through discretionary
5 funding and will continue regardless of whether this project proceeds. We need
6 some clarity. Mr Tait, I think it's over to you at this point.

7 MR TAIT: Thank you, sir. Mr Henderson on my right is keen to address this matter.

8 MR HENDERSON: Thank you and good afternoon. Tom Henderson for the applicant.

9 Sir, if you would assist, I would propose to step through all of the bullet points
10 that you've got here because I think they're quite self-contained points and then
11 that will obviously elicit any questions you may have or those from interested
12 parties. I'll just take a few minutes to do that and hopefully clear up the point
13 that you've raised. So starting with the question about the elements connected
14 to the Lower Thames Crossing and elements for other purposes in terms of
15 National Highways more general environmental strategy. As you mentioned,
16 we've submitted a paper on this at deadline 4, which was an attempt to pull
17 together all the information that you're seeking on Hole Farm and address in
18 particular the action points of ISH6 and 7, and the submissions that I'm going to
19 make draws upon that, but also provides some additional information that we
20 can update you with.

21 So the elements that are connected to Lower Thames Crossing specifically
22 are 26 hectares of ancient woodland, compensation at Hole Farm, 75.2 hectares
23 of compensation for nitrogen deposition effects, and finally, 2.9 hectares of
24 replacement special category land. Now, none of those elements, just to be clear,
25 are claimed in relation to the local Town and Country Planning Act application
26 in respects of Hole Farm, nor in any wider National Highways general
27 environmental strategy. The TCPA elements for the community woodland –
28 and I'll come on to call up a plan, which I think will assist in clarifying this –
29 those do align with National Highway's wider sustainability strategy in order to
30 manage the land it holds in the public interest and in a sense to be a good
31 neighbour.

32 So this is a site that is capable of being made available to the public and
33 that's something that does align with that wider sustainability strategy, and the
34 funding point that you mentioned relates to the elements in the Town and

1 Country Planning Act application that align with that strategy, and finally, just
2 for further clarity, it's worth noting that Hole Farm would be leased to and
3 managed by Forestry England. They are the applicant for the Town and Country
4 Planning Act application. So hopefully that answers your first bullet point.

5 Turning to the second bullet point, the current status of the planning
6 application. That's the Town and Country Planning application. That has been
7 delegated to offices at Brentwood Council – it's the relevant planning authority,
8 with a recommendation to approve, subject to conditions. The window for the
9 councillors to call the matter to the planning committee ended on 13 October.
10 So we understand that a decision is imminent, although we haven't seen that yet.
11 So that's the very latest position on that, and as soon as we have any further
12 information on that, we can of course update you.

13 Turning to the third bullet point, the expected programme of works at Hole
14 Farm and how these tie in with the Lower Thames crossing proposals. What I'd
15 like to do, with your permission, is put up on screen a plan which we are
16 proposing to submit at the next deadline, deadline 6. Wait for that to come up.
17 This is a hybrid of the DCO proposals and the TCPA proposals. As I say, we'll
18 submit this in writing. You'll have a chance to scrutinise it in closer detail, but
19 what you can see there – if we start with the colouring and hatching. To the top
20 left there is the replacement open space land. The diagonal hatch land below
21 that is the replacement ancient woodland compensation, and then the cross hatch
22 area is the NDEP compensation land. So that's the land required to respond to
23 the effects of the Lower Thames Crossing and is secured by the DCO
24 application.

25 Now, within the site here you can now see elements that form part of the
26 TCPA application. So although it's a little bit difficult to see at this scale, if you
27 start with the access road – if you could just point the cursor to the access road
28 that would be constructed – so that comes into a car park there, so that forms
29 part of the TCPA application, not the DCO application. There's then a parkway
30 that connects that to a business centre, which the cursor is hovering over now.
31 There are a network of paths that form part of the TCPA application, so you can
32 see those denoted on the plan.

33 And then finally – I'm just picking out the substantive components of the
34 application – there are some ponds included in the TCPA application. Now,

1 that's the only part of that application that overlaps with matters required for the
2 DCO application, and the reason for that is it's development so it requires
3 permission, and we're seeking to establish those ponds at an early stage so that
4 their delivery doesn't impede the development of advanced compensatory
5 planting. And just on that point, to reiterate submissions we've made previously,
6 early planting of trees and vegetation aligned with the DCO compensatory
7 strategy commenced in December 2022. There'll be another phase this winter,
8 and a third phase in the following winter. That's all about establishing the
9 habitats that respond to the effects of the Lower Thames Crossing application at
10 as early a stage as is possible. So that responds to your third bullet point.

11 The fourth question, which really gets on to the double-counting point that
12 you've mentioned, is the Hole Farm project contingent upon the granting of
13 development consent for the Lower Thames Crossing? I suppose the answer to
14 it is no, in the sense that a community woodland will be provided on that site
15 whether or not the Lower Thames Crossing project comes forward. But here I
16 think it's just worth perhaps raising some points that we didn't mention in our
17 REP4 submissions around why we've chosen to appropriate this site, which was
18 owned before it was appropriated into the order limits for compensatory habitat,
19 why we've taken that approach, and that really relates to some important
20 compulsory acquisition considerations.

21 So on the double-counting point, as I said, our strong position is that
22 there's no double-counting associated with the site. It was materially changed
23 in terms of the habitats that have been brought forward when it was appropriated
24 for the Lower Thames Crossing application, and that was set out in our REP4-
25 213 submissions. But on the subject of compulsory acquisition, as you may well
26 be aware, case law directs inquiring authorities, such as National Highways in
27 this scenario, to look to any suitable land within its ownership before seeking to
28 acquire any third-party land compulsorily, and the authority for that is Brown
29 and the Secretary of State for the Environment, and we'll provide the case
30 references approved in a further case, Evelyn de Rothschild and the Secretary of
31 State for Transport.

32 I won't cite the full quotation from that, but just – this is in the context of
33 a CPO – but that case held that if in fact the inquiring authority is itself in
34 possession of a suitable land, other than land wholly suitable for the purpose,

1 then it seems to me that no reasonable Secretary of State faced with that fact
2 could come to the conclusion that it was necessary for the authority to acquire
3 other land compulsorily for precisely the same purpose. So that's really central
4 to our argument on the use of Hole Farm here. The applicant was in a position
5 where it held substantial amounts of land at the point when it recognised that it
6 needed to find additional land, in particular for NDEP compensation, and our
7 firm position on that that it was the right thing to do, to appropriate land in the
8 applicant's ownership, and that by analogy is supported by the CA guidance for
9 DCOs in the context of section 131 of the act.

10 MR SMITH: So again, just to dig into that a little, putting my CA hat on, it follows that
11 it's your proposition that had you, on a discretionary basis, continued to bring
12 forward that community woodland project, and had failed to absorb the
13 prospective benefit relevant to LTC within the LTC order, that essentially it
14 would, following authority and case law, have ended up being used as a
15 substantial justification for the proposition that you had to then net-off an
16 equivalent amount of benefit yielded on land that you also associated with LTC
17 and sought CA in respect of, because you already had some land.

18 MR HENDERSON: Tom Henderson for the applicant. That's precisely the case we're
19 making. Thank you, sir.

20 MR SMITH: Yeah. Okay. Yeah, no, I think that's certainly clearer in my mind that it
21 has been at any point before today.

22 MR HENDERSON: Sir, there's one further point which I think further supports the case
23 we're making, and that relates to the potentially adverse ramifications of finding
24 that an applicant cannot rely on a compensatory proposal that the applicant
25 benevolently commits to deliver, irrespective of whether it gets consent for its
26 project. So if we were to find that we weren't able to use this land, that's in our
27 view disincentivising that benevolent behaviour and disincentivising early
28 establishment of habitat. You would essentially be saying that a developer
29 should hold back that benevolent proposal, not develop it at an early stage, and
30 potentially not deliver it pending decision on the DCO application. We think
31 that's contrary to the public interest, so again we think that strongly supports the
32 case we're making.

33 MR SMITH: Okay, and then probably one final follow-up in relation to that is that gets
34 down to the kind of specifics of the management regime. In a world where LTC

1 is not delivered for whatever reason, there are specifics of your management
2 proposal for this site that are driven by the needs of LTC. But hypothetically if
3 those were no longer to bind, looking at the community woodland delivered by
4 benevolence as opposed to the community woodland delivered by necessity, if
5 you're in that second position, do you end up implementing the same project in
6 management prescription terms or do you actually adapt it, and does your TCPA
7 application allow you the flexibility to adapt it in those circumstances?

8 MR HENDERSON: Tom Henderson for the applicant. The answer to that is if the DCO
9 proposal were to fall away, then all of the commitments, including the oLEMP
10 management commitments would fall away and it would open for Forestry
11 England, as the tenants of the site, to bring it forward in a different form or
12 develop it in a different way, but it wouldn't be bound by the specific oLEMP
13 commitments to manage the site to deliver, for instance, the NDEP
14 compensation that it's required to deliver under the DCO application.

15 MR SMITH: Yeah, you haven't double-secured the oLEMP under the TCPA.

16 MR HENDERSON: Yeah.

17 MR SMITH: Okay. Fine. Understood.

18 MR HENDERSON: Tom Henderson for the applicant. The slight nuance to that is that
19 clearly if the Lower Thames Crossing project does go ahead, then it will be a
20 matter for National Highways and Forestry England to agree as part of their lease
21 arrangement to observe the commitments of the DCO. So that's what would
22 happen in that scenario, if the project did go forward. So hopefully that responds
23 to that one. There was one further bullet which I haven't answered, which was
24 the final one, which was the compatibility of the two proposals.

25 MR SMITH: I know. Apologies for intervening at that point, but there were some very
26 specific CA related matters that I thought we needed to grab whilst we sailed
27 past them.

28 MR HENDERSON: Tom Henderson for the applicant. So the short answer to the final
29 bullet point is yes, the applicant does consider those aims to be compatible, and
30 is working in partnership with Natural England and Forestry England to develop
31 the woodland in a way that maximises both the recreational opportunities, but
32 also balancing the needs to obviously maintain the habitats that are being
33 created. In that context, it's recognised I understand by all parties that allowing
34 the public access to nature is clearly a good thing. It builds understanding and

1 support for nature, provided it's appropriately managed, and of course that's
2 where the oLEMP comes in, the management regime for Hole Farm, which will
3 be developed with those partners through the oLEMP. So that was all I was
4 proposing to say in relation to the Hole Farm questions. Thank you.

5 MR SMITH: Thank you very much.

6 MR PRATT: Thank you. Has any of my colleagues got any questions on this so far? In
7 that case, I'll open it out to the rooms. I see one in the virtual room – two in the
8 virtual room. Mr Woodger.

9 MR WOODGER: Thank you, sir. Good afternoon. Mark Woodger, Essex County
10 Council growth and development team. Essex County Council supports this
11 initiative. You'll probably be aware from your site visits to the environs of the
12 site that there are lots of facilities in the vicinity for open space and for access
13 through a number of non-motorised users, including people on horseback. So
14 essentially this proposal to create a community woodland here is fully supported
15 by Essex County Council, and obviously the management of the same will fall
16 down to the Forestry Commission, as Mr Henderson has said. So, yeah, we're
17 happy with it, we're content with what it's within, and obviously I do note that
18 the final decision on the acceptability of this or otherwise will be with
19 Brentwood Borough Council, but we would certainly support this part of the
20 submission. Thank you, sir.

21 MR PRATT: Thank you. London Borough of Havering.

22 MR DOUGLAS: Thank you, sir. Daniel Douglas, London Borough of Havering. Just a
23 couple of points from me on this particular point. Havering supports, in general
24 terms, the proposal for a community woodland at Hole Farm. As we've stated
25 in our local impact report – that's REP1-249, in section 10 – we do have some
26 concerns around how that site will be accessed by our residents. I won't go into
27 too much detail if you think that's going to come up, sir, tomorrow at the public
28 right of way discussion on question four, but we do have some issues around
29 how our residents who don't drive and need to access that site by foot, or by
30 bike, or on horseback will be able to access it.

31 MR PRATT: Thank you. Is there any other comments on this item? So in that case, Mr
32 Tait, I believe it's back in your court.

33 MR TAIT: Thank you, sir. No, we have no other comments at the present time. Thank
34 you, sir.

1 MR PRATT: Thank you very much. Well, Mr Smith, I think we're going to get through
2 this quicker than we anticipated.

3 MR SMITH: Indeed. I was very pessimistically thinking that we needed to allow a
4 substantial body of time for those last two items, but here we are facing the water
5 framework directives. Back to you, Mr Pratt.

6 MR PRATT: Thank you. The final item – the agenda item number eight about the water
7 framework directive. There are a number of proposed culverts, and the
8 Environment Agency have suggested that the culverting could damage the
9 prospect of water bodies obtaining the appropriate status under the WFD,
10 contrary to the river basin management plan. Now, what I was thinking was that
11 in the first instance, Mr Tait, could you provide some sort of commentary on
12 your proposals to minimise the conflict that the Environment Agency obviously
13 suggest. I suppose the presence is really on the length of culverting and the
14 adverse ecological flood risk and geomorphological human safety and aesthetic
15 impacts. So I really think that I'd like you to start by addressing the first part,
16 and then the Agency and the others can follow later on but, Mr Tait, I will leave
17 this question in your capable hands at present.

18 MR TAIT: Thank you very much, sir. I am assisted here by Ms Lisa Driscoll, who is
19 the water and environment lead, and I'm going to ask her just briefly to
20 summarise what is proposed and the approach generally that's been taken,
21 before coming on to your specific questions. So, Lisa Driscoll.

22 MS DRISCOLL: Lisa Driscoll for the applicant. In a summary to the project's overall
23 approach, the applicant has sought to avoid culverting through the project
24 design. The Mardyke and two of its main river tributaries, the Golden Bridge
25 sewer and the Orsett Fen sewers, would be spanned by a viaduct, and that viaduct
26 also avoids culverting some ordinary watercourses in that location. The West
27 Mardyke tributary, which is the main river that the project interacts with, that's
28 currently crossed by a highway structure by the M25, and the project proposes
29 a 10-metre extension to that existing structure, with the dimensions of the
30 structure matching the existing, as agreed with the Environment Agency, and
31 there's also a proposal to introduce a new 20-metre wide structure on that
32 watercourse, with the dimensions to match existing.

33 Where a watercourse needs to be crossed by the project and hasn't been
34 able to be done so by a clear span, we've looked at the potential for culverting

1 versus watercourse diversion, and where a long watercourse diversion would be
2 needed to avoid a culvert, then the preference is for a culvert that is as short as
3 it practically can be and that's designed sympathetically, and this can avoid the
4 potential for transfers of flows into and out of hydrological catchments that may
5 occur associated with long diversions, and it also makes it easier to retain
6 existing channel gradients, which is the key to maintaining the system flow and
7 sediment transport regimes.

8 So in summary, the project proposes two new culverts on main rivers, and
9 they're both on the West Tilbury main watercourse. There's a new box culvert
10 which is 2.5 metres high by four metres wide, and that stretches 46 metres long.
11 There is also an existing one-metre diameter culvert that the project would
12 replace by a box culvert of those larger dimensions. With regards to other
13 watercourses, there's a total of eight culverts on ordinary watercourses that are
14 proposed. That just sets the scene, really.

15 MR TAIT: Ms Driscoll, can I ask you then to go onto the specific WFD and RBMP
16 objectives, and how the current designs fit in with that.

17 MS DRISCOLL: Absolutely. Lisa Driscoll for the applicant. So the project is located
18 in the Essex South management catchment, which is part of the Thames river
19 basin district. The overarching objectives for surface waters within that
20 management catchment are for no deterioration from their existing status, with
21 the plan citing that improvement to good status is there are disproportionate
22 burdens or no tactical solutions to achieve that, so no deterioration from existing
23 is our aim.

24 The water framework directive assessment – which is appendix 14.7 of the
25 environmental statement, which is APP-478 – that has assessed the effects of
26 culverting on biological quality, which includes fish, macrophytes and
27 macroinvertebrates, hydromorphology, which includes aspects such as flow and
28 sediment transport, and also physiochemical quality. And tables 4.1, 4.2 and 4.3
29 within that report take each of those quality elements and assess effects of
30 culverting on those, and the assessment concludes that there's a negligible risk
31 of deterioration at the water body scale.

32 The conclusions drawn are in consideration of the raft of secure design
33 measure that we have via various REAC commitments to culvert design. Some
34 of the key ones, we have RDWE013, and that is a commitment to ensuring that

1 culverts have inverts buried below existing bed levels, and that is essential to
2 helping to maintain existing hydromorphological characteristics. We also have
3 a raft of commitments which are specific to the West Tilbury main culvert, and
4 all of those commitments have been put in place with the aim of reducing any
5 potential barrier effects to movements of fish and eels, so all of those are secured
6 in the REAC.

7 MR TAIT: And then on to the second point about design amendments to culverting.

8 MS DRISCOLL: In terms of further amendments to the current design, we consider that
9 there are no further amendments to culvert designs that are practical. However,
10 we'd like to note that there are several compensatory measures included and
11 secured by the project. These include, on the West Tilbury main watercourse,
12 removal of two existing culverts and restoration of those structures as open
13 channel, and that's secured by commitment RDWE046. And there is also a
14 commitment to reinstate a reach of channel on the West Tilbury main
15 watercourse, which is currently dry and not functioning due to a blockage in a
16 culvert, and that would give back approximately 125 metres of open channel
17 reach on that water body, and that's secured by commitment RDWE047.

18 So whilst we would be losing 46 metres to a new culvert on the West
19 Tilbury main, and that 46 metres represents less than 2% of the watercourse as
20 a whole, the project would be restoring approximately 150 metres of open
21 channel on that watercourse.

22 MR TAIT: And thirdly –

23 MR SMITH: Just before you move on, there's a sort of particular detail I just wanted to
24 probe into there. We're talking about essentially the loss of specific meterages
25 to new culvert as against the reinstatement of former culvert, and you're doing
26 a very simple mathematical trade-off where more is being reinstated than is lost
27 in net benefit flows.

28 I just wanted to check that because are we in a world where when one
29 looks at the watercourse in its entirety, and if we place a new culvert within it
30 and then we think about its ecological function upstream from that, there's an
31 argument that's been harmed, and so we're looking at not just replacement of
32 the new culvert itself and its length, but all of the subsequent upstream length –
33 no, 'subsequent' is the wrong word, but you know what I mean – all of the

1 additional upstream length that is then prospectively adversely affected by the
2 introduction of the new culvert itself leads to harm upstream from it.

3 MR PRATT: My apologies, just to make it clear, part of that question that Mr Smith has
4 raised is actually within part of the written questions that you're dealing with at
5 this moment in time, but what I will add to what Mr Smith has said is in the
6 flood risk assessment part 10, table 4 – that's APP-477 – you do suggest a
7 number of watercourse crossings, and they range from 10 metres long to 178
8 metres long. Now, you have suggested that one reinstatement, shall we say, to
9 open watercourse is 125 metres, but there's one long culvert of 178 which is
10 going to be put in, so when you're responding to Mr Smith, there's those details
11 as well.

12 MS DRISCOLL: Lisa Driscoll for the applicant. I noted that. We will, I think – probably
13 easier to come back as part of the written question response on that one, if that's
14 okay.

15 MR PRATT: Yes –

16 MR SMITH: Look, I mean, indeed, because there's a certain amount of complexity in it,
17 and apologies for kind of bowling it across the table, bearing in mind its
18 relationship with the written question that's already in process, but the two kind
19 of started to overlap a little, and I thought it was at least useful to surface the
20 issue because I'm conscious that we'll be taking this to the Environment Agency
21 soon, and they may wish to make observations on it as well.

22 MR PRATT: Mr Tait, have you anything further?

23 MR TAIT: We'll come back in writing on that, if that's convenient, and in relation to the
24 third matter, the justification for the retention of the current design, that does
25 bring in the dialogue with the Environment Agency. I'll ask Ms Driscoll to lead
26 with that in response to that third.

27 MS DRISCOLL: Lisa Driscoll for the applicant. The applicant has participated in
28 detailed engagement with the Environment Agency to inform the current
29 approach to culverting. Choosing by advantage workshop was held to inform
30 the design of the West Tilbury main culvert, in which the Environment Agency
31 participated. We've worked collaboratively to explore different design
32 alternatives. Some of the options that have been considered include a pumped
33 solution, a divided watercourse, an open channel involving a long diversion, as
34 well as an open span crossing, detailed in the Environment Agency statement of

1 common ground, under item 2.1.30 – that’s application document reference
2 REP5-034.

3 The outcome of that workshop was that agreement was reached that the
4 current design represents the least damaging option for the West Tilbury main
5 watercourse, and that there are no more favourable options available to the
6 crossing of that watercourse by the project. And since the workshop’s happened,
7 the project design has been refined and that culvert length has reduced by
8 approximately 50%, down to the current 46 metres. Thank you.

9 MR PRATT: Thank you.

10 MR TAIT: So that concludes our response.

11 MR PRATT: Thank you very much. Well, where it was items of biodiversity and such
12 like, we like to go Natural England first, but on this occasion I think it’s only
13 fair to go to the Environment Agency. Mr Penn, the question I have for you
14 before I ask you to come back on what the applicant has said is that in your
15 REP1-255, you stated that you’ve got a formal policy against the culverting of
16 any watercourse because of its adverse impacts, and that you have this – there
17 was a comment about the WFD of the area. The comments on your position at
18 that time, do they remain as today, or have they changed at all? That’s the first
19 question. And then, after that, can you give me your comments on what the
20 applicant has said. In essence, is your objection still in place, and then comments
21 on the applicant’s comments please.

22 MR PENN: Thank you, sir. Richard Penn from the Environment Agency. I’m also
23 joined by my colleague, Tim Gardiner, who’s a biodiversity specialist should we
24 need to delve into a little bit more detail. To answer the first question, our
25 position is unchanged from our statement of common ground submitted at
26 deadline five, which is REP5-034, and in particular items 2.1.29 and 2.1.30. So
27 essentially we’ve got a disagree to agree stance here, where our overarching
28 policy is that we don’t like to see culverts because of the impacts on water
29 framework directive features, and we’ve touched on some of those in terms of
30 impacts on fish, invertebrates, macrophytes and the hydromorphological
31 impacts – essentially, the ability for the river to act in a natural process.

32 So those are our overarching concerns, but as the applicant has just said,
33 we did have a choosing by advantage workshop in December 2019, and a lot of
34 collaboration since then to work through various different options, and the

1 option that has been proposed is the least worst of those options. And also
2 recognising the change in length down to 46 metres from the originally proposed
3 83, and that's secured within the design principles, section 9.1.0 in APP-516.
4 And again, things like a clear span bridge, which is something we would usually
5 like to see in this instance, was ruled out at that stage because of the proximity
6 to the north portal and various health and safety concerns about how the road
7 would work. So in essence the principle is still there, which is where we disagree
8 with the applicant, but what they are proposing we have agreed is the least worst
9 option.

10 MR PRATT: Can I just ask you a supplementary question, and that is you're against
11 culverting of watercourses in principle. Is it just the one watercourse, or it is all
12 culverts across all watercourses?

13 MR PENN: There's a difference in our stance because of our responsibilities for main
14 river, and our responsibility and the responsibilities of others for ordinary
15 watercourses, but yeah, culverts can cause detriment under the water framework
16 directives, so we would rather not see culverts.

17 MR PRATT: And so, to put words into your mouth, you'd rather not see culverts full
18 stop.

19 MR PENN: That would be yes. But, as I say, our remit only extends to main river.

20 MR PRATT: Yes. Mr Smith.

21 MR SMITH: I was just going to look at that from the other end of the culvert, so to speak,
22 and say that to the extent that you've had a design workshop with the applicant
23 but appear still to be in sort of disagreement on this point, presumably then it is
24 your view that there are non-culvert technical solutions that are feasible that the
25 applicant has somehow ruled out prematurely, or could still be using. Am I
26 correct there, or have you not gone that far?

27 MR PENN: I think within the water framework directives there's regulation 19
28 assessment, which allows for the deterioration of a watercourse if there are
29 certain parameters that are met. So we need to make sure that the applicant has
30 done that good assessment on whether all of the parameters that would go into
31 a public interest test have been met, and the reason for our maintaining that
32 disagreement in section 2.1.29 of the statement of common ground is to make
33 sure that that regulation 19 assessment is taken into account.

1 MR SMITH: And it's your proposition at the moment that it hasn't been, or not
2 adequately.

3 MR PENN: That it has been, but we're not a decision maker because we can only look
4 really through the environmental lens. We can't look at the wider public interest,
5 which is the purpose I think of the examinations.

6 MR SMITH: Okay. Mr Tait, I see what appears to be a –

7 MR TAIT: I'm getting ahead of myself – just waiting for when the interjection is
8 appropriate. Certainly not suggesting –

9 MR SMITH: Okay. Let's finish this line of questions from Mr Pratt.

10 MR PRATT: I think at this stage we should let the Environment Agency comment on
11 the applicant's comments thus far, because you sort of hijacked his discussion,
12 so...

13 MR SMITH: Indeed.

14 MR PRATT: Mr Penn, would you care to continue?

15 MR PENN: Okay. So yes, the second point of interest is around mitigation. So in our
16 statement of common ground REP5-034, we again had two items, 2.1.31 and
17 2.1.32. In the first instance, we like to see mitigation within the catchment that
18 is impacted, and the proposed culvert within the West Tilbury main does result
19 in a loss of habitat which can't be mitigated within that small piece of catchment.
20 So we have a disagreement there with the applicant in terms of not meeting a
21 principle. However, we have agreed with the applicant that there is an overall
22 increase in freshwater habitat, and set out in the environment statement appendix
23 4.7, reference APP-478, so again we have a disagreed to agree across our
24 statement of common ground in 2.1.32.

25 In terms of the culvert design, we've secured good practice through the
26 code of construction and REAC commitments, and they're set out in REP5-048,
27 and the commitments are RDWE013, 030, 031 and 044. I think the applicant
28 referenced some of that in their statement. So again we're comfortable in the
29 overall design of the project that that water framework directive mitigation has
30 been provided.

31 MR PRATT: Right. If that's all that Mr Penn wants to say on this matter just now, I will
32 move to see if there's anybody else in the room who wishes to make any
33 comments. Mr Penn.

1 MR PENN: Sorry, sir. Richard Penn, Environment Agency. Yeah, just to say that we
2 are responding to some more detail in the written questions to be provided by 31
3 October in relation to this matter as well.

4 MR PRATT: Thank you very much. Right. He's on mute this time, so that sounds like
5 the Environment Agency's now finished. So I'll open it up to anybody else.
6 Does anybody in the room, or in the virtual room, want to speak? Mr Edwards.

7 MR EDWARDS: Yes, sir. Douglas Edwards, Thurrock Council. We have some
8 observations on these questions, so Mr Burgess, who is in the virtual room, is
9 going to make Thurrock's comments on these matters. I invite Mr Burgess to
10 join.

11 MR BURGESS: Hello, good afternoon. David Burgess on behalf of Thurrock Council.
12 So the applicant has demonstrated that efforts have been made to follow the
13 water framework directive and the Thames river basin management. However,
14 further information is still required to enable the council to understand the
15 proposals for mammal ledges or other forms of ecological corridors. Just
16 drawing attention to the applicant's proposals for culverts, particularly with
17 reference to APP-477 – the environmental statement appendix 14.6, flood risk
18 assessment part 10 – the applicant has stated that there's a net increase of
19 watercourse channel of approximately 4.9 kilometres, achieved through I think
20 a mixture of de-culverting and provision of additional watercourses and drainage
21 ditches, and they also note that there's a net increase length of watercourse in
22 culvert of approximately 475 metres across the project.

23 One of the things I've noticed, looking at the description of the culverts,
24 and I had a look at the drainage plans for this, so with reference to drainage plans
25 volume B and C, that's REP4-081 and REP4-078. So I've counted 22 culverts
26 on those plans, and I just wanted to check if that is consistent with the table that's
27 shown within the FRA part 10. The table there talks about 12 culverts, and it's
28 suggested that all of those culverts will have either a mammal ledge or an
29 additional form of mammal passage where that's not feasible, so one of the
30 questions to the applicant is, first of all, is it 12 culverts or are there going to be
31 mammal passages for all of the 22 culverts on the project? So that's the first
32 question. I'll just go on to summarise a couple of the other questions we have.

33 So within that list – so this is referring to table 4.10 within the FRA part
34 10 – the table of culvert information lists the dimensions of the culvert, so a

1 number of fairly suitable size box culverts, but it also mentions some smaller
2 culverts such as 900-millimetre diameter pipes and one which is going to be two
3 300-millimetre diameter pipes. So in these cases where it would not be feasible
4 to have a mammal ledge, it would be good to hear from the applicant if they've
5 thought about an alternative mammal crossing for these culverts, and if so
6 whether that would work in terms of invert levels with the proposed design. So
7 in general – and the other thing that was mentioned within that same table, I
8 should say, was that there's one culvert of 178 metres, so just again just to clarify
9 whether that's the full length of the culvert uninterrupted, because I'm afraid I
10 wasn't able to identify that on the plan.

11 So in summary the council requests the applicant to clarify these points,
12 particularly in reference to the table 4.10 of the FRA part 10, that's APP-477,
13 and also to specifically identify all the culverts with mammal ledges, with cross-
14 reference to the drainage drawing and also the environmental master plan that's
15 section 9, APP-163. So, yes, those are the points I'd like to make. So it's mainly
16 just to seek additional clarification on the provision of mammal ledges, and to
17 understand the potential discrepancy between the drainage plans and the table
18 within the FRA part 10.

19 MR PRATT: Thank you. The one comment I would make is that some of those questions
20 that were raised are actually part of the question set that the applicant is in the
21 process of writing as we speak for the next deadline. So if I could ask the
22 applicant to speak in general terms, and leave the specifics and the detail to the
23 written responses and I think that would be adequate for this one this particular
24 time.

25 MR TAIT: So yes, we'll follow that course in relation to Mr Burgess's point, noting only
26 that there is a specific REAC commitment on mammal passages in culverts,
27 which is RDWE044, in REP5-48, which says in terms that culverts would
28 incorporate ledges or underpasses to ensure continued passage of mammals, and
29 that's going to be as detailed in appendix 14.6, but we'll come back on that.

30 In relation to the Environment Agency's points, we welcome the
31 confirmation that they're comfortable in the overall design of the project to
32 recognise the overall increase in freshwater habitat. We understand the
33 Environment Agency has a policy position, and their policy position is a constant
34 policy position, that it applies across the board, and we understand that, but that's

1 also in the context where it's acknowledged in the most recent statement of
2 common ground, at item 2.1.30, that the current design is the least damaging
3 option and there are no better options available to cross the West Tilbury main
4 watercourse. So that's our response.

5 MR PRATT: Thank you for that. I think as we've got them in the room, would Natural
6 England like to make any comment on this particular item? I know it's wet
7 water as opposed to SSSI sites as such, but as you're in the room would you like
8 to make any comments?

9 MR GRANT: Sir, Nick Grant for Natural England. No, not at this juncture.

10 MR PRATT: I just thought I'd try and be clear on that at this stage. It's 4.30. It's a lot
11 earlier that we thought we were going to get. Has anybody else got any
12 comments to make on this item? Any of my colleagues on the bench as well.
13 Well, in that case I think we're completed, and we haven't had to go into
14 overtime. So with that in mind, and if everybody's content with that last
15 question, next steps. The next item on the agenda. It's really just to allow us to
16 have a look at the actions that have arisen from this hearing, and I was speaking
17 to my colleagues in the break and they were quite, I wouldn't say shocked at the
18 number of actions on the list. So I'm sure, as I've threatened at other hearings,
19 us reading them all out and keeping us here until 7.00 at night wouldn't be
20 appreciated so we will get the action list out as soon as practicable, by the end
21 of this week or beginning of next week at the absolute latest.

22 In terms of procedural requests – hang on, no I haven't – Mr Taylor's been
23 keeping note of any actions at this hearing. Where am I? I suppose now we're
24 really at the end of the day, and everybody's anxious to get back to their homes
25 or back away from here, so my name is Ken Pratt, panel member. This has been
26 issue-specific hearing 9, considering matters of environment and biodiversity,
27 held on Monday 23 October. The good news is we're back again tomorrow for
28 issue-specific hearing 10 on traffic and non-motorised users. I want to take this
29 opportunity to thank all of the speakers and everybody who attended for all of
30 your contributions. Everything that has been said, as with the previous issue-
31 specific hearings, will be carefully considered and we will pursue any matters
32 identified in our last set of written questions or any further hearings that we
33 arrange.

1 I also want to thank the case team for supporting us in the background, and
2 the audio-visual team. So unless there's anything else anybody wants to raise
3 on this matter, I'm going to wish you a good evening and ask my colleagues if
4 they wish to say a final farewell.

5 MR TAYLOR: Yes. Good afternoon. Ken Taylor, panel member. Thank you everyone
6 for your attention today.

7 MS LAVER: Thank you, everybody. Look forward to tomorrow.

8 MR SMITH: Indeed. Rynd Smith, lead member of the examining authority speaking.
9 Thank you from me, and see you tomorrow.

10 MR PRATT: And thank you very much once again. Issue-specific hearing 9 is now
11 closed. Thank you very much.

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(Meeting concluded)