

1 MR PRATT: Welcome to today's issue-specific hearing 11 for the Lower Thames
2 Crossing. Before we introduce ourselves as usual, can I just check with the case
3 team and the audio-visual that everything's up and running, that we can be heard
4 online and that the recordings and everything is going? And I've got the thumbs
5 up from everybody who I've been expecting, so we'll get started, so to the
6 introductions. Being number 11, no doubt you know us quite well by now. My
7 name's Ken Pratt; I'm a member of the panel for, obviously, the Examining
8 Authority for this application. I am in the chair for the majority of this hearing.
9 As usual, we'll draw your attention the frequently asked questions in the rule 6
10 letter, which gives the biographies of us all. No doubt you've read them many
11 times, and they're all available on the website with all the other information I'll
12 now ask my fellow panel members to introduce themselves. Jan, do you want
13 to start?

14 MS LAVER: Good morning everybody. I'm Janine Laver, panel member. I shall be
15 leading agenda item 3 today on the Kent Downs AONB and the wider landscape
16 matters. Thank you.

17 MR TAYLOR: Good morning everybody. My name's Ken Taylor, panel member. I'll
18 be leading on agenda item 6 at the end of today, and I'm also capturing the action
19 points today.

20 MR YOUNG: Good morning everybody. My name's Dominic Young, panel member.

21 MR SMITH: And finally, good morning everybody. My name's Rynd Smith; I'm the
22 lead member of the panel. I'll be speaking briefly at the end of this opening
23 agenda item and also the closing at item 7.

24 MR PRATT: Thank you, Mr Smith. At this stage, I'm also going to introduce our
25 planning inspectorate colleagues. They've been working with us now on these
26 examinations, and you should have spoken to them already. Spencer
27 Barrowman and Martin Almond are at the back of the room; they're our case
28 team today, and Ryan Sedgman is in our virtual room. Hopefully the agenda
29 papers that have been provided earlier have a clear explanation of our and you
30 reasons for being here today, and we're really now getting to the point of this
31 examination where time is running out, and us as a panel, we really want to be
32 clear about everything, and we're looking to you to help us clear that muddy
33 water.

1 As usual, we're being livestreamed and recorded. The recordings that we
2 make are retained and published in form of public record, and just a slight
3 reminder that they can contain personal information, to which the UK Data
4 Protection Regulations apply. Now, at this point we normally ask if anybody
5 has any questions. Has anybody got anything on this preliminary matter? Don't
6 see any hands up anywhere, so I presume, as usual, everything can go ahead.
7 You know why we're here. I will ask those who have registered to be heard on
8 their own behalf to introduce yourselves, and it's the usual drill: name,
9 organisation, persons that you're representing, and confirm what you're wishing
10 to – which items on the agenda that you would like to speak on. Obviously if
11 there's more than one person on interested party, someone will take the lead.
12 It's nothing different to what we've done for the previous hearings. I'll start
13 with the local authorities, and I might as well start with the – on my right hand
14 side, I can – with Mr...

15 MR SMITH: Gravesham.

16 MR PRATT: Gravesham.

17 MR SMITH: Mr Bedford.

18 MR BEDFORD: Thank you, sir. Michael Bedford, King's Counsel, for Gravesham
19 Borough Council, and with me today and to my immediate right is Ms Val
20 Hyland; that's H-Y-L-A-N-D. She is a landscape consultant who has been
21 advising the borough council. Behind me, but probably not speaking, and
22 certainly not this morning, is Mr Tony Chadwick who is the NSIP project
23 manager with the borough council, who again, you will have seen before.
24 Simply for the avoidance of doubt, if I can say I am not here in a Whitecroft
25 capacity today, albeit that I think the case team did have me in a dual capacity
26 on their notes, but I would just clarify I am here for Gravesham Borough Council
27 only today.

28 MR PRATT: Thank you very much. Mr Urquhart?

29 MR FRASER-URQUHART: Morning, sirs and madam. Andrew Fraser-Urquhart,
30 King's Counsel, for Kent County Council. I'll be assisted on behalf of the
31 council this morning by Helen Forster, who's the senior biodiversity officer,
32 sitting to my right. I should also add that we have, virtually, representatives
33 from the Kent AONB unit. I mention them because they are, technically at least,
34 part of the council, but they speak independently and will be doing so this

1 morning, and I may occasionally chip in in their support, but they are speaking
2 separately and will introduce themselves separately in due course. Thank you.

3 MR PRATT: Thank you very much. Going down the local authorities, the next on my
4 list is Mr Douglas from Havering.

5 MR DOUGLAS: Good morning, sir. Good morning, everybody. My name's Daniel
6 Douglas; I'm here representing the London Borough of Havering. I'm also
7 attended – attending virtually for Havering is Lynn Basford, who's the council's
8 DCO advisor. In addition to Lynn, we're also joined virtually by Sue Hooton,
9 who's providing ecology and biodiversity advice for the London Borough of
10 Havering.

11 MR PRATT: Thank you, and the last one in the physical room is Thurrock.

12 MR MACKENZIE: Good morning, sir. George Mackenzie of Counsel, instructed by
13 Thurrock and acting for Thurrock. In person, sir, to my right, Steve Plumb, and
14 to his right, Chris Stratford. Some of the members of our team are online: David
15 Burgess, Sharon Jefferies, Matt Ford, and possibly Mark Bradbury and Tracey
16 Coleman. Thank you, sir.

17 MR PRATT: Thank you. I believe we've got Essex County Council in the virtual room.

18 MR WOODGER: Thank you, sir. You are correct, and good morning to both yourselves
19 and other panel members. My name is Mark Woodger, and for the purpose of
20 the record, I'll spell that to you; it's W-O-O-D-G-E-R. I'm a principal planner
21 and I work in the growth and development team at Essex County Council. I'm
22 here in the virtual room today; I'm not anticipating to say anything, but I would
23 like to contribute to the debate should that become necessary as the agenda items
24 move forward. Thank you, sir.

25 MR PRATT: Good morning to you. Right, I believe that's all the local authorities that
26 we have with us today. My next person on my list is Shorne Parish Council. Ms
27 Lindley.

28 MS LINDLEY: Good morning, sir, and everybody. You can actually see me this time.
29 Thank you very much. I'm here, really, to observe, and I'll chip in if the feeling
30 takes me. Thank you very much.

31 MR PRATT: Good morning, it's nice to see you. Right, next one's the statutory parties.
32 First on my list is the Environment Agency. I believe you're with us.

33 MR PENN: Yes, good morning. My name's Richard Penn, environment planning and
34 engagement manager, and project sponsor for the Lower Thames Crossing, and

1 I'm joined by Phil Spearman, who's a flood risk advisor, both in the virtual
2 room.

3 MR PRATT: Good morning. In the physical room, we've got the Environment Agency,
4 good morning. No, sorry, Natural England.

5 MR GRANT: Good morning, sir. Nick Grant of Counsel, here for Natural England. To
6 my right we have Neil Davidson, a director at Lepus Consulting Ltd. Behind
7 us, we have Sean Hanna, senior planning advisor from whom you've heard
8 before, and joining in the virtual room there is Jonathan Bustard, another senior
9 planning advisor and again, I think you've heard from him before.

10 MR PRATT: Good morning. Do we have Historic England with us this morning?
11 Virtual room? Mr Fletcher? Apparently not. We'll see what's happening at
12 that stage. In that case, Kent Downs AONB unit is next on my list. Good
13 morning.

14 MR JOHANNSEN: Good morning, sir. Nick Johannsen, I'm director at the Kent Downs
15 Area of Outstanding Natural Beauty, and I'll be joined by my planning manager,
16 Katie Miller.

17 MR PRATT: Good morning. Mr Fletcher, if you could just introduce yourself, please.
18 You're getting a microphone.

19 DR FLETCHER: Thank you very much. Dr Will Fletcher, Historic England, standing
20 in if required.

21 MR PRATT: Good morning, thank you very much. Can I just check whether the Port
22 of Tilbury London is represented this morning? No. Right, in that case, we'll
23 go – I'll go into what's classed as the interested parties. Is there anybody from
24 the water companies? No. Mr Holland is next on my list.

25 MR HOLLAND: Good morning, sir. Mike Holland from Holland Land & Property,
26 representing the Mott family, the owners of land at Coalhouse Point.

27 MR PRATT: Good morning, thank you very much. Is Dr Boswell here? No, and that
28 takes me to the bottom of my list of interested parties, so I suppose the applicant,
29 if you would like to introduce your team, please.

30 MR TAIT: Thank you, sir. Andrew Tait, KC, for the applicant. To my right is Mr Tom
31 Henderson, BDB Pitmans, to my left, Helen Pope, landscape assessment
32 specialist, to her left, Steve Knott, landscape assessment lead, to his left, Suki
33 Coe, who's the DCO and planning manager, and at end of the table Mr Andrew

1 Kay, who's the lead landscape designer, so that's the team for item 3 on the
2 agenda. There'll be others for items 4, 5 and 6.

3 MR PRATT: Thank you very much. Now, is there anybody in the room or in the virtual
4 room that I've not actually invited to introduce themselves, who are expecting
5 to speak this – today? I don't see any hands up in either rooms, so in that case,
6 if everybody else has said hello, then at this stage I think I'll pass across to Mr
7 Smith.

8 MR SMITH: Thank you very much, Mr Pratt. Rynd Smith, panel lead, speaking. Before
9 we move on to agenda item 2, I thought it would be useful just to speak briefly
10 about progress in the examination overall for various process items, and also just
11 checking on events in the remaining period of the examination that will, and
12 indeed won't, occur, so that everybody knows what the final shape of the
13 timetable is. Firstly in relation to process, we're very conscious that the
14 publication of deadline 7 documents is an important step, and is still outstanding.
15 I'm assured that that publication will be taking place today, so anybody who's
16 hovering waiting to see those documents, they should be available today. Also
17 due to be published today is an action list from yesterday's compulsory
18 acquisition hearing 5, and what we are endeavouring to do is to ensure that
19 publication pipelines are broadened to the extent that they can be, so that we are
20 able to get action lists as promptly as we reasonably can out to parties who are
21 participating, so that you have the maximum time to respond before the next
22 relevant deadline.

23 Let me then look at hearing events, and indeed, accompanied site
24 inspections remain in the timetable. In addition to today's hearing, we are
25 timetabled to hold issue-specific hearing 12 in relation to social-economic issues
26 and control documents, and that will be held tomorrow, and open-floor
27 hearing 5. Then on Friday, we're due to conduct an accompanied site inspection
28 to the Essex Thames waterfront ports. On Monday the 27th, we're due to hold
29 issue-specific hearing 13 into traffic and transportation, and then on Tuesday the
30 28th, issue-specific hearing 14 into the draft development consent order. All of
31 those issue-specific hearings commence in this venue at 10.00 a.m. on the
32 relevant days. The open-floor hearing will commence here at 7.00 p.m.
33 tomorrow.

1 Now, I will just deal very briefly with the possible circumstance in which
2 persons invited to that do not attend, in that one of the processes that happens
3 towards the tail-end of a large examination is that all remaining outstanding
4 requests to be heard are considered, and the relevant interested parties or affected
5 persons are accorded an opportunity to attend an event if they haven't previously
6 done so. There is somewhat of an inevitability at this late stage in examination
7 that maybe people who requested to be heard very early on in the process have
8 actually reached a point where they are now content, maybe do not wish to be
9 heard, but equally, haven't told us. In those circumstances, due process requires
10 us nevertheless to offer them a hearing. That is the basis under which the
11 open-floor hearing is proceeding tomorrow. If it turns out that by 10 minutes
12 after that event is opened there are no attendees either in the virtual room or the
13 physical room present and ready to be heard, at that point we will conclude that
14 we have provided all of the opportunities that need to be provided and we will
15 close that hearing. So that's the process that would occur if it turns out that
16 nobody is attending and wishing to do business at the open-floor hearing, and it
17 may well be that we have a full house. Let's see.

18 So having just covered those off, I will then flag that issue-specific
19 hearing 14 on Tuesday the 28th will now definitively be the last public-facing
20 hearing issue-specific hearing in this examination, and that is because we do
21 have some reserved hearing space in the timetable. Tuesday the 12th and
22 Wednesday 13 December are reserved for open-floor hearings, issue-specific
23 hearing and compulsory acquisition hearings, held under, respectively,
24 regulations 14, 15 and 16 of the Compulsory Acquisition Regulations. Now,
25 that is to deal with circumstances where the applicant has made a request for
26 additional land, and we have had that, obviously, open for potential requests to
27 be heard. Relevant representations have now been received. However, at
28 deadline 7, which was the relevant deadline, there were no requests to be heard.
29 Now, that means that we will deal with all relevant considerations in written
30 process, but at present it appears that we will not need to hold any of those events
31 on Tuesday the 12th or Wednesday 13 December, so I think it's fair that we give
32 everybody good notice of the fact that there won't be a need to have people
33 available to attend those.

1 So having covered off all of those arrangements, hopefully everybody is
2 clear about the events remaining in the timetable, those that will proceed, those
3 that will not, but I will give anybody who has any remaining need for clarity on
4 any of that the opportunity to ask a question about final matters of process and
5 progress on the timetable. No, that's good news. In which case, I will hand
6 back to Mr Pratt.

7 MR PRATT: Thank you very much, Mr Smith. This is Ken Pratt, panel member,
8 speaking. I'm now going to turn to today's hearing, and the agenda sets out the
9 topics that we're going to discuss. Whenever you begin to speak on an item or
10 answer a question or ask a question, please do reintroduce yourself and say
11 which organisation you represent. This helps the people who are on the
12 livestream or are watching the recording afterwards to try and understand what's
13 going on. If you're not in the virtual room with us today and are watching on
14 the livestream, or in playback, you can, as usual, make comments by the next
15 deadline, which is deadline 8 on 5 December. Matters put orally and in writing
16 are treated equally by the panel. Indeed, all the submissions of written
17 comments and alike from this hearing will also have that same deadline.

18 We intend to run this hearing in sessions, as previously, and trying to keep
19 these to about an hour and a half as usual, with a lunch about 1.15 or thereabouts.
20 We'll try and take the breaks when suitable points arise, just to make things easy
21 for everybody. With luck, we'll finish about 5.00 tonight, but we do have the
22 time available within the notified hearing period to move on to this evening if
23 we need to. Personally, I hope we don't have that, but we've got that
24 opportunity. Right, I think it's – you've probably heard enough from me this
25 morning. I'm going to hand across to Ms Laver, who will take us through the
26 agenda item 3. Ms Laver.

27 MS LAVER: Good morning, everybody. Janine Laver speaking, so we'll just dive
28 straight into agenda item 3, which is in relation to the Kent Downs Area of
29 Outstanding Natural Beauty and wider landscape matters. Now, there is overlap
30 amongst the topics in this agenda, particular in the first part of agenda item 3,
31 but they are fairly distinct points being asked within the item, so I don't intend
32 to group them. We've had occasion in previous hearings where we've grouped
33 items and made submissions on a grouping, but I would prefer to take these items
34 individually, because there are particular points I want to draw out of them.

1 I would like, for agenda item 3(a)(i), to go to interested parties before the
2 applicant today, so can I just get a show of hands in the room, in the virtual
3 room, who wants to speak from interested parties on part (a)? So we've got
4 Gravesham, Natural England, and I can see I've got Shorne Parish Council, and
5 I think the AONB unit in the virtual room. Okay, great, so the first item on the
6 agenda is in relation to whether there's agreement amongst the parties, whether
7 there are adverse landscape effects on the AONB, and whether those effects are
8 localised to specific parts of the AONB or whether there is a more wholesale
9 impact on its integrity, so I'll just hand over to Gravesham to kick it off, please.

10 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.
11 Could I tentatively suggest that it may be more useful and avoid duplication if
12 you invited the AONB unit to speak first on that matter, because of their
13 particular specialism and interest? And then we will come in with any
14 supplementary points, if that's convenient.

15 MS LAVER: I'm perfectly amendable to that, so Mr Johannsen.

16 MR JOHANNSEN: Okay, thank you. Yes, my name is Nick Johannsen; I'm director at
17 the Kent Downs Area of Outstanding Natural Beauty, and I will introduce our
18 response to this section, and then my colleague, Ms Miller, will take the detail
19 of this question, and I think it's helpful – thank you to Gravesham for inviting
20 us to speak first. I think it's helpful to bring to the attention of everyone, but in
21 particular the Examining Authority, that there has been a change to the legal
22 context for AONB, which was brought in by the Levelling-up and Regeneration
23 Act, and so I hope it's helpful just to point to that change. It's an amendment to
24 the Countryside and Rights of Way Act 2000. The Levelling-up and
25 Regeneration Act has received royal assent. It will become law on
26 26 December, and as the change is primary legislation, we believe its in scope
27 for the inspectors' deliberations and for the ultimate decision. As I said, it's a
28 very late Lords amendment, which we've only recently really heard about, but
29 we have made the applicant aware of this, again, very recently.

30 So to come to the point, the important change is to the statutory duty placed
31 on public bodies and others towards the purpose of the AONB, and I thought
32 just to be clear, it would be helpful to go back to the Countryside and Rights of
33 Way Act 2000, which places a statutory duty on public bodies and others, and
34 what the CRow Act says is that: 'In exercising or performing any functions in

1 relation to, or so as to affect, the land in an Area of Outstanding Natural Beauty,
2 a relevant authority shall have regard to the purpose of conserving and enhancing
3 the natural beauty of the Area of Outstanding Natural Beauty’, so the key phrase
4 there is ‘shall have regard to the purpose. The Levelling-up and Regeneration
5 Act changes that, we think, very substantively, and it says – it’s the same
6 preamble, but I’ll go through in for clarity: ‘In exercising or performing any
7 functions in relation to, or so as to affect, the land in an Area of Outstanding
8 Natural Beauty, a relevant authority must seek to further to the purpose of
9 conserving and enhancing the natural beauty of the Area of Outstanding Natural
10 Beauty’, so clearly, the key phrase there is ‘must seek to further to the purpose’.

11 And obviously, I’ve been seeking briefings from Defra and Natural
12 England on this, and it was made very clear to me that this is a deliberately active
13 duty. I think it’s helpful to remind ourselves that the duty is broadly scoped and
14 applies to all relevant authorities, and for the purpose of the act, these are any
15 minister of the Crown, any public body, any statutory undertaker, and any person
16 holding public office. So we thought it would be proper – it’s very recent, this
17 – but proper, reasonable, and hopefully helpful to bring this to the attention of
18 the examination, because from our view – in our view, it sets an importantly
19 different context to the approach taken to the AONB in this scheme. So I hope
20 that’s helpful, and it sets the context, I think, we think, for this section in the
21 examination, and it’s a changed context, so with that, if there are no questions
22 on that, I’ll hand to my colleague, Ms Miller, who’s our planning manager.

23 MS LAVER: Yes, thank you very much, that would be helpful. I will come to the
24 applicant for a response on those points at the right time. Thanks. Ms Miller,
25 over to you.

26 MS MILLER: Thank you. Yes, Katie Miller, Kent Downs AONB unit, so in response
27 to question 3(a), it’s our view that clearly the impacts of the project would be
28 most keenly felt in the vicinity of the A2 where the physical alternations would
29 occur, and I understand that Gravesham are going to elaborate on these impacts
30 shortly. However, it’s our view the impacts would extend beyond the A2
31 corridor, including from harm to the immediate setting of the AONB, and this
32 would arise in particular from the large-scale multi-level junction which would
33 result in a permanent major alternation to the scale, rural appearance and
34 landscape character of the immediate western setting on the AONB, but also

1 from the total loss of Gravel Hill Wood, immediately adjacent to the AONB's
2 western boundary, as well as the loss of woodland between the Thong Lane
3 south green bridge and the electricity substation, and further to the west.

4 But the project would also result in more indirect effects further afield,
5 within the AONB itself: as we discussed at issue-specific hearing 6, impacts of
6 nitrogen deposition on several designated sites in AONB, but some distance
7 from the actual project order limits. There would also be impacts arising from
8 changes in traffic movements as a result of the scheme, which, as the application
9 submission acknowledges, would include notable visual disturbance on some of
10 the more minor roads in the AONB, as well as visual disturbance at settlements
11 in the AONB, such as at Trosley and Boxley. The project will also increase
12 traffic using the A229 Blue Bell Hill, which provides the shortest link between
13 the M20 and the M2, and this road cuts directly through the escarpment of the
14 North Downs, which is the main target and the most prominent feature of the
15 Kent Downs AONB. Both junctions with the motorway at either end of this
16 road are already over capacity at peak times, and upgrading both the junctions,
17 as well as widening the route itself, would have a significant impact on the
18 AONB.

19 Therefore, we don't consider that adverse landscape impacts arising from
20 the project would be localised, but we feel they would extend across a wider
21 geographical area of the AONB. Therefore, we disagree with the statement
22 included in the planning statement, appendix F, which is application document
23 APP-501 which states that the project affects only the very northernmost area of
24 the Kent Downs AONB, and is limited to the existing major transport
25 infrastructure corridor through the West Kent Downs Character Area.
26 Moreover, we also disagree with the assertion of the applicant – set out in the
27 same document, APP-501 at paragraph 3.44 – that the AONB designation as a
28 whole would not be compromised on the basis that only 1.61 kilometres square
29 of the order limits are located within the Kent Downs, which represents 0.18%
30 of the total of the AONB geographical area.

31 We feel such a conclusion not only fails to acknowledge the wider and
32 indirect impacts I've referenced, but we also contend that development at any
33 scale which detracts elements which contribute to the wider natural and scenic
34 beauty of the AONB neither conserves nor enhances the AONB as a whole, and

1 in terms of policy, the fact that the appeal site is a small part of a much larger
2 AONB isn't important. And this is a matter that has been established in previous
3 appeal decisions, which I'll reference in the post-hearing submission, but it's
4 appeal reference APP/Z3825/W/21/3266503 which was for land south of
5 Newhouse Farm, Old Cawley Road in Horsham, where at paragraph 40 of the
6 decision letter, the inspector notes that: 'In terms of policy and statute, the notion
7 of relative beauty, and the fact that the appeal site is not with in deep
8 countryside, with other areas perhaps having greater scenic beauty, is not
9 important. Neither is the fact that the appeal site is a tiny corner of the much
10 larger AONB, two fields out of some 10,000.'

11 We also disagree with the conclusion of the planning statement,
12 appendix F – again, reference APP-501 – that the purpose of the AONB
13 designation would not be compromised. Given that the purpose of AONB
14 designation is to conserve and enhance natural beauty, the conclusion that this
15 major highway infrastructure scheme would conserve and enhance the natural
16 beauty is strongly contested, and wholly contradicts the findings of chapter 7 of
17 the environment statement, which concludes that there would be significant
18 residual landscape and visual effects on AONB receptors, both within the
19 AONB and its immediate setting. Thank you.

20 MS LAVER: Thank you very much, Ms Miller. I don't have any questions for you at
21 this point, so I will come back into the room. Mr Bedford?

22 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.
23 Madam, can I just start, first of all, just by clarifying, in case it wasn't clear, that
24 the AONB unit, which is hosted by Kent County Council and I think funded by
25 Kent County Council, is nonetheless a body which is a joint body for all of the
26 local authorities within Kent that have the AONB within their administrative
27 areas, and so Gravesham is, in that sense, as much a part of the AONB unit's
28 remit as the other local authorities. That's just by way of the context. Secondly,
29 to say that we support and endorse the remarks that have been made by the
30 AONB unit, and will endeavour to avoid repeating those. Thirdly, then, just on
31 the legal point that Mr Johannsen raised about the new elevated duty as from
32 Boxing Day of this year, and again, we agree with the analysis of that legal
33 provision.

1 As diligent as this Examination Authority clearly is, there is no prospect
2 of a report emerging, we would suggest, before the Secretary of State will be
3 subject to that duty, and therefore the Secretary of State will be subject to that
4 duty at the time that he is considering your report. So that means that the duty
5 effectively ought to be engaged with now as a piece of prospective legislation
6 where there is a known timetable for when it will impact on the particular
7 decision-maker. We do also note that under the new provisions, there is a power
8 on the part of the relevant Defra Secretary of State to make regulations which
9 give guidance on how the duty is to be discharged, but the duty is not dependent
10 on the making of those regulations, so – and there are at the moment, as far as
11 we’re aware, no draft regulations in existence. The Secretary of State’s
12 responsibility to make those regulations doesn’t arise until Boxing Day, because
13 the same provision comes into force then, but as I say, we see it that the duty
14 starts on 26 December, irrespective of whether there are by then any regulations,
15 or any guidance from Defra in relation to that. So we’ll provide, in the
16 post-hearing submissions, simply the written chapter and verse, as it were, of the
17 relevant provisions that bring all of that into effect, but don’t imagine that it’s
18 likely to be in any way the subject of debate or controversy, because it’s a matter
19 of primary legislation.

20 Then the next point on that statutory provision is we would echo the point
21 that Mr Johannsen made; parliament should not be assumed to legislate in vain,
22 and therefore to have gone from a duty to have ‘regard’ to something to a duty
23 to ‘further the purpose’ of something, or at least to seek to further the purpose
24 of something, is clearly a material change in the nature of the duty. We would
25 say that it, as it were, infuses – if that’s the right word – it infuses the whole
26 approach to consideration of impacts of a development on the AONB, because
27 a decision-maker, when considering those impacts, is required, in exercising
28 their functions, to ensure that however they consider them, they are seeking to
29 further the purpose of conserving and enhancing the AONB. At a more, as it
30 were, specific level, I think what we would say is that this is something which
31 would suggest that greater weight should be given to the need to ensure that the
32 AONB is conserved and enhanced, and that the impacts on the AONB are
33 avoided, minimised, or adequately mitigated, or where they cannot be mitigated,
34 that residual impacts are compensated for so that the overall effect of the

1 development on the AONB is one that achieves conservation or enhancement
2 of its natural beauty so far as is possible.

3 Whilst we would accept that the duty is not expressed in absolute terms,
4 because it is ‘to seek to further’ the particular purposes, what we would suggest
5 is that in order to discharge that duty, the Secretary of State is effectively subject
6 to an imperative so as to require a promoter of a project to do as much as is
7 possible to achieve the purpose, when considering the merits of the applicant’s
8 proposal and its effects on the Kent Downs AONB. So that’s the way we would
9 put it by way of the legal context, and we do think, therefore, that is a point that’s
10 of importance, and relevant to your deliberations.

11 Then I’m going to bring in Ms Hyland in a moment to talk to you
12 specifically about the issue of whether matters in relation to the effects of the
13 AONB should be seen as localised or not, but I just wanted to make an initial
14 point, because I notice that the applicant has – with, obviously, your acceptance
15 – put in a further document as of, I think, yesterday afternoon, just illustrating,
16 as it were, how the red line of the application site relates to the overall AONB.
17 And so you’ve got a plan – you did have a plan of the overall AONB in earlier
18 material from the applicant, but that just brings the two together, and there is an
19 element in the applicant’s material which seems to imply that because in purely
20 amounts of land, the amount of land that the red line impacts on is a small
21 component of the whole AONB, that that has a material bearing on how you
22 assess the impacts. The way that we would see it is that the question of, ‘What
23 are the effects on the AONB?’ first of all needs to start by recognising that it is
24 a single statutory designation, and all parts of the AONB are of value, and all
25 parts of the AONB are subject to the statutory duty.

26 Secondly, so far as effects on the AONB are concerned, we would suggest
27 that the judgement that needs to be made is a more sophisticated judgement than
28 simply counting up how many square metres or square kilometres are affected,
29 and what is that as a percentage of the whole. There are qualitative elements as
30 much as there are quantitative elements, and you’ll obviously make a more
31 sophisticated judgment, so with those, as it were, general remarks, if I can then
32 bring in Ms Hyland to explain from Gravesham’s perspective why the land that
33 lies to the north of the A2 but within the AONB has a particular value, and its

1 relation with the wider AONB, because that, I think, then goes directly to your
2 issue under item 3(a)(i). Thank you.

3 MS HYLAND: Good morning. Val Hyland for Gravesham Borough Council,
4 responding to question 3(a)(i). The proposed works are only localised in that
5 they physically impact a relatively small percentage of the whole area of the
6 AONB. The Kent Downs AONB unit has previously outlined the importance
7 of the wooded character and ancient woodland in this part of the AONB, and
8 how the importance is elevated by the specific inclusion of land north of the A2
9 within the AONB boundary. It is our view that the existing woodland vegetation
10 along the A2 and High Speed 1, together with the important wooded central
11 reservation, provides effective continuation of the woodland character for this
12 part of the AONB.

13 Further, the existing woodland planting helps reduce the apparent scale of
14 the proposed road – sorry, of the existing road, and provides a more intimate
15 enclosed landscape. The effects of the proposals will be apparent during
16 construction and in the longer term, and not just because of the wider and
17 continuous expanse of road surfacing and built infrastructure. The current
18 proximity of woodland planting to the road boundary will not and cannot be
19 replicated. The need to maintain access to utilities and the lack of planting in
20 the central reservation will result in a permanent increase in the distance between
21 woodland planting north and south of the corridor. There will be a loss of
22 tranquillity, and the change of scale will be exacerbated by larger-scale build
23 infrastructure: taller lighting columns, higher bridges, wider gantries and some
24 massive retaining walls, some without the softening effect of vegetation. Taken
25 together, these changes will effectively sever the cohesive wooded landscape
26 of the Kent Downs AONB, in our opinion, resulting in a loss of integrity of the
27 landscape and a permanent change to landscape character. It's also our view
28 that the works to the corridor will alter how this part of the AONB is regarded
29 in the longer term.

30 Kent Downs AONB have mentioned, also, the setting, and how that will
31 be permanently changed. I'm just going to mention it briefly again, for a reason.
32 We think the large-scale and multi-level road junction to the immediate west of
33 the AONB and the loss of Gravel Hill Wood are important issues, but I mention
34 it again because I understand the visuals of the proposed A2 junction have not

1 yet been provided by the applicant, and these would help to convey to the scale
2 of change proposed to the landscape, the permanent changes to the character, the
3 visual impact on the setting of the AONB, and the likely effectiveness of the
4 mitigation measures that are proposed. There will be wider landscape impacts
5 from the loss of areas of ancient woodland, and this impact will be permanent in
6 the locations where the woodland is to be lost. Even when including the new
7 areas of compensation woodland, the overall impact, by the applicant's own
8 estimate, will be apparent for at least 30 years. Thank you.

9 MS LAVER: Does that complete the submissions for Gravesham? Thank you. Can I
10 please go to you, Mr Grant?

11 MR GRANT: Thank you, ma'am. I'll bring in Mr Davidson in a moment on the planning
12 matters, but on the legal point that's been raised, Natural England agrees this is
13 a material change in the legal duty. We agree that it's something that's going to
14 have to be considered by, therefore, yourselves and the Secretary of State. I
15 won't labour the point, as you've heard it from the other two advocates.

16 MR DAVIDSON: Good morning. My name is Neil Davidson, from Lepus Consulting,
17 and I'm answering the question (a). Everything that's been said this morning
18 makes sense to Natural England, and we concur with those findings. In terms
19 of the questions specifically, it asks about the local impacts and it also talks
20 about significant effects overall for the AONB. We really just wanted to draw
21 to the attention of the examiners that we're interested in significant effects. The
22 EIA legislation is quite clear, therefore the environmental statement has
23 recorded and concludes that there are several large adverse significant effects
24 for the Kent AONB, and therefore to us, it's clear that there are effects.

25 Any discussion around 'localised' is really a geographic discussion. The
26 impact of significance is high, and it is a significant residual adverse effect that
27 we are dealing with here, and I should just make the point that Natural England
28 recognise all the work that's going on with the mitigation proposals to help with
29 this scheme, but wishes to come back to the point that the mitigation still, in our
30 opinion, needs to be tightened up and for it to be clearer in precisely what is
31 going on in this area, that being the area either side of the A2, and where the
32 road-widening is taking place. Thank you.

1 MS LAVER: Thank you very much. Mr Fraser-Urquhart, you looked at me as if I should
2 have come to you, but I didn't recall your hand when I asked if you wanted to
3 speak on 3(a)(i).

4 MR FRASER-URQUHART: No, that was probably a look saying, 'Don't come to me.'

5 MS LAVER: Okay. I know Shorne Parish Council had a hand up in the virtual room to
6 speak on this item. Ms Lindley, do you intend to come in on this item?

7 MS LINDLEY: Thank you. No, what's been said so far more than amply covers what
8 we would have said. Thank you.

9 MS LAVER: Okay, thank you. Obviously the new duty is a new issue in this
10 examination, and we will be looking for responses from the applicant, not on the
11 run; they will be aware of it, and I would like to hear some commentary on it,
12 but we will be expecting to hear submissions around this matter, because it is
13 quite a significant new matter for us to consider, so I will come to you now, Mr
14 Tait, please.

15 MR TAIT: Thank you, madam. Just on that new duty, under section 245 of the act, the
16 position is that there is of course already a strong policy test at 5.1.51 in the NPS,
17 and at 5.1.50 in terms of the – and also one sees that reflected in the NPPF, and
18 the new section 245 has, of course, a wider application and is applying that duty
19 beyond the planning context, and I say that because if one looks at 5.153 of the
20 NPS, that already makes clear that the Secretary of State should be satisfied the
21 project will be carried out to high environmental standards, and where possible
22 includes measures to enhance other aspects of the environment, so there's
23 already an obligation to include measures to enhance other aspects of the
24 environment, where that's possible. So in effect, the new duty is bringing the
25 general law into line with what one sees in the NPS already, which is that there's
26 an expectation that there should be measures, where that's possible, to enhance
27 other aspects of the environment. So that's the broad response, and I can bring
28 in Ms Suki Coe briefly to deal with how that enhancement duty – which is
29 already in the NPS – has been carried out with this project, but in summary
30 terms. Then I'll come back to the specific question that you've asked under
31 3(a)(i), if that's acceptable.

32 MS LAVER: Okay, thank you.

33 MR TAIT: So Suki Coe, please.

1 MS COE: Thank you. Suki Coe for the applicant. As Andrew Tait has already indicated,
2 we were aware of it because of the NPS and policy tests, that it was important
3 to look at enhancement as well, and therefore there are features within our
4 application that we believe are enhancements, and they include the measures in
5 relation to woodland planting on a landscape scale. Our application includes the
6 green bridges, particularly at Thong Lane, and the additional connectivity of
7 habitats through the design of the mitigation measures. In addition, the
8 landscape scale mitigation for – or compensation for NDEP at Blue Bell Hill
9 and at Fenn Wood, but also we wanted to mention the other elements of the
10 function of the AONB, particularly in relation to recreation and how people can
11 enjoy the designated AONB, and therefore draw your attention to the
12 enhancement of walking, cycling and horse-riding network, and in particular
13 draw your attention to the linking of existing woodland and public parks through
14 the enhancement of the walking and cycling network. For example, Shorne
15 Woods being linked to Great Crabbles Wood, and linking Jeskyns' Country Park
16 through the green bridge for Shorne Woods Country Park, through Ashenbank
17 Wood.

18 So we believe that we have taken account of this duty to enhance through
19 the NPS, in anticipation – maybe fortuitously – of the changes in legislation.
20 And just to reference where you can find that list, it is appendix F of the planning
21 statement, APP-501, and in particular around recreation, in paragraphs 5.53
22 through to 5.56, where there is commentary on the walking, cycling and
23 horse-riding, and that connectivity for recreational purposes, which of course
24 hasn't really been talked about much this morning. Thank you.

25 MS LAVER: Yes, thanks, but I think the purpose behind the agenda item was landscape
26 impact, so it's obvious we haven't come to enhancements on recreation, because
27 it's not really the basis of the matter.

28 MR TAIT: But that was the context that was framing a number of the submissions, so
29 we wanted to set out our position on that context, so then coming to the specific
30 question, I'm going to ask Ms Helen Pope to deal with that matter.

31 MS POPE: Helen Pope for the applicant. The landscape and visual impact assessment
32 for the project has been undertaken in accordance with design manual for roads
33 and bridges, LA107 –

1 MS LAVER: Ms Pope, sorry, can – I’m struggling to hear you. Could you just bring the
2 microphone a little closer? Sorry to interrupt.

3 MS POPE: That’s fine, so yeah, the landscape and visual impact assessment for the
4 project has been undertaken in accordance with design manual for roads and
5 bridges, LA107, landscape and visual effects, with the regard to the guidelines
6 for landscape and visual impacts assessment third edition, as stated in section 7.3
7 of environmental statement chapter 7, APP-145. The landscape and visual
8 impact assessment has therefore been undertaken in accordance with best
9 practice guidance. The applicant considers that effects on the Kent Downs
10 AONB would be localised during construction and operation. May I ask if –

11 MR TAIT: Yes, I think there’s the plan that’s been referred to, just to show that on the –
12 in terms of the quantitative aspect. Then you’re going to come onto the
13 qualitative matters. There’s a plan that’s been submitted specifically for this
14 hearing.

15 MS POPE: The context figure for issue-specific hearing 11 illustrates the project order
16 limits in the context of the wider Kent Downs AONB designation. A small part
17 of the designated area would be affected by the order limits along the existing
18 M2/A2 corridor.

19 MR TAIT: You can see them in a bit. The cursor’s close to Blue Bell Hill, which is
20 obviously a planting area. Yes.

21 MS POPE: There are extensive areas of woodland to the north and south of the A2/M2
22 corridor, within Shorne Country Park to the north, and Ashenbank Wood and
23 Cobham Hall registered park and garden to the south. Establishing woodland is
24 also present within Jeskyns Community Woodland to the south. These
25 woodland areas would curtail the perception of construction works and the
26 operational road corridor within the wider AONB. This is discussed in ES
27 appendix 7.9, APP-384, for the West Kent Downs sub-area Cobham local
28 landscape character area, and the West Kent Downs sub-area Shorne local
29 landscape character area, with the special qualities of the West Kent Downs
30 AONB discussed for the overarching West Kent Downs landscape character
31 area 1(a). Significant effects have been assessed within the Kent Downs AONB
32 during construction and operation, however it is noted in ES appendix 7.9,
33 APP-384, that these effects would be limit to the M2/A2 corridor and the western
34 area of the Kent Downs AONB.

1 ES appendix 7.11, REP1-162, considers tranquillity within the wider Kent
2 Downs AONB. Tranquillity is a component of landscape character, and is
3 identified as a special quality of the AONB in the Kent Downs AONB
4 management plan 2021-2026, due to the respite the tranquil areas provide from
5 noise and disturbance. ES appendix 7.11, REP1-162, concludes that there will
6 be localised areas where the level of tranquillity would reduce during
7 construction and operation as a result of noise and/or visual disturbance. There
8 would also be localised areas where the level of tranquillity would increase due
9 to predicted reductions in traffic flows. In conclusion, the applicant does not
10 consider that there would be a significant adverse effect on the character and
11 integrity of the wider Kent Downs AONB due to localised nature of effects
12 arising from the project during construction and operation. And just touching
13 on the AONB setting, ES appendix 7.9, APP-384, reports significant adverse
14 effects on landscape character within the setting of the Kent Downs AONB
15 during construction and operation, largely attributed to the M2-A2 A122 Lower
16 Thames Crossing junction and the south portal approach road cutting, and also
17 the southern tunnel entrance compound during construction.

18 However, there are few locations within the Kent Downs AONB where
19 these project elements would be perceived, due to the presence of woodland at
20 Shorne Woods Country Park, Ashenbank Wood, and Jeskyns Community
21 Woodland. Within the AONB, the M2-A2 A122 Lower Thames Crossing
22 junction would be mainly perceived from the western edge of the AONB and
23 from elevated areas such as at Randall Heath within Shorne Woods Country
24 Park. The southern tunnel entrance compound and south portal approach way
25 of cutting would be mainly perceived from Shorne Ifield Road along the north-
26 western edge of the AONB. Representative viewpoints S16, S19, and S29
27 shown on ES figure 7.16 represent views from the edges of, or just outside of
28 the Kent Downs AONB in the direction of the project.

29 Effects on views from these representative viewpoints are discussed in ES
30 appendix 7.10, APP-385. Significant effects are reported in construction and
31 opening near winter, at representative viewpoints S16 and S19, reducing to non-
32 significant at design year summer. Significant effects are only reported during
33 construction at representative viewpoint S29. And finally, just touching very
34 briefly on severance, as we may go into more detail on this at agenda item

1 3(a)(iii), there are relatively few locations within the Kent Downs AONB where
2 the A2 corridor features prominently in views, and where the effects of
3 severance can be perceived. And the most effective locations are the existing
4 overbridges that cross the A2 corridor.

5 MR TAIT: So that's a summary of the position, but we'll set out the position more fully,
6 unless you would like to hear more at this stage.

7 MS LAVER: No. I think that's absolutely fine. It's fairly succinct. Obviously, there's
8 a big disconnect from both sides of the room, which is why this item was on the
9 agenda, and I didn't ever expect, come at the end of this item, where everyone
10 was in agreement. You say localised; they say not. It's much bigger than that,
11 but it was good to hear the submissions. I know Mr Smith has a question he
12 wants to put to you, Mr Tait. It's probably the question I was going to put, but
13 he's flagged he wants to ask. So in the event it's different, I'll let Mr Smith go
14 first.

15 MR SMITH: Thank you very much, Ms Laver, and yes, hopefully I'm not stealing too
16 much of your thunder. But I thought it would be very, very useful having regard
17 to the specific wording of the LURA amendment to the CRoW Act, and we're
18 looking at section 245, subsection 6A, and then, 'A1'. The proposition here is
19 that this amendment introduces a positive duty of must seek to further the
20 purpose of conserving and enhancing the natural beauty of the area of
21 outstanding natural beauty. So if we're then turning back to the existing policy
22 framework in MPS NN, what we are then looking at are the range of policies
23 that apply to development proposed within nationally designated areas, from
24 5.150 onwards, through and up to, specifically, 5.153.

25 Again, I don't want you to do this on the hoof, but what I think it would
26 be really important to do would be to sense-check each of those policy positions
27 and ask ourselves the question, is there anything set out within each of those
28 individual paragraphs of policy that fails to articulate a positive duty and so,
29 therefore, is subject to a turning up of the amplifier, shall we say, as a
30 consequence of the new LURA duty? Now, to give you an example of what I
31 mean, if we look at 5.153, we can see there, the policy says, 'Where consent is
32 given in these areas, the secretary of state should be satisfied that the applicant
33 has ensured that the project will be carried out to high environmental standards

1 and,' operational words, 'where possible, includes measures to enhance other
2 aspects of the environment.'

3 Now, again, you can see where I'm going, I hope, on this, that the key
4 question in my mind, therefore, is, does the introduction of the LURA duty bear
5 on what one draws out of that policy in relation to those words 'where possible'?
6 Because when one has a positive obligation of must, is one still in the land of
7 where possible, or has the duty gone up a step? Has the amplifier turned from
8 nine to ten, so to speak? That, I hope, is a reasonably clear exercise. I think it
9 would probably best be dealt with just by breaking a response down in a
10 tabulated form, from 5.150 onwards, for each individual paragraph, to say a
11 conclusion, the duty does or does not change the effect of the paragraph because.

12 MS LAVER: Yeah, that was my understanding of it. The 'where possible' is 'try your
13 best', but the new position is 'you must'. You must further the AONB and what
14 it stands for and its beauty, not 'where possible'. So that's the question Mr Smith
15 has put to you, and, in fact, he put it probably more eloquently than I would have
16 done.

17 MR TAIT: I will respond in writing, as invited. The duty is to seek – the new duty is to
18 seek. So those are important words which encompass the 'where possible'. And
19 of course, it's a totality, 5.150-5.153, and we will look at it both as a totality and
20 in the way you've indicated.

21 MR SMITH: And so you will address us particularly on those words, as well, 'must seek
22 to further', with a proposition that 'seek' has a particular meaning which means
23 that one may seek but not find.

24 MR TAIT: Yes, and I won't go back to Ms Coe's evidence as to what we have found in
25 the seeking process. The new act, when it takes effect, also gives power to
26 provide regulations as to how to comply with that, and of course, that's
27 anticipatory. We don't know how that would operate. But the MPS does have
28 a framework, at the moment, around how you look at the 'great weight to
29 conserving landscape and scenic beauty' in AONBs, which of course, the
30 general law – the current position, which is simply have regard, is weaker than
31 that.

32 MS LAVER: Does that conclude for item 3(a)(i)?

33 MR TAIT: It does, so far as oral matters are concerned, yes.

1 MS LAVER: Okay, thank you. I don't want to do a back and forth because we're not
2 going to reach consensus on this matter, but before we move on to item 2, does
3 anybody from the interested parties who spoke, or anybody else, just have
4 anything further to say? I'm not seeing any hands. Okay, so we'll move on to
5 agenda item 3(a)(ii), which is for the applicant really to go first, here. And it's
6 really to explain the adjustment of the local character area boundaries. I just
7 heard from Ms Pope, or it may have been Ms Coe, I don't recall who said it, but
8 we've followed best practice in how we've done our assessment. But there's a
9 part of GLVIA which says – if we're looking at my screen, we're just looking
10 at the quote, using existing character assessments is the section, and it says,
11 'Those character assessments published and adopted by competent authorities
12 are usually the most robust and considered documents.'

13 And obviously, there's been a boundary adjustment by National
14 Highways, in looking at the character assessment and the impact on those parts
15 of the AONB, and you've presented reasons in written submissions as to why
16 you've done that. Some design changes are suggested through the project that
17 have meant a reappraisal. I don't think parties in the room are necessarily
18 convinced by that. So item 3(a)(ii) is really to take us through that assessment,
19 please.

20 MR TAIT: I'll ask Helen Pope to deal with that, please. It might be helpful to put up
21 figure 7.2 from the environmental statement, which is APP-198. Put that on the
22 screen, and that shows the character area which has been adopted for the project.

23 MS POPE: That's the right page, thank you. Helen Pope, for the applicant. The
24 applicant's approach to determining the local landscape character area
25 boundaries within the Kent Downs AONB was described in the deadline 2
26 response, REP2-058. It is noted that the guidelines for landscape and visual
27 impact assessment, third edition, do state that published landscape character
28 assessments are considered a robust source of information. However, it also
29 states, in relation to using existing landscape character assessments, that existing
30 assessments may need to be reviewed and interpreted to adapt them for us in
31 LVIA. Fieldwork will also be required to check the applicability of the
32 assessment throughout the study area, and to refine it where necessary. For
33 example, by identifying variations in character at a more detailed scale.

1 So in line with the guidelines for landscape and visual impact assessment,
2 the applicant undertook a review of existing landscape character that included
3 field survey work, and it was determined that the HS1 corridor and associated
4 planting strongly defined the northern extent of the West Kent Downs, sub area
5 Cobham, local landscape character area. And therefore, this is the boundary that
6 is reflected on environmental statement figure 7.2, APP-198, which is on your
7 screen at the moment, used in the assessment in ES appendix 7.9, APP-384. The
8 applicant considers that the approach undertaken is in line with best practice
9 guidance.

10 MR TAIT: Just pausing there, if you could look at the area in question, where the more
11 detailed appraisal in the environmental statement has adjusted the character area,
12 could you just point out that and explain the reasons, please?

13 MS POPE: Okay, so during the field survey work, when we were within Cobham Hall
14 registered park and garden, it was apparent that the existing planting along the
15 northern edge of the park, and also planting to the south of HS1 corridor, formed
16 a strong boundary in the landscape and curtailed the perception of the road
17 corridor to the north. There's also an area where the HS1 route goes into tunnel,
18 and that is where the boundary is shown to deviate slightly further south of the
19 HS1 corridor. And the boundary here is along Brewers Road. Again, the
20 existing vegetation along the north of Cobham Hall registered park and garden
21 forms a strong boundary in front of the existing A2 junction. And the Brewers
22 Road and Halfpence Lane roundabout were considered to sit better with the
23 landscape character of the A2 corridor, and therefore in the Shorne sub-area.

24 MR TAIT: Then turning to the question as to whether this makes a difference in terms
25 of the output, could you address that, please?

26 MS POPE: Please could we also put up the figure for the published boundaries? So this
27 is the wider context of the West Kent Downs local character areas in the
28 published Kent Downs AONB landscape character assessment update. If we
29 could also scroll down to a more detailed figure showing the areas. So the
30 published landscape character area boundary from the Kent Downs AONB
31 landscape character assessment update follows the central reserve of the A2
32 corridor. And if this boundary was used for the assessment in ES appendix 7.9,
33 APP-384, the assessment on the overarching West Kent Downs landscape
34 character area 1A would not change. However, it is acknowledged that the

1 assessments for the West Kent Downs sub-area Cobham and sub-area Shorne
2 local landscape character areas would change, as effects arising from the project
3 would be apportioned differently between the two local landscape character
4 areas.

5 So using the published boundaries, the sensitivity of the West Kent Downs
6 sub-area Cobham local landscape character area would be assessed as very high,
7 rather than high, as stated in ES appendix 7.9, APP-384, on account of the
8 increased susceptibility to change due to vegetation loss between the HS1 and
9 A2 corridors. The significance of effect levels within sub-area Cobham would
10 be assessed as large adverse in construction, rather than moderate adverse; large
11 adverse in opening year winter, rather than slight adverse; and moderate adverse
12 in design year summer, rather than slight adverse. This would be due to a greater
13 proportion of the project being located within the local landscape character area.

14 However, this would only be in the area between the HS1 corridor and the
15 A2 central reservation. Conversely, construction effects within the West Kent
16 Downs sub-area Shorne local landscape character area would be assessed as
17 large rather than very large, as stated in ES appendix 7.9, APP-384, due to the
18 reduced extent of construction activity within the local landscape character area.
19 Effects during the opening year winter and design year summer would remain
20 as stated in ES appendix 7.9, as large adverse and moderate adverse,
21 respectively. Although effects would reduce, due to the project occupying a
22 smaller footprint, the levels of significance would remain the same. Do you
23 want me to go onto the reporting of the sub-areas? Yeah.

24 So with regard to the reporting of effects within the West Kent Downs
25 sub-areas Cobham and Shorne local landscape character areas, these are already
26 assessed and reported on separately, in ES appendix 7.9, APP-384, and in tables
27 7.18 and 7.26 of ES chapter 7, APP-145. Effects relating to the overarching
28 West Kent Downs character area 1A are reported in the summary tables 7.33
29 and 7.34, in ES chapter 7, APP-145. These would not change if the assessment
30 had used the published landscape character area boundaries from the Kent
31 Downs AONB landscape character assessment update, even though there would
32 be additional significant effects on the West Kent Downs sub-area Cobham local
33 landscape character area. The individual assessments for the sub-areas of
34 Cobham and Shorne would not exceed the assessments stated for the

1 overarching West Kent Downs landscape character area 1A, in ES chapter 7,
2 APP-145.

3 MR TAIT: Thank you, ma'am. So they were reportedly separately; they were also
4 aggregated. There would be a difference in the separate reporting if one changed
5 the sub-areas, but the aggregated assessment wouldn't change. Thank you.

6 MS LAVER: Thank you. I don't know if you were involved, Ms Pope, when the
7 application originally came in, in 2020, and whether you were involved in the
8 fieldwork there. But you suggested that the fieldwork that you did, you noticed
9 that the northern planting to the Cobham Park and the southern planting to HS1
10 were quite strong boundaries, and that really, in your view, formed a different
11 landscape character to what was within the published landscape character
12 assessments. But that would have similarly been the case for the earlier
13 application. And I don't want to be going back to an earlier application which
14 has been withdrawn, but this is causing some dilemma for us as a panel, and
15 certainly for the interested parties, as to why the assessment is different now,
16 why that adjustment has been made.

17 And I wonder if you could just give me some commentary on that. If you
18 weren't involved, that's fine. But the applicant team will need to put something
19 to us on that.

20 MS POPE: Helen Pope, for the applicant. I wasn't involved in the application that was
21 submitted in 2020. But it's our understanding that the local landscape character
22 area boundary in that area hasn't changed between the two applications. The
23 boundary that's shown on figure 7.2 now is what was shown in the application
24 that was submitted in 2020.

25 MR TAIT: We'll come back to you, I think, in writing on the differences between the
26 two assessments, if that's convenient. I'm not sure I've got someone to deal
27 with that directly.

28 MS LAVER: Thank you, Mr Tait. We've had, obviously, responses in writing to some
29 ExQs that we've put out on this point, and I still don't think we're getting clarity,
30 which is why this item is on the agenda today. But I appreciate that you may
31 want to put something back to us at deadline 8, which we will just go to the other
32 parties now, and we may get a bit more insight into what they also require. So
33 can I get a show of hands, please, who wants to speak on 3.2? So that's
34 Gravesham. Oh no, I can see the Kent Downs AONB unit; I can see Ms Miller

1 in the virtual room. Mr Grant, did you just raise your hand on that? No. Okay,
2 so it was Gravesham and the AONB unit. Mr Bedford, going with previous
3 practice, I'll go to Ms Miller first, please.

4 Could we take the plan down that's on the screen, so we could have Ms
5 Miller in full on the screen, if that's possible? Thank you. It's over to you, Ms
6 Miller.

7 MS MILLER: Thank you. Yeah, as you'll be aware, there's a difference of professional
8 opinion in respect of the magnitude of effects that are reported between the
9 applicant and the AONB unit. But in terms of what we've just heard from Ms
10 Pope, in terms of what the differences would be, if the local landscape character
11 areas hadn't been adjusted, I do broadly agree with her view, in that, in respect
12 of the Cobham local landscape character area, there would be an increase in
13 sensitivity to very high, and there would also be an increase in the significance
14 of effects that are reported because, obviously, that would bring the project
15 within the boundaries of that local landscape character area.

16 In terms of the impacts on the Shorne sub-area, I also largely agree with
17 what she's said, in that there would still be large and significant effects. Even
18 though the percentage of the project falling within that area would reduce
19 slightly, there would still be significant effects due to the impacts on that local
20 landscape character area and the loss of the woodland and the fact that much of
21 the project is still proposed within that local landscape character area. Thank
22 you.

23 MS LAVER: Ms Miller, I just have a question, which isn't just related to anything you
24 just said, but it's about the fact that the AONB had done an update to its
25 landscape character assessments that I believe was published in 2023. Now, just
26 looking at the forward of that, it says the review was not intended to be a full
27 check of the landscape character area boundaries, but in a small number of
28 locations, the landscape character area or the boundaries were adjusted to
29 improve consistency. Now, I know that you didn't change the boundaries for
30 Cobham and Shorne. That's correct?

31 MS MILLER: Yes, thank you. Katie Miller, Kent Downs AONB. That is correct. The
32 adjustment related to a small part of the AONB at the opposite end, down in the
33 south-east. But as part of that review, there was extensive fieldwork undertaken;
34 and where boundary reviews were felt necessary, then they did take place. But

1 that wasn't considered to be necessary in this location. It might also be worth
2 mentioning that the boundaries used in the Kent Downs landscape character
3 assessment do, in the main, follow those which are also set out in the Kent
4 County Council landscape character assessment, which covers the whole county
5 of Kent.

6 MS LAVER: Yes, I had looked at that. I was aware of that. So to follow on from that,
7 would you accept the applicant's boundary position and revisit the Kent Downs
8 assessment of the boundary here, or do you consider that your published
9 boundaries are appropriate?

10 MS MILLER: Yeah, no, we are satisfied with our published boundaries. We don't think
11 there needs to be any change on that.

12 MS LAVER: Okay, thank you. So Mr Bedford, I'll come to you now, please.

13 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.
14 I'll bring in Ms Hyland in a moment, but madam, we consider that there was,
15 and continues to be, a good rationale for the landscape character area boundary
16 that Ms Miller, who's just confirmed the AONB unit maintains is appropriate
17 because there was a conscious intention to maintain a, as it were, green corridor
18 at the central reservation of the A2, which has been successful for the most part
19 along that section, which means that it operates as a coherent boundary between
20 two landscape character areas, north at Shorne and south at Cobham. In itself,
21 this point might all seem very esoteric, but when it then flows through into how
22 the judgments have been applied, and the treatment of the sub-areas, it is quite
23 clear, as I think the applicant has acknowledged, that if you reverted to the
24 original boundary used in the landscape character assessment, it would change
25 the way in which you then assess impacts, particularly for the Cobham area.

26 We also note, and this is obviously a point that we've picked up in our
27 LIR, but then the gradings of the assessment of impacts change, so far as the
28 applicant's assessments were concerned, between the 2020 work and the 2022
29 work, which you'll see the references have all been picked up. But what the
30 applicant, I think, is saying to you is that in the 2020 work, they had already
31 adjusted the landscape character areas so the Cobham area, i.e., the reduced
32 Cobham area because it ran along the HS1 line rather than the A2 line, in the
33 2020 work, was graded as having a higher sensitivity and higher impacts than
34 the applicant is assessing in 2022. And we're not persuaded that anything in the

1 detail of the design, which is what the applicant now relies on to explain that
2 change, actually does explain that change.

3 So that's the macro points on landscape assessment, landscape evaluation.
4 If I could just make one slightly further point which is, if one uses the HS1
5 corridor, which is what the applicant has done in part, actually the applicant
6 hasn't followed that through as you look down the landscape character area. We
7 did have it on plan, but it's in APP-198.

8 MS LAVER: Could we bring that up?

9 MR BEDFORD: It's sheet 2. It was the one we were looking at earlier.

10 MS LAVER: Sorry, I asked you to take it down. But I'd like you to put it back up.

11 MR BEDFORD: And if we move eastwards and then south-eastwards, and so you're
12 following the line of the HS1; and then, as you see, we then straddle, in terms of
13 the applicant's character area, to pick up back again with the road corridor –
14 that's to say, the A2-M2. So clearly, the delineation of HS1 as being a boundary,
15 it would be fair to say that clearly there's been a judgment as one goes along that
16 corridor, and different views. So one can see that. I won't say anything further;
17 I'll ask, then, Ms Hyland, if she wants to comment more specifically on her
18 assessment as to why, effectively, she maintains the view that the landscape
19 areas should be as defined by the AONB unit and not as defined by the applicant.

20 MS HYLAND: Thank you. Val Hyland, for Gravesham Borough Council, responding
21 to question 3(a)(ii). I don't think I need to say much more about the data that
22 we've used, which is the data available from Kent County Council and the AONB
23 unit, which shows the boundary running along the southern boundary of the
24 eastbound A2 carriageway. In our view, the change in boundary by the applicant
25 influences the landscape sensitivity and the magnitude of effect of the proposals
26 on these areas. And in our view, it alters the findings of the landscape
27 assessment of these character areas, assessed individually and in a combined
28 assessment. We think if the boundary were reinstated, the area in the north of
29 sub-area Cobham LLCA would include the loss of the central reservation of the
30 A2 and all the planting along the northern edge of High Speed 1 and would be
31 more directly affected by the works.

32 In this case, we believe the magnitude and the nature of effect would be
33 assessed as greater than has been reported in the current assessment documents
34 in construction and operation. The landscape sensitivity of Cobham sub-area

1 would be greater and its susceptibility to change by this proposal would also be
2 greater. A Shorne sub-area would be similarly affected by the proposals, with
3 the major works being along the A2. A permanent reduction in tranquillity, loss
4 of woodland, permanent increase in the prominence and scale of the A2 corridor.
5 For these reasons, we think the magnitude and significance of effect at design
6 year in operation would be assessed as greater than has been reported in the
7 current assessment documents, although it is still significant.

8 The applicant has made combined and individual assessments of these
9 character areas, and this is reported in document APP-384. And we've
10 previously made comments to the effect that, in our opinion, the overall
11 significance of effects was under-assessed. Thank you.

12 MS LAVER: Okay. So we didn't have any further people wishing to speak on that. But
13 I do want the applicant to pick up on the design point that Gravesham raised,
14 which was the fact that there has been a change, obviously, in the magnitude and
15 sensitivity being applied since the 2020 application, and that what was put
16 forward in written submissions was that we have looked at the design of the road
17 and we've made some revised assessment on that. And I'm still not clear what
18 has substantially changed in the design to present us with a different outcome.

19 MR TAIT: Sorry for that interlude. I just wanted to check we have got the right person.
20 And I'm going to ask Mr Stephen Knott just to pick up, one, what has changed
21 in terms of the design, and, two, the re-evaluation process. Can deal with that
22 in outline.

23 MR KNOTT: Good morning. Steve Knott, for the applicant. So yes, in terms of what's
24 changed in the design, clearly there have been some changes to the green bridge
25 design, Thong Lane green bridge south, which has been widened. And there
26 have also been a number of changes made to the utilities design, which has
27 resulted in a reduced area of assumed vegetation removal. But I'd like to also
28 make the point that the re-evaluation of the assessment that we undertook post-
29 2020, it wasn't just related to design changes. It was also related to a re-
30 evaluation of sensitivity, which I think we've explained in our responses to your
31 questions. And also, just a general re-evaluation because, as my colleague,
32 Helen Pope, mentioned earlier, neither she nor I were involved in the 2020 DCO
33 application. So we wanted to satisfy ourselves that we were happy with the

1 assessments that had been undertaken, and so did a comprehensive re-
2 evaluation.

3 MS LAVER: That's helpful. Could we have a bit more substance behind that, in writing,
4 at D8, to go into a little bit more detail, please?

5 MR TAIT: We will do that.

6 MS LAVER: Is there anything else you wanted to come back on the points made by
7 Gravesham and the Kent Downs?

8 MR TAIT: Another matter, just on that Mr Bedford made, just about the boundary to the
9 east remaining within sub-area Cobham. And I just want to ask Ms Pope if she
10 can help on the qualitative difference between that area and the area that has
11 been considered to be not part of the sub-area of Cobham.

12 MS POPE: Helen Pope, for the applicant. I think, in the narrow area between the urban
13 area of Strood and HS1, there's a strong wooded character, which is very similar
14 to that on the opposite side of HS1, whereas, further north of that boundary,
15 we've illustrated on the figure, there's a lot more of a mosaic of open fields,
16 scattered woodland blocks. So again, it just seemed to form a good transition
17 point between the Shorne and Cobham sub-areas.

18 MR TAIT: We'll respond more fully in writing on the boundary definitions that have
19 been incorporated into the project.

20 MS LAVER: Thank you. If that completes submission on agenda item 3(a)(ii), I'd like
21 to pause for a break at this point, for 15 minutes, please. My panel, no one is
22 raising any objections to that. So if we could be back for 11.55, thank you.

23

24 **(Meeting adjourned)**

25

26 MS LAVER: Welcome back, everybody. Before we move back into the substantive
27 agenda, can I just ask everybody who has telephones, in the room, if they could
28 switch them to silent, please. Just a reminder. Mr Tait, whilst we were in the
29 break, the panel were just mulling over this landscape character area boundary
30 matter, and we'd like to set an action for the applicant for deadline 8. And that
31 is whether, conservatively and without prejudice, you could assess the impacts
32 of the proposal using the Kent AONB landscape character area boundaries, not
33 the adjusted boundaries. I'm getting a nod from Mr Forest in the back row. But
34 Mr Tait, you look pensive.

1 MR TAIT: The only reason I'm looking pensive is because Ms Pope set out, orally, what
2 the difference would be. But we will do that, obviously, in writing, in pursuance
3 to that action point, because in relation to – yes, sorry, sir.

4 MR SMITH: Well, no, I was just going to indicate, we deliberated about it with quite
5 some to and fro. And we were very conscious that it was potentially a substantial
6 request. But equally, one of the things that we want to insure ourselves against
7 is the creation of inadvertent blind alleys of reasoning. So we wish to make sure
8 that there is an audit trail that takes us to a deliberation on the proposition around
9 character area boundaries as the applicant has put to us, and then another, equal,
10 different and reserved – you know, if your position is, 'but we should not do
11 this,' then put it to us. But that there is also a pathway that leads to an equivalent
12 deliberation using the AONB character area boundaries as well.

13 And then, if that's clear, patent in writing, I know we've had the oral
14 evidence, but it does, I think, help us, in reporting, to deal with that issue.

15 MR TAIT: That's what I understood. We will put it in a structured way, so that it can
16 be readily compared.

17 MS LAVER: Thank you. Okay, so we're back into the main agenda, and we're coming
18 to 3(a)(iii), which is in relation to green bridges. And again, it's a fairly targeted
19 question. We've talked about green bridges at issue-specific hearing 6. I don't
20 think we really need to revisit those discussions, and I've set that out in the
21 agenda itself. But I would like to go to interested parties first on this matter, just
22 to get their position on whether they do actually serve a purpose of linking the
23 two sub-areas. So I'm presuming that Gravesham will wish to speak. Mr Grant,
24 you're nodding that you'd like to speak for Natural England, and I can Ms Miller
25 in the virtual room. Is there anybody else, interested party-wise? No, okay.
26 Then I will come to the Kent Downs AONB unit, in line with the protocol of the
27 morning. So Ms Miller, the floor is yours, please.

28 MS MILLER: Thank you. Yes, it's our view that the green bridges over the A2 would
29 fail to serve a landscape connection purpose due to their continued restricted
30 width. We recognise that the landscape here is already severed to a degree, but
31 the impacts of this are significantly reduced by the central reservation woodland,
32 the mitigation planting associated with the highspeed railway line and the fact
33 that the existing woodland currently comes up to the highway edge on the north
34 side of the A2, all of which reduce the apparent scale of the transport

1 infrastructure and provide wooded enclosure which limits the apparent
2 severance. The AONB unit explained, at issue-specific hearing 9, the
3 importance of woodland character to this part of the AONB, and how this
4 contributed to the inclusion of the land at Shorne in the AONB, which is the only
5 location where the AONB boundary extends to the north of the A2. And it was
6 specifically included because of this woodland character.

7 The loss of the woodlands and the creation of the mostly 14-lane- but up
8 to 16-lane-wide unbroken expanse of highway infrastructure, in severing the
9 northern tip of the AONB from the rest of it, will be significant. We think this
10 is really well demonstrated in photomontages included in chapter 7 of the
11 environment statement, such as those provided from viewpoint S05A and that's
12 included in REP-6036.

13 The applicant acknowledges in the combined modelling and appraisal
14 report appendix D, which is APP-524, as well as chapter 7 of the environment
15 statement in appendix 7.9, which is APP-384, that the A2 widening and
16 vegetation loss within the A2 corridor would increase the existing severance of
17 the Kent Downs.

18 The applicant also acknowledges that there's a need for green bridges to
19 provide landscape connectivity in addition to ecological connectivity in various
20 documents in the submission, including in the planning statement, appendix F,
21 which is APP-501 at paragraph F5.50, where green bridges are identified to be
22 one of the proposed mitigation measures. And it's specified that the provision
23 of green bridges to enhance landscape continuity across the project route, also,
24 in chapter 2 of the environment statement in the project description, which is
25 APP-140, where it's stated that 'Green bridges are built over infrastructure such
26 as road or railways to provide landscape and habitat connectivity.'

27 And at table 3.3 in the schedule of landscape effects on local landscape
28 character areas, in the environmental statement appendix 7.9, which is APP-384,
29 where it's advised that one of the key considerations for mitigation includes 'two
30 new green bridges to reduce the perception of severance resulting from the
31 widened A2 corridor'.

32 However, despite this acknowledgement of the need for the bridges to
33 provide landscape connectivity, their current width falls far short of achieving
34 any meaningful landscape connection, and as explored at issue-specific

1 hearing 6, fall far short of relevant design guidelines for green bridges that are
2 seeking to achieve landscape connectivity. You don't want to go through those
3 again, but just to remind everybody that's set out in the Landscape Institute's
4 technical note where a 50- to 80-metre width is recommended for landscape and
5 species connectivity and in Natural England's literature review, which states that
6 'Bridges aiming to achieve connections to landscape level should be over
7 80 metres in width.'

8 As we'll elaborate under agendum item 3(iv), it's the view of the AONB
9 unit that 'The provision of green bridges is one of the very few possible
10 mitigation measures available for the impacts to the AONB, given the specific
11 constraints of the project.' Therefore, it's our contention that they need to be as
12 ambitious as possible to provide or properly fulfil this function. And it's our
13 view that both the Thong Lane south and Brewers Lane bridges fall far short of
14 the scale of response that is needed in view of the scale of impact to provide
15 fully functioning landscape linkage. Thanks.

16 MS LAVER: Thank you very much. Very succinctly put. Mr Bedford, please.

17 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.

18 We will again echo and endorse those comments by the AONB unit, given the
19 critical importance of landscape connectivity between, particularly, these two
20 parts of the AONB which are being increased in their severance by reason of the
21 scheme.

22 What I think we will do in our post-hearing submissions is we'll try and
23 formulate some wording to be added to the design principles to better reflect that
24 landscape connectivity point, because we note that, in a sense, the applicant
25 acknowledges that landscape connectivity is an important function of the green
26 bridges. But we don't, at the moment, think that that is fully translated into the
27 design principles, so, for example, STR.08 talks about the importance of dealing
28 with the avoidance or compensation for fragmentation and severance in terms of
29 habitat, and that is obviously important.

30 But we would want the landscape aspect to be brought more fully into
31 that, so, I say, rather than spending a great deal of time now, I think what we
32 ought to try to do to help you is to look through the design principles and see to
33 what extent they can be improved to better achieve that.

1 We also, without going back into the discussion that we had at the
2 previous ISH on widths, we understand that there are, as it were, some
3 constraints in terms of what you might call the landing points for the green
4 bridges because of other infrastructure and so on. But again, what we'd like to
5 see, echoing the AONB's reference to an ambitious design approach, is, in a
6 sense, one shouldn't necessarily solely think about parallel lines for the green
7 bridge, whether one has an ellipse or, as it were, it's fatter in the middle, but it
8 still respects whatever are the constraints where it lands at either end. But, I say,
9 we would really like to see more to be done to achieve landscape connectivity
10 in relation to the green bridges. And then I'll just ask Ms Hyland if she's got
11 any further particular comments on the bridge design or matters of that nature.
12 Thank you.

13 MS HYLAND: Thank you. Val Hyland for Gravesham Borough Council responding to
14 question 3(a)(iii). I'll miss out the issues that have already been discussed. The
15 council has already made comments on the effects of the widening of the A2
16 corridor and our response to question 3(a)(i) today. These effects will be
17 permanent and, in our view, will impact on the landscape character of the Kent
18 Downs AONB, which will shift to one primarily associated with motorway
19 infrastructure as the A2 would be dominant and the A2 junction would change
20 the character of the immediate setting of the AONB to the west.

21 We've talked about the design principles document and how the
22 discussion to date has primarily been about the biodiversity functionality of the
23 green bridges. Given the scale of severance that will result from this project, it's
24 our view that the key function – or a key function of the green bridges over the
25 A2 should be to provide landscape mitigation at a similarly large landscape
26 scale. In our view, the green bridges cannot achieve the landscape connection
27 that's needed at their current design.

28 There is scope for the green bridges to serve multiple objectives and to
29 provide an essential component of a mitigation strategy. And we've heard how
30 this is supported by the Landscape Institute's technical guidance, which is at
31 REP4-330. This note, this guidance, also notes how the design of green bridges
32 can respond to a range of drivers, one of which is severance of landscape,
33 whether it's historic landscape and its setting or a feature of importance to
34 landscape character.

1 And we've heard about how the guidance recommends connections at a
2 landscape level should be over 80 metres in width, and we've commented on
3 that previously. The overall width of the green elements of the two bridges
4 proposed for the A2 are 11.5 metres and 21.5 metres, respectively, with only a
5 1.5-metre strip of vegetation along their western edge.

6 The project design report APP-513 says that proposed planting on the
7 wider of the two bridges, Thong Lane south, is to include small trees and shrubs.
8 And it is our view that woodland planting will be needed on the bridges to
9 provide landscape continuity and reinforce the wooded skyline. Bearing in mind
10 the wooded character of the AONB in this area, the green bridges will not
11 currently provide adequate mitigation for landscape or visual severance.

12 In addition, to maintain continuity of landscape, the bridges would need
13 to make direct links, ideally, into planted or woodland areas at both the north
14 and south ends. And if possible, the landing positions of the bridges, in
15 particular the Thong Lane south green bridge at its southern end, should be
16 reviewed to see whether landscape connectivity could be improved. And we've
17 already mentioned the lack of adequate visual representation of the junction, but
18 this does have a bearing on the design of the Thong Lane south green bridge.

19 Thank you.

20 MS LAVER: Thank you very much. Mr Bedford, do you have anything further? No,
21 okay. Mr Grant of Natural England, please.

22 MR DAVIDSON: Thank you very much. Neil Davidson speaking on behalf of Natural
23 England. We wish to be clear that we concur with the things that have already
24 been said by the AONB unit and also by Gravesham Council. It's stating the
25 obvious here, I think, but if we actually looked at some of the photomontages
26 that have been prepared in REP5-046 – which it's up to you if you want to put
27 them on the screen or not – it's very clear that, overwhelmingly, the bridges have
28 a grey feel and not a green feel. They're dominated by the roads; the vegetation
29 strips are very narrow, and as has been said by the AONB unit, these are doing
30 the minimum rather than embracing what are good practice principles set out in
31 guidance by the Landscape Institute. That's all I wanted to say.

32 MS LAVER: Thank you very much.

33 MR GRANT: Thank you.

1 MS LAVER: I don't have any questions for the IPs. Mr Grant, did you have anything
2 else that you wish to add, or does that complete for Natural England?

3 MR GRANT: Sorry, are you asking me something specific there?

4 MS LAVER: I didn't. I just wondered if that completed your submission on the item.

5 MR GRANT: No, thank you. Counsel reminded me that I was also going to point out
6 that most of the photomontage perspectives are actually quite close up. And
7 when the arguments are being made that the green bridges are contributing in
8 some way to landscape connectivity and integration, I don't think we've got any
9 views that show them in that context, for example a long-distance view of where
10 the green bridge will sit so that we can then evaluate what contribution precisely
11 it is making to character. Thank you.

12 MS LAVER: Thank you very much. Mr Tait, when the applicant responds, and I will
13 come to you now, it would be helpful, actually, to have some of those montages
14 on our screens, so if your team could load up REP5-046, as referred to by Natural
15 England, I would think as just some visual aids to the room. And it's over to
16 you for responses, please.

17 MR TAIT: Thank you very much. If I just make a start – well, if it is coming up, I
18 appreciated, in the question, you didn't want to revisit the discussions on green
19 bridge design, but just for the record, as it were, in REP4-182, which is the
20 post-hearing submissions in relation to ISH 6, the physical and other constraints
21 on further widening set out at 4.1.14 through to 4.1.16 and also in annexe D, and
22 in particular, in relation to Brewers Road bridge, that further widening would
23 affect land outside of the order limits and further west impinging on SSSI
24 woodland, and then the engineering issues with widening at Thong Lane south
25 set out there, but that's just by way of background.

26 MS LAVER: Yes, thanks. I didn't want to go to the design because we did explore it at
27 some depth in previous issue-specific hearings. I think the point, however,
28 Mr Bedford was making in his submission there was that you don't really have
29 to look at expanding the edges of the bridge, but is there something that could
30 be done to the centre of the bridges to widen them in the centre? I'm no engineer.
31 I'm not a civil engineer that designs bridges. I don't know – and I'm not asking
32 you to respond right now, but given that you have put in that submission in
33 response issue-specific hearing 6, it's whether that could just be re-looked at by

1 your team to determine whether they just looked at the edges of the bridge as
2 they interface with the roads on each side.

3 MR TAIT: Yes.

4 MS LAVER: Thanks.

5 MR TAIT: Thank you, madam. So, with that in mind, I'm going to ask again Helen Pope
6 to respond to this initially and then, potentially, ask Mr Andrew Kay to deal with
7 one matter.

8 MS POPE: Helen Pope for the applicant. At present, the northern most part of the Kent
9 Downs AONB is physically separated from the AONB to the south by HS1 and
10 the existing A2 corridor. The existing road corridor comprises four lanes and a
11 hard shoulder to both the eastbound and westbound carriageways, with 10 lanes
12 in total. The physical separation of the Kent Downs AONB is a result of the
13 existing A2 corridor. It's most apparent when seen from the Park Pale, Brewers
14 Road and Thong Lane overbridges. From the Thong Lane overbridge, 10 lanes
15 and associated highway infrastructure and traffic are prominent features in views
16 to the east and west.

17 The perception of separation is heightened at Park Pale overbridge due to
18 the additional M2 junction 1 slip roads and associated hard shoulders, resulting
19 in 13 lanes in total. Park Pale, which runs parallel to the A2 corridor, also
20 contributes to the perception of separation. From Brewers Road overbridge, the
21 perception of separation within the Kent Downs AONB, as a result of the
22 existing A2 corridor, is reduced by the woodland belt in the central reservation,
23 which visually separates the A2 eastbound and westbound carriageways so that
24 only one carriageway at a time is generally seen when crossing the bridge.
25 However, both carriageways comprise a strong physical barrier, experienced one
26 after the other in sequential views.

27 From other representative viewpoints within the Kent Downs AONB,
28 shown on the S-figure 7.16 REP1-128, the existing A2 corridor does not feature
29 prominently in views, with the exception of the adjacent representative
30 viewpoint S17 on Thong Lane, at the entrance to the Inn on the Lake hotel.
31 There is, therefore, a lesser perception of physical separation within the AONB
32 beyond the three overbridges crossing the A2 corridor.

1 Furthermore, in a number of views, for example, from representative
2 viewpoint S03, these extend to the AONB landscape on the other side of the A2
3 corridor, thereby reducing the perception of separation.

4 There are, therefore, relatively few locations within the Kent Downs
5 AONB where the existing A2 corridor features prominently in the view and
6 where the effects of severance are perceivable, with the most affected locations
7 comprising close-range, elevated views from the overbridges crossing the
8 existing A2 corridor.

9 It is acknowledged that the permanent removal of vegetation from the
10 central reservation of the A2 and in some areas along the edges of the A2
11 corridor would increase the effects of severance and contribute to the significant
12 adverse visible effects on the landscape character of the Kent Downs AONB.
13 This is discussed in the assessment commentary for the West Kent Downs
14 sub-area Shorne local landscape character area design year summer, in ES
15 appendix 7.9 APP-384.

16 However, the proposed Brewers Road and Thong Lane south green
17 bridges would help to reduce the perception of severance between the northern
18 and southern parts of the Kent Downs AONB once planting is established within
19 the green strips along the bridges as the planting would link vegetation north and
20 south of the A2 corridor.

21 The proposed planting on the green bridges would also help to screen
22 views of the widened A2 corridor for users of the bridge, thereby also helping
23 to reduce the perception of separation.

24 Since the development consent order was submitted in 2022, there have
25 been ongoing discussions with Natural England on the layout of the Brewers
26 Road and Thong Lane south green bridges and what the optimum design might
27 be in terms of the recreational routes along the bridges and habitat for
28 biodiversity.

29 To allow more flexibility at detailed design on the layout of the green
30 bridges and to facilitate further discussion with stakeholders, clauses S1.17 and
31 S2.12 of the design principles that were submitted at deadline 7 have been
32 updated to state a minimum planting width across the bridges rather than
33 specifying the planting widths at each edge of the bridge. As I said, this has

1 been reflected in the wording of clauses S1.17 and S2.12 of the design principles
2 at deadline 7.

3 MS LAVER: Obviously, deadline 7 material hasn't yet been published, so not
4 everybody's across that material, but reference to it is helpful because we will
5 review, as I'm sure Gravesham will, given their suggestion of looking at design
6 principles.

7 MR TAIT: So I was going to ask Mr Kay perhaps just to – with the assistance of the
8 photomontage where appropriate – to deal with the functionality of the green
9 bridges in landscape terms if there's a photomontage that's helpful to refer to as
10 part of that. What do you want to know?

11 MR KAY: Andrew Kay on behalf of the applicant. With regards to the planting typology
12 proposed on the green bridges, and without revisiting the issues of the overall
13 design and width, I'd just like to summarise why we've proposed the shrubs of
14 intermittent tree planting for these areas.

15 As discussed, planting on the green bridges is subject to spatial constraints
16 and technical constraints and therefore, throughout the project, where we've
17 wanted to promote woodland planting where these spatial constraints exist, we
18 have used the shrubs of intermittent tree planting typology, and this extends
19 across the green bridges themselves as well.

20 This is extended into the outline landscaping ecology management plan,
21 which confirms that where woodland is needed to provide – where there are
22 spatial constraints, the management of the shrubs of intermittent tree planting is
23 to achieve a shrubby woodland character. So, for all intents and purposes, we
24 are constrained by technical ability to plant large swathes of woodland on these
25 bridges, but we intend the management of these areas to act and perform as a
26 woodland across.

27 With regards to the image on screen now, I believe the photomontages
28 were based on the engineering proposals of the green bridges. However, as
29 shown on the project design report, the shrub of intermittent tree planting should
30 be managed to perform a dense woodland edge, woodland character, on the
31 bridge and should be promoted as such, and that's what being shown on the
32 project design reports currently on screen.

1 So, subject to spatial constraints, we would like to promote – these should
2 appear as woodlands as much as reasonably practicable in terms of the spatial
3 constraints and technical abilities.

4 MR TAIT: So I think that concludes our response.

5 MS LAVER: Thank you. I don't have any questions for you. Panel members are not
6 alluding to anything. Are there any final comments anybody wishes to make
7 before we close this item out, without re-going over statements already put to
8 us?

9 MR DAVIDSON: Thank you very much. Neil Davidson for Natural England. I just
10 wanted to comment very briefly. The image that we are looking at there is not
11 obviously a representative viewpoint. What I was talking about that would be
12 useful to see is a representative viewpoint from distance of the bridges so we
13 know just what contribution they are making to landscape mitigation, because I
14 would suggest that they perhaps are not making some of the contributions that
15 are being claimed by the applicant.

16 And Natural England has made it clear that they do need to be much wider.
17 And I'd also believe that a side-on perspective of the bridges in photomontage
18 form would give some feel for the built footprint of the bridges, because Natural
19 England have also suggested, for example, as at Scotney bridge, that there is
20 design measures that could be more effective about how this sits in the landscape
21 as a new feature. Thank you.

22 MS LAVER: Mr Tait, can I leave it with the applicant, please, to give some consideration
23 to the request for the montages? And I'm happy to deal with it after lunch, but
24 maybe it's helpful for another conversation between yourselves just so I can
25 understand their position after lunch.

26 MR TAIT: Yes, we'll revert to you on that.

27 MS LAVER: Thank you. Okay, so we'll move on then to the next item on the agenda,
28 which was about landscape mitigation measures, if there were any further
29 measures which parties felt hadn't yet been put into the examination but would
30 help to mitigate the harm. Obviously, we've looked at nitrogen deposition
31 compensation areas. We don't want to revisit those, but I'm looking at anything
32 else that anybody wants to tailor in the room, specifically for the AONB. And
33 this is for IPs, so is there anybody that wishes to speak on this item? That's

1 Gravesham. That's Kent and the AONB unit. Okay, so I'll go again to the
2 AONB unit. Please, Ms Miller.

3 MS MILLER: Thank you. Katie Miller, Kent Downs AONB unit. So the opportunities
4 for mitigation for the AONB landscape, particularly in terms of landscaping
5 mitigation, are limited, and this is due to the potential for mitigation alongside
6 the A2-M2 being restricted as a result of the constraints associated with the
7 diverted utilities and their associated wayleave requirements, which restricts
8 opportunities for replacement planting.

9 Also, the presence of HS1 railway line and beyond this, on both sides of
10 the A2, the majority of land already comprises either woodlands or historic
11 parkland, where new woodland planting wouldn't be appropriate in terms of
12 landscape character. So, given these constraints, it's considered that mitigation
13 should be focused on reducing the harm arising from the increased severance of
14 the AONB that we've just discussed. And we consider that green bridges are
15 the greatest opportunity to be able to achieve that.

16 Therefore, in addition to the green bridges proposed at Brewers Road and
17 Thong Lane, we consider the existing Park Pale bridge could be replaced with a
18 green bridge as this provides further opportunities for reducing the severance of
19 the landscape. It would also provide and signal an entrance gateway at the
20 eastern end of the AONB, and we felt it would be particularly beneficial as it
21 would provide an improved experience for recreational users of the bridge as it's
22 crossed by a public footpath as well as the national cycle route 17. And it's also
23 considered particularly suitable as a green bridge because it's only used by
24 limited vehicular traffic as it just serves the golf club.

25 And further opportunities for mitigation to the AONB include additional
26 design principles to help ensure reduction of impacts on the AONB. And we've
27 already set those out in our written representation, which is document
28 REP1-378.

29 And the measures we've outlined there include a requirement for fences
30 to be cleft post and rail because this would ensure that they would be locally
31 distinctive, minimising the use of metal crash barriers and looking at alternative
32 designs where they are essential, such as tension steel cables or gabions using
33 natural stone products, kerbs to be kept to a minimum, and also for gantries,
34 signs and lighting columns to be minimised and sited and finished in a colour

1 which minimises their impact on the landscape, although I had a meeting with
2 the applicant yesterday, and they did advise me there that a new design, or an
3 amended design principle, is proposed that would specify specific colour
4 requirements on the street furniture. Thank you.

5 Just to mention that the proposition of an additional green bridge isn't
6 something that we're introducing newly. It's a suggestion that we have made
7 previously, including in our written representation. Thank you.

8 MS LAVER: Thank you very much. Mr Bedford.

9 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.

10 Again, we would endorse the comments made by the AONB unit. And then if I
11 could perhaps just bring in Ms Hyland to comment on any further areas where
12 we think that enhanced mitigation could be appropriately considered.

13 MS HYLAND: Thank you. Yes, Val Hyland for Gravesham Borough Council. I think
14 most of what we were going to say has been covered by the AONB unit. We do
15 support the idea of the Park Pale green bridge largely because, as the applicant
16 said in their answer to the previous question, for various technical and spatial
17 reasons, the design of the other two bridges has not provided the range of
18 functions or the scale needed to address the scale of the landscape severance that
19 would be suffered, so, yes, we would support the Park Pale green bridge.

20 Another option, although just outside of the AONB for mitigation, would
21 be to enhance the linear planting along the south side of HS1, which includes,
22 therefore, the A2 west to Pepper Hill. Thank you.

23 MS LAVER: Thank you. Mr Grant, Natural England, please.

24 MR DAVIDSON: Hello, Neil Davidson for Natural England. I really just wish to
25 reiterate that Natural England have already made it clear in their representations
26 that there's a number of recommendations for additional mitigation. These can
27 be found in REP1-262.

28 MS LAVER: Is that the only –

29 MR DAVIDSON: And there is also another reference – trying to get my head around
30 this mic. Can you hear me okay? Yeah, great – response to question 2 of the
31 examination questions 11.2.5, and that's in the DL7 response from Natural
32 England, which came out in November. I don't have the full reference for that,
33 but I can find it for you if you'd like.

34 MS LAVER: If it's come in at deadline 7, it hasn't been published yet.

1 MR DAVIDSON: Thank you very much.

2 MS LAVER: Thank you. Mr Fraser-Urquhart, please, for Kent County Council.

3 MR FRASER-URQUHART: Thank you, ma'am. Just we wanted to speak at this point
4 to give our support to the proposal for Park Pale bridge to become a green bridge.
5 And additionally, we support what the AONB unit has said about a design
6 requirement to bring about a range of different mitigation measures.

7 With respect to Park Pale, as well, obviously, as the landscape benefit,
8 there would also be an ecological benefit, and I'd just like, if I may, to turn to
9 Helen Forster very briefly to give a comment on that aspect of it, please.

10 MS LAVER: If it is brief, Mr Fraser-Urquhart because we're really not talking about
11 ecology in this item.

12 MR FRASER-URQUHART: I appreciate that, which is very much why she will be brief.

13 MS FORSTER: Helen Forster, Kent County Council. Yeah, it was just to say that,
14 obviously, from a biodiversity perspective, the changing of Park Pale into a
15 green bridge would obviously be very good for connecting up the mitigation
16 areas either side of the bridge that connect Puckle Hill and the park on one side
17 and Great Crabbles Wood to the wider Cobham estate. Thank you.

18 MS LAVER: That was very brief. Thank you. Okay, so I don't think I had any other
19 speakers on that item, so, Mr Tait, it's, I think, back to you.

20 MR TAIT: Thank you, madam. In relation to the Park Pale bridge, that was the subject
21 of discussion at ISH 6. And the position there is summarised at 4.1.19 of
22 REP4-182 as to the difficulties that arise in relation to the effect on that being
23 the sole access to the golf course, key access for Harlex Haulage and the
24 relatively limited benefit that would arise from that, so we have responded in
25 relation to that.

26 In relation, secondly, to additional design principles, there are already in
27 – it won't quite be the latest version but REP6-47 of the design principles of that
28 version.

29 In STR6 and S109, extensive provisions in relation to consistency of
30 design approach and appropriateness to the colour palette required in the Kent
31 Downs AONB, amongst other matters, and that is, as has been indicated,
32 following further discussion with Natural England at deadline 8, that STR6 and
33 also S109, which commits to retaining structures and bridge abutments within
34 the Kent Downs AONB, and its setting being either green walls, earthbanks or

1 clad with hard materials, in accordance with the AONB landscape design
2 handbook, to be reflective of the local vernacular.

3 It is going to be further elaborated in relation to street furniture along the
4 A2 mainline and local connector roads in the Kent Downs AONB, which I think
5 picks up the point made on behalf of other parties. And so the colour palette
6 there would use the street furniture – will be informed by the Kent Downs
7 AONB landscape design handbook and the guidance on the selection and use of
8 colour in development. And there is further – again as a result of discussion – a
9 provision which will come forward at deadline 8 as to the use of low-level
10 lighting along Brewers Road and Thong Lane south green bridges.

11 So that's an update from our side as to further potential – well, further
12 measures under this particular head, so I think that's broadly the response on
13 behalf of the applicant.

14 MS LAVER: Thank you. Yes, I don't intend to pressure you on the Park Pale bridge
15 matter because it was discussed in some detail previously, so we're well aware
16 of the applicant's position, so I don't want to revisit that discussion to be told,
17 'It can't be done for X reasons.' And you're right: you did make submissions,
18 so I think we'll stop there on that item. It is good to know that there are design
19 principles being rediscussed, so thank you very much for the update.

20 So we'll move on in the agenda to 3(b), which is wider landscape matters,
21 and, in essence, the first part of that is the same question we just asked for the
22 AONB – no, it isn't. Forgive me. It isn't at all. I'm looking at the wrong agenda.
23 The agenda item is, 'The applicant has summarised the proposed development's
24 overall landscape impact in document APP-524. It describes the overall impact
25 as moderate-adverse, and the Examining Authority would like to hear from
26 relevant parties on whether they agree with this conclusion.'

27 MR FRASER-URQUHART: Ma'am, I'm sorry to interrupt you, but you seem to have
28 skipped over A5.

29 MS LAVER: Oh, have I? You're absolutely right. Sorry.

30 MR FRASER-URQUHART: Had our name on it.

31 MS LAVER: I'm on two pages, and it was on the wrong page, so forget everything I just
32 said about 3(b). We're going back to 3(a)(v), which is an update on the draft
33 agreement with KCC for the Kent Downs AONB unit about a compensation

1 enhancement fund. So, Mr Fraser-Urquhart, I'm assuming you're taking the
2 lead on that.

3 MR FRASER-URQUHART: Actually, I'm not because this is where the relationship
4 between us and the AONB unit comes into play. So, actually, it's, I think, for
5 the AONB unit to give primary commentary on this.

6 MS LAVER: Okay. Is it Mr Johannsen or Ms Miller?

7 MS MILLER: Thank you, madam. I'll take the lead on this if I may.

8 MS LAVER: Yeah.

9 MS MILLER: So, Katie Miller for the Kent Downs AONB unit. So the Kent Downs
10 AONB unit have welcomed proactive discussions held with National Highways
11 since January 2021 on compensatory measures for the AONB. And the unit
12 agrees that compensation in the form of a compensatory enhancement fund to
13 be used to fund enhancements in the wider AONB is an appropriate approach to
14 compensation should the project proceed – although our agreement to
15 compensation does not remove our strong in principle objection to the scheme.

16 We're disappointed, however, that draft heads of terms were only shared
17 with the unit at the end of August this year, with no prior indication given of
18 National Highways' intended compensatory offer in financial terms. And this
19 has left a frustratingly short amount of time for both parties to reach agreement
20 on the fund offer. This is despite undertakings from the applicant earlier on in
21 the process to have draft heads of terms agreed prior to the submission of the
22 application. Given the short amount of time left to us to have a signed agreement
23 in place, the AONB unit reluctantly accepts the proposed fund offer, although
24 we consider that a higher figure that responds more appropriately to the level of
25 harm identified could have been agreed if negotiations had commenced earlier.

26 We are now content with the relevant clauses and wording which are set
27 out in the draft agreement. However – and as you're aware, and indeed this is a
28 matter to be discussed later today – there does remain disagreement between
29 National Highways and the AONB unit on whether the impacts of nitrogen
30 deposition on designated sites within the AONB are appropriately compensated
31 for. The AONB unit has therefore sought to negotiate a higher fund figure to
32 provide compensation for the nitrogen deposition impacts to sites in the Kent
33 towns in the absence of inclusion or reinstatement of appropriate levels of

1 compensation sites in the AONB, but this hasn't been accepted by National
2 Highways.

3 Should the Examining Authority agree that the proposed nitrogen
4 deposition compensation does not adequately address harm to designated sites
5 in the AONB, and the removed sites aren't reinstated, then it's considered that a
6 supplementary amount to increase the enhancement fund should be provided to
7 be used specifically on measures that would improve the ecological resilience
8 and biodiversity of the AONB, and this could potentially be secured through a
9 separate planning obligation.

10 The AONB will continue to engage with the applicant to seek an
11 agreement on an appropriate level of funding but without prejudice to the
12 applicant's position that compensation is not required.

13 MS LAVER: Thank you very much. Mr Fraser-Urquhart, you don't have anything
14 further to add before I go to the applicant.

15 MR FRASER-URQUHART: No, I don't.

16 MS LAVER: Okay, thank you, Ms Miller. So I'll go to the applicant, please.

17 MR TAIT: So I can confirm that agreement has been reached in relation to the
18 compensatory enhancement fund, both as a mechanism in the context of the
19 MPS and the paragraphs that were looked at earlier – paragraph 151 and the third
20 bullet – and also as to the amount which has been agreed.

21 As was indicated, there is an issue about whether there should be some
22 financial compensation in relation to NDEP. We will come to that, I appreciate,
23 separately later on, because that's a specific question that is raised in relation to
24 5(a)(i), and the extent of compensation south of the river as opposed to – well,
25 in the AONB as opposed to north in relation to NDEP.

26 But in relation to the landscape and the AONB designation, that fund has
27 been – the quantum has been agreed.

28 MS LAVER: Very good. Thank you very much. Nice to see something agreed in this
29 examination. Okay, right, we'll go back – sorry, Mr Bedford.

30 MR BEDFORD: Madam, Michael Bedford, Gravesham Borough Council. Madam,
31 obviously, it's not intended that we would be a party to this particular
32 106 agreement. I don't think we've seen the current version of it, but as your
33 agenda item references, it is a point that's picked up in the draft statement
34 common ground with Gravesham Borough Council.

1 I think the position that we adopt is clearly – in a sense, we know our place,
2 so we're not asking to be a party to the 106 agreement. But we are keen to
3 ensure that, in so far as a fund is then available to carry out compensatory or
4 enhancement works within the AONB, insofar as the key impacts are on those
5 parts of the AONB within Gravesham, we would want to be reassured that there
6 is some mechanism through the governance of the section 106 disbursements
7 that focuses primarily on carrying out works within Gravesham to better relate
8 the compensatory or mitigatory works to the impacts which are experienced in
9 Gravesham.

10 So that's a point we just float, and it'd probably be helpful if we were at
11 least given an opportunity to see the documentation, and if there were anything
12 that we could say that would give us reassurance on that, I think that would be
13 appreciated.

14 MS LAVER: Mr Tait, do you have a response, please?

15 MR TAIT: We'll reflect on that and get back directly to Mr Bedford on that, but I'm sure
16 we wouldn't want to exclude him or his clients generally.

17 MS LAVER: Thank you very much. Okay, so we'll move on to 3(b), which was the
18 wider landscape matters, which I tried to make a head start on. So it's about
19 whether interested parties agree with the applicant's position that there's
20 moderate-adverse impact overall on the landscape. So, show of hands from IPs.
21 We've got Thurrock in the room as well now, Gravesham and Natural England.
22 Okay, great. If I could please start with Natural England – breaking with
23 tradition.

24 MR DAVIDSON: Thank you. Neil Davidson. I think I'm going to read my answer out
25 to this, so it is a bit more flowing, and you can ask me any questions about it
26 afterwards. So, to answer this question, I have turned to chapter 7 of the
27 environmental statement APP-145 and the combined modelling and appraisal
28 report, appendix D, economic appraisal package, appraisal summary table report
29 APP-534.

30 It is worth noting that the economic appraisal document is not part of the
31 environmental statement. The document APP-534 clearly states that a different
32 assessment and evaluation methodology to that of the environmental impact
33 assessment has been used to evaluate effects – see para 1.1.9. This is an
34 important point since the introduction of different evaluation systems is

1 somewhat unusual, and I, for one, have not seen anything like this before,
2 because it introduces inconsistency and makes answering a question of this
3 nature somewhat difficult.

4 However, notwithstanding this matter, I wish to turn to page 46 of
5 document APP-534 and discuss the evaluation of pattern in the landscape of the
6 West Kent Downs. If we could turn to this – or I can carry on reading, and I’ll
7 tell you what it says – despite ranking all of the variables listed in steps two to
8 four of this table as being at ‘national level’ or ‘high level of impact’ or ‘rare’,
9 the overall score is ‘moderate impact or effect’. I cannot agree with that
10 evaluation as it doesn’t make any sense on a consistency level.

11 Turning more generally to environmental assessment, it is common
12 practice, if you are ever trying to sum up scores – as APP-534 is attempting to
13 do – to take the worst-case scenario that has been recorded amongst the different
14 variables being summed. Averaging of scores is not really encouraged in
15 environmental assessment, yet this document has attempted to provide a
16 summary of effect by totting up effects.

17 In the case of landscape, the summary score is, overall, according to the
18 document, a ‘moderate effect’. However, the worst level of impact at minimum
19 should be large-adverse due to the impacts that are predicted to take place at the
20 nationally important AONB. A summary score of ‘moderate’ on page 49 and
21 page 69 is, I would suggest, therefore, incorrect.

22 Presenting different assessment methodologies ultimately means we are
23 not evaluating effects in the same way. It does not allow, for example,
24 comparison between the environmental statement and the economic appraisal
25 document. I consider this to be somewhat unhelpful because it is inconsistent.

26 When comparing the evaluation in APP-534, which concluded that
27 impacts on the West Kent Downs would be only at ‘moderate’ level, to the effect
28 I identified in the environmental statement on page 176 of APP-145, which
29 concluded that the residual significant effect is ‘large-adverse’ on the West Kent
30 Downs LCA, I would concur with the latter evaluation.

31 In fact, I would even suggest that the scores for all of the variables
32 presented in the step 4 table, 4.20, page 67 of APP-534 should be changed in
33 this respect. Therefore, as well as pattern being scored higher than moderate,

1 the same would apply to tranquillity, cultural and land cover, and, of course, the
2 summary of character – impacts on character.

3 I have only evaluated table 4.4 and 4.20. Other evaluations may also not
4 correlate when comparing the ES, the environmental statement, to the economic
5 appraisal.

6 To conclude, I do not agree with summing up in the way that it has been
7 presented in the document, and nor do I believe that there should be an overall
8 summary score of moderate when there are worst-case scenarios at a higher
9 scale. I find the fact that two different methodologies, assessment
10 methodologies, have been used is confusing and leads to inconsistency,
11 ultimately making it difficult to form a conclusion about effects. Thank you.

12 MS LAVER: Thank you. Can I just clarify – you kept referring to APP-534, but I think
13 it's APP-524, which is what I'd quoted in the agenda item. And it's just for the
14 record so that when it goes on the transcripts and anyone listening back, it is
15 524. Yeah, not 534.

16 MR DAVIDSON: Yes, it is 524.

17 MS LAVER: Great.

18 MR DAVIDSON: Thank you.

19 MS LAVER: Thank you very much. Mr Fraser-Urquhart, do you want to come in for
20 Kent? No. Mr Bedford.

21 MR BEDFORD: Thank you, madam. Michael Bedford, Gravesham Borough Council.
22 I think two simple points: one, we would agree with those remarks from Natural
23 England that, in a scoring assessment, we take the view that it is the, as it were,
24 the worst score out of any group that should weigh more heavily in any attempt
25 to aggregate, and so we don't share the approach that's being taken in the
26 appraisal summary table, which ends up with a combined score of moderate.

27 But then, secondly, and perhaps more substantively, we disagree with the
28 applicant about the scoring of the component parts that have gone into that
29 exercise. In particular, in terms of the impacts on the AONB and where it's, in
30 a sense, a higher ratchet on the exercise, so even if you did do it, we would still
31 come up with a different conclusion, so that's our take on this. Thank you.

32 MS LAVER: Thank you very much. Ms Hyland doesn't want to add anything, so
33 Thurrock, please.

1 MR MACKENZIE: George Mackenzie for Thurrock Council. Ma'am, Steve Plumb,
2 chartered landscape architect, will deal with this agenda, and Chris Stratford,
3 consents and senior DCO consultant for Thurrock, will also deal with it. The
4 only point that I wish to make is to express my agreement with the first point
5 that Mr Bedford raised a moment ago. Thank you.

6 MR PLUMB: Thank you. Steve Plumb for Thurrock Council. I think some of the points
7 which have been raised, the principle, I think, we're in agreement with. The
8 idea of trying to average it out – the overall effects – isn't the way you carry out
9 an assessment like this.

10 Just going into some of the detail a little bit, having reviewed pages 68 and
11 69 of APP-524, my reading of it, it solely applies to effects on landscape
12 character. It doesn't refer to visual effects. So, considering it in Thurrock, that
13 there are – a lot of the borough – we've heard a lot about nationally important
14 landscapes this morning – we sadly don't have those in Thurrock. But we do
15 have the important areas around the Thurrock reclaimed fen, the Mardyke Valley
16 area. The applicant's LVIA has assessed those as large adverse effects on
17 landscape character. So I think trying to say, 'Oh, well, overall it's that' isn't -
18 well, you might say – 'the majority' or something like that you could potentially
19 argue.

20 But as has been discussed, you've got some significant effects throughout,
21 so we do not support that assessment at all. And if you're looking at the visual
22 effects, although a lot of the landscape character in Thurrock isn't of high
23 quality, the visual effects have been scored by the LVIA as a large-adverse and
24 very significant. Thank you.

25 MS LAVER: Mr Stratford, please.

26 MR STRATFORD: As much as I'd like to add stuff, I don't have anything to add. Thank
27 you.

28 MS LAVER: So, Mr Mackenzie, I'm assuming that completes submissions for Thurrock.

29 MR MACKENZIE: George Mackenzie for Thurrock Council. Yes, thank you.

30 MS LAVER: Thank you. I don't think anybody else wishes to speak on this matter. So,
31 Mr Tait, I wonder if we could get a sense of the purpose then of APP-524.
32 We've heard, really, that it should just be disregarded from a landscape
33 perspective because the averaging of impacts is not an appropriate assessment.
34 So if you could just give us some background to the document, and how it came

1 to be, and what weight the applicant is putting on this document in landscape
2 and visual impact assessment terms, that would be helpful. And then, if there
3 were other points you wanted to come back on, that would also be helpful.

4 MR TAIT: Thank you. First of all, the AST table is a WebTAG requirement, but,
5 particularly in relation to the investment decision context, it's the environmental
6 statement that is the clear document which the case is based on here.

7 What I should say is that the overall landscape and visual effects reported
8 in the environmental statement are consistent with that AST summary – that
9 appraisal summary table report. And that's set out at 7.9.22 of chapter 7 of the
10 environmental statement, which is at 145, which looks at the overall landscape
11 and visual effect on the existing landscape and visual immunity on a combined
12 basis, concluding that will be moderate, adversely significant.

13 But that is all preceded, in contrast to the simplicity of the AST document,
14 by a detailed summary in relation to the disaggregated assessment in relation to
15 character areas, for example, so that one can see it all there. The conclusion –
16 as to which there is obviously a dispute – follows from that. But one can see the
17 reasoning leading to it, in particular the summary at chapter 7.9, in pages 171
18 and 174 of the document I've referred to at 145, so that's the broad position.
19 There's a consistency between the two, but they serve different purposes.

20 And I don't know whether you would find it helpful to hear from Ms Pope
21 as to how that judgment has been reached in the environmental statement, which,
22 as it happens, is consistent with the AST.

23 MS LAVER: Yeah, I would like to hear that. I know my colleagues are messaging me
24 talking about a lunch break for the room, but I think it's important to hear that
25 because we've obviously heard that there is disagreement over a moderate
26 impact for various reasons, so I think we need to play this – rest of this out.

27 MR TAIT: Thank you very much.

28 MS LAVER: Thank you.

29 MR TAIT: So, again, I'll turn to Helen Pope in relation to that, focusing on chapter 7 of
30 the environmental statement.

31 MS POPE: Helen Pope for the applicant. Section 7.9 of ES chapter 7 APP-145 provides
32 a single conclusion for potential significant landscape and visual effects. This
33 single conclusion was reached following a review of the residual effects of the
34 projects dated in ES appendix 7.9 APP-384 and ES appendix 7.10 APP-385.

1 Due to the extensive mitigation measures proposed as part of the project, most
2 landscape and visual effects were reduced to moderate or below [inaudible].
3 Adverse effects remaining above moderate would be localised and relate to two
4 local landscape character areas, five representative viewpoints and one visual
5 receptor group out of a total of several hundred landscape and visual receptors.
6 It was therefore considered that an overall moderate adverse effect would be a
7 proportional reflection of the project.

8 MS LAVER: Thank you.

9 MR TAIT: That's the position in summary.

10 MS LAVER: Okay, that's great. What I would ask for the interested parties that spoke
11 in the local authorities, in light of paragraph 7.9.22, it would be helpful for some
12 written submission in light of what you've heard on the position on that. I'm
13 sure it has been submitted through the various documents we've received, but
14 just a targeted response to how the parties feel on that point would be helpful by
15 deadline 8. Thank you. We're at 1.00. I just need a second or two to talk with
16 colleagues about an appropriate time to break for lunch. Ideally, I would like to
17 finish off the agenda item 3 so that we have a clear run into Coalhouse Fort after
18 lunch, but just give me one moment, please.

19 It would be helpful to know from the room and the virtual room who
20 wishes to speak on the last item on agenda three, which is in relation to
21 environmental lighting zones documents. So I've got Thurrock. No. Well, I
22 think we can do it before lunch. That's not to say that I think you're going to be
23 very swift, or trying to press you on, but if we thought we might have multiples
24 in the room.

25 MR SMITH: There is, however, just one minor technical matter that I will check before
26 we proceed. I note that we've received a pop-up that the recording has stopped.
27 Are we still recording? We are still recording. Fine. Apologies. Good.

28 MS LAVER: Okay. So as it's only Thurrock that's requested to speak on the last item
29 on lighting, it's over to you, Mr Mackenzie.

30 MR MACKENZIE: George Mackenzie for Thurrock Council.

31 MS LAVER: Don't feel rushed.

32 MR MACKENZIE: I'm so sorry, I actually inadvertently put my hand up.

33 MR SMITH: We did have Kent County.

34 MS LAVER: Mr Fraser-Urquhart, is it? I didn't see you.

1 MR FRASER-URQUHART: Well I was slightly tentatively waving because I'm sure
2 what I'm about to say is even more unwelcome, given that it's 1.05. Just to say
3 that we focussed our concern about lighting with respect to ecological matters,
4 and again are in a position to provide a brief summary of that if you want it. As
5 I say, I suspect you may not, but it's here available if you want to hear it.

6 MS LAVER: So there is nobody else in this room that wants to talk about this from a
7 landscape perspective? Woah, lucky National Highways. Yes, Mr
8 Fraser-Urquhart, while we're in the room, I know we are on landscape, but you
9 have a point to make and it would be good to hear it.

10 MR FRASER-URQUHART: I'll pass directly over to Helen Forster who will make the
11 point.

12 MS FORSTER: Helen Forster, Kent County Council. It was just once again a brief point
13 to highlight that there will be a significant increase in lighting and actually they
14 need to make sure any lighting design is minimised to make sure species that are
15 being mitigated for can be maintained and retained in those areas.

16 PARTICIPANT: [Inaudible].

17 MS FORSTER: Oh, so primarily nocturnal species such as bats or dormouse, but
18 obviously any invertebrates as well can be impacted by lighting.

19 MS LAVER: Thank you very much. Mr Tait, does the applicant have anything they
20 wish to add on the item which is clearly not contested?

21 MR TAIT: Only – sorry, I said no, but I mean yes.

22 MR SMITH: Certain people clearly need some blood sugar.

23 MR TAIT: But only a short yes, and it's a very brief yes. Just to refer to the design
24 principles LST-2 and 3 in REP6-046, requiring the detailed design to preserve
25 nocturnal character through minimising lighting and the measures – potential
26 measures – are dealt with at para 2.4.26 of chapter two of the ES, so that's at
27 140, and the assessment is clearly set out in appendix 7.9 and appendix 7.10 at
28 384 and 385 in relation to impact on landscape character and views, and the final
29 point is the matter I referred to earlier is relating to low-level lighting on the
30 green bridges in the AONB. It's also applicable here, coming forward at D8.

31 MS LAVER: Very helpful, thank you very much. Okay, so I think we close out agenda
32 item three and I think now is a good time to break for lunch. An hour. So we
33 will say 2.05, please, everybody. Enjoy your lunch.

34

1 (Meeting adjourned)

2
3 MR PRATT: Afternoon. It's 2.05. It's the afternoon session of issue-specific hearing
4 11: environmental matters. It's Ken Pratt, panel member, speaking, and we're
5 now on agenda item 4, having completed 3 just before we packed up for lunch.
6 Coalhouse Fort and Point. At this point, I think the question is really for itself,
7 and I would like to hear from the applicant, Thurrock and the Environment
8 Agency with regards to the position. So I will start with the applicant, if I may,
9 and then I will ask the other two to come in after that. Mr Tait.

10 MR TAIT: Thank you, sir. I have on my left Lisa Driscoll who is the water and
11 environment lead for the project, and next to her, Michael Wilson who's the EIA
12 coordinator and Mr Cryer who's the HRA lead and John Park Hughes at the end
13 who's the tunnelling construction lead on the last point in terms of working
14 practices. So I was going to start by asking Lisa Driscoll, please, to address the
15 first point, please.

16 MS DRISCOLL: Good afternoon. Lisa Driscoll for the applicant. The applicant
17 proposes to deliver a new wetland habitat which is formed of a number of
18 shallow scrapes and a network of connecting ditches, and this would be
19 delivered through realigning an existing ditch which runs centrally through the
20 land at Coalhouse Point. The proposals would maintain what is the current flow
21 regime which takes water from south to north and then through a watercourse
22 that flows towards the Star Dam. Hydrology studies have indicated that there's
23 not enough water in the natural catchment to maintain the water levels in the
24 new water features that are intended by the design, and as a result we've
25 provided for, within the DCO, a secure source of water to ensure the long-term
26 delivery of the ecological objectives of this piece of mitigation. That is via a
27 new water inlet through the existing embankment which is along the river
28 frontage.

29 The applicant's view is that the proposed design for the new water supply
30 via the new inlet valve from the River Thames is the most appropriate for
31 supplying water to the mitigation area. This would supply water – a sufficient
32 quantity, and also water of similar quality – to the alternative arrangement which
33 would be via the moat system at Coalhouse Fort. The approach to providing

1 water supply is secured in the DCO within the COCP, that's document
2 REP6-040 and REAC item HR010. Did you have a question?

3 MR PRATT: Yes. Sorry, can you hear me? The question was based on the discussions
4 between you, the applicant, the Environment Agency, and Thurrock, as to the
5 supply of that water. I appreciate the background that you've given, but at this
6 stage I'm really just looking at A1 rather than going down the full list.

7 MS DRISCOLL: So we carried out a site visit with our stakeholders in April 2023. It
8 was attended by representatives of the Environment Agency, Natural England,
9 Historic England, Thurrock Council and the management team from the
10 Coalhouse Fort monument. During that visit it gave us the opportunity to
11 describe our proposals and we also got some very useful feedback and
12 understanding on how the existing drainage regime is managed in that area.
13 During that visit, there were some concerns raised by those stakeholders about
14 the ability of the alternative means of water supply via the moat to sustain our
15 objectives.

16 So in terms of documentation that we've submitted to the examination, I
17 think there are three key documents that we'd like to highlight. The first of those
18 is in annexe C.8 of the statement of common ground between the applicant and
19 the Environment Agency, and that note covers the – focuses on the new inlet
20 structure, covers its construction footprint, construction methodology and those
21 details.

22 The second document is in annexe C.13 of the statement of common
23 ground between the applicant and Natural England, and this provides lots of
24 information and clarifications regarding the designs of the scrapes and the
25 ditches, as well as setting out the water demand of the system and how water
26 levels will be managed in the system. That document was shared with Natural
27 England to confirm the feasibility of the design. We can continue to engage
28 with Natural England on that.

29 And then the third document – which is a relatively new submission at
30 deadline 6 – is the Coalhouse Point flood risk assessment. That is document
31 REP6-102 and that sets out the findings of a hydraulic modelling study that
32 we've undertaken [inaudible] of the new wetland features on flood risk to
33 receptors offsite such as the Coalhouse Fort car park and the gas facility that is

1 also in that location. In terms of discussions, we've been tracking our progress
2 with all that through the statement of common ground with those three parties.

3 MR TAIT: If I can add, so there's a statement of common ground at deadline 7 with the
4 Environment Agency and that confirms that the Environment Agency has
5 reviewed and accepted the Coalhouse Point technical note that's been referred
6 to, and that's documented as a matter agreed, and so there's an annexe C.15
7 when that hits the press that confirms that position to that statement of common
8 ground.

9 MR PRATT: You'll be glad to know, Mr Tait, my belief is that it's going to be published
10 ASAP, hopefully some time today or later on. I'm just waiting on confirmation
11 when it hits the airwaves, so to speak.

12 MR SMITH: The position with Thurrock, I appreciate we will hear from them directly.

13 MS DRISCOLL: Yeah, so just to briefly carry that. There's two items within our
14 statement of common ground with Thurrock into Coalhouse Point. They are
15 items 2.1.174 and 2.1.283. Both of those are currently at a status of 'under
16 discussion'; however, in our last meeting with Thurrock where this was
17 discussed, we understand that following their review of the flood risk assessment
18 that was submitted at deadline 7, we're hoping to progress that to a matter
19 agreed. So we're just waiting for their feedback from that review.

20 MR SMITH: In relation to matters bearing on deadline 7 documents, I can confirm that
21 deadline 7 has been published, so if everybody disappears into a huddle, we
22 know why that is. Apologies, Mr Pratt.

23 MR PRATT: Thank you. You obviously did what I was about to do. I was going to
24 check. Thank you for that.

25 MR TAIT: That's the position from our perspective on current position and discussions.

26 MR PRATT: Thank you very much. Before I open up to general comment, could I have
27 a comment please from Thurrock and the Environment Agency? I will start with
28 Thurrock, if I may. Mr Mackenzie.

29 MR MACKENZIE: Thank you, sir. George Mackenzie for Thurrock Council. Sir, on
30 this topic you're going to hear firstly from Steve Plumb from whom you heard
31 earlier. Mr Stratford will then deal with a discrete point in relation to the stamen
32 of common ground, and then if I may ask David Burgess, who's in the online
33 space, to address you. Mr Burgess is the principal flood and water management
34 consultant for Thurrock. Thank you, sir. I hope that's in order.

1 MR PRATT: Please do.

2 MR PLUMB: Thank you. Steve Plumb for Thurrock Council. I think, broadly, the
3 council is supportive of the proposals. There are a couple of questions which I
4 think we're just trying to get addressed. The maps which were issued yesterday
5 – sorry, I haven't got a reference for them, we only received them by email
6 yesterday – which show the routes of the water does include the link to the
7 Coalhouse Fort moat and feeding down into the site, and I think it's just – from
8 that point of view we're just after clarification and confirmation that that's really
9 just maintaining the existing flow through the drainage rather than any other
10 specific function.

11 The issue the council remains concerned about is the condition of the
12 overall flood defence fronting onto the proposed mitigation site. The defence
13 was overtopped by the river in 2019 and there was structural damage caused to
14 it. It has subsequently been repaired by the Environment Agency in 2022, but
15 at that point the Environment Agency did consider the structure to be at risk of
16 failing in the short term, and at that point there was estimates of a five-year
17 lifetime given.

18 The council therefore would like confirmation that the applicant will be
19 responsible for the maintenance of the whole structure in the long term for that
20 section fronting onto the proposed mitigation area, and confirmation of the
21 timings. I think we received a bit more detail in the document that was issued
22 yesterday – just confirmation of timings of when the works will start, because
23 obviously if you've got a structure which is at risk of failing in the short term,
24 and there's delays in starting the project, who's responsible for it in the – during
25 that period. Those are the main points at this stage. Thanks.

26 MR PRATT: Can I just – it's Ken Pratt again – can I just ask for a little bit of clarity
27 there? Am I right in saying that the flood embankment failed in 2019 and has
28 been repaired by the agency – are you looking for the applicant to put their new
29 headwall or whatever it is – in that location and look after it, or are we – am I
30 confusing matters?

31 MR PLUMB: Thank you, sir. Steve Plumb for Thurrock Council. I'm not technically
32 qualified to answer that. It was just really highlighting at this stage that that's a
33 concern. I'm hoping that somebody who will be qualified – but it's just having
34 seen the structural damage in 2019, it's just being aware what's going to happen

1 in the short term. I imagine the Environment Agency would be best placed to
2 discuss that aspect.

3 MR PRATT: I will check with them. Mr Mackenzie, have you somebody else that you
4 wish to bring on at this stage?

5 MR STRATFORD: Thank you very much. It's Chris Stratford for Thurrock Council.
6 My understanding is that the Environment Agency – and they can speak for
7 themselves obviously – have abdicated the responsibility now that they've
8 repaired that section, and they are responsible for the primary flood defence
9 system at Star Dam but not so much down here at the coast. So the reason we've
10 asked for that section – not the entire section of the coast, but that section where
11 the mitigation is happening – confirmation of whether that will be maintained in
12 perpetuity by the applicant. So we wait to hear from that.

13 In terms of the statement of common ground, we have a mop-up meeting
14 on Friday with National Highways. The agenda that they've got right now
15 doesn't include those two items that were mentioned, 174 or 283, but I daresay
16 they can now. I'm looking at National Highways to include that in the agenda.
17 So we will deal with it, and it very much depends on whether we can get
18 confirmation on both the timings and the maintenance and what happens about
19 the remaining discussions on the subsequent items about drainage as to what our
20 final position might be. Okay. Thank you.

21 MR PRATT: Thank you very much. At this stage, I'm going to go to the Environment
22 Agency, Mr Penn, just to get their input into the beginning of this discussion
23 before I open it out to the rest of the assembled company. Mr Penn.

24 MR PENN: Good afternoon. Richard Penn from the Environment Agency and I may
25 need to call upon Phil Spearman, our risk advisor, if we get into some technical
26 matters beyond my capability. So in terms of the supply of water, the applicant
27 is right, we have got a revised statement of common ground which includes
28 agreement that the use of a self-regulating valve to provide water for the
29 mitigation – we agree with that matter and that was following the site visit that
30 was mentioned. The details of that are found in REAC RDWE049, and within
31 the code of construction practice environment statement appendix 2.2 and that's
32 REP6-038.

33 I also confirm that flood Coalhouse Fort hydraulic model is approved
34 under the flood modelling and flood risk assessment for Coalhouse Fort which

1 is REP6-102. The supply of water from the tidal Thames into the mitigation is
2 very likely to require a licence – an extraction licence – and this is set out in the
3 consents and agreements position statement which is REP6-014, and it’s in our
4 – the matter agreed in our statement of common ground. I haven’t written a new
5 reference for that yet.

6 So I think that probably covers off that we’re comfortable around the
7 supply of water through the regulated tidal exchange. Perhaps just – and again,
8 our understanding is that from the compulsory purchase order hearings, it’s the
9 applicant’s view that they will take on ownership of this structure and land and
10 therefore the responsibilities for the future maintenance would fall to them. I
11 think that’s probably – and then there’s – I recognise the gap between them
12 taking on full ownership between now and then.

13 MR PRATT: Can I just – it’s Ken Pratt again – can I just confirm something that our
14 friends at Thurrock mentioned, and that is that the flood banks on the side of the
15 river have been – are now with the landowner and the agency’s responsible for
16 the ones at Star Dam?

17 MR PENN: As I understand it, yes, currently at Coalhouse Fort it’s with the current
18 landowner and we do own the flood defences at Star Dam.

19 MR PRATT: Thank you very much. Anything else you want to say at this point?

20 MR PENN: No, I think we’ll make some points in the later discussions.

21 MR PRATT: Thank you. If I’ve got this right, before I open it out, my understanding
22 now is that once the project goes ahead, there will be in essence two holes in the
23 flood banks on the river. Is that correct? Both going into a system which
24 eventually joins together as well. Either – any of the three of you could come
25 back and answer that, if you don’t mind.

26 MS DRISCOLL: Lisa Driscoll for the applicant. So there would be one new inlet which
27 the project creates, and there is one existing inlet.

28 MR PRATT: Thank you for that. So as part of the project we are not getting rid of the
29 existing one at Coalhouse Fort, so there will be a new one and there will be an
30 existing one. That’s fine, because that probably takes me into part two of the
31 question, but I am aware that I said I would open this first part of the question
32 out to everybody, which I do now. I know Mr Holland has indicated a wish to
33 speak on this matter. I’ve got Natural England as well. Is there anybody else in
34 the virtual room or in the room that’s not... Mr Smith.

1 MR SMITH: Yes, just very briefly before we go further an introduce additional
2 submissions on it, there was a point of clarification in terms of the interface
3 between the fort moat and the fort itself. I'm just clarifying the ownership of
4 the fort. I'm understanding Thurrock Council, but I might be wrong.

5 MR STRATFORD: Chris Stratford for Thurrock Council. Yes, the fort is under lease
6 from the Ministry of Defence, I believe, to Thurrock Council on a long-term
7 lease, and David Burgess, who's online, has – having spoken to the ranger at
8 Coalhouse Fort – now has a better understanding of how the system works from
9 a drainage point of view. He can outline that for you if you would like.

10 MR SMITH: I'll leave the mechanics of that to Mr Pratt, but I just thought before we
11 went any further, given there was one potentially relevant stakeholder missing
12 in the piece, let's find out who they are. Sorry, Mr Pratt.

13 MR PRATT: That's fine. I missed that comment. Right, at this stage I will ask the
14 Natural England to come through first and then I'll come to you, Mr Holland.
15 Natural England.

16 MR GRANT: Thank you, sir. Nick Grant for Natural England. It's actually Mr Bustard
17 on screen who's going to put forward our views on this.

18 MR BUSTARD: Thank you. Jonathan Bustard for Natural England. I just wanted to set
19 out briefly our position around the re-wetting works at Coalhouse Point. As has
20 been outlined, the provision of the water is set out within the REAC provision,
21 HR010. The water inlet as a self-regulating valve. This, I think, was one of a
22 number of options for water supply, but I wanted to just express that the option
23 for water supply through the regulator tide change valve is one that we very
24 much support as the preference of the two, the second being from the Coalhouse
25 Fort moat. It has a number of advantages ecologically, and whilst it would be
26 true to say that both options can deliver the HRA mitigation requirements strictly
27 speaking, the option using the tide exchange valve has significant additional
28 ecological benefits for which reason we support that approach in particular.

29 We have been discussing with the applicant a number of details around
30 this which are described in our technical notes which is shortly to be submitted
31 into the examination once we've had a final check of that, and essentially that
32 technical note will describe the feasibility of the structure, the security of it, and
33 the design of it, bringing all the different strands from our point of view together
34 into a single place which certainly has helped us to be able to express confidence

1 in the conclusions linked back to the habitats regulations assessment. I think
2 that's all I want to say at this point on that item. Thank you.

3 MR PRATT: Thank you for that. The one thing I will make clear at this point, I think,
4 is I'm not necessarily dealing with the HRA per se. We're doing that through
5 the written process. This is more a drainage and non-HRA type environmental
6 approach if that makes sense. Mr Holland, you have indicated that you wish to
7 speak on this matter.

8 MR HOLLAND: Thank you very much, sir. I was trying to just assist you all with
9 confirmation on maintenance, and I do note that Phil Spearman, I think, is in the
10 background who I know very well who dealt with the breach in September 2019
11 with myself. The EA has, in written form, now ceased their maintenance
12 permissive powers as of January 2023, just for clarification for everybody. The
13 April 2023 meeting I don't believe we were invited to, so the landowner was
14 unable to assist with that meeting to give their understanding of how things
15 work, but I'll happily be corrected if that was incorrect.

16 I'm trying to stick to the questions in the order that you have asked them
17 and not stray into HRA ecological mitigation matters. However, given that
18 you've asked the question of the EA, Thurrock, and the applicant jointly, one of
19 the questions in my mind, understanding this location reasonably well, I'm a
20 little surprised in the assessments – and again, there's quite a lot here that I may
21 have missed – but the current flood bund, which is at a level of 4.38 metres, I
22 believe – I can see nodding heads – during the discussions with the EA over the
23 breach, it was quite clear that – and I think it's already been stated – that that
24 would not suffice in the long term, although at the time it was agreed that the
25 breach would be repaired and that breach has been repaired.

26 The flood bund itself is a silty clay construction so it does have its
27 downsides, but in understanding how the inlet and the management of that water
28 flow will work, please direct me to where the EA have considered the long term
29 flood issues with the applicant, because it's one thing managing the inlet, but if
30 the water comes over the top because of the change in flood levels – and
31 particularly, I would add, those events tend to happen when the Thames barrier
32 is closed, so if you consider the current Thames barrier operation, you could
33 even go further and add the new Thames barrier operation in 2050 through to
34 2070 which is certainly on the EA's radar at the moment – I'd like to understand

1 how they manage that particular scenario and again, if I've missed it in the
2 paperwork then I'm sure they'll direct me to it.

3 MR PRATT: Thank you for that. To a certain extent, the flood defence of the land from
4 the river is not necessarily what we are looking at because we're looking at a
5 road, to be honest. I think at this stage, I'll invite the applicant to come back at
6 this point on the agreements, and I think we can maybe discuss the flood levels
7 and such like when we get onto the next part of the question, because that seems
8 to be more to do with the operational effects of the new headwall.

9 MR HOLLAND: Yes, I note that. Yeah.

10 MR PRATT: Mr Tait.

11 MR TAIT: Thank you, sir. Can I respond to the various points that have been made thus
12 far? There's plainly a wide measure of agreement with the statutory bodies, in
13 particular with the Environment Agency and Natural England and I think also
14 Thurrock.

15 The first point is that, as Mr Bustard for Natural England mentioned, there
16 is a REAC commitment HR1 which provides that it's a self-regulating valve that
17 would be the inlet approach. The second query related to – or the second matter
18 – related to the licensing position, and in relation to that, the requirement for
19 consents under Section 24 and 25 of the Water Resources Act 1991 is not
20 disapplied and that's recorded in the consents and agreements position
21 statement. So that is a control that remains in any event.

22 Thirdly, a point raised by Thurrock as to confirmation that the applicant
23 would be responsible for the structure – the flood bund – in the long term, and
24 the existing flood bund has been incorporated into the order limits, subject to
25 compulsory acquisition, and therefore National Highways would take permanent
26 ownership of that part of the feature that falls within the order limits shown in
27 the FRA which is REP6-102 at plate 101.

28 The other point raised by Thurrock related to confirmation of timings and
29 that's going to come up under item four, I understand, so we'll come back to that
30 at an appropriate time. And the final point I think was the third point, effectively
31 raised by Mr Plumb, relating to a comment on the plan about a link to the moat
32 and a query about that. I don't know whether you'd like to come back to that
33 when you're dealing with now, or...?

34 MR PRATT: I was about to go straight onto question (ii) if you –

1 MR TAIT: So that probably comes up under question (ii) because we'll be looking at the
2 plan in that.

3 MR PRATT: That's what I was thinking, and if you – the only preamble to question 2 is
4 I know we talk about chemical composition and things like that. I don't – if
5 we're going to go that technical can we have that piece in writing. It's really the
6 generalities that we're interested in.

7 MR TAIT: We can give some quite short, punchy answers to that question and come
8 back and explain it even further.

9 MR PRATT: Before we actually move on, I think there is one question that needs to be
10 bottomed out, and that was a little bit on what Mr Holland said about flood risk
11 in the future, and that's just – the question I have is that you've stated that the
12 design of the new inlet, headwall and such is going to be approved by the
13 Environment Agency under the regulations, so presumably the level of defence
14 you will do whatever the agency tell you to do. There will be no lessening of
15 defence – flood defence – from what they expect to happen at present. Can you
16 please confirm that?

17 MR TAIT: I can confirm that, but I'll ask Lisa Driscoll just to add.

18 MS DRISCOLL: Lisa Driscoll for the applicant. So the flood risk assessment has
19 considered a whole range of different scenarios. We've looked at flood risk in
20 an overtopping scenario – so when there's such an event that the bund overtops.
21 We've also looked at a breach scenario in the bund and we've also looked at a
22 situation where the inlet fails and gets sort of stuck open, so we've assessed all
23 three of those scenarios.

24 MR PRATT: Thank you very much for that clarification, and I think just to finish the
25 point, Mr Penn from the Environment Agency, can I just confirm that that is
26 your understanding as well? That the work is proposed at this point in time will
27 meet your standards.

28 MR PENN: Richard Penn from the Environment Agency. Yes, I agree with that, and the
29 one correction is that the flood risk activity permits are part of the DCO. They
30 have been disapplied, but the process for assessing impacts is still there.

31 MR PRATT: Thank you very much for that clarification. Now, Mr Tait, I think we can
32 go onto question (ii).

1 MR TAIT: Thank you, sir, and you've given us notice on how you would like us to
2 respond to this, and again I'll ask Lisa Driscoll to respond, looking at the key
3 points.

4 MS DRISCOLL: Yes, I think this is – Lisa Driscoll for the applicant – looking at the
5 plan that we're going to share would be very helpful. So on this plan, the yellow
6 line indicates the way water moves through the system from the existing inlet at
7 Coalhouse Fort. So there is an intake there and the water gets fed in the first
8 moat water body and then can pass into the smaller lower moat. The water can
9 then feed into a system of ditches which is in the little triangular parcel of land
10 next to our site, and then that passes along the river frontage and then goes up
11 that central ditch away from the River Thames to the north, and then that links
12 into the water courses at the top there where the Star Dam is situated. Eventually
13 it makes its way back around the loop and flows back into the River Thames at
14 the Bowaters Sluice. So that is how the existing system operates.

15 In terms of the question directly, therefore, the new inlet structure would
16 allow us to supply water more directly and in a hydraulically less complex
17 manner than would via the other option – via the moat system – is the short
18 answer.

19 MR TAIT: So the second question is about chemical composition.

20 MR PRATT: I'll try and help you, Mr Tait. Where I'm thinking of going for this is, if
21 you're bringing water in, albeit from the same source, there will be changes due
22 to the flow regimes. What is the difference in the composition, and will it make
23 much difference with the species that you're trying to encourage, etc? It's not
24 just purely on the flood risk elements. It's also the biodiversity ideas.

25 MS DRISCOLL: Lisa Driscoll for the applicant. So it's the applicant's position that
26 both means of water supply would deliver water into the new wetland features
27 that would be of a similar chemical composition. Taking the route via the moats,
28 the moats themselves are supplied with water from the River Thames, and that
29 water is therefore a combination of Thames water and the rainfall they receive,
30 and then via the alternative means of water supply, the scrapes and ditches would
31 be supplied with, again, river water from the Thames in addition to the rainfall
32 that falls over the land. So it's our position that that chemical composition would
33 be similar via either of the supply routes.

1 MR TAIT: Carrying onto the ecological environment, whether that – including species
2 – whether that is in any way affected by the matters you’ve just addressed.

3 MS DRISCOLL: Lisa Driscoll for the applicant. So considering our position on both
4 the security and the quantity of water that’s available via our preferred supply
5 route and what I’ve just described about chemical composition, we think there’s
6 a very low risk that the intended ecological environment that we wish to create
7 wouldn’t be able to be created.

8 MR PRATT: I suppose we’re also really – the next ongoing question from that, really,
9 is the effect on third parties insofar as if you’re getting water in for the mitigation
10 area, looking at the plan we’ve got in front of us, that same water could end up
11 at Coalhouse Fort. It could also end up towards Bowaters Farm. Is the amount
12 of water that comes in, is that going to affect the water levels at those two points?
13 Are you going to make it more of a pond than it is at present? Is it currently
14 more natural fed from the north? How does that affect your – I’m trying to bring
15 it back to how do you affect each of the other areas and how is this going to
16 affect the species and the types of environmental – I suppose the word is species
17 – that you’re looking to encourage at this point?

18 MS DRISCOLL: Lisa Driscoll for the applicant. On the second plan that we’ve just
19 shared, that shows the wetland design and as part of the design there will be a
20 series of water level controls within the system and also a structure at the
21 northern end of the system which will control outflow into that watercourse that
22 flows to the Star Dam. So with those control measures in place which are
23 secured by a REAC commitment, then we’re able to manage and control water
24 levels in the system. I think that after the initial fill from the inlet, our water
25 demand is actually quite small and that would consist of some small top-up
26 volumes of water entering the system during the summer months.

27 MR PRATT: Just to clarify – will the water level in your system have any effect on the
28 water level in, say, the Coalhouse Fort moat?

29 MS DRISCOLL: Lisa Driscoll for the applicant. No, I don’t believe it would.

30 MR PRATT: Right. Thank you for that. Is there anything else at present, Mr Tait?

31 MR TAIT: Not on item (ii), no.

32 MR PRATT: Not on item (ii). In that case, I will open it up to the assembled company.
33 If there is anybody who wishes to raise anything or make a comment. Mr
34 Holland? Anybody else? Mr Holland, the floor is yours.

1 MR HOLLAND: Thank you, sir. Just to clarify, the northern control point – is that a
2 full stop at that point? Does it keep the – I’m going to call it the saline water
3 environment – separate from the freshwater environment completely, or does it
4 allow for a two-way flow? I’m trying to understand how that works in relation
5 to what would be the runoff water from the land to the north of that point. And
6 second point is – and in my own plan yesterday of water flows I do agree with
7 the applicant that’s the nature of the flows at the moment – the only addition to
8 that I would add is the ditch between the DHL land which is East Tilbury
9 marshes on the plan, and Coalhouse Point land which is on the west side of
10 Coalhouse Point and the east side of the East Tilbury marshes, there is a ditch
11 there and I think we’re right in saying that runs back to the eastern side of Star
12 Dam. Given that that ditch is adjoining the DHL landfill site, without trying to
13 put the applicant in a difficult position today, I just want to understand how that
14 is also managed as part of the water network because there may or may not be a
15 different chemical composition in that ditch.

16 MR PRATT: Mr Tait, would you like to respond on that question?

17 MR TAIT: Lisa Driscoll can deal with one or other of those or both of those points.

18 MS DRISCOLL: Lisa Driscoll for the applicant. So just on the first point, the water in
19 the ditch to the north isn’t freshwater as such because it has that influence of the
20 waters from the River Thames which feeds through the system via the moats, so
21 I think there’s possibly a little bit of a misconception that there’s a freshwater
22 system and a saline water system in this area.

23 MR PRATT: I think going into the next question in essence, I’ve got one question and
24 then we’ll move on, and that is that when we’re talking about the regeneration
25 of this area, are we looking for natural recolonisation or are we looking to seed
26 it somehow? That’s my question at this point. I’ll then just open it out for
27 Natural England or anybody else to come in on and then we’ll move onto the
28 next question which deals about irrigation and things like that, if we may.

29 MR TAIT: I think that will be for Mr Cryer who’s the HRA lead.

30 MR CRYER: Russell Cryer for the applicant. So the wetland area – so the scrapes and
31 the ditches – would be left to colonise naturally and the propagules would come
32 in and out on the water through the inlet. The grassland – the commitment there
33 is to sow with an appropriate mix to get the grassland started and the appropriate
34 mix would be agreed during the detailed design exactly what that would be.

1 MR PRATT: Thank you. Mr Mackenzie.

2 MR MACKENZIE: Thank you, sir. George Mackenzie for Thurrock Council. Could I
3 ask Mr Burgess, who is online, to address you on a short point that I understand
4 he'd like to make in relation to Star Dam. Thank you.

5 MR BURGESS: Hello, David Burgess on behalf of Thurrock Council. So most of my
6 questions have been answered, actually, from the applicant, so thank you very
7 much. I just have a minor residual question. So it's understood that the applicant
8 would be maintaining the water levels within the proposed wetland area with
9 new structures. However, one point I was not quite clear on was whether there
10 would be any proposed modifications to Star Dam to further maintain water
11 levels within the wetland area, and if so, what that would be.

12 I do have some other questions related to potential contamination as well,
13 whether there would be a potential contamination risk to the wetland through
14 the Star Dam from the watercourse on the western side. So that's my only – oh
15 and also, sorry, again with the Star Dam, one of the – with reference to
16 Coalhouse Point FRA, which is REP6-102, the applicant has stated that they
17 would take ownership of the flood defences within the order limits, but one of
18 the issues with the Star Dam is that the order limits appear to cross part of the
19 Star Dam, so there could be some confusion about whether the whole Star Dam
20 would be maintained by the applicant or if there would be a mix of
21 responsibilities there. That's all for now.

22 MR PRATT: Thank you very much. Mr Tait, I think we've moved into item number
23 three, so can I make a suggestion that you answer the points of item number
24 three which will include some of the points that have just been raised by
25 Thurrock and we'll pull them all together in a single aspect.

26 MR TAIT: So would you like us to do that now, to turn to item three?

27 MR PRATT: Yes, I think that's best.

28 MR TAIT: So again, it's Andrew Tait for the applicant, and if we deal with each point
29 in turn, so the first point relates to an effect on water as a source for irrigation
30 purposes and we don't understand there's any such use for irrigation purposes,
31 but can I ask Lisa Driscoll to deal with that first of all.

32 MS DRISCOLL: Lisa Driscoll for the applicant. So the applicant has not been made
33 aware of any active irrigation systems that are operated in this area. We've had

1 some discussions with the current landowner who's confirmed that he doesn't
2 use water for that purpose in this area.

3 MR TAIT: Mr Holland is nodding.

4 MR HOLLAND: I can confirm that's correct. We don't irrigate from those flows at the
5 moment.

6 MR PRATT: It was my understanding, Mr Holland, that at compulsory acquisition
7 hearing four you made comments that there was potential to irrigate upstream of
8 Star Dam.

9 MR HOLLAND: I don't think I did, sir, I'm afraid. If I did, it was an offline comment
10 which wasn't intended, but I don't think irrigation has ever come into the Mott
11 family's land ownership and management. Of course, I would add that the Coles
12 irrigation reservoir is just north of this water network and that is naturally fed by
13 a number of springs, I understand, and the applicant will have a much better idea
14 of that than I do.

15 MR PRATT: I'm wrong, my apologies, Mr Holland.

16 MR HOLLAND: That's not to say we wouldn't in the future.

17 MR TAIT: Those were the first and second bullets in relation to item three. Item four
18 which was just picked up by Mr Burgess about Star Dam, there are no
19 amendments necessary at Star Dam as there's no significant change to the
20 overall volumes of water flowing through the system, but again I'll ask Ms
21 Driscoll to deal with that point. My comments about the order limits related to
22 the position on the River Thames to that bund, not Star Dam.

23 MS DRISCOLL: Lisa Driscoll for the applicant. With regards to the first part of the
24 question in terms of responsibility for setting the operational parameters, and
25 operation maintenance, the operation parameters for Coalhouse Fort mitigation
26 area will be set to achieve the management aims and objectives that are
27 described in section 6.3 and section 8 of the oLEMP which is document 6.7
28 which has recently been updated for deadline 7. These objectives have been set
29 in accordance with Defra guidance which is managing [low and wet grassland?]
30 for birds, and this is secured via COCP commitment HR010, which is document
31 REP6-038, again updated for deadline 7.

32 The maintenance of any new inlet structure and also their water level
33 control structures within the wetland, as secured by commitment RDWE14
34 within the COCP, the wording of this commitment has been updated for deadline

1 7 to broaden its scope. It was originally just referring to culverts, but it's
2 subsequently been broadened to cover all hydraulic water or control structures.

3 MR TAIT: I think that's – I've responded to the third question. The fourth question
4 relates to irrigation, I understand, and Ms Driscoll's addressed that for the last
5 bullet point.

6 MR PRATT: That's fine. I will open it out to the assembled company. It's the
7 operational basis of the proposals in relation to the existing. Has anybody got – is
8 there anybody who wishes to speak on this matter? Natural England, Thurrock. In
9 that case, Mr Grant, do you wish to start on this matter?

10 MR GRANT: Thank you, sir. Natural England's point was actually more about the
11 previous items and whether it would help to hear from us on things like natural
12 versus sowing regeneration and the extent to which the proposals could provide for
13 species. We sort of bounced into this. If it would help, I could ask Mr Bustard to
14 come on and explain those points, or if you'd rather just have it in writing, given
15 that we seem to have moved on. I'm ambivalent.

16 MR SMITH: [Inaudible].

17 MR PRATT: That's just the point I was about to make, Mr Smith. If there's a serious
18 difference with the applicant, we'll hear it now. Otherwise, we'd be happy to
19 hear it in writing.

20 MR GRANT: I don't think there is a serious difference, so probably writing's best in
21 that case.

22 MR PRATT: That sounds adequate to me then, and if nothing else to add then, Mr
23 Mackenzie from Thurrock.

24 MR MACKENZIE: George Mackenzie for Thurrock Council. Yes, sir. Mr Burgess
25 again, please, online.

26 MR BURGESS: David Burgess on behalf of Thurrock. Thank you. I just wanted to pick
27 up on one of the questions there just to clarify in relation to Star Dam. The order
28 limit line – it appears to cross the Star Dam itself, and so it does create maybe a
29 point of confusion on where the line or limits of ownership and responsibility
30 for maintenance will lie. So I just wonder if the applicant could clarify that and
31 in terms of post-development who will be operating or maintaining the Star
32 Dam.

33 MR SMITH: And actually, as a follow-up from that, wearing a compulsory acquisition
34 and temporary possession hat, and looking at the land plan sheet 19, it would be

1 useful just to understand, essentially, the distribution there between permanent
2 acquisition of land as against temporary possession sitting over the Star Dam
3 area. I just find myself in circumstances where I would rather ask a silly question
4 now rather than regret it considerably for a long time afterwards.

5 MR PRATT: Mr Tait, if you –

6 MR TAIT: Sir, can we respond to that in writing? That's an area where there's temporary
7 possession, I understand.

8 MR SMITH: I mean, if I can assist you, if you're coming back in writing on that, the
9 purpose for my question was just to understand, essentially, that if there are
10 physical elements of structure, bank, bund enclosure that need to be maintained
11 at Star Dam and it was better that they fell under a single ownership in order to
12 facilitate that, is that what is provided for in the land plan or not?

13 MR TAIT: It isn't, but we will give you chapter and verse on that.

14 MR SMITH: Thank you.

15 MR PRATT: Mr Penn, you've obviously pre-empted my question. If you would like to
16 take the floor.

17 [Crosstalk]

18 MR PRATT: My question was going to be that you said you had some responsibilities
19 in that area, and I was going to offer you the opportunity to either come and
20 explain or put it in writing, but the floor is yours.

21 MR PENN: Good afternoon. Richard Penn from the Environment Agency. Yeah, I can
22 confirm that, whilst we don't have ownership of the structure, we will continue
23 to maintain it because of the wider risk benefits that it confers to the area.

24 MR PRATT: Thank you for that. Mr Smith, do you want to come in on that at all?

25 MR SMITH: Well, I think the obvious follow-up from that, as I'm sure Mr Tait will
26 absorb, is that to the extent that he's dealing with my previous point in writing,
27 if he can wrap in the degree to which the Environment Agency are able on an
28 ongoing basis to maintain.

29 MR PRATT: Is there any other points to be raised on this issue? No. In that case, one
30 last question on this, and that is there is a comment – I read some comments that
31 the existing species information is limited, and further surveys are going to be
32 undertaken before the detailed design stage of the project. Is that likely to make
33 many changes to what you are proposing depending on what you find?

34 MR TAIT: I think a matter for Mr Cryer.

1 MR CRYER: Russell Cryer for the applicant. Simple answer is no. We have survey
2 results. We are pretty sure what's there. We'll obviously look at it more closely
3 as we get into detailed design, but we're not expecting to find anything unusual,
4 and even if we did, we would work around that.

5 MR PRATT: I've got this habit of switching the microphone off as I'm about to speak.
6 I'm not quite sure. Anyway, thank you for that. Unless anybody else wants to
7 comment anything on that question, I'm going to carry on to the last one in this
8 series, which is about the limitations on working practices. Mr Tait, I think this
9 is a breakdown of working periods and maintenance regimes and suchlike.

10 MR TAIT: Yes, sir, and we provided something in advance to put on the screen. Clearly,
11 this arises because the works here must precede the release of the main works at
12 the north portal site as they're ecological mitigation for disturbance to birds
13 using that area, and therefore, the works are programmed for as early as possible,
14 and this is giving an indication of such early programme, and it will be Mr John
15 Clark-Hughes who can speak to that, I believe.

16 MR CLARK-HUGHES: Good afternoon. John Clark-Hughes for the applicant. So yes,
17 just to reiterate the point that's just been made there, the summary of approach
18 is the works must precede the release of the main works at the north portal site,
19 as they are eco-mitigation for disturbance to the birds that currently use the north
20 portal area. The nature of the tidal flats is such that many species utilise the mud
21 flats at low-tide, but then at different states of the tide, the fly out onto the
22 functioning link land that forms part of the north portal area.

23 So the whole idea is to provide mitigation to that and provide additional
24 habitat, which is what the wet scrapes and ditches are intended to do. The works
25 are therefore programmed as early as possible based on the expected date of
26 grant of DCO being the trigger to then release related elements, such as
27 additional surveys, consenting works, discharge consents, design work and so
28 on. As soon as that work has been completed, we will then undertake the
29 physical work to a) create the ditches and scrapes, which is the bar items in the
30 blue on the extract of the programme in front of you, and also the inlet structure,
31 which is the items that are identified in yellow.

32 The second part of the question asks how it's secured, and that is
33 REP4-138, environmental management plan, and specifically, the commitments
34 in the REAC at HR010 and HR011. The background to that is further discussed

1 in the HRA itself, which is APP-487 and specifically at 7.1.27, and 7.1.28 which
2 discuss in detail how that work is undertaken, and how that relates to the
3 seasonal constraints. So the preferred season being the late spring/early summer
4 is highlighted in the green bands on the chart in front of you, and as you can see,
5 based on current programme, the work falls in the appropriate season. So we
6 should have no difficulty.

7 MR PRATT: Thank you for that. Anything else?

8 MR TAIT: No, thank you, sir.

9 MR PRATT: In that case, I'll open it out to everybody to see if there's any comments in
10 the room. Natural England and Thurrock. Natural England.

11 MR GRANT: Thank you, sir. Can I ask Mr Bustard to come in for Natural England,
12 please?

13 MR BUSTARD: Thank you. Jonathan Bustard for Natural England. With reference to
14 the schedule of works on the screen, Natural England has some concerns
15 regarding the time risk allowance for particularly the construction work to install
16 the water inlet. We're comfortable with the August scheduling that should serve
17 to avoid disturbance for non-breeding birds that particularly concentrated on the
18 inter-tidal habitats very close to the seaboard in that area, but we are concerned
19 that the time risk allowance seems to indicate a degree of potential slippage of
20 the order of two to three months, it would appear from the figure, and that
21 introduces a disturbance effect that's undesirable.

22 Our preference, therefore, would be that additional REAC commitment
23 would give prominence to the completion of those works within the summer
24 period, which is I believe is drafted in the emerging technical note that I referred
25 to earlier, and so that's really what we're looking to see achieved, such that that
26 minimises as far as possible that time risk allowance slippage, certainly of that
27 order, just to avoid that knock-on disturbance to the non-breeding birds that use
28 that area in some numbers. Thank you.

29 MR PRATT: Thank you. Is that Natural England finished for this item? In that case,
30 Mr Mackenzie for Thurrock.

31 MR MACKENZIE: Thank you, sir. George Mackenzie for Thurrock Council, and it will
32 be Mr Plumb who will address you on this, please.

33 MR PLUMB: Thank you. Steve Plumb for Thurrock Council. Just reiterating what Mr
34 Bustard just said. Reviewing the REAC conditions for the HRA, it was

1 noticeable that virtually all of them referred to the months of operation, except
2 for HR010, which had a number of conditions to work to, but it didn't actually
3 have months – April to July or August. So again, probably quite easily that that
4 could be added into the REAC, that particular REAC point. So just to give that
5 assurance that there won't be potential disturbance to the early arrival. They're
6 referred to as overwintering birds, but they tend to arrive quite early. Thank
7 you.

8 MR PRATT: Thank you. Has anybody else with any questions on this matter? Mr
9 Holland.

10 MR HOLLAND: Thank you, sir. Just a clarification. Sir, if I read the schedule of works
11 correctly, particularly with reference to the north portal release early date, do
12 these works fall into preliminary or main works?

13 MR CLARK-HUGHES: John Clark-Hughes for the –

14 MR PRATT: I think that's one that's going to have to come straight to you, Mr Trait.

15 MR TAIT: I'll ask Mr Clark-Hughes to respond first, and then potentially Mr Cryer.

16 MR CLARK-HUGHES: I believe it's preliminary works, sir.

17 MR PRATT: Thank you.

18 MR TAIT: Mr Cryer.

19 MR CRYER: Russell Cryer for the applicant. So the applicant has committed to
20 seasonally constraining the works where possible. So it's more advantageous to
21 carry out the works as quickly as possible to get those habitats in place for the
22 birds than manage the small risk of there being any additional disturbance from
23 the works themselves. So we have responded to Natural England's concerns
24 earlier in the examination about that seasonal constraint. What this programme
25 shows here, at the moment, is that on that programme, those works would be
26 carried out in that preferred seasonal window, but obviously, because
27 programmes can change, it's our position that it is better to get those works done
28 as soon as possible, and risk any insignificant additional disturbance than it is to
29 put the whole thing off to manage that very small risk.

30 MR PRATT: I notice you want to come in, Mr Holland. If you could just give me a
31 second. Natural England, is there anything you want to add as a result of what
32 the applicant has actually said?

33 MR GRANT: I think I'll bring in Mr Bustard, please.

34 MR PRATT: Certainly. Mr Bustard.

1 MR BUSTARD: Thank you. Jonathan Bustard for Natural England. I do note what
2 Mr Cryer has outlined there. I think we would agree that it is more beneficial
3 for slight slippage to occur than for much longer delay to the programme.
4 However, I would still think that a REAC commitment that expressed that
5 avoidance where possible might still be appropriate to give prominence to the
6 urgency of achieving that timeframe within the 2025 billed year, so I would think
7 that there should be a way to express that without unduly delaying the install of
8 the water inlet by a whole season, but I'll leave that with you to consider. Thank
9 you.

10 MR PRATT: Thank you very much. Mr Holland.

11 MR HOLLAND: Thank you, sir. It's a supplementary question. I know it's straying
12 into CA points. If they are preliminary works, and main works are not approved
13 to take place, or they are withdrawn, as we've seen in the case of another very
14 large infrastructural project, there's quite a lot of technical work that's being
15 done to this land. How has that unwound? I'm trying to keep it at a technical
16 level, given that we've got inlets going into bunds and control points and
17 rewetting.

18 MR SMITH: I'm going to put on my CA hat, Mr Holland, and ask if the applicant has
19 an action, bearing in mind this does stray across from the ISH into the CA
20 hearing process, but if the applicant can provide us with a backstop position –
21 should there be circumstances where preliminary works are completed but
22 principle works are a) delayed, or b) cancelled for reasons about which none of
23 us should speculate, how would the resultant effects on affected persons fall out?
24 Possession would have been taken of the land. Works would have been done.
25 Would you be in a position where you would at that juncture be seeking to
26 reverse works, or would you be in a position and hand the land back, or
27 alternatively, would you be in a position where you would wish the dice to lie
28 where they fell and it's a compensable position?

29 MR TAIT: We will definitely take that away rather than –

30 MR SMITH: Oh, yes. It's not really fairly within the remit of this hearing, to be honest,
31 and you don't even have the right people here. So yeah, take it away and deal
32 with it at deadline 8 if that's possible. Mr Holland, you can reply at deadline 9
33 if you need to.

34 MR HOLLAND: No, I appreciate that. Thank you.

1 MR PRATT: Right, I think that's the end of that period. Does anybody else want – oh,
2 Mr Holland again.

3 MR HOLLAND: I'm sorry, sir. I'm not sure we got an answer to the question about the
4 DHL ditch and how that fits into the water flow system. Sorry if I missed it.

5 MR PRATT: I was about to say if nobody else had anything else to bring in, I would
6 offer the applicant right of last comment.

7 MR TAIT: I think we will need to come back in writing on that very specific point and
8 we will address that and let Mr Holland know, obviously, and in relation to the
9 point made by Mr Bustard about whether without changing the substance of the
10 REAC commitment, the time window can be given more prominence is
11 something we will take away and look at in the drafting to see if there is some
12 additional wording we can provide in that context.

13 MR PRATT: Thank you very much. Right, if that's the end of that question, I have a
14 sneaking suspicion that the next one might take a little bit of time, so I'm going
15 to propose that we have a 15-minute break from this point. Can everybody be
16 back by 3.35? That's 3.35. Thank you.

17
18
19

(Meeting adjourned)

20 MR PRATT: Good afternoon, everybody. It's now 3.35 and this is hopefully the last bit
21 of today's issue-specific hearing number 11. Just before we left, or during the
22 slight break – my apologies. Can I just check with the case team that
23 everything's working fine on the – thank you. It's alright. I saw the slide up for
24 the break. That was all. I just wanted to check that it had gone down. Right.

25 Over the break, we've been thinking about what was said just before the
26 break, and I would like the applicant, really, to direct us to where in the
27 documentation it really answers the point that Mr Holland made about
28 contaminated land or contamination. At present, the land, obviously, floods.
29 We've been told that it did in 2019, but if it happens in the future and there's
30 under the storm events, there may well be contamination on the land. In the
31 future, you're putting in the mitigation for the ecology and suchlike. What effect
32 will that have if that type of event happens again in the future when your
33 mitigation work has been put in place? Don't need to necessarily answer it at
34 this point in time, but you can come back at the next deadline.

1 MR TAIT: Can I ask Mr – well, if you would like, I could ask Mr Cryer to give an
2 overview in a sentence, and then we'll come back, or we can just come back.

3 MR PRATT: An overview would be ideal and then come back. That would be –

4 MR TAIT: Very well.

5 MR CRYER: Mr Cryer for the applicant. The risk wouldn't change. There's a risk there
6 already. As you say, in 2019, there was a flood event and any contamination that
7 may or may not have happened, that event would have happened. If there is
8 another event after the mitigation has gone in place, that risk would be exactly
9 the same.

10 MR PRATT: That's very true, but the use of the land will have changed and if you are
11 looking to make it a different habitat and no doubt encourage different species,
12 if that subsequent risk occurs and the land is flooded, if there's contamination,
13 what is the – Mr Holland, would you like to...

14 MR HOLLAND: Thank you, sir. Yeah, all I would say to that is the flood event didn't
15 flood the land in totality. It was an isolated area of flood on the land side of the
16 bund. I suspect what I was getting at is were you creating a wetland habitat
17 that's allowing a more expansive water landscape, and you're introducing an
18 engineering solution into the current bund, and you're looking at the flood levels
19 in the flood risk assessment long-term? That has the potential – and I'm talking
20 from a layman's perspective – of creating a more widespread flood event, which
21 potentially then introduces issues across the totality of the land. That's the point
22 that I'm getting at, because at that point, you are then at risk of taking in a longer
23 piece of the DHO ditch.

24 MR CRYER: Mr Cryer for the applicant. We won't be changing the flood risk. We
25 have many reports showing that we wouldn't be changing the flood risk. So
26 okay, the waterscape might change, but the flood risk and the areas covered with
27 any flood event wouldn't change from existing, so could I ask you to clarify:
28 that risk, that potential risk you're asking about of contamination in such events
29 – is that on the efficacy of the mitigation on the species or is that for wider third-
30 party risks?

31 MR PRATT: It's primarily – it's the mitigation work that you're doing. What changes
32 will it make at that point? Because the land itself – it's on the mitigation work.

33 MR CRYER: So could any theoretical contamination event make the functionality of
34 those new habitats ineffective?

1 MR PRATT: That's correct.

2 MR CRYER: Thank you, sir.

3 MR SMITH: Yes. I mean, at risk of interjecting here, just making sure that we are clear.

4 I think that point has just finally expressed is the point, so if you can come back

5 on that in writing at deadline 8, that will be very helpful.

6 MR TAIT: Whilst we're on the matter of coming back, I know this morning Miss Laver

7 asked for me to come back after lunch in connection with the Natural England

8 point. So I just –

9 MR SMITH: I wrote myself a note as well.

10 MR TAIT: This might be the right time, just in case Natural England are not here for the

11 Coalhouse – for the Southern Valley golf course, just in case. Would it be

12 convenient for me to just briefly respond on that matter now?

13 MR SMITH: Absolutely.

14 MR TAIT: Sir, the position is that the viewpoints and photomontage locations were

15 agreed with Natural England, as set out in the statement of common ground, at

16 2.1.24, and there's a new version of that, but that's in the earlier versions, and

17 there would be limited views of the green bridges from further afield by reason

18 of the woodland on either side, and that, in a sense, is a function of the – well,

19 that fits with the assessment of the severance effects being localised, and

20 similarly, the bridges having a function in addressing that localised severance,

21 but having said all that, if there is a particular suggested viewpoint that Natural

22 England would like us to look at, we're obviously happy to discuss that with

23 them, bearing in mind that it's quite a time-heavy process, producing a

24 photomontage. So we want to be clear that that is a desire from their part, so we

25 hope we can discuss that straight away and then come back, and if that is the

26 case, we will seek to do what we can as quickly as possible.

27 MR SMITH: To follow that up then very briefly, if it were desirable that anything was

28 being brought in at deadline 8, when do you need to know from Natural England

29 what they desire?

30 MR TAIT: We really need to know...

31 MR SMITH: No, I don't know.

32 MR TAIT: I don't think we could do it by deadline 8. It's just not practicable. So to do

33 it by deadline 8, we would need to know, really, now if that is the concern, but

34 we're obviously happy to discuss that with them straight away.

1 MR SMITH: Yeah, I think at this juncture, take it offline with them. If there is any
2 unresolved point in relation to guidance needing to be sought from you to be
3 provided by us, then obviously come back, maybe in the morning business
4 tomorrow, and we can deal with it, but hopefully, if that point can be considered
5 by Natural England as well, if it's something that can be agreed, then deadline 9
6 absolutely is the final, final, because a point of response then has to be made at
7 deadline 10. Okay. Thank you very much.

8 MR TAIT: Thanks.

9 MR PRATT: Thank you very much. I propose to take item 5 as a whole, because the
10 first part asks the applicant to make a statement and the second part is really
11 inviting comment from the interest parties. The background to this is quite
12 simple, and I think it's come up a number of times over the last few days, even
13 that recent, and that's that the nitrogen deposition compensation and woodland
14 mitigation, things like that, where, for example, Bluebell Hill in Burham was
15 originally centre to everything and there was going to be compulsory acquisition
16 and then it's gone. That one point seems to be coming back time and time again
17 as to why. With that little introduction, I'll leave it with you to try and explain
18 matters, Mr Tait.

19 MR TAIT: Thank you very much, sir. So I'm going to ask Mr Nick Clark, who's the
20 ecology lead, very briefly to set out the principles, and then I'm going to ask Mr
21 Russell Cryer to focus on the sites in question and look at the application
22 principles and hopefully answer the matters you've raised under the first point.
23 I'll ask Mr Cryer then to go on to deal with the second point about distribution
24 of compensation land, and then back to Mr Clark for the third point about
25 surveys and effect on species, and so starting with Mr Clark, please.

26 MR CLARK: Good afternoon, sir. Nick Clark for the applicant. The conclusion of our
27 air quality assessment, which is APP-403 to 406 inclusive, identify 36
28 designated sites that would be potentially affected by nitrogen deposition, with
29 29 experiencing residual significant effects. The total combined areas affected
30 by these sites measures 176 hectares. Our approach to applying the mitigation
31 hierarchy in addressing these significant effects is set out in the project air
32 quality action plan, which is APP-350, where avoidance and mitigation has not
33 been sufficient to reduce these adverse effects, a comprehensive, large-scale
34 compensation strategy has been proposed based on two key principles.

1 The first is to create new wildlife-rich habitats, predominantly woodland
2 and grassland, to provide an area comparable to that of the adversely affected
3 designated sites, and the second principle being positioning these new habitats
4 to link into existing, retained, high quality habitats, strengthening and building
5 resilience in the network of habitats at a landscape scale. These two principles
6 are not mutually exclusive. The value of the compensation proposal comes from
7 achieving both in tandem.

8 New high-quality habitats which build resilience into the ecological
9 network, creating isolated pockets of new habitats, or just strengthening existing
10 links into retained habitats would not be sufficient to robustly compensate for
11 the adverse effects of the project. This approach has been developed in
12 discussion with Natural England, and they record their support for it in their
13 statement of common ground with the applicant, at item 2.1.62. That document
14 has been updated at deadline 7, and I'll now pass over to my colleague,
15 Mr Cryer.

16 MR CRYER: Russell Cryer for the applicant. Can we have plate D1 from the [inaudible]
17 on screen, please?

18 MR TAIT: So on the screen should be coming page 60 from REP4-182, which is the
19 post-ISH6 summary.

20 MR SMITH: There are a lot of documents. Sorry. I'm not even going to place you under
21 any pressure. We'll get there. Thank you.

22 MR CRYER: Okay, so here we are. So the areas of nitrogen deposition compensation
23 in the Bluebell Hill and Burham area are there to provide additional connectivity
24 within that ecological network that some of the sites were significantly affected.
25 So you can see on this drawing here, the yellow arrows show where the real core
26 of that additional connectivity is achieved. So you see in Cossington Field,
27 which is the retained field, there's direct new habitat going to be created between
28 significant large blocks of existing habitats to the west, to the east, the north and
29 the south-west. The reservoir field to the south-east of that, and the Burham site,
30 that application is considered that they provided some additional connectivity
31 value and obviously, some additional scale value, but in comparison to that core
32 connectivity provided by reservoir field, they're very much a secondary element
33 to that.

1 Now, the new information that we received from the landowner of the
2 stewardship scheme showed that the boundary features to the north of reservoir
3 field and the Burham site would add some additional connectivity, irrespective
4 of whether the project went ahead, and therefore, that secondary additional
5 connectivity that would have been expected to achieved from Burham reservoir
6 field, we thought, ‘Well, now that’s not a significant additional secondary
7 connectivity anymore,’ so we then went to review. ‘So if we took those out of
8 our order limits, would we still be achieving those two core objectives and
9 functionalities that Mr Clark has just been talking about?’ and our conclusion
10 was, ‘Yes, that would still achieve it,’ so we still have a comparable area overall,
11 and within this particular network, Cossington Field on its own clearly, as can
12 be seen by the yellow arrows here, still provides that additional connectivity at
13 a landscape scale within this ecological network.

14 So that’s in terms of why reducing the habitat proposed there is acceptable
15 and still achieves our objectives. So moving on to the second bullet of limited
16 compensation provided in the Kent Downs –

17 MR PRATT: Can I just ask one little question on this?

18 MR CRYER: Of course.

19 MR PRATT: Stewardship, as far as I’m aware, is a five-year or 10-year agreement with
20 the landowner and deferrer. My understanding is that your proposals were, shall
21 we say, a little bit longer than that. I’m just wondering how you retain that
22 position in, say, six years’ time or 11 years’ time if the stewardship scheme is
23 no longer in place. Will that affect your analysis of position?

24 MR CRYER: Russell Cryer on behalf of the applicant. That is a possibility. So that
25 additional connectivity created through the stewardship scheme – that scheme
26 might not continue at some point in the future. In that circumstance, the
27 landowner might grub up all of those new hedges. There’s lots of ‘mights’ there.
28 What I’m saying – what I think our position is is that we can’t be certain that’s
29 going to happen, so that connectivity will be happening because there is an
30 existing stewardship. So that additional connectivity, secondary connectivity,
31 that we were expecting certainly wouldn’t be available in the first 10 years, for
32 example, of the life of that stewardship. That might change in the future, but
33 many things might change in 10 years. You’ve got to do a risk judgment on
34 those matters.

1 MR SMITH: And potentially it's that point of a risk judgement and a fair risk judgment
2 that I think we need to inform ourselves about to bed this one down, and
3 essentially here, what I'm trying to do is to work through a little bit of a thought
4 experiment that I hope gives us a reasonable basis to do that, and so if one takes
5 a – I won't call it a worst-case scenario, but a least beneficial scenario, in which,
6 for example, the stewardship scheme doesn't endure and that land is returned to
7 broad hectare intensive agriculture on a short cycle, can you still assure yourself
8 and us that in those circumstances both the connectivity objectives that you seek
9 from the land and in very simplistic and crude terms the quantum – the area of
10 extent that you need to compensate is still sufficient in circumstances where over
11 that very short cycle stewardship turns itself around and gives you back an arable
12 field with a slight nitrogen to raise a crop?

13 MR CRYER: Russell Cryer for the applicant. Yes is the answer to that. So that review
14 that we did, having gone through that mental process of thinking, 'Oh, that new
15 information reduces what we thought we might get out of that, so what about
16 just not including those?' We then reviewed the whole thing. 'Does reservoir
17 field, on its own, achieve our objectives? Yes, so let's reduce those order limits
18 in that circumstance,' so yes, we do believe that even if that stewardship then
19 reverts and it goes just back to an arable field with no hedges, we still will have
20 achieved our connectivity and our scale of new habitat that's comparable with
21 our affected area.

22 MR SMITH: Okay. Thank you.

23 MR PRATT: My pleasure, Mr Smith. I suppose I've got one other little thing that's
24 going about in the back of my mind as well, and it's really a comment that was
25 made earlier on today, and that is the AONB and the removal of the nitrogen
26 deposition that the woodland [inaudible]. I suppose a crude – not 'crude' – a
27 more blunt question is: how does the stewardship or potential stewardship
28 schemes compensate the potential – we've heard this morning about – I was
29 going to say damage to the AONB but that's – deficiency in what they found?
30 And if you're taking these two areas away and replacing them with potentially
31 something that's outside your control, how does that affect the attitude to the
32 AONB?

33 MR CRYER: Russell Cryer for the applicant. For clarity, we do not rely in any way on
34 the stewardship scheme. So –

1 MR SMITH: Yes, I thought we'd reached that point.

2 MR CRYER: Okay. So the purpose of acquisition and this habitat creation, the
3 functionality of it, the objection of it, is for nitrogen deposition compensation.
4 The fact that we are creating woodland within the AONB serendipitously has a
5 secondary benefit for the AONB, but that is not the purpose of this
6 compensation. So if we can achieve our compensation objective with a smaller
7 area of compulsory acquisition, which we believe we can and which is what
8 we've proposed in our thing – if that has a reductive in the serendipitous
9 secondary benefits to the AONB, that is another matter, but it is not a matter for
10 the acquisition of this land, because that is for nitrogen deposition compensation.

11 MR PRATT: Thank you for that.

12 MS LAVER: I think where we haven't gone to in your responses, however, is that the
13 biggest impact nitrogen deposition is on the AONB, and yet the compensation
14 is not located near the impact, and I think parties in the room have raised –

15 MR CRYER: Coming next.

16 MS LAVER: Good.

17 MR TAIT: So we've dealt with the review process as to functionality, so I'm now going
18 to ask Mr Cryer to pick up the second specific point in relation to distribution of
19 compensation.

20 MR CRYER: Russell Cryer for the applicant. So in terms of the extent of the nitrogen
21 deposition compensation, south of the river the Bluebell Hill site is still the
22 largest area, still more than all of the rest of the nitrogen deposition on the south
23 side of the river, even though the rest of it is also close by to the AONB, so there
24 is still a lot of compensation within the AONB. The AONB designation is not
25 an ecological designation, and as such it's not a receptor for nitrogen deposition
26 impacts that we have assessed, nor should assess would it be appropriate to
27 assess it on that basis. It is the case that within the AONB there are a number of
28 ecological receptors, woodlands primarily, and each one of those ecological
29 receptors within the AONB has been assessed and has been fully compensated
30 for by the compensation measures that we have proposed.

31 So for those ecological receptors within the AONB, there would be no
32 reduction in resilience of those and their contribution to the landscape, because
33 admittedly there will be significant effects on them from nitrogen deposition as
34 a degradation, but those are compensated. They might not hectare-for-hectare

1 be compensated within the AONB, but there is no effect on the AONB because
2 those woodlands would maintain their resilience because of the compensation.
3 And the sort of degradation we're talking about from nitrogen deposition, you
4 would not see any difference in what those woodlands look like, so there would
5 be no visual change at all in any of those woodlands. So in terms of its landscape
6 designation, those woodlands would be equally resilient because of the
7 compensation we provided, and there would be no visual difference in those
8 woodlands.

9 So the site selection process is set out in the project air quality action plan,
10 and part of that is the cluster analysis that identified four ecological networks
11 that the affected sites lay within, and therefore it's correct to look at our search
12 area on the ecological basis of that is those clusters aren't the ecological
13 networks that the affected sites rely on and have resilience because they are part
14 of those networks. So it's those clusters that are the focus of our site selection,
15 and it would be completely inappropriate to use a landscape-based boundary to
16 constrain an ecological assessment at site selection.

17 It is not a clear or a linear thing that because the affected area is in any
18 particular cluster, the compensation area has to be the same area within that
19 cluster, which might seem a bit odd – I accept that – but the reason for that is if
20 you look at the distribution of woodland on the north side of the river compared
21 to the south side of the river, there is much more woodland on the south side,
22 and they're larger blocks of woodland. And albeit they are severed within the
23 landscape with arable and urban areas, they are much closer to each other than
24 they are on the north side of the river, where you've got much smaller woodlands
25 generally, and they're much further apart. So if you're trying to achieve new
26 connectivity between two existing woodlands, for example – or more, hopefully
27 – you need a larger area on the north bank to connect to more widely-severed
28 and distributed woodland blocks than you do in the south side.

29 So a smaller area gives you more connectivity for your bucks on the south
30 side, just because of the juxtaposition of the existing and retained factors within
31 the ecological networks. So of course everything is a bit of a balance, but if you
32 look at the connectivity that we achieve at the Bluebell Hill site, of connecting
33 at least four different blocks of woodland, that achieves a lot of new connectivity
34 within that network, whereas if you look at places like Hole Farm on the north,

1 you need much larger areas of new habitat to connect up two, three, four
2 different existing blocks of habitat. So that is why – well, it’s one of the key
3 reasons why there is more provision of new habitat in the north than there is in
4 the south, but also we needed to take into account what land is available to us
5 that didn’t need compulsory acquisition.

6 MR TAIT: If I can turn to the third bullet point –

7 MR PRATT: Can I just ask for one small little bit of clarification? Near the start of your
8 submission, you made a comment about there was going to be no damage, or no
9 change to the woodland in the AONB. I thought the SSSI site – Shorne Woods
10 – was in the AONB, and you’re actually taking out one or two trees there, so...

11 MR CRYER: Russell Cryer for the applicant. Sorry, I wasn’t clear on that. I meant
12 purely from the nitrogen deposition impact, which is an impact of degradation
13 of areas of woodland which leads to the nitrogen deposition compensation. Any
14 loss of habitat in SSSIs and ancient woodland is covered by a different set of
15 compensatory measures.

16 MR PRATT: That’s fine. I just felt we needed to get the clarity on that.

17 MR CRYER: That’s fine. Sorry for not being more clear.

18 MR PRATT: Mr Tait, if you would care to continue.

19 MR TAIT: Thank you, sir, and so the third bullet point, I’m going to revert to Mr Clark
20 about surveys and measures to mitigate existing habitat impacts.

21 MR CLARK: Thank you. Nick Clark for the applicant. The applicant’s undertaken
22 detailed ecological surveys at all sites proposed for nitrogen deposition
23 compensation. These are reported in appendix 8.22, terrestrial ecology surveys
24 at nitrogen deposition compensation sites, which is APP-418. Detailed
25 ecological surveys were undertaken at all but two of the nine sites proposed for
26 ancient woodland compensation. The two where surveys were not possible due
27 to land access constraints are plots 46-27 and 45-61, at Folkes Farm, west of the
28 M25 junction 29, and land immediately north of Randall Wood at Plots 10-01
29 and 11-77. The lack of detailed survey information at the Folkes Farm site was
30 addressed in CAH2, action five response to Folkes Farm, Glenroy Estates.
31 That’s REP5-082.

32 The land immediately north of Randall Wood has been assessed by aerial
33 imagery as arable land, as reported in appendix 8.2, plants and habitats. That’s
34 APP-391, and figure 8.2, APP-263. This has been confirmed by ground-truthing

1 from the adjacent Shorne Woods. The absence of detailed species survey
2 information at both those sites is not considered a constraint to the design of the
3 compensation. The draft DCO, REP6-010, secures pre-construction protected
4 species surveys, as well as the initiation of discussions with Natural England
5 should anything outside the current assessment be recorded. Any semi-natural
6 habitat present within the compensation sites would be retained as beneficial to
7 the establishment of high-quality woodland and wildlife-rich habitats, as
8 detailed in sections 8.23 and 8.28 of the outline landscape and ecology
9 management plan, which is REP4-140.

10 The design of these sites also allows sufficient flexibility to avoid any key
11 ecological features, for example badger sets, and avoiding disturbing activities
12 around, such as tree planting in close proximity to them, and instead supporting
13 natural regeneration of habitats around such a feature. Thank you.

14 MR TAIT: Thank you, sir.

15 MR PRATT: Thank you. Do any of my colleagues want to ask anything? In that case,
16 I'll open it out to the room at this stage. Does anybody want to raise any issues?
17 I see Mr Bedford. Yes, and AONB as well, but I'll start in the room. I'll start
18 with Gravesham.

19 MR BEDFORD: Thank you, sir. Michael Bedford, Gravesham Borough Council.
20 We've raised a number of concerns in relation to the deliverability of the
21 nitrogen deposition compensation sites, particularly in relation to the adequacy
22 of overall survey information, not simply ecological information but also
23 archaeological information, to know that the sites are suitable particularly for
24 woodland planting, particularly in relation to any below-ground cultural heritage
25 matters. I'm aware, but have not yet absorbed, that the applicant has provided
26 some further information in relation to its deadline 7 responses, particularly I
27 think commenting on those matters, and I certainly don't want to take up time
28 on matters which may have been satisfactorily resolved, so can I simply in a
29 sense put it down as a marker that we have raised previous concerns.

30 It may well be that some of the material that has been supplied at deadline
31 7 has allayed those concerns, but it may not, depending on when we've absorbed
32 it. So I think what I propose to do is simply we'll comment on that when we've
33 actually read the detail of what's been provided at deadline 7.

1 MR PRATT: That probably makes sense. Thank you very much. Mr Fraser-Urquhart,
2 I notice that the AONB's also asked to speak. Do you wish to speak first or
3 second?

4 MR FRASER-URQUHART: I think I'll let them go first, sir.

5 MR PRATT: Thank you. So in that case, Mr Johannsen, if you would like to put on your
6 camera.

7 MR JOHANNSEN: Thank you, sir. Hopefully you can see me. Yes, thank you for
8 calling me. I recognise that I haven't really ever stated my qualifications to
9 speak. I am director at the Area of Outstanding Natural Beauty, but I'm also
10 trained as an environmental scientist and a landscape ecologist, and I'm a Fellow
11 of the Landscape Institute, so I haven't mentioned that at any hearings before,
12 but I thought it might be helpful to do so today. And also, if you just bear with
13 me quickly, I would like to go back to the point about designated sites. So I
14 want to be clear about what we mean by designated sites when talking about
15 nitrogen deposition harm. When we are speaking about that, it is the sites
16 designated for the wildlife interest we are referring to. That means sites of
17 special scientific interest, and special areas for conservation.

18 I know this is probably generally understood, but we think the applicant
19 may have confused this – or muddied the water, to go back to your opening point
20 – in their response to our representation at issue-specific hearing 6, and again
21 just now. It was in their response to our submission, our representation,
22 suggested that our comments were not relevant – their words – because the
23 AONB designation is a government administrative boundary for the
24 conservation of landscape, which is true, but we take issue with this as we think
25 we were clear that we were not referring to the AONB designation, the landscape
26 designation, but we were referring to the sites designated for their wildlife
27 interest. So in the interests of clarity, in case we weren't sufficiently clear
28 before, we thought it would be helpful to state that in our response today and at
29 issue-specific hearing 6, we are referring to sites designated for their wildlife
30 interest.

31 The reason we're particularly concerned about them is that so many of the
32 affected designated sites lie within the AONB. And just quickly responding to
33 points just made, whether there's a visual change is irrelevant. This is about
34 managed conservation. The point is they're important wildlife sites in the

1 AONB, but it is also important to remember that nature is a component of
2 landscape, and this is about the conservation enhancement of landscape. So I
3 don't want that to take us away from the key issue that we are talking about sites
4 designated for their wildlife interest, and we do take issue with the point made
5 by the applicant. Thank you for bearing with me.

6 Moving to the question, the simple point in our view is that both Natural
7 England's high-level advice on nitrogen deposition and the applicant's own
8 submitted documents seem very clear to us that nitrogen deposition
9 compensation should be as close to the harm as possible, and that habitat
10 networks and resilience they refer to should strengthen the network of
11 designated sites – not any site, but designated sites – and so should also be as
12 close as possible to the affected areas. We simply don't accept – and I think
13 we're moving further apart, so sorry about that – but we simply don't accept that
14 compensatory investment near Brentwood on a site already purchased and
15 planted remotely meets the applicant's own criteria, nor the advice from Natural
16 England. In fact, to us it appears arbitrary when judged against the submitted
17 representations and Natural England's advice.

18 There are many occasions in the documentation which support this simple
19 point. We'll not point to them all – we haven't got time – however we think it
20 might be helpful to bring your attention to what we think are three relevant
21 sections of documents which provide the framework to the issue as the scheme
22 developed. So the first one we would like to bring your attention to – and I'm
23 sorry I haven't got a number other than it's appendix A.13, Natural England's
24 pre-application advice on nitrogen deposition compensation, dated 10 December
25 2021, in which they refer to the importance of targeting and building resilience
26 of affected sites. These are the designated sites. So it's the targeting and
27 building resilience of affected sites, not sites in Essex.

28 To quote the document, they say they 'support the principle that the
29 measures are seeking to build the resilience of the affected sites through targeted
30 habitat creation that enhances habitat networks.' So it is – again, sorry to
31 reiterate, but it is 'the resilience of the affected site and targeted habitat creation,'
32 and so that comes directly from their high-level advice. We have noted before
33 that the bulk of nitrogen deposition proposals are north of the Thames, which
34 we do not think is either targeted, nor does it build the resilience of the most

1 affected designated sites. In the same document, Natural England note that the
2 criteria for compensation, apparently agreed with the applicant and Natural
3 England, includes specifically proximity to the affected site as one criteria for
4 selection.

5 So then moving on – and thank you very much for pointing us to APP-524,
6 the combined modelling appraisal document, which is a helpful reference – we
7 believe again it supports the point about compensation being close to the harmed
8 designated sites, the sites of special scientific interest and SACs, and new
9 networks and resilience again relating to the existing designated sites. In table
10 4.1 in the combined modelling appraisal on electronic page 23, it reports large
11 adverse impacts as a result of nitrogen deposition on a series of designated sites.
12 It states, ‘Habitat creation at nitrogen deposition compensation sites, creating
13 new wildlife-rich habitats which strengthens the network of designated sites,’
14 it’s that relationship to the designated sites that’s emphasised again – and
15 habitats – and it also goes on to say, ‘It should be proposed to fully offset project
16 wide significant adverse effects from nitrogen deposition.’

17 So back to the simple point that the creation of new wildlife-rich habitats
18 should strengthen the network of designated sites, not the sites near Brentwood,
19 for instance. It also seems to suggest that all project wide significant adverse
20 effects should be compensated so as to benefit the network designated sites. And
21 I know I’m stressing a point, but it does come back again – environmental
22 statement appendices 5.6, project air quality action plan, APP-350 – and it says
23 in there, ‘When discussing compensation’ – this is page 2, in referring to
24 ecological networks, it says – ecological networks basis for compensation is an
25 approach where more comprehensive measures are proposed which are relevant
26 to the networks of habitats within which a number of affected areas of habitat
27 lie.’ So again it’s bringing us back to the compensation being close to the harm.

28 And again, we believe that should largely be in Kent and not north of the
29 Thames. So in conclusion, trying to bring this to the simple point, we’ve
30 consistently submitted that in our view there is an imbalance of approach to
31 nitrogen deposition compensation with, by our calculation, 89% of the identified
32 impacts being south of the Thames, and only 21% of the compensatory land
33 being south of the Thames. Natural England, in their high-level advice, and the
34 applicant, in their submission documents, have both confirmed that

1 compensation should be close to the harmed designated site, and that again the
2 strengthening of ecological networks should be targeted again at the harmed
3 designated sites, not any woodland within the red line. So we do not – that’s
4 another matter – we do not think that the current proposals deliver what they are
5 intended to.

6 We weren’t party to the discussions yesterday, but we are very aware that
7 the compulsory acquisition of Bluebell Hill was justified previously by the
8 applicant. We think that additionally there is a point of principle that Hole Farm
9 is happening anyway. Its purchase was, we understand, secured through
10 designated funds and not via the scheme. It’s too far away from the most
11 affected designated sites to meet the function required, and we are honestly
12 uncertain of any additionality by claiming nitrogen deposition at this site. We
13 know full well that we and the applicant are not going to agree – so I’m sorry,
14 we can’t help you with that – so at this stage of the examination, clearly it’s for
15 the inspectors to decide.

16 Our very clear preference would be to revert to what was an agreed
17 approach, which was the compulsory acquisition of land at Bluebell Hill and the
18 creation of new wildlife-rich habitats and networks as close as possible to the
19 harmed designated sites. We regret that this proposal was dropped because it
20 seems to have been difficult to secure. That was an agreed approach which we
21 were working with the applicant on. We also reject completely that the
22 application of countryside stewardship grants near the affected designated sites
23 can be relied on. As you pointed out yourself, stewardship grants are not there
24 to compensate for major infrastructure projects, they’re not certain, and they’re
25 not long-lived necessarily.

26 As my colleague Mrs Miller said, on account of our concern about the
27 applicant’s approach to nitrogen deposition, we thought we’d try and be helpful
28 and sought to negotiate compensation payments in the 106 agreement for
29 nitrogen deposition. This was rejected by the applicant, and it was clear we
30 weren’t going to come to an agreement. So if the inspectors agree with our
31 arguments, which after all are based on Natural England’s advice and the
32 applicant’s own submissions, we hope that they will reinstate the land at
33 Bluebell Hill. But if not, if the reinstatement of land through compulsory
34 acquisition is not possible, then we request additional compensation funding to

1 be agreed through an additional 106 arrangement, as described earlier by my
2 colleague, Mrs Miller. I hope that helps clear the muddy water, sir, but I'll let
3 you decide on that.

4 MR PRATT: Thank you very much. I will go to Mr Fraser-Urquhart next, but I just
5 want to put Mr Grant on notice that once I've finished with the county council,
6 Natural England's name was brought to the fore on a number of occasions there.
7 I think it's only fair. Sorry, Mr Smith.

8 MR SMITH: Mr Pratt, I just have one brief follow-up to Mr Johannsen and the AONB
9 unit in just clarifying some of the matters that were raised there. I guess what I
10 wanted to just test with you, Mr Johannsen, is a dimension of this that may be
11 'being careful what one wishes for', because one of the dimensions of this that
12 I would be very interested in your response on is the degree to which substantial
13 additional compensation land management measures within the AONB do have
14 at least the potential to in scale even quite substantially change existing
15 landscape character. Now, in terms of the advice that you're giving us, is that a
16 matter that has been taken into account in your advice, and in terms of returning
17 to the applicant in terms of their distribution of land on which they deem it
18 appropriate to deliver nitrogen compensation, has that also been a factor?

19 Now, I know we're kind of partially revisiting some discussions that we've
20 had in earlier processes, but that was a very, very powerful submission that we
21 just had and there is a potential effect that arises from it, and I therefore want to
22 just explore that briefly before we let you go.

23 MR JOHANNSEN: Okay. So as I said, we had agreed the Bluebell Hill site, and we
24 were working with the applicant around the landscape design of that. I think our
25 view on – I might bring Mrs Miller in on this as well – but our view was that the
26 change to landscape character was not a concern, because this is an area of the
27 AONB which is essentially wide open arable fields, and the application of well
28 designed, well landscaped compensation we felt would be advantageous to the
29 character and quality of the AONB. But I think I would like to just ask my
30 colleague, Mrs Miller, to feed in on that.

31 MR SMITH: And just before she does, I guess there is a kind of potential flow-on from
32 your submissions which are, in a nutshell, would the reinstatement of the
33 excluded mitigation and the excluded compensation sites in Kent be sufficient,
34 or were you looking for any further and additional land?

1 MR JOHANNSEN: So the site offered was a point of agreement, you'll be pleased to
2 hear.

3 MR SMITH: Okay, so you would have been content with that –

4 MR JOHANNSEN: We would have, yes, and would draw a line under it.

5 MR SMITH: Yeah, okay. Fine. Thank you. Apologies, so Mrs Miller.

6 MRS MILLER: Thank you. Yeah, just to confirm what Mr Johanssen said about the
7 proposed planting and how that would impact on landscape character. It was
8 felt from our point of view – and we did have site visits – that what was being
9 proposed would be a benefit in terms of the AONB landscape. As Mr Johanssen
10 said, it pretty much comprises prairie fields at the moment, and woodland
11 character would in fact be reinstating the historic landscape character because it
12 was previously wooded, and it would represent an improvement in visual and
13 landscape terms.

14 MR SMITH: Understood.

15 MR PRATT: Can I just interject at this point? You said, 'The site was agreed', and we
16 were talking about two sites, so is that single, both, one or the other? Can you
17 just clarify exactly – when you said 'the site', is it one?

18 MR JOHANNSEN: I'll hand to Mrs Miller.

19 MRS MILLER: Yes, so there were two sites, as you're aware, in the AONB which were
20 reduced or removed. So there was another site as well at Burham, a smaller site
21 of 10 hectares. That one did present more concerns to us in terms of landscape
22 character because it was, or it still is, on the actual escarpment – the lower part
23 of the escarpment of the Kent Downs, and woodland planting on that site wasn't
24 felt to be particularly characteristic. So we were more concerned about the
25 visual and landscape implications of that, but we felt that the benefits for the
26 Bluebell Hill site would adequately meet our concerns because of the landscape
27 scale of them.

28 MR JOHANNSEN: Just very quickly also on that point, some of the SSSIs, some of the
29 designated sites, do contain some chalk grassland elements, so I mean that would
30 be something that we would seek to discuss in detail with the applicant in terms
31 of the landscape character of the smaller site.

32 MR PRATT: Thank you for that clarification.

33 MR TAYLOR: Yes, it's Ken Taylor, panel member, speaking. I think just for
34 Mr Johanssen and Mrs Miller – I think given the nature of the comments you've

1 just made, I was intending to put it down as a specific action point to have a
2 written summary of these comments as part of your post hearing submissions,
3 please.

4 MR JOHANNSEN: Of course.

5 MR PRATT: Thank you. Has any of my colleagues got anything else to add? No. In
6 that case, Mr Fraser-Urquhart.

7 MR FRASER-URQUHART: Thank you, sir. I'm not going to waste time repeating
8 points we've already heard. We note, as has been said, that we will need to see
9 the deadline 7 materials from the applicant and we'll very much take up the
10 invitation in the agenda to provide full details in writing at deadline 8, but what
11 I would say by way of introduction is that we very much share the concerns that
12 you've just heard expressed about the need to consider the ecological networks
13 as part of the appropriate protection of the AONB. And secondly and more
14 generally, we share the I think fairly widely held view that it's inherently
15 unsatisfactory to have compensation areas for damage done in Kent being
16 located in Essex, and we very much share the view of the AONB network on
17 that. So with those general points made, I'm just going to ask Helen Forster if
18 she has any detailed points of reply she wants to make now.

19 MS FORSTER: Helen Forster, Kent County Council. Just briefly, I think, yeah, just
20 highlighting concerns about the change of approach to having compensation in
21 Kent and moving it – effectively being mainly in Essex. The designated sites
22 air quality assessment, APP-403-7, paragraph 7.4.11, referred to the cluster of
23 areas map that was up earlier, and it said any site outside the macro[?] areas of
24 interest cluster maps would be inherently less connected to the ecological
25 networks that support those affected sites, and so less suitable for compensation
26 measures. So the reason that the cluster area maps were created was to try and
27 identify those mitigation areas. I think that's me.

28 MR PRATT: Thank you very much. In that case, Natural England, your name has been
29 made a few comments earlier on. Would you like to make a comment now?

30 MR GRANT: Certainly, sir. Natural England, I'm going to bring in Mr Hanna to respond
31 on this.

32 MR HANNA: Thank you. Sean Hanna for Natural England. Natural England's advice
33 has and remains that we support the applicant in actually seeking to address the
34 impacts of nitrogen deposition on designated sites. So that position still stands

1 and it's appreciated, but as Mr Johannsen referred to in our advice to the
2 applicant in December 2021, which is examination document REP4-377, we did
3 provide high-level advice on their principles, and in that advice we supported
4 the criteria for identifying the potential compensation sites, which did include
5 reference to the proximity of those sites that were impacted to help build their
6 ecological resilience for the individual sites impacted. And we also
7 recommended a variety of other principles such as soil type and natural
8 regeneration and so on to add to the effectiveness of the compensation land.

9 We weren't able to review individual sites or the balance north and south
10 in detail, so that's not an area that we have kind of provided advice on, but
11 hopefully that helps provide some clarity on our position.

12 MR PRATT: To paraphrase you a little bit – Ken Pratt, panel member – so I can get it
13 clear in my mind, you gave them the advice that when they've taken the
14 approach that they have and the locations that they have, you've not reviewed it
15 insofar as you agree/disagree. You think it's adequate in their location. Is that
16 what you've just told me?

17 MR HANNA: Sorry – Sean Hanna for Natural England – no. I think what I was saying
18 was at the time they were coming up with the sites and the site selection, we
19 didn't have time to review it, so we weren't able to then say whether it was
20 appropriate or not at that point. We have asked for the applicant to provide
21 clarity on how the removal of the Bluebell Hill and Burham sites does still allow
22 that sort of overarching principle to be met, so I don't think we agree. I think
23 we agree with the principles, and we agreed with the area that should be provided
24 should be roughly the same as the area impacted, but I don't think we formally
25 agree that what's proposed at the moment is going to achieve the resilience of
26 those designated sites.

27 MR PRATT: Thank you for that clarification. Is there anybody else who wishes to make
28 a comment at this stage? I think Mr Tait.

29 MR TAIT: In fact, I'll ask Mr Cryer to respond and then pick up any other points that
30 may arise.

31 MR CRYER: Russell Cryer for the applicant. Can I be very clear that we are not
32 compensating for affected designated sites in Kent in Essex. We are
33 compensating for affected sites in each of the four clusters, the four ecological
34 networks that we've identified through GIS cluster analysis. And as I was saying

1 earlier, to achieve the same level of additional connectivity, and therefore
2 additional resilience to offset or compensate for the loss of resilience from the
3 nitrogen deposition degradation that is required in each of those four affected
4 clusters, each of the four affected clusters has affected sites and it has nitrogen
5 deposition compensation sites. In the north, those compensation sites need to be
6 larger to achieve the same level of additional connectivity, so we are not
7 compensating for Kent in Essex.

8 In terms of the proximity issue, the Defra guidance on compensatory
9 measures does state that there's a preference to providing compensation as close
10 as possible to the impact, but that is then caveated with 'unless a landscape scale
11 approach provides additional benefits.' We've talked about that in the project
12 air quality action plan. When we go through our site selection process, we
13 discuss proximity and that caveat within the Defra guidance as to one of our
14 criteria as to why we chose the landscape scale approach over, for example, a
15 site-by-site approach, because that landscape scale approach allows you to
16 compensate for multiple sites in small landscape scale new habitats.

17 That connectivity therefore is provided in each of those clusters, in each
18 of those affected networks. And moving on to the idea that the network is of
19 designated sites and not some other sites, designated sites are there at different
20 levels of designation, but they're all designated, and designated habitats in terms
21 of ancient woodland, but the designation just shows a level of quality of those
22 particular ecological sites or patches within an ecological network. An
23 ecological network is not something that is limited to a boundary that humans
24 have put on it in terms of designation and protection, so any particular designated
25 site or designated habitat lies within an ecological network that comprises of lots
26 of different patches of habitat, some designated, some not.

27 They're all semi-natural habitats that help build the resilience of all of the
28 patches by being part of that network, and by building the connectivity within
29 those networks that's how you achieve compensation of the reduction in
30 resilience in any particular site that is affected, whether that is a designated site
31 at a national level such as a SSSI, or a designated habitat such as an ancient
32 woodland, or a local wildlife site which is designated at a local scale. They all
33 lie within ecological networks, and it's the added connectivity and resilience of
34 that network that is the critical functionality.

1 MR PRATT: Thank you for that. This is getting quite complex. I'm going to come back
2 to you in a minute. Mr Holland has asked to speak. Before I sort of bring my
3 point in, I'll let him have his say, because I think his hand's been up for a while.
4 I don't think anybody else is but, Mr Holland.

5 MR HOLLAND: Thank you, sir. My hand went up after Natural England's comment,
6 and I'll leave it to you to decide how this is answered, so I'll put it through the
7 panel and the chair and I'll leave it to you, sir, but they were answering a
8 question as to whether they'd reviewed the sites for nitrogen deposition, as I
9 understand it. That's the conversation I've just been listening to. It poses a
10 question as to the wider environmental mitigation strategy – and the answer may
11 be the same, but it's just a point of clarification – have Natural England reviewed
12 each site as proposed for mitigation, or have they simply looked at the generality
13 of the landscape and mitigation strategy of the applicant?

14 MR PRATT: Couldn't have paid you better. The question that I was going to ask was
15 really on the site specifics, because things were getting quite complex, and I feel
16 the applicant should probably submit something at the next deadline which
17 explains exactly what you were telling us. But also as far as Natural England is
18 concerned in particular, there seems to be a little bit of I'm not exactly sure how
19 much of this you have been able to advise on the appropriateness or not of site
20 selection and that sort of issue, and I really feel that some sort of written
21 submissions from both, to be honest, at the next deadline to clarify the position.

22 As far as Natural England is concerned, do they agree with the sites? Does
23 it need the guidance, and if not, why not, and all that sort of thing. And clarity,
24 because I understand that we're looking at things in the round as well with the
25 designations, but the question has come up as to potentially 'What is a
26 designation?' I think is part of what you were coming back with as well, and I
27 think this needs to be brought together in writing at the next deadline so that it's
28 clear for everybody, and will help us as well.

29 MR SMITH: Just before we close out this, I mean there are a number of obviously
30 members of the examining authority all with a range of thoughts and
31 observations on this so, Ms Laver, did you want to come in?

32 MS LAVER: It was more just that I thought I needed clarity on Mr Pratt's guidance for
33 Natural England. I think what Mr Pratt – maybe he can correct me, but I want
34 it clear that you're going away with an action, you know what the action is – that

1 is it whether the sites that are now put forward for the nitrogen deposition
2 compensation actually meet the strategy of providing compensation close to
3 where the impacts arise? So it's looking at that north/south split, given we've
4 heard that quite a bit of the impact is in the south, in Kent, in the SSSI, and so
5 we would need something from Natural England that specifically addresses that
6 point. You may already have submitted it, but I haven't read it. So, Mr Pratt, is
7 that what you were asking Natural England to do?

8 MR PRATT: Yes, as well as the overall confirmation of the proposals, but site-specific
9 as well as generalities, please.

10 MR SMITH: Okay. I think one of the observations that I'm going to make is that we
11 need to articulate a written action point on this. We will take this away. We
12 will endeavour to produce this as quickly as possible. There may be some
13 finessing and clarification that falls out of conversation between members of the
14 panel, but we will try to make it as precise as we can for you.

15 MR PRATT: I think it's probably fair to allow Mr Tait to come back at the end of all
16 this.

17 MR TAIT: Thank you, sir. I see it's back to me. Nothing to add at this point, I think.
18 We'll come back in writing on those matters, sir.

19 MR PRATT: Thank you very much.

20 MR TAIT: I mean, I should add there clearly has been a statement of common ground
21 with Natural England, which is at quite an advanced state of iteration, and there
22 is clear support for the principles. We hadn't seen there was a matter in
23 disagreed about the sites, but we welcome hearing from them.

24 MR SMITH: Indeed. And at risk of throwing this around another loop, in response to
25 that my observation would be simply this, that I take away a clear sense of broad
26 agreement on strategy and general position. I see Natural England nodding away
27 as I make that point, and I believe, Mr Tait, that that is a point that you would
28 also broadly agree with. However, we have heard a number of very specific
29 arguments about the merits and contributions of particular proposals on
30 particular sites, including the request that we bring back in the Bluebell Hill land
31 or the Burham land or both, that for reasons that have been advanced to us in
32 detail by the applicant, it is being suggested by the applicant that they no longer
33 need.

1 And then we have also had what amounts to a strategic balance point put
2 to us, and the strategic balance point is, ought the compensation broadly occur
3 within reasonable geographical proximity of where the larger quantum of impact
4 lies, and has that point been responded to and advised by Natural England? And
5 that takes us to the north/south split point. Now, I hope that assists in sort of
6 trying to wrap some clarity around these issues but, as I say, I think there are a
7 whole range of thought processes from different disciplines leading into this
8 point, and we do need the greatest possible clarity that can be taken away by
9 both the applicant and Natural England, and the AONB unit, so we will do our
10 best to convene to produce something that is as clear as it reasonably can be.
11 Okay, Mr Tait, anything you need to come back on on that?

12 MR TAIT: Nothing I need to, no. Thank you, sir.

13 MR SMITH: You might want to. Okay.

14 MR PRATT: Mr Smith, you'll be glad to know that I'm just going to close that particular
15 item down. I think it's been talked about for a while. And can I pass across to
16 my colleague, Mr Taylor?

17 MR TAYLOR: Yes. Thank you, Mr Pratt. So I am now going to move on to agenda
18 item six. It's a very site-specific issue. Mr Tait, I am going to come to you first
19 to set out the applicant's position. I'm aware and I have seen that you have
20 responded to the comments from Gravesham Borough Council in your
21 deadline 7 response, but I appreciate that Gravesham Borough Council probably
22 haven't seen that yet, given it was only published a couple of hours ago, but I
23 think it's best here if you could set out the position in respect of potential
24 contamination at Southern Valley golf course, and how the applicant proposes
25 to deal with it. Then I'll pass over to Gravesham, and open it up to the rest of
26 the room, but I do appreciate from Gravesham's perspective they may need a bit
27 of time to look at the deadline 7 responses.

28 MR TAIT: So I'm going to introduce [Sarah Cork?], who's the geology and soils lead
29 for the project, to deal with this matter.

30 MS CORK: Thank you. Sarah Cork on behalf of the applicant. The Southern Valley
31 golf course is identified in ES chapter 10, geology and soils, APP-148, and
32 supporting appendices appendix 10.6, preliminary risk assessment APP-427,
33 appendix 10.9, the generic quantitative risk assessment APP-430, and Appendix
34 10.11, the remediation options appraisal and outline remediation strategy REP1-

1 165. It is referenced throughout those as a potential source of contamination
2 HLU0324, for which desk-based assessment, ground investigation and risk
3 assessment has been completed.

4 Construction of the Southern Valley golf course started in 1998. It's
5 located in the north east portion of the former Gravesend Airport. The applicant
6 understands anecdotally the material was imported onto the Southern Valley
7 golf course for landscaping fill, and given lack of documentary evidence
8 available we've conservatively assumed that materials of unknown quality may
9 have been imported. APP-430, figure (b), shows the ground investigation that's
10 been undertaken at the Southern Valley golf course, which comprised 35
11 exploratory hole locations. Made ground generally up to 1 metre thickness,
12 locally 2.9 metres, was encountered overlying head deposits, further overlying
13 the chalk formation. 140 collected samples were analysed. Exceedances in
14 limited locations were detected of lead – just one location – polyaromatic
15 hydrocarbons – six of those 140 – and all of these were mainly from the made
16 ground. They were assessed against a conservative assessment criteria for a
17 public open space.

18 Asbestos was identified in four of those 140 samples. Of those four, where
19 quantification was undertaken, they were below the limit of detection of 0.001%.
20 In summary, no evidence of significant material importation nor contamination
21 has been identified through the findings of that ground investigation. The end
22 use of the Southern Valley golf course is in [inaudible] cutting as it approaches
23 the south portal, with surrounding grassland areas proposed. The Southern
24 Valley golf course has been assessed as a medium risk site, taking into account
25 those earthworks that are proposed, and as such it's taken forward into the
26 remediation options appraisal and outline mediation strategy, REP1-165. This
27 report concludes that the most feasible remediation option for the project as a
28 whole is a combination of containment, excavation and disposal where needed.

29 The specific measures for remediation will be determined by the
30 development of the site-specific mediation strategy at detailed design. This is
31 secured by REAC GS027. A supplementary investigation of the Southern
32 Valley golf course would be undertaken, as secured by REAC GS001, to support
33 the development of that site-specific remediation strategy. Gravesham Borough
34 Council will be consulted through this process. This follows the process

1 contained within the Environment Agency land contamination risk management
2 guidance. Materials management will be controlled by a materials management
3 plan, in accordance with the definition of waste industry code of practice.

4 All excavated materials and soils that are proposed for re-use under this
5 materials management plan will be required to meet risk-based acceptability
6 criteria applicable to its intended use to ensure they are suitable for use, and this
7 is secured by REAC GS006 and MW007. Overall, the position analysed for the
8 project in the ES and supporting appendices follows the Environment Agency
9 LCRM guidance. It takes into account a multitude of evidence gathered, to
10 identify potential contaminant linkages using the source pathway receptor
11 approach, and develops conceptual site models. The LCRM guidance
12 recommends a tiered approach in stages, with increased site-specific
13 understanding required at each level.

14 By adopting the land contamination risk management guidance, the
15 position analysed in the Environmental Statement and its supporting appendices
16 provides a proportionate and appropriate assessment of land contamination risk
17 for the DCO. To conclude also, the applicant notes the Environment Agency's
18 satisfaction with the applicant's approach to land contamination, as is
19 documented in their response to ExQ2, question 6.1.2 at REP6-124. They state
20 that land contamination risk assessment and management is an iterative process
21 with subsequent phases being more detailed than the last, and they acknowledge
22 that further detailed investigations will be required, and which is a standard risk
23 assessment practice for projects of both large and small scale. Thank you.

24 MR TAYLOR: Thank you. Mr Tait, is that...?

25 MR TAIT: Yes, sir, it is completed.

26 MR TAYLOR: Okay. Thank you very much. A very full response. So, Mr Bedford,
27 can I come to you for Gravesham Council, and then I'll see if the Environment
28 Agency want to speak after.

29 MR BEDFORD: Thank you, sir. Michael Bedford, Gravesham Borough Council. So as
30 you say, rightly, we haven't fully absorbed whatever has been submitted at
31 deadline 7, so if I put that down as just an initial marker that we will carefully
32 review that and comment as necessary on it. So I think there is two distinct
33 issues that just need to be aired. One is the issue of contamination on land which
34 is affected by the project within the Southern Valley golf course.

1 And on that aspect, at least in principle, I think that Gravesham would
2 accept that either through the controls which are currently set out in the
3 applicant's materials – perhaps whether through the REAC or whether it is
4 through particularly requirement six which I think deals with the unknown
5 contamination – but certainly in principle so far as the areas which are to be the
6 subject of works which are part of the authorised development, then it should be
7 possible to ensure that any contamination risks are appropriately dealt with in
8 accordance with conventional practices for dealing with remediation of
9 contaminated sites.

10 But the red line actually embraces slightly more land than the area of the
11 proposed works, as indicated on I think sheets 11 and 13 of the general
12 arrangement plans, and I'm thinking in particular – and you may recall this from
13 our earlier hearing talking about the Cascades Leisure Centre and the golf
14 provision – there is a parcel of land which is within the Southern Valley golf
15 course, which is on the north west corner adjacent to Thong Lane, which has
16 been discussed as a potential area of land to be provided to Gravesham Borough
17 Council as potentially part of the open space reorganisation, if I can call it that
18 in loose terms, that may be part of the discussions of dealing with the issues
19 about the loss of recreational facilities in and adjacent to the Southern Valley
20 golf course and the existing Cascades site.

21 That land which is currently part of the Southern Valley golf course and
22 therefore now owned by National Highways, as we read the general arrangement
23 plans, that land lies outside of the area of the proposed authorised development
24 works. It's effectively where the access to the golf clubhouse and so on are
25 located. And certainly as we read the DCO and the control documents, they're
26 not intended to regulate any contamination risks that might exist within the
27 Southern Valley golf course, but in relation to that land, which is outside of the
28 areas of the proposed works for the authorised development. So what we would
29 be concerned about in relation to this aspect is that if it is to be the case that that
30 land is to be transferred to Gravesham Borough Council as part of dealing with
31 the recreational issues, clearly there needs to be adequate arrangements for any
32 contamination risk within that area to be appropriately addressed and
33 remediated, and not, if I can say so, at Gravesham Borough Council's expense
34 or liability.

1 Clearly, if we were to take that land for recreational purposes, we would
2 want to be taking either a clean site or a site that somebody else was responsible
3 for the remediation of any contamination. As I said, to put it in very simple
4 terms, subject to us reviewing what has been submitted at deadline 7, we see, in
5 principle, that areas that are within the authorised development are capable of
6 being remediated appropriately through the controls of the DCO and associated
7 control documents, but so far as there is part of the Southern Valley golf course,
8 which lies outside of the areas of the authorised development. Insofar as that
9 land being land that's coming to Gravesham Borough Council as part of the open
10 space reorganisation, we would want to be assured that any contamination risks
11 and any appropriate remediation is satisfactorily delivered, but not, as it were, at
12 our expense. So those are our two points.

13 MR TAYLOR: Thank you, Mr Bedford. That's very clear. I think it's a matter that we
14 potentially can pick up on potentially tomorrow when we're dealing with the
15 control documents and then follow it up on Tuesday in the DCO hearings, if we
16 can't totally bottom this out this afternoon. I just want to check, does the
17 Environment Agency wish to speak on this topic, if they're still in the virtual
18 room?

19 MR PENN: Good afternoon. It's Richard Penn. Sir, I think from our perspective, the
20 REAC commitment GS-001, which is in REP6-038, outlines a lot of the
21 supplementary ground investigations that would be taken on residual
22 contamination risks, and so we're a consultee as part of that, as part of
23 requirement 4 of the DCO, so feel satisfied that that would cover some of these
24 risks.

25 MR TAYLOR: Thank you very much. I'll just check, is there any other interested parties
26 in either the virtual or the physical room who want to speak on this? I do
27 appreciate it's a very site-specific issue. I'm not seeing any hands. So Mr Tait,
28 I will revert to you, please.

29 MR TAIT: Thank you, sir. In relation to the land Mr Bedford was referring to, we're
30 not quite clear which lot he's referring to outside the order limits that wouldn't
31 –

32 MR BEDFORD: It's not outside the order limits. If I didn't make it clear, it is within
33 the red line, but when you then look at the general arrangement plans at sheets

1 11 and 12, so far as the areas where works are proposed, it seems to lie outside
2 of the area where works are proposed.

3 MR TAYLOR: My understanding is that Mr Bedford is getting at – that the land that’s
4 given over to Gravesham Council for the –

5 MR SMITH: It’s the proposed replacement land.

6 MR BEDFORD: Yes, the white land, as it were, on that plan, yes, I can use that old
7 fashioned –

8 MR SMITH: But is it the right plan? The bit of the former golf course that is proposed
9 to be transferred to Gravesham as a means of addressing the loss of other open
10 space, looking at it with the cursor slap bang in the middle of it right now, is that
11 correct, Mr Bedford?

12 MR TAIT: Rather than spend time now, we’ll clarify whether it is in fact the case that
13 the DCO controls don’t apply to that land, and if they don’t, we’ll look at that,
14 but I think that’s the best way for me to deal with that narrow point.

15 MR SMITH: And we’ve got a few places where we can pick that up, because we will be
16 looking at control documents tomorrow and we’ll also look at the DCO in due
17 course this week.

18 MR TAYLOR: And because we’d like to get this bottomed out over those next two
19 opportunities, if an offline conversation between yourself and Gravesham
20 Borough Council would help facilitate that, that’d be really helpful if you could
21 do that.

22 MR BEDFORD: Yes, sir, and it’s coming up, I think, first thing tomorrow, the question
23 of the open space position there. So I hope we’ll have a clear answer by then.

24 MR TAYLOR: Thank you. So I think that then concludes that very brief agenda item.
25 Thank you all, and hopefully we’ll get that fully sorted out over the next couple
26 of days. So I now think I will hand over to Mr Smith.

27 MR SMITH: Thank you very much, Mr Taylor. What I’m going to do just before
28 formally closing today is to do something that we haven’t been in the habit of
29 doing, particularly in this examination, though it has been done in others
30 previously, which is just to provide a checkpoint on actions arising, because
31 we’re very conscious that we’re quite close to the end of the examination and
32 that the time period between the setting of an action and its clarification in
33 writing might not be particularly helpful. So at the risk of boring everybody,
34 bear with me, we’ll just pass through the draft action list and cover off matters

1 that have arisen, so that – mainly the applicant, has the longest possible notice
2 of the matters that have arisen.

3 We have in total – just let me check – yes, there are quite a lot of actions,
4 17. I'll try and group them and go through them with reasonable pace. The first
5 is for the applicant at deadline 8 and relates to the Levelling-Up and
6 Regeneration Act, the LURA, section 245 (5 & 6A), and the amendment of the
7 Countryside and Rights of Way Act, the CROW Act, 2000, in respect to the
8 general duty imposed on public bodies dealing with functions in an AONB, and
9 what we're looking for there is a commentary on the effect of this duty change
10 for the development and the assessments that have been submitted and then the
11 particular points that were raised, reviewing in a tabulated form, we hope,
12 National Networks NPS, paragraphs. 5.150 to 5.153, and to give us a view in
13 terms – whether there is any change to the operation of that policy that flows
14 from the new duty, and, if there is none, why not, and if there is, in your view,
15 one, why so? Now, that by deadline 8, and then other interested parties with
16 concerns on that point can of course respond at deadline 9.

17 If we then go to the applicant, local landscape character area boundaries –
18 this is an action at deadline 8 and we are looking for clarity as to adjustments
19 which were made to local landscape character area and sub-area boundaries in
20 respect to the assessments prepared for the 2020 application and the current
21 application, and where changes were made for 2020 and/or 2023, please set out
22 detailed reasons for that.

23 Then a third related point to the applicant again by deadline 8 – assessment
24 of significant AONB character areas, asking for the provision of information on
25 the design, re-evaluation and assessment of significance in respect of changes
26 made between the 2020 application and the current application, and please
27 specify the changes and how these inform the re-grading of the impact of the
28 scheme. Then related point to the applicant, Kent Downs AONB landscape
29 impact assessments.

30 What we would like you to do – I mean, we note the difference between
31 the character area assessments that the applicant has carried out which are
32 different from the Kent Downs AONB landscape character areas, and on a
33 without prejudice basis, what we would like the applicant please to do is to
34 provide a summary assessment using the Kent Downs AONB unit, landscape

1 character area and sub-area boundaries, in addition to the assessment already
2 provided by the applicant's own adjusted boundaries, and what we would like
3 then is a commentary, with reasoning, setting out whether there's any difference
4 in conclusion arrived at as a consequence of using the AONB units, landscape
5 character area or sub-area boundaries.

6 Now again, that's something that other interested parties can respond to at
7 deadline 9. Yes, thank you. Losing my grip on deadlines. We then move to a
8 different topic and a different recipient. This is, I'm afraid, for Gravesham
9 Borough Council, Mr Bedford, and it relates to design principles and green
10 bridges, and we are asking the council to provide alternative/additional wording
11 for the design principles, and referring here to principle STR-08 which, in the
12 council's view, would better ensure robust, shall we say, ambitious, landscape
13 connectivity to be achieved from green bridges by deadline 8, please, and, of
14 course, for the applicant, the ability to respond at deadline 9.

15 If we then go to green bridges again, and this one is for the applicant and
16 Natural England and this is the photo montages point, and we would like the
17 applicant and Natural England to discuss the possibility of the applicant
18 providing additional photo montages and representative viewpoints showing
19 green bridges at distance, as they would be seen from the wider landscape, and
20 to include consideration of whether side on perspectives should be provided.
21 The applicant to provide an update at deadline 8, and, if additional photo
22 montage work is being done, the applicant to provide the actual montages at
23 deadline 9, which, of course, leaves Natural England and other interested parties,
24 if needs be, providing final comments at deadline 10.

25 We note the timescale implications of that, but the applicant has told us in
26 terms – and I think it is likely a fair assessment, that to achieve any detailed
27 montage representations before deadline 9 would not be reasonably feasible or
28 indeed achievable. If we then look at green bridges again, there is an action
29 number 7, I believe, on the applicant in relation to the width of green bridges
30 and this one is for deadline 8. Please provide a supplement to the response
31 provided at REP4-102 that gives a commentary on the possible feasibility/ scope
32 to widen green bridges that would not significantly alter the extent of the
33 structures in linear terms. I mean, essentially what we're looking at is any flex
34 within the order limits to design adjust those structures.

1 Now, landscape and visual considerations. This is a broad action on Kent
2 County Council, Gravesham Borough Council, Thurrock Council, Natural
3 England and the Kent AONB unit asking for a summary of your respective
4 positions on the applicant's conclusions within chapter 7, landscape and visual
5 of the environmental statement, which is in APP-145, paragraph 7.9.22 for
6 deadline 8. We are now moving on to matters arising from the discussion of
7 Coalhouse Point. A request for Natural England, number 9, by deadline 8, and
8 this is a request for comments on agenda item 42 in respect of the proposed
9 hydrological changes and any associated effect on the intended created habitat.

10 Then we look at Star Dam and compulsory acquisition matters, an action
11 bearing on the applicant with reference to and/or including the Environment
12 Agency. I say 'with reference to'. It may be a simple exchange of emails could
13 possibly solve this. We would like a comment from the applicant on the
14 distribution of temporary possession and permanent acquisition at Star Dam
15 considering the proposed future maintenance needs of the structure and being
16 clear that A, you control enough of the structure to do what you need to do in
17 principle works, and B, that the Environment Agency will continue to retain
18 maintenance responsibility for the structure moving forward and appropriate
19 access to it for that purpose.

20 We then look at compulsory acquisition at Coalhouse Fort, and this is for
21 the applicant, and this was the preliminary works question. Our understanding
22 is that the wetland mitigation provision at Coalhouse Fort is part of preliminary
23 works and so therefore we are seeking an applicant's position in terms of dealing
24 with the effects on affected persons in circumstances where, for whatever
25 reason, about which we do not speculate, the main works then did not proceed.
26 Could or would the land be returned to its previous condition and offered for
27 return to the original landowner or would it be retained by the applicant in its
28 managed on condition and that become a compensable matter? And Mr Holland,
29 on behalf of the Mott family, may wish to respond to that at deadline 9.

30 We then are asking the applicant in relation to the provision of wetland
31 mitigation at Coalhouse Fort to provide an update on whether the time window
32 provided in the REAC for early provision of wetland mitigation could or should
33 be given greater force or prominence, and this was a point, I believe, that arose
34 from Natural England principally, but Natural England, Thurrock Council and

1 other interested parties may respond to the applicant's position at deadline 9. If
2 we then look at the issue of potential land contamination following a possible
3 future flood event at or near Coalhouse Point, and the applicant is being asked
4 to provide further written comments on flood risk and possible associated
5 contamination on the proposed wetland mitigation land and adjacent third-party
6 land by deadline 8, please. Again, Mr Holland will note that one as a potential
7 response on behalf of his clients at deadline 9.

8 Now, nitrogen. We're getting there, folks. For Gravesham Borough
9 Council and Kent County Council, following consideration of the applicant's
10 deadline 7 submissions, please provide comments in relation to agenda item
11 5(a)(i) including an observation as to whether what you have now seen following
12 deadline 7 written submissions has resolved previous concerns, particularly
13 those raised by GBC. Kent Downs AONB unit, nitrogen deposition sites and
14 related landscape impacts on the Kent Downs AONB. What we're seeking here
15 is a written summary of matters raised in respect of sites for nitrogen deposition
16 compensation as your post-hearing summary from this event in any case due at
17 deadline 8, but in doing so, please provide written comments on whether
18 potential additional nitrogen deposition compensation, land provision within
19 and/or close to the Kent Downs AONB, could alter the current landscape
20 character and quality of the AONB.

21 For the applicant in relation to nitrogen deposition, asking for the
22 submission of details, including diagrammatical representations indicating
23 where nitrogen deposition compensation for each of the four clusters are
24 proposed to be provided in comparison with the relevant geographical locations
25 of the impacts that are being sought to be mitigated. This is attempting to draw
26 out, in a simple graphic representation, one of the points that was being urged
27 upon us by the AONB unit about the geographical relationship, the proximity
28 relationship, between the arising of effect and its management.

29 Then an action on Natural England in relation to nitrogen deposition
30 compensation, do the nitrogen deposition compensation sites proposed by the
31 applicant adequately compensate for the relevant impacts? Please, in addressing
32 this question, move from the point of high principle into the specifics of
33 geography, the location, the characteristics and values of the individual sites.

1 If we then finally move to the Southern Valley golf course, one for the
2 applicant to clarify the position in relation to the potential contamination on the
3 proposed open space replacement land at the Southern Valley golf course, which
4 would be provided to Gravesham Borough Council and in particular to address
5 whether the controls in the DDCO and the related control documents, ensure that
6 further and future contaminated land investigation and remediation, should this
7 be required, would be carried out on the land as well as any necessary parts of
8 the golf course, which would form part of the operational development itself,
9 but particularly in a manner that would manage what Gravesham Borough
10 Council are potentially identifying as a liability that might otherwise fall upon
11 them that they wish to see discharged before they take possession of any such
12 land.

13 So those were the matters that ended up in our draft list. Now, does
14 anybody have any questions arising from any of those matters? Otherwise, we
15 will draft them up properly, and we'll try to produce them as swiftly as we can,
16 but proposition – we needed to get them out onto the table tonight.

17 MR BEDFORD: Sir, they were all very clear. I made it 18 points, but maybe I was just
18 splitting some of your points. So we'll see the action points when they come
19 and it was very, very clear.

20 MR TAYLOR: I added one after Mr Smith did his –

21 MR SMITH: Don't you love colleagues who change the rules when you're partway
22 through the process? No, look, I'm over-viewing the list as Mr Taylor has just
23 re-edited it, and, yes, you were in fact correct; by the time I got to the end, there
24 were 18. There just were 16 when I started, and yes, finally, there is a general
25 overarching point which I haven't specifically identified as an action, but I think,
26 simply by verbalising it, I suspect we will need to add to make – help us – 19,
27 which is simply to observe that in relation to nitrogen deposition as a broad issue,
28 we would ask for observations from parties who are commenting in any case on
29 the REAC[?], to take their deliberations on nitrogen deposition matters, to the
30 degree that they are relevant to the REAC and HRA as a process into account
31 when they comment on the REAC. Now, that really, I have to say, is focused
32 on Natural England more than anybody else, but is a general invitation. Any
33 other questions/observations? Gosh.

34 MR PRATT: Mr Smith, I was about to ask who's got the record of the one that's missing?

1 MR SMITH: Well, it's on Jan's screen at the moment, but we'll make sure it gets
2 translated. I'm sure Mr Taylor is – maybe even writing it down as we speak. So
3 those are the action points and unless there are any other points of a procedural
4 nature or requiring/seeking guidance or direction from us, I will then move to
5 close this hearing which has been issue-specific hearing number 11. We are
6 back in this room again at 10.00 a.m. for issue-specific hearing number 12 on
7 social, economic and project delivery matters and then open-floor hearing 5 at
8 7.00 p.m. I outlined at the beginning of this event how we might see that work,
9 so I won't cover off any of those arrangements or details now. So if I could
10 thank once again –

11 MR FRASER-URQUHART: Sorry, before you finally close, can I just ask: can we leave
12 things in this room overnight?

13 MR SMITH: Now, that is a moot point. I suspect – surely we ought be able to, but I will
14 just ask one of our case management team to go and make the inquiry, and the
15 reason why I'm going to do that – and I suggest you approach him immediately
16 after the close to find out what he has said – was because in fact the panel's own
17 room had various items left in it overnight last night that were, shall we say,
18 tidied away and had to be recovered in the morning. This room cannot be
19 locked. I think, Mr Fraser-Urquhart, you have your answer. It's probably not
20 very safe.

21 MR FRASER-URQUHART: Okay.

22 MR SMITH: Sorry. So again, returning to the closure, to thank everybody who has
23 contributed today for your contributions and all contributions will be taken very
24 carefully into account, and to thank once again the case team for their sterling
25 work and the audio-visual team also, and so unless there is anything else, finally,
26 that anyone needs to raise, then I am now going to formally close what has been
27 issue-specific hearing number 11. Thank you very much, ladies and gentlemen,
28 the hearing is now closed.

29
30

(Meeting concluded)