

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

Agenda for Issue Specific Hearing 11 (ISH11): Environmental Matters

Hearing	Date and Time	Location
Issue Specific Hearing 11 on Environmental Matters	Wednesday 22 November 2023 Hearing Starts at 10am Blended event Venue Registration Process from 9:15am Virtual Registration Process from 9:15am	Hilton London Tower Bridge Hotel 5 More London Place, London SE1 2BY By virtual means using Microsoft Teams

Agenda

1. **Welcome, introductions, arrangements for the Hearing**
2. **Purpose of the Issue Specific Hearing**
3. **Kent Downs Area of Outstanding Natural Beauty (AONB) and Wider Landscape Matters**

The ExA will ask questions of the Applicant and of Natural England, the Kent Downs AONB Unit and the relevant local authorities on the following matters:

a)	Landscape Impacts in Kent Downs AONB
i	Is there agreement amongst the parties that adverse landscape effects on the AONB are localised during construction and operation of the road (inclusive of utility works), or do the parties consider that there would be an adverse effect on the character and integrity of the AONB overall?
ii	The Applicant has advised in response to both ExQ1 and ExQ2 why it has 'adjusted' the boundaries for the Cobham and Shorne Local Landscape Character Areas (LLCA) for the purpose of assessing landscape impacts; however, can it explain the level of sensitivity and significance of effects it would ascribe to those areas if the boundaries had not been 'adjusted' and instead the Kent Downs AONB LLCA boundaries (which echo the Kent County Council's 2004 LCA) were used? Is there a difference?

	Having regard to the Applicant's adjusted boundaries, can the Applicant explain what the significance of effect would be if the areas of Cobham and Shorne were not combined in the assessment but were considered and reported separately? Comments from the Kent Downs AONB Unit, Gravesham Borough Council and Kent County Council will be sought on the Applicant's response.
iii	Will the green bridges over the A2 at their proposed widths provide valuable landscaping connectivity to reduce the severance between the historically linked landscape of Cobham and Shorne (noting that we do not need to re-visit the discussions on Green Bridge design)?
iv	Are there any landscaping mitigation measures not already proposed by the Applicant that would reduce the impact of the Proposed Development on the AONB, and/or any measures that would instead compensate for the harm (noting that we do not need to re-visit the discussions on the site selection for nitrogen deposition compensation areas)?
v	The ExA would like an update on the draft S106 Agreement with Kent County Council comprising a 'compensatory enhancement fund' for the Kent Downs AONB Unit (as per the Applicant's Response to EXQ1 12.2.9b [REP4-200] and as referenced in Item No. 2.1.62 of the Statement of Common Ground with Gravesham Borough Council [REP6-025]).
b)	Wider Landscape Matters
i	The Applicant has summarised the Proposed Development's overall landscape impact in document [APP-524] at pages 68-69. It ascribes the overall impact as 'Moderate Adverse'. The ExA would like to hear from relevant parties on whether they agree with this conclusion.
ii	Are there any areas across the Proposed Development where operational lighting would have a significant landscape effect and are there any mitigation measures that could minimise the effect? The 'Environmental Lighting Zones' document [APP-199] may prove useful to aid this part of the discussion.

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

4. Coalhouse Fort and Point

The ExA will ask questions of the Applicant and (where indicated) of the Environment Agency and the relevant local authorities and land occupiers on the following matters:

a)	Coalhouse Point
i	In addition to any questions raised within the Habitat Regulation Assessment and the Report on the Implications on European Sites, the ExA will be looking for the Applicant, Thurrock Council and the Environment Agency to confirm the current position of the discussions relating to the provision of water to allow the proposed wetland mitigation to be provided at Coalhouse Point.
ii	Dependent upon the answer to (i) above, there are a number of issues that may require to be considered. It is recognised that there is an existing hydrological regime that currently includes flows entering the system from agricultural land in the catchment and ingress from the Coalhouse Fort moat system. In the Draft Statement of Common Ground

	<p>between (1) National Highways and (2) Thurrock Council [REP6-031], Item No. 2.1.263 suggests that ‘... <i>the current proposal is to allow ingress of water from the River Thames through a water inlet with self-regulating valve, or equivalent ...</i>’.</p> <p>The ExA will be looking to the relevant parties to give a summary of their positions on the issues listed below, with full details to be provided in writing by Deadline 8, with a reflection on the points raised by others during the hearing:</p> <ul style="list-style-type: none"> • Hydraulically, how does this proposed alternate method of water supply change the hydraulic operation of the proposed wetland and the rest of the catchment from the use of the Coalhouse Fort moat? • What are the likely changes in chemical composition between the current water in the system utilising the Coalhouse Fort moat inlet and one directly from the River Thames? • Are the chemical and hydrological changes likely to provide the ecological environment intended or is there a risk that those species that wish to be encouraged will not colonise the mitigation habitat?
iii	<p>At Compulsory Acquisition Hearing 4, it was suggested that the water in the watercourse system would continue to be required for agricultural irrigation. The ExA wishes to hear the Applicant’s and other IP’s views on the following points, with detailed comments to be submitted in writing at Deadline 8, with a reflection on the points raised by others during the hearing:</p> <ul style="list-style-type: none"> • Would an inlet at Bowater Sluice increase or decrease the potential for watercourse water to be utilised as a source for irrigation purposes? • Would the chemical content of the water from this source allow it to be used as an irrigation source? • What amendments are proposed at Star Dam to manage the water from both sources, should a new inlet from the River Thames become the preferred option? • Within the catchment, at what point does the current ability to draw irrigation water from Coalhouse Fort inlet cease, and where would that change to if there was a supplementary source from Bowaters Sluice, or other, new, inlet from the river? • Who will be responsible for the setting of the operational parameters, the operation and maintenance of any new inlet structure and the Star Dam?
iv	<p>There appears to be a complexity in the limitations on working practices and timeframes within the Coalhouse Point area.</p> <ul style="list-style-type: none"> • Can the Applicant provide a simple breakdown of the allowable working periods, showing how the constraints are being met, alongside highlighting where it is secured in the REAC?

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

5. Mitigation Proposals

The ExA will ask questions of the Applicant and (where indicated) of Natural England and the relevant local authorities on the following matters:

a)	Nitrogen Deposition and other Woodland Compensation/ Mitigation
i	<p>There remain issues with the compensation offered for the Nitrogen Deposition and other woodland compensation/ mitigation. The Applicant is to provide a simple explanation or summary indicating:</p> <ul style="list-style-type: none"> • How the land in the Change Application [CR1-001 and 002] at Blue Bell Hill and Burham was originally considered to be necessary and is now considered to be no longer required to be provided elsewhere. • The amount of Nitrogen Deposition compensation required to offset the project and why there is limited compensation provided in the Kent Downs AONB where the largest effect is said to occur. • Some of the proposed Nitrogen Deposition and other woodland compensation/mitigation locations have not yet had the benefit of detailed ecological surveys. What measures are proposed to mitigate the impact on the existing habitat and/or species found following the surveys? How is the mitigation secured? <p>A full description of all the points can be provided in writing at Deadline 8.</p>
ii	<p>Are Natural England, and Local Authorities content with the proposed arrangements and the measures to safeguard any protected species located in areas to be planted as woodland? The ExA would welcome a summary of the issues with detailed explanations, if appropriate, to be submitted in writing at Deadline 8.</p>

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

6. Potentially Contaminated Land

The ExA will ask questions of the Applicant and Gravesham Borough Council on the following matter:

a)	Southern Valley Golf Course
i	<p>In its response to ExQ2 [REP6-131], Gravesham Borough Council indicated that there may have been historic use of potentially contaminated material within the Southern Valley Golf Course. To what extent has this been investigated and what remediation measures would be secured in view of the proposed use of this site.</p>

Other IPs will be welcome to participate.

The Applicant will be provided with a right of reply.

7. Next Steps

8. Closing

Purpose of this ISH

The purpose of this ISH is to inquire into environmental matters arising from the proposed development in respect of which the ExA has remaining questions of the parties.

Attendees

The ExA would find it helpful if the following parties could attend this Hearing.

- The Applicant, specifically ecological and landscape specialists of the Applicant who are in a position to discuss the matters on the agenda
- The host local authorities in respect of their functions for enforcement, maintenance, and management of ecological, environmental protection and landscaping areas
- Any other public authority or charitable trust with a function for enforcement, maintenance, and management of ecological and landscaping areas
- Buglife
- The Environment Agency
- Essex Wildlife Trust
- Essex Badger Protection Group
- The Forestry Commission/ Forestry England
- Kent Downs AONB Unit
- Kent Wildlife Trust
- Natural England
- Thames Crossing Action Group (TCAG)
- West Kent Badger Group
- The Woodland Trust
- The Mott Family (Mr Mike Holland)

However, this does not indicate that other parties will not be able to contribute. All IPs are invited to attend and make oral representations on the matters set out in the Agenda, subject to the ExA's ability to control the Hearing. Anyone wishing to attend the Hearing who has not already advised the Case Team of this, should do so as soon as possible.

The Applicant is requested to have people with the following expertise available to assist the hearing:

- Landscape – impact appraisals and landscape design
- Ecology – habitats and species
- Environmental protection/ land contamination
- Air quality (relevant to Nitrogen deposition)
- Arboriculture
- Mitigation design and management
- Land management
- Habitats Regulations Assessment (HRA)

This list may also assist other IPs who are able to draw on staff or advisors to support them.

The ExA has sought to provide sufficient detail to assist the parties to prepare for the Hearing. The details set out above are indicative and the ExA may find it necessary to include additional Agenda items or to amend the order in which the items are dealt with.

The event will be livestreamed and a link for watching the livestream will be posted on the [project webpage of the National Infrastructure Planning website](#) closer to the Hearing date.

IPs and members of the public who wish to observe the Hearing can view and listen to the Hearing using the livestream, or view and listen to the recording, after it has concluded. For the avoidance of doubt, you are advised that the recordings that we make are retained and published and form a public record that can contain your personal information and to which the UK General Data Protection Regulation applies.

Registration Process

Registering as a speaker

The speakers invited to this hearing are listed above. If you are invited, please register at **9-15am**. This enables arrangements to be explained and hearings to make a prompt start.

You can register in person at the venue. If you are attending virtually, you will receive joining and registration instructions in a separate email, shortly in advance of the event. This email will also explain what to do if you have difficulties getting connected.

Observing the hearing

Hearings are held in public. If you are not speaking, public seating at the venue will be open from **9-15am**. If you are observing on-line, please go to the [project landing page](#) on the National Infrastructure Planning website where you will find:

- on the day - a link to a livestream to watch the hearing in real time; and
- after the event has closed - a link to the recordings of the hearing

All Interested Parties (IPs) are welcome to submit observations in writing by the deadline following the hearing.

Procedure at an ISH

Guidance under the Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that it is for the ExA to probe, test and assess the evidence through direct questions of persons making oral representations at Hearings. Questioning at the Hearing will be led by the ExA. Cross questioning of a person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that an IP has had a fair chance to put its case.

Parties attending an ISH for the first time are encouraged to view parts of previous ISH1 held at the start of this Examination, using the recordings held online. Whilst the matters to be examined in this hearing – identified in this Agenda – will be different, the approaches taken to hearing management and involvement by parties will be similar. Introductory and advisory material included in the opening stages of that hearing will not be set out in full in later hearings and so the ISH1 recording of the opening session on Day 1 will assist those who are not familiar with this type of hearing.

- ISH1 Recordings ([Day 1 – 21 June 2023](#))
- ISH1 Recordings ([Day 2 – 23 June 2023](#))

Participants at the hearing are reminded of the importance of respecting all other participants and allowing everyone here to have their say. Please do not interrupt the other speakers. If the ExA needs to clarify something that is being said, then the ExA will intervene.

Unnecessary interruptions that disrupt the hearing can be viewed as unreasonable behaviour for which awards of costs can be sought by other interested parties; they can also lead to a party being removed from the hearing.

Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. The hearing will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered. If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any hearing, it may be necessary to prioritise matters and defer others to written responses to actions, to written questions or to a subsequent hearing.

Please contact the Case Team if you have any questions regarding the arrangements for the hearing or how to participate.

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