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BY ONLINE SUBMISSION ONLY

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Maidstone
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Your Reference:
TR010032

KCC Interested Party
Reference Number:
20035779

Date: 5th December 2023

Dear Rynd,

RE: Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing - Kent County Council's Submission to Deadline 8

As outlined within the Examination Timetable (Annex A of the Rule 8 letter [PD-020]), this letter is Kent County Council's Deadline 8 (D8) submission which provides the following:

- Responses to ExQ3

KCC's responses to the Examining Authority's third round of written questions and requests for information [PD-046] are provided within the attached document.

Yours sincerely,

Simon Jones

Corporate Director – Growth, Environment & Transport

Appendix A: Kent County Council Responses to ExQ3 [PD-046]



ExQ3	Question to:	Question:	KCC response
10. Road drainage, water environment and flooding			
Q10.1.1	Applicant EA LLFAs IDB	<p>Flood Risk Assessment: locationally specific provisions</p> <p>In general terms, standard guidance has been followed in the current Flood Risk Assessment [APP-460 to 477 and REP1-171] that has been submitted for the project as a whole.</p> <p>The following additional assessments have been provided:</p> <ul style="list-style-type: none"> · [REP6-102] Deadline 6 Submission - 9.147 Coalhouse Point Flood Risk Assessment · [REP4-225] Deadline 4 Submission - 9.103 Hole Farm Appx F.3 Flood Risk Assessment <p>Are there any other particular locations where non-standard considerations should be included and if so why?</p> <p>If there are such locations, can the Applicant provide copies of such assessments or the indication of when/if they will be undertaken alongside the reasons why they have not been undertaken thus far?</p>	<p>This is not within KCC's jurisdiction as LLFA that we are aware of.</p>
Q10.1.6	Applicant Environment Agency LLFAs IDBs	<p>Culvert design</p> <p>In RDWE013 of the REAC document [REP6-038], and similar clauses, it is suggested that the SoS approves designs in consultation with the Environment Agency. Are there conditions, such as on non- Main River watercourses, where it would be more appropriate for the Drainage Authority or LLFA to be the consultation body?</p>	<p>This could indeed be the case - any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the Applicant to contact Kent County Council (KCC) prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require KCC's formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.</p> <p>Further to this the Examining Authority should be aware of the drainage protective provisions agreement that will cover such matters between KCC and National Highways.</p>

ExQ3	Question to:	Question:	KCC response
ExQ3	Question to:	Question:	KCC response
Q10.1.12	Applicant LLFAs IDB	<p>Water Framework Directive: culverting</p> <p>Paragraph 8.1.3 of Post-event submissions for ISH9 [REP6-090] states that ‘... <i>the Applicant’s preference is for a culvert that is as short as it practically can be ...</i>’.</p> <p>Compared with an open channel it is suggested that there is an increased risk of blockage once a culvert is installed, it will create less permeable bed to a watercourse, can increase the speed of water flow, possibly:</p> <ul style="list-style-type: none"> · increasing flood risk downstream, · preventing local recharge of groundwater, · creating or exacerbating downstream or upstream bank and bed erosion, · promoting sediment deposition, and/ or · disrupting the natural transport of sediment. <p>Culverting can have a detrimental impact on the environment, resulting in a complete loss of features within a watercourse, thereby it can break the continuity of the watercourse corridor, adversely affecting the ecological value of the watercourse for migrating species.</p> <ul style="list-style-type: none"> · The Applicant should provide an example of the methodology that has been gone through to come to the conclusion that the shortest length of culvert possible at the crossing X-EFR-2-04 (as shown in ES - Appendix 14.6 - Flood Risk Assessment - Part 10 [APP-477]) is the preferred option? · Who was consulted during the process? · What other options were considered and why were they discarded? · The shortest culvert length would be one that perpendicularly crosses the highway. Why has this not been chosen as a design option at the various locations? 	<p>This relates to a culvert under the jurisdiction of Thurrock Council, as such KCC has no comment to make.</p>
Q10.1.13	LLFA IDB	<p>Water Framework Directive: culverting policy</p> <p>Proposed culverting of non ‘Main Rivers’ is regulated by the Lead Local Flood Authorities (LLFAs) and Internal Drainage Boards (IDBs). Under the Environment Act 2021, when exercising functions (including consenting), LLFAs and IDBs are required to have regard to conserving and enhancing biodiversity.</p> <ul style="list-style-type: none"> · Can the LLFAs and IDBs provide copies of the guidance to applicants who intend to culvert watercourses under their control, and how the duty under the Environment Act is met? · What other guidance is offered when the LLFA and IDB are approached to consent a culverting proposal? · From the information currently available, is it likely that the culverting proposals could meet the consenting policy of the organisation? 	<p>Links to guidance:</p> <p>https://www.kent.gov.uk/__data/assets/pdf_file/0016/5191/Land-drainage-consent-guidance-notes.pdf Note this a requirement under the Land Drainage Act not the Environment Act.</p> <p>Further guidance can be found here: https://www.kent.gov.uk/environment-waste-and-planning/flooding-and-drainage/sustainable-drainage-systems/owning-and-maintaining-a-watercourse#:~:text=Land%20drainage%20consent,(PDF%2C%20857.0%20KB)</p> <p>KCC’s Land Drainage Policy can be found here: https://www.kent.gov.uk/__data/assets/pdf_file/0007/104929/Land-drainage-policy.pdf</p> <p>Final question: Yes, although Part 10 of the Flood Risk Assessment, Table 4.7 [APP-477] shows no affected watercourses under KCC’s jurisdiction.</p>

ExQ3	Question to:	Question:	KCC response
ExQ3	Question to:	Question:	KCC response
Q10.1.14	Applicant All IPs who are expected to adopt or otherwise be responsible for the future maintenance of ditches etc.	<p>Definition of ditches and other watercourses etc</p> <p>The Applicant's response to ExQ2 10.1.3 [REP6-112] is noted, however, although the response notes that the assets under consideration are 'swales', the sections presented in the Document Deadline 5 Submission - 9.123 Whitecroft Care Home Cross-sections [REP5-092] show those assets as 'proposed drainage ditches' which would normally be classed as watercourses. The response also suggests that the Whitecroft Care Home Cross-sections' defined 'proposed drainage ditches' are / or could be linear storage ponds.</p> <ul style="list-style-type: none"> · The Applicant is requested to provide clarity for all locations on the 'proposed ditch' network and indicate which are: · Watercourses (i.e. ditches that convey water) · Swale (i.e. shallow artificial body) · Linear Storage ponds/basins · Filter drains and formed regular drainage channels. · By defining the assets as 'proposed ditches', the ExA considers that all may be considered as 'watercourses' in the draft DCO and dealt with accordingly, albeit there does not appear to be a definition of a 'pond' and be subject to the monitoring etc as suggested by the Flood and Water Management Act 2010? · Are the bodies who are likely to become responsible for the future maintenance of these 'proposed ditches' content that they are aware of the function in each case? 	<p>Whilst this question relates to a site north of the Thames, outside our jurisdiction, given that the DCO defines watercourses as such: "watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, winterbournes, sewers and passages through which water flows except a public sewer or drain", KCC agrees with the Examining Authority that ditches can be dealt with as a watercourse. The defining of a 'pond' as a watercourse is somewhat more subjective - to be a water course there must be an onward flow of water - water in and water out, so whilst not necessarily generally accepted, there is a point of view that an online pond can be described as a watercourse. For the purposes of the draft DCO we would suggest they could be included in the overall watercourse monitoring regime. With regards to maintenance, this would be for the authorities north of the Thames to respond to.</p>
11. Biodiversity			
ExQ3	Question to:	Question:	KCC response
Q11.1.2	Applicant Local Authorities Environmental Authorities / Agencies	<p>Compensatory Planting</p> <p>Where it is proposed to affect areas that constitute compensatory habitat for previous projects, should such areas be provided with any special provision in relation to consideration of the earlier project requirements?</p>	<p>KCC believes that where planting was implemented as part of a previous project (such as HS1) then it should be compensated for in its entirety.</p>
Q11.1.4	Applicant Other IPs	<p>Wildlife pond provision</p> <p>Document 7.5 Design Principles Volume 7 [REP6-046], LSP.31 states that "... <i>The design of all ponds shall follow the guidance given in the Great Crested Newt Conservation Handbook ...</i>".</p> <p>Why are other species not considered as being the species on which ponds are designed?</p> <p>Are there other species that should be considered in the design of the proposed Wildlife Ponds?</p>	<p>KCC believes that if you design a pond for Great Crested Newts (GCN) it will be suitable for other species. GCN need ponds which have areas clear of vegetation in parts of the pond and parts of the pond with shallow edges/shelves so they can get in and out. Therefore, by designing it with a focus on GCN, it will benefit other species.</p>

ExQ3	Question to:	Question:	KCC response
Q11.1.6	Applicant Environmental IPs	<p>Green Bridges and habitat connectivity</p> <p>With reference to the Design Principles [REP6-046], where STR.08 suggests that the principle is to “... provide an enhanced user experience for those using the crossing and living in the immediate area ...” and also to the Applicant’s response to ExQ2 11.2.5 [REP6-114] where the comment “... no data is available yet on the success or otherwise of the green bridges...” is made, it is suggested that the provision is of a similar nature to that made for other projects:</p> <ul style="list-style-type: none"> · What data is to be collected on the success or otherwise of the Green Bridges in this project, and those Bridges listed in the response to ExQ2 11.2.5 across all types of users, including ‘non-human’ users/ mobile species? · What are the indicators for success that will be used in monitoring the success of the ‘green bridges’ and where are these secured in the Design Principles and OLEMP documents? · What process is proposed to be utilised to determine best practice and how are the lessons that may be being learnt at the other sites being made available to the LTC Design Team? · Referencing S11.03 in the Design Principles [REP6-046], is there lighting proposed for the Green Bridges and if so, to what extent might it act as a barrier for use by mobile species that the bridges seek to encourage? 	<p>KCC expects the monitoring required as part of the oLEMP to cover the Green Bridges. The monitoring must include species surveys and habitat assessments. The lighting on the bridge should be minimal. There will be a lot of lighting on the road so any lighting on the bridge should be designed to be minimal and ideally ensure that the area which is <i>green</i> has limited lighting.</p>
Q11.1.7	Applicant Natural England Environmental IPs	<p>Green Bridges</p> <p>Why should the ExA consider that Thong Lane and Brewers Road bridges are effective ‘green bridges’ in biodiversity terms, having regard to concerns about the potential lack of effective connectivity for those species that these are intended to deliver?</p> <p>In a similar manner, the ExA would like to receive evidenced representations on each of the bridges identified in the proposed development as ‘green bridges’ on the question of whether they should be considered as such in biodiversity terms?</p> <p>Respondents with broader interests in ‘green bridge’ design than biodiversity are referred to ExQ3 16.1.4 which seeks a balance of views on ‘green bridges’ performance against a range of objectives and outcomes.</p>	<p>KCC considers that the Green Bridges are not as wide as green bridges should be and they also have a traffic/recreation use so the area that can be ‘greened’ is limited, unless the bridge itself is widened. There is limited connectivity between the bridges and vegetation either side.</p> <p>KCC understands the proposed widths of the Green Bridges in Kent to be as follows (from LTC DCO document 7.5 Design Principles [REP7-140]):</p> <ul style="list-style-type: none"> • Table 5.1, S1.17: Brewers Road Green Bridge (Work No. 1D) – “A 10m planting zone on the east; a 1.5m planting zone on the west”. • Table 5.2, S2.12: Thong Lane Green Bridge south (Work No. 1H) – “A 20m planting zone on the west; a 1.5m planting zone on the east”. • Table 5.3, S3.18: Thong Lane green bridge north (Work No. 3B) – “The planting green zones shall be maximised. Their width shall vary across the length of the bridge but shall have a 7m minimum width at pinch points. The WCH routes may be located within the planting zones.” <p>While KCC is not aware of a UK design standard related to Green Bridge dimensions, guidance is available in <i>Green Bridges: A literature review</i> (NECR181), published by Natural England on 27 July 2015:</p>

ExQ3	Question to:	Question:	KCC response
ExQ3			<p>https://publications.naturalengland.org.uk/file/6296975990325248</p> <p>This guidance led to the production of <i>Green Bridges Technical Guidance Note 09/2015</i>, published by the Landscape Institute in December 2015:</p> <p>https://landscapewpstorage01.blob.core.windows.net/www-landscapeinstitute-org/2016/01/TGN9_15Green-Bridges-Guide_LI-300dpi.pdf</p> <p>This document contains the following guidance:</p> <p>Width and length</p> <p>Bridges aiming to achieve connections at a landscape / ecosystem level should be over 80m in width. Bridges aiming to achieve connections for species at a population level should be around 50m (published guidance recommendations range from 25m-80m, with an average of 50m). Bridges below 20m in width are not recommended as frequency of use has been found to be lower. The length will largely be determined by the number of roads / railway lines that are crossed. The length will also be influenced by topography as the access ramps should not be too steep. A width to length ratio over 0.8 is recommended.</p>
Q11.1.9	Applicant Natural England Kent County Council Gravesham Borough Council Shorne Parish Council	<p>Shorne Woods SSSI and Car Park</p> <p>Clarification is requested in relation to the proposed car park retention question at Shorne Woods SSSI. The matter was raised at ISH9 and the decision appears to be, as referenced in the transcript [EV-074], and submission [REP6-090], that no carpark is to be retained.</p> <ul style="list-style-type: none"> · Are those bodies listed content that this is the position? · The Applicant should also confirm how the land is proposed to be restored after removal of the construction compound and where the restoration proposals are secured. 	<p>KCC is content for there to be no car park retained post construction and for the land to be returned to its previous use / natural habitat.</p>

16. General and overarching questions			
ExQ3	Question to:	Question:	KCC response
Q16.1.3	Applicant Gravesham Borough Council, Thurrock Council, Kent County Council, Essex County Council, Kent Downs AONB Unit, Natural England, Other IPs interested in the design, function and operation of Green Bridges	<p>Green Bridges: serving multiple objectives</p> <p>ExQ3 11.1.5 and 11.1.6 refer to the functions of the proposed Green Bridges in relation to biodiversity and habitat connectivity. However, evaluation of the proposed Green Bridges requires consideration of their performance in terms of multiple objectives and outcomes, including but not limited to:</p> <ul style="list-style-type: none"> · Biodiversity · Habitat connectivity · The provision of non-motorised user (NMU) routes for people · Landscape and landscape mitigation, in general terms and (with reference to the Kent Downs) to AONB landscapes. <p>With reference to these objectives but also to such other functions and outcomes as are considered relevant, please provide your summary assessment of the effectiveness of each Green Bridge proposed within your area of interest. If objectives and outcomes appear to be in competition or to pull in different directions, please indicate the particular objectives considered to be the most important and why.</p>	<p>In terms of the biodiversity and habitat connectivity objectives of Green Bridges, please refer our response to Q11.1.7 above.</p> <p>In terms of the provision of routes for non-motorised users (NMU) as an objective of Green Bridges, then it is essential that they comply with the associated design standards. All three Green Bridges proposed by The Project fail to do this, in not providing for segregated movements for pedestrians and cyclists, as per the Department for Transport's Local Transport Note LTN 1/20, Cycle Infrastructure Design, July 2020. This is disappointing, as structures will not be able to be widened at a later date to accommodate such provision in future. An opportunity to better promote active travel as a legacy for The Project has been missed.</p> <p>In terms of the landscape and landscape mitigation objectives of Green Bridge, we defer to the response from the KCC AONB Unit.</p>
17. Habitats Regulation Assessment			
ExQ3	Question to:	Question:	KCC response
Q17.1.1	All IPs	<p>Habitats Regulations Assessment and the Report on the Implications for European Sites</p> <p>The ExA directs all IPs but specifically NE, MMO, PLA, EA and Local Authorities to the questions posed within the Report on the Implications for European Sites (RIES) as issued by the ExA on 14 November 2023. The questions relate to clarifying matters or seeking information required to inform the Habitats Regulations Assessment (HRA) and the recommendation to the Secretary of State. Comments on the RIES and responses to questions are timetabled for Deadline 8 (5 December 2023).</p> <p>At this time, should disagreements about any aspect of the HRA remain, the Applicant and any relevant IP are requested to submit a statement setting out what is required, in their view, to enable agreement. There will be circumstances where to be of practical use, this will need to be in the form of a 'without prejudice' statement, where one party may acknowledge that they do not agree with an in-principle position taken by another, but they also set out in practical terms the actions that would be necessary to address the issue, without conceding their basic point that such actions are not necessary.</p>	KCC defers to Natural England on this question.