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Our ref: 458247
Your ref: TR010032



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Dear Mr Smith

**Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing
Natural England's response to Deadline 8
Natural England User Code: 20034784**

Natural England is pleased to provide our Deadline 8 response for the Lower Thames Crossing Examination within the annexes appended to this letter.

For ease, we have provided our comments in the following Annexes:

- Annex 1: Updated Statement of Common Ground
- Annex 2: Updated Principal Areas of Disagreement
- Annex 3: Comments on the Applicant's submissions at Deadline 7
- Annex 4: Natural England's comments on the Report on the implications for European Sites
- Annex 5: Natural England's comments on the Examining Authority's Commentary on the draft Development Consent Order
- Annex 6: Natural England's response to ExQ3
- Annex 7: Natural England's comments relating to Compulsory Acquisition Hearing 5
- Annex 8: Summary of Natural England's advice following Issue Specific Hearing 11 - Environmental Matters
- Annex 9: Natural England's response to the actions arising from Issue Specific Hearing 11
- Annex 10: Natural England's comments relating to Issue Specific Hearing 12 - Social, Economic and Project Delivery Matters
- Annex 11: Natural England's comments relating to Issue Specific Hearing 13 - Traffic and Transportation
- Annex 12: Natural England's comments relating to Issue Specific Hearing 14 - the draft Development consent order
- Annex 13: Other matters which Natural England would like to raise
- Annex 14: Comments on any information requested by the ExA and received by D7 or CA Regs D2
- Annex 15: Comments on any further information requested by the ExA under Rule 17 of the EPR

Natural England acknowledges that Areas of Outstanding Natural Beauty are now National

Landscapes, for consistency with our previous submissions we have continued to refer to the Kent Downs Area of Outstanding Natural Beauty (AONB) in this response.

Natural England hopes our Deadline 8 comments are helpful and we will continue to work collaboratively with the Applicant to try and resolve the outstanding matters detailed below.

Yours sincerely

James Seymour
Deputy Director, Sussex and Kent Team

John Torlesse
Deputy Director, West Anglia Team

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1 Annex 1: Updated Statement of Common Ground

- 1.1 Natural England has worked collaboratively with the Applicant and have agreed our updated Statement of Common Ground. We understand the Applicant will be submitting this at Deadline 8.

2 Annex 2: Updated Principal Areas of Disagreement

- 2.1 Natural England has not prepared a Principal Areas of Disagreement document as we consider that the areas of disagreement are covered fully within our updated Statement of Common Ground.

3 Annex 3: Comments on the Applicant's submissions at Deadline 7

Code of Construction Practice – First iteration of Environmental Management Plan v7.0

- 3.1 Natural England notes the inclusion of an additional topic (REAC number LV037) within the Code of Construction Practice (Examination Document REP7-123) regarding the 'Screening of views in Kent Downs AONB'.
- 3.2 Notwithstanding Natural England's longstanding concerns regarding the use of 'as far as reasonably practicable', we welcome the commitment to retain as much of the existing vegetation at Park Pale at the detailed design stage.
- 3.3 In relation to the detail within the second bullet point regarding the proposed ancient woodland compensation planting at Park Pale, as detailed in our Written Representation (Examination Document REP1-262) and further elaborated in our Deadline 6 response (Examination Document REP6-152), Natural England's advice remains that the woodland planting will adversely impact both the landscape character of the Kent Downs AONB and the experience of recreational users from a visual perspective.
- 3.4 Natural England recommended that the Applicant provided clarity and an updated Landscape and Visual Impact Assessment (LVIA) in our Deadline 6 response following their additional visualisations provided for Viewpoint S-03. Despite our concerns and the additional visualisations, no such update to their LVIA appears to have been provided. Given the nature and scale of these concerns, and the lack of a robust consideration of the impacts to the AONB and recreational users, Natural England now considers this to be a matter not agreed. We have provided further comments on this matter in response to the Applicant's comments on Interested Parties submissions at Deadline 6 (Examination Document REP7-187) below.

Outline Landscape and Ecology Management Plan (v 5.0)

- 3.5 Natural England have reviewed the updated outline Landscape and Ecology Management Plan (Examination Document REP7-133) and our comments are provided below.

Advisory Group

- 3.6 Natural England welcomes the clarity regarding the remit of the Advisory Group detailed within Section 4.1.14. Given the discussions at Issue Specific Hearings 6 and 9 along with our advice regarding a more holistic indicators of success approach looking at how the habitats function for key species groups as detailed in our Written Representation (Examination Document REP1-262) and more recently in Section 3.22 of our Deadline 7 response (Examination Document REP7-215), Natural England would support further refinement to the Terms of Reference. As detailed in our Deadline 7 response, we agree with the Applicant that the Advisory Group is an appropriate forum for agreement as to the detail of the indicators of success including the species groups to be monitored (in addition to the protected species licence requirements) but would request that the Terms of Reference for the Advisory Group are updated to reflect this additional requirement to be secured post consent. At present, the updated Terms of Reference refer to agreeing the habitat typology only, not species/species groups.
- 3.7 We note the reference to key species groups within additional Section 4.2.1 which states that 'The outline measures of success will be refined during detailed design

with consideration of key species groups, where necessary, to target ecosystems functionality'. Natural England advises there is not sufficient certainty that a holistic indicators of success approach looking at species as well as habitats will be secured post-consent and would suggest that a much clearer commitment is provided by the Applicant. We have suggested below additional wording to include within Section 4.1.4 which would address this concern:

'Agree the species and species group monitoring requirements, for non-licensable species impacts, as part of a holistic indicators of success approach to ensure that the compensatory habitats are effective at the ecosystem level and support the populations of species impacted by the proposal.'

Habitat Establishment periods

- 3.8 Natural England notes the addition of the HRA mitigation land at Coalhouse Point to Table 4.1 Establishment monitoring period). Whilst 'HRA mitigation at Coalhouse Point' comprises a variety of different habitat types, and the timescales for monitoring vary from those proposed in the Technical Note for these works (appended to our Statement of Common Ground submitted by the Applicant at Deadline 8), Natural England considers that ten years is an appropriate period for a habitat establishment monitoring period. It should be noted that in order to ensure the correct operation of the regulated tidal exchange gate, ongoing monitoring will be required beyond the 10-year habitat establishment period.

Shorne and Ashenbank Woods SSSI compensation area

- 3.9 Natural England welcomes the inclusion of the new Section 5.1 for Shorne and Ashenbank Woods SSSI compensation area.

Coalhouse Point

- 3.10 Natural England notes that Section 6.3 (paragraphs 6.3.1-6.3.9) includes amendments made relating to the Coalhouse Point Habitats Regulations Assessment wetland habitat creation. Natural England is satisfied with the changes made in this section.

Habitat typologies

- 3.11 Natural England welcomes the reference to the management of habitats in perpetuity within the different habitat sections within Section 8 (for example within Sections 8.1.7 and 8.1.8 in relation to grassland habitats). Similarly, Natural England welcomes the Applicant's commitment to develop and implement a management regime for the habitats 'in-perpetuity' (for example in Section 8.1.12 for grassland habitats).
- 3.12 Natural England notes the removal of the deadwood 'Outline measure of success' from Section 8.7.7 for Wet woodland. Deadwood is an important component of woodland habitats and we would welcome the Applicant revisiting this matter or providing clarity for its removal.
- 3.13 Natural England welcomes the addition of the deadwood 'Outline measure of success' within Section 8.8.11 (Woodland edge habitats) given the importance of deadwood for a variety of species.

- 3.14 Section 8.16 relates to Coalhouse Point – Natural England is satisfied with the changes made in this section.
- 3.15 Section 8.17 relates to Coalhouse Point – Natural England is satisfied with the changes made in this section.
- 3.16 Section 8.19 relates to Coalhouse Point – Natural England is satisfied with the changes made in this section.
- 3.17 Section 8.21 relates to Coalhouse Point – Natural England is satisfied with the changes made in this section.
- 3.18 Section 8.23 relates to open mosaic habitat – Natural England is satisfied with the changes made in this section.
- 3.19 Natural England welcomes the additional wording confirming no non-native species will be planted in areas of ancient woodland compensation (Section 8.24.1). In addition, Natural England welcomes the additional clarity provided in Sections 8.24.2 to 8.24.6 and 8.24.12 regarding the measures that will be taken to ensure that the salvage and translocation of valuable ancient woodland soils will be maximised where this is ecologically feasible.

Outline Landscape and Ecology Management Plan Appendix 1 – Advisory Group terms of reference

- 3.20 Having reviewed the updated Terms of Reference within Examination Document REP7-135, Natural England welcomes the clarity regarding the remit of the Advisory Group detailed within Section 4.1.14. However, given the discussions at ISH 6 and 9 and our advice regarding a more holistic indicators of success approach looking at how the habitats function for key species groups as detailed in our Written Representation (Examination Document REP1-262) and more recently in Section 3.22 of our Deadline 7 response (Examination Document REP7-215), Natural England would support further refinement to the Terms of Reference. We have suggested additional wording below which, if inserted as an additional requirement within Section 1.2.1 would address this concern:

‘Agree the species and species group monitoring requirements, for non-licensable species impacts, as part of a holistic indicators of success’

Design Principles v5.0

- 3.21 Having reviewed the updated Design Principles v5.0 (Examination Document REP7-141), Natural England has the following comments to make.
- 3.22 Natural England welcomes the including of the new clause PRO.07 confirming that key elements of the detailed design will be subject to stakeholder engagement post consent.
- 3.23 Natural England notes the amendments proposed to Clause S1.17 (Brewers Road Green Bridge) brigading the green elements into a single 11.5 metre wide planting zone (rather than the previously stated ‘10m planting zone on the east’). No detail has been provided as to which side of the bridge the green elements will be installed nor a commitment for the walkers, cyclists and horseriders route to be within the

'green elements' and separated from the local roads to provide a high-quality user experience. Given the importance of the Brewers Road Green Bridges to deliver landscape as well as ecological connectivity and mitigation, Natural England's advice remains that, for a scheme of this nature the Green Bridges should much more closely align with the good practice guidance (Examination Documents REP4-329 and REP4-330) in terms of the minimum width of the green elements and their length to width ratio to ensure they meet the Project's objectives for ecological and landscape mitigation and connectivity. Indeed, the Design Principles within Clause S1.04 (Brewers Road and Thong Lane Green Bridge south) acknowledges the importance of mitigation impacts to the AONB and recreational users, with the bridges needing to be designed (amongst others) 'To provide a high-quality experience for users crossing the bridge through vegetation and woodland planting. The Green Bridge shall improve recreation access across the A2/M2/Lower Thames Crossing corridor'.

- 3.24 Natural England notes the removal of the previously proposed car park at Thong Lane from Clause number S2.11 and welcome the consideration of the landscape impacts from the substations. Given their location within the immediate setting of the Kent Downs AONB, Natural England would support a further amendment to ensure that the finish accords with the colour palette of the AONB and is consistent with the finishes for the street furniture along the A2 corridor within the AONB itself.
- 3.25 Natural England notes the amendment to Clause S2.12 (Thong Lane Green Bridge south) which now confirms a 21.5 metre planting zone (rather than the previously stated 'planting zone on the west'). As with the amendments to S1.17 for the Brewers Road Green Bridge, no detail has been provided as to which side of the bridge the green elements will be installed nor a commitment for the walkers, cyclists and horseriders route to be within the 'green elements' and separated from the local roads to provide a high-quality user experience. Given the importance of the Brewers Road Green Bridges to deliver landscape as well as ecological connectivity and mitigation, Natural England's advice remains that, for a scheme of this nature the Green Bridges should much more closely align with the good practice guidance (Examination Documents REP4-329 and REP4-330) in terms of the minimum width of the green elements and their length to width ratio to ensure they meet the Project's objectives for ecological and landscape mitigation and connectivity. Indeed, the Design Principles within Clause S1.04 (Brewers Road and Thong Lane Green Bridge south) acknowledges the importance of mitigation impacts to the AONB and recreational users, with the bridges needing to be designed (amongst others) 'To provide a high-quality experience for users crossing the bridge through vegetation and woodland planting. The Green Bridge shall improve recreation access across the A2/M2/Lower Thames Crossing corridor'.
- 3.26 For both the Brewers Road and Thong Lane Green Bridges, Natural England recommends the Applicant provides confirmation as to which side of the Bridges (east or west) the planting is to take place and where the walker, cyclist and horserider routes are to be placed. Key to the mitigation measures for recreational users will be the effective screening (and noise attenuation) of the much-widened transport corridor for people.
- 3.27 If the Applicant, at this late stage, is now proposing that the planting is only to be provided on one side of each bridge, then their effectiveness in reducing the visual impact will be much reduced. We would therefore advise that the effects of this change have not been fully assessed within the existing Landscape and Visual Impact Assessment. Given this, we advise that the implications of this change need

to be fully considered by the Applicant within an updated assessment to be provided for all Interested Parties to comment upon.

- 3.28 Natural England welcomes the additional Clause S2.16 (Thong Lane) in which it is now confirmed that 'The realignment of Thong Lane to the north of the A2 shall be designed to avoid impacting the Shorne and Ashenbank Woods SSSI to the east...'
- 3.29 Natural England is broadly supportive of the Terms of Reference for the Detailed Design Multi-Disciplinary Workshop (MDW) (Appendix D) and welcomes being one of the stakeholders to contribute to areas within our remit. We are however concerned as to how effective stakeholders input will be in influencing matters at the Detailed Design stage given Section D.1.5 of the Terms of Reference stating:
- 'As a consultative group, any formal comments made by stakeholders at the MDWs will be treated as advisory. Whilst feedback on the design elements provided through MDW would be given due consideration and incorporated into the detailed design where reasonably practical the Applicant retains the responsibility to deliver the scheme, act in accordance with its licence under the Infrastructure Act 2015, ensure good design and meet the requirements of the DCO.'
- 3.30 Natural England would expect a more collaborative approach with greater emphasis on reaching agreement and consensus being included within the Terms of Reference to ensure that stakeholders and the Applicant can deliver a high-quality scheme for areas within their respective remit.
- 3.31 Given these concerns, Natural England would expect the Terms of Reference to be updated to include:
- A commitment from the Applicant to publish and share how they have taken into account stakeholder feedback, providing a detailed narrative where this was not possible, in the spirit of collaborative, open and transparent stakeholder engagement; and
 - Details of how areas of disagreement will be resolved through a clear dispute resolution process.

Computer generated views from Thong Lane Green Bridge south

- 3.32 Natural England welcomes the computer-generated views from the proposed Thong Lane Green Bridge south provided by the Applicant (Examination Document REP7-189). Whilst acknowledging the limitations of the computer-generated views (for example the apparent flattening of the distant landform), Natural England considers the views are helpful in confirming how dominant the junction and transport infrastructure will be in the immediate setting of the Kent Downs AONB. This is likely to exacerbated at night from vehicle headlights as well as the road lighting.
- 3.33 Natural England notes that the summer year 15 view (Drawing number HE540039-CJV-ELS-SZP_ZZ000000_Z-DR-LV-00337) suggests that the junction will not be visible for recreational users using the Thong Lane south Green Bridge due to the proposed planting. However, Natural England notes that the amended design principles (Examination Document REP7-141) in Clause S2.12 does not detail which side (east or west) the planting will be situated. Natural England recommends clarity is provided by the Applicant - given this change in the Design Principles, if there is no planting on the western side of the Thong Lane south Green Bridge, the nature and scale of the impact will be different to that suggested by the visualisations.

- 3.34 Given the newly introduced uncertainty regarding the planting on the Green Bridges along with the dominance of the junction in the immediate setting of the Kent Downs AONB, Natural England advises that the Landscape and Visual Impact Assessment should be updated to reflect this additional/amended information and to confirm whether additional impacts, and therefore mitigation measures, will be required for landscape and visual impacts. The current assessment fully addresses these matters.

Stakeholder Actions and Commitments Register v5.0

- 3.35 Natural England welcomes the additional SACR-018 within Examination Document REP7-153, confirming that the Applicant will enter into a cost-recovery Service Level Agreement with Natural England for our non-statutory advice post consent.

Applicant's comments on Interested Parties' submissions at Deadline 6

- 3.36 Having reviewed the Applicant's response in Examination Document REP7-187) to Natural England's advice provided at Deadline 6 (Examination Document REP6-152), we wish to make the following, further observations.

Visualisations from Viewpoint S-03

- 3.37 As detailed in our Deadline 6 response (Examination Document REP6-152), Natural England remain concerned that the visualisation from Viewpoint S-03 (Examination Document REP5-046) does not reflect the view that recreational users currently experience. At present, users of the public right of way experience an attractive, panoramic view to the wooded landscape south of the A2 and High Speed 1 route. We are disappointed that the Applicant does not consider a panoramic visualisation from this location is appropriate.
- 3.38 The Landscape Institute's 'Visual Representation of Development Proposals TGN 06/19'¹, referenced by the Applicant in their REP7-187 response to Natural England's advice, recognises in Section 3.8.1 the value of panoramic visualisations. It states that 'Panoramic images are required to capture a wide field of view appropriate to certain types of more linear or widespread development (e.g. power lines, transport corridors, solar farms etc) and to provide sufficient landscape context'. Similarly, Section 8.8 of the Guidelines for Landscape and Visual Impact Assessment (3rd Edition) states that 'the field of view and image sizes of the complete photomontages should be selected to give a reasonably realistic view of how the landscape will appear when the image is held at the correct specified viewing distance from the eye'.
- 3.39 Natural England notes the Applicant's response regarding the height of the vegetation screening the industrial buildings and that their 2021 reviews of Viewpoint S-03 to the original 2019 baseline photography did not warrant an update or any changes to their assessment. However, the Summer Baseline Year 15 visualisation provided in Examination Document REP5-046 (Drawing Number HE540039-CJV-ELS-SZP_ZZ000000_Z-DR-LV-00327A) shows very limited further growth in the vegetation screening the industrial buildings from the Baseline Year 1 visualisation (Drawing Number HE540039-CJV-ELS-SZP_ZZ000000_Z-DR-LV-00325A). Given the photograph included within Appendix C to Natural England's Deadline 6 response

¹ Landscape Institute Visual Representation of Development Proposals LT TGN 06/19
https://landscapewpstorage01.blob.core.windows.net/www-landscapeinstitute-org/2019/09/LI_TGN-06-19_Visual_Representation.pdf

(Examination Document REP6-152) taken in October 2023 shows the hedge/shrub planting being significantly taller and effective in screening the buildings than the Applicant's Baseline Year 15 visualisation, we recommend that the Applicant provides clarity on this matter.

- 3.40 Notwithstanding our concerns regarding the visualisations, Natural England's advice remains that the change in landscape character and views for recreational users of the public right of way at Viewpoint S-03 from the ancient woodland planting will result in significant adverse landscape and visual impacts. The Applicant in their response in Examination Document REP7-187 details that:

'Sheet 4 illustrates a limited change in visual enclosure at year 15 [from Viewpoint S-03], with mid-range views remaining towards a group of existing veteran trees and long-range views remaining towards the Darnley Mausoleum within the Kent Downs AONB south of the A2 corridor. It is therefore not considered that views south-west from Representative Viewpoint S-03 would be as affected as stated by Natural England in their Deadline 6 submission'.

- 3.41 Natural England acknowledge that a narrow, restricted view to the distant Darnley Mausoleum will remain following the ancient woodland compensation planting but the existing, open panoramic view to the woodland within the wider Kent Downs AONB to the south of the A2 corridor will be entirely lost along with the parkland character resulting in our concerns regarding the nature and scale of the impact. Given these concerns, Natural England does not concur with the Applicant's conclusion of a 'moderate beneficial' effect at Year 15 (as reported within Table 7.29 of Examination Document APP-145) for viewpoint S-03.
- 3.42 Natural England welcomes the clarity sought by the Examining Authority in relation to the assessment of landscape character, visual amenity and cultural heritage resulting from the ancient woodland compensatory planting at Park Pale within ExQ 3 Q12.2.1 and will provide our further comments at Deadline 9 once the Applicant has provided their response.

Breeding birds associated with the South Thames Estuary and Marshes Site of Special Scientific Interest

- 3.43 Natural England has advised that sensitive periods for overwintering and breeding birds associated with the designated sites (the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site and the underpinning South Thames Estuary and Marshes Site of Special Scientific Interest (SSSI)) should be avoided in the first instance, but nonetheless recognises the challenges of avoiding both the overwintering and breeding bird seasons due to time constraints. We previously raised concerns about where the avoidance of one season (e.g. SPA) may introduce a consequential disturbance pathway into another (e.g. SSSI), and that visual and audible disturbance impacts to the SSSI should be robustly assessed.
- 3.44 Following a review of the information submitted by the applicant in response to our comments at Deadline 6 (Examination Document REP7-187), Natural England can confirm that we are now satisfied that the impacts have been robustly assessed, and that the submitted survey information indicates that breeding birds – associated with the SSSI – are not using the area of the site in close proximity to the proposed Milton compound. As such, Natural England is now satisfied that there is unlikely to be an adverse impact to breeding birds as a result of the proposed timing of mitigation measures. We will reflect this agreement within the next version of our Statement of Common Ground.

4 Annex 4: Natural England's comments on the Report on the implications for European Sites

4.1 Natural England welcomes the opportunity to provide comments on the Report on the implications for European Sites (Examination Document PD-048) and have included these in the table below.

Reference	Detail
QR2 Natural England response	<p>With regard to the matter raised by the PLA and addressed in QR1, can NE please identify whether it has any concern in respect of survey data and updating results at detailed design stage. What limitations could arise from that data? If it does have a concern on this point, NE is requested to confirm what specific limitations it considers this imposes on the conclusions of its HRA Report?</p> <p>For a project of this scale and nature, it is recognised that some of the survey data may be deemed as being 'out of date' by the time it reaches Examination. Similarly, it is understood that there are a number of design elements that are to be deferred to the detailed design stage, should consent be granted. With this in mind, Natural England is satisfied that updating the survey data at a later stage – and basing any required mitigation upon the detailed design of the scheme and the renewed survey data – is appropriate and also ensures that any mitigation is reflective of the likely impact pathway.</p>
QR4 Natural England response	<p>To NE and PLA: In relation to the potential for LSE on bird feeding behaviour, to which qualifying features do you consider this relates, and is this addressed in the Applicant's assessment?</p> <p>Natural England considers that there is a potential for a likely significant effect (LSE) on the non-breeding waterbird assemblages of the Thames Estuary and Marshes SPA and Ramsar site as a result of underwater noise and impacts to bird feeding behaviour. We do not believe that this is addressed within the Applicant's assessment, however, it should be noted that there remains a disagreement as to whether there is a LSE on the features of the SPA and Ramsar site from this impact pathway or not. This is also reflected within our Statement of Common Ground item 2.1.89.</p>
QR8 Natural England response	<p>To NE: Are you satisfied with the explanation provided by the Applicant and its conclusion of no LSE on Thames Estuary and Marshes Ramsar site from nitrogen deposition? If not satisfied, what information would be required?</p> <p>Natural England have advised the applicant that, based on the information that they have provided, a LSE on Thames Estuary and Marshes SPA and Ramsar site cannot be ruled out and that there is a need for further consideration through an appropriate assessment which should consider the nitrogen sensitivity and locations of important ecological features. This is set out in more detail in [REP5-109] and our Statement of Common Ground to be submitted by the applicant at deadline 8. Note, however, that this advice relates only to impacts anticipated during the construction phase of the development. Natural England is satisfied by the applicant's rationale for screening out a LSE</p>

Reference	Detail
	during the operational stage and requires no further information in this regard.
Table 2.3 ID 4 Natural England response	<p>Natural England consider that 'all three pollutants' as referenced above breach the low threshold of a LSE and that they therefore require appropriate assessment. We welcome the preparation of an updated HRA which we understand will address this specific concern.</p> <p>With regards to the potential for an AEol, Natural England would need to review an updated HRA to offer further advice. Note, however, our position as stated in our 8 Statement of Common Ground to be submitted at Deadline 8.</p> <p>'Natural England have... advised the applicant that they would expect the AA to consider the presence of designated habitat and relevant interest features within areas experiencing increases in Ndep/NOx/NH3 and the sensitivity of designated habitats and relevant interest features to increases in Ndep/NOx/NH3.</p> <p>Natural England consider that if this information is included in the updated HRA it may give sufficient certainty that an AEol can be avoided, irrespective of concerns relating to the precautionary nature of the in-combination assessment and enable a conclusion of no AEol on Thames Estuary and Marshes SPA and North Downs Woodland SAC. It would not address our concerns in relation to Epping Forest SAC as we are still of the view that an adverse effect on integrity cannot be ruled out without mitigation.'</p>
Table 2.3 ID 5 Natural England response	<p>Natural England welcomes the applicant's commitment to the preparation of a HRA addendum and recognises that an appropriate assessment will not necessarily require a material difference to the application to demonstrate no AEol. It is nevertheless the correct fdDCO process and may be required to ensure resilience to legal challenge. It would be inappropriate to offer any firm conclusions on the HRA addendum in advance of review of the updated HRA but note our comments relating to ID 4 above.</p>
QR9 Natural England response	<p>Can NE confirm it is satisfied with the Applicant's approach of using the conservation objectives for Thames Estuary and Marshes SPA for the Thames Estuary and Marshes Ramsar site? If not, what should the Applicant be using in the absence of site-specific conservation objectives?</p> <p>Natural England is satisfied that using the conservation objectives for the Thames Estuary and Marshes SPA for the bird features of the Thames Estuary and Marshes Ramsar site as well, is appropriate given the absence of site-specific conservation objectives for the Ramsar site and the overlap of qualifying features between the two sites.</p> <p>However, with regard to the proposed discharge of water from the southern construction compound in to the Ramsar ditches, and the potential for a LSE on the wetland invertebrate and plant assemblages</p>

Reference	Detail
	associated with the Ramsar site, we would advise that that the measures outlined within REAC commitment RDWE033 should be followed in order to ensure that there are no adverse effects upon these features.
<p>QR10</p> <p>Natural England response</p>	<p>To Local Authorities – do your remaining concerns on the wider traffic modelling have a bearing on the Applicant’s position in relation to its HRA conclusions?</p> <p>Whilst we note that this question is not addressed to Natural England, we remain of the view that local plan allocations should be included within the in combination assessment but have accepted that we are not going to reach agreement with the applicant on this for this project.</p> <p>Natural England consider that an appropriate assessment which considers the nitrogen sensitivity and location of ecological features may still give sufficient certainty that an AEOL on Thames Estuary and Marshes SPA and North Downs Woodland SAC can be avoided, irrespective of concerns relating to the precautionary nature of the in-combination assessment. It would not address our concerns in relation to Epping Forest SAC as we are still of the view that an adverse effect on integrity cannot be ruled out without mitigation, however securing a monitoring and feedback system for the speed limit reduction would provide the certainty required.</p> <p>It would be inappropriate to offer any firm conclusions on the HRA addendum in advance of review of the updated HRA but note our comments relating to 4 above.</p>
<p>QR11</p> <p>Natural England response</p>	<p>To the Applicant: Noting further transport modelling information is due to be submitted into the Examination at Deadline 6a, please provide commentary as to any implications this may have for the HRA.</p> <p>Further information provided to us has not addressed our concerns. That notwithstanding, please note our comments relating to QR10 above.</p>
<p>QR12</p> <p>Natural England response</p>	<p>To the Applicant: without prejudice to your position but taking work in progress up to DL8 into account, what measures would you propose to deliver to respond to a possible AEOL (if such cannot be excluded) and how would those measures be secured?</p> <p>Natural England have not discussed any mitigation measures with the applicant in relation to Thames Estuary SPA and Ramsar site. Natural England welcomes the applicant’s commitment to the preparation of a HRA addendum and recognises that an AA will not necessarily require a material difference to the application to demonstrate no AEOL. It would be inappropriate to offer any firm conclusions on the HRA addendum in advance of review of the updated HRA but note our comments relating to 4 above.</p>
<p>QR18</p>	<p>To NE, what additional information, if any, do you consider is needed to demonstrate that the Applicant’s proposed wetland mitigation at Coalhouse Point is sufficiently progressed, deliverable and secured? Is</p>

Reference	Detail
Natural England response	<p>the current level of detail sufficient to support its conclusions of no AEol on Thames Estuary and Marshes SPA and Ramsar site?</p> <p>Natural England has reviewed the Applicant's Technical Note on this matter supplied to us on 21 November 2023 (appended to the Statement of Common Ground to be submitted at deadline 8). In our opinion, the contents of that Technical Note are now sufficient to enable a conclusion of no adverse effect on integrity on the Thames Estuary and Marshes SPA and Ramsar site, as far as ornithological interests are concerned (noting that air quality matters are addressed elsewhere for this SPA and Ramsar site). Therefore, no additional information is needed, and the level of detail is sufficient.</p>
QR19 Natural England response	<p>To all IPs: Are there sufficient management, monitoring and control processes in place to ensure that the proposed wetland will meet its objectives?</p> <p>Based upon the Technical Note which we understand will be submitted by the Applicant at Deadline 8, Natural England is satisfied that there are sufficient management, monitoring and control processes in place to ensure that the proposed wetland will meet its objectives.</p>
QR20 Natural England response	<p>To the Applicant and NE: Please provide full commentary on the timing of the works for wetland creation at Coalhouse Point by Deadline 8. It would assist the ExA if the updated SoCG could identify where an agreed position has been reached.</p> <p>Natural England has raised concerns in our evidence at ISH9 (Examination Document REP6-152) that the timing of the construction of the wetland habitat at Coalhouse Point could cause a significant disturbance effect to the interest features of the Thames Estuary and Marshes SPA and Ramsar site. We have sought an additional REAC commitment which seeks to limit the timing of these works (particularly the installation of the regulated tidal exchange structure) to the least disturbing season, being guided by the seasonality advice set out within the Thames Estuary and Marshes SPA Conservation Objectives Supplementary Advice Package Advice on Seasonality².</p> <p>Whilst the timing of potentially disturbing works within the Technical Note referred to in answer to question QR18 is regarded to be acceptable (i.e. 'Summer'), the Coalhouse Point Ecological Mitigation Works programme GANT chart submitted to inform Issue Specific Hearing 11 (Examination Document AS-112, Supporting Information item 4a), signalled a significant 'Time Risk Allowance' which potentially extended these works into the September / October / November period. Natural England agrees that it is preferable for these works to be completed within the year of construction rather than be delayed by a whole season into the following year, however we consider that a REAC commitment would give greater prominence to the timing of installation to seek as far as</p>

2

<https://designatedsites.naturalengland.org.uk/Marine/Seasonality.aspx?SiteCode=UK9012021&SiteName=thames&SiteNameDisplay=Thames+Estuary+and+Marshes+SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&NumMarineSeasonality=8>

Reference	Detail
	reasonably practicable for these works to be completed within the 'Summer' season as indicated within the Technical Note.
QR21 Natural England response	<p>To the Applicant: What concerns do you have about NE's proposed approach to the introduction of the speed limit?</p> <p>Natural England notes that this question is directed primarily at the applicant, but our proposal of monitoring and feedback will provide the certainty required by the Habitats Regulations to conclude the project would not result in an adverse effect on the integrity of the Epping Forest SAC. It is primarily aimed at addressing uncertainty in ammonia modelling and trends but should also address any concerns relating to fleet composition and government policy where relevant.</p>
QR22 Natural England response	<p>To the Applicant: Can you set out why you do not consider that the Proposed Development will prevent or slow the restoration of site-specific critical levels and critical loads? What does the Applicant consider to be the implications of the Dutch Nitrogen Case for the conclusion of no AEOI?</p> <p>Natural England position is detailed in Paragraph 4.1.6 of Written Representation (Examination Document REP1-262). Natural England considers that the absence of nitrogen sensitive species and the low quality of habitat within 200m of the ARN are indicative of the issues associated with NOx and ammonia exceedances and further justify the restore objective that has been set for Epping Forest SAC. In the absence of an air quality affect we would expect these features to be present. This contrasts with our position on North Downs Woodland SAC where the absence of qualifying features is likely to be a result of other factors.</p>
Table 3.1. ID 4 Natural England response	Natural England notes the commentary within ID 4 and acknowledges that it depicts an accurate representation of our position.

**5 Annex 5: Natural England's comments on the Examining Authority's
Commentary on the draft Development Consent Order**

- 5.1 Natural England has not been able to provide a response to the questions raised in the Examining Authority's Commentary on the draft Development Consent Order and will endeavour to do so at Deadline 9.

6 Annex 6: Natural England's response to ExQ3

- 6.1 Our response to the third round of Examiner's questions (ExQ3) are sent under separate cover for ease using the table supplied by the Case Team.

7 Annex 7: Natural England's comments relating to Compulsory Acquisition Hearing 5

7.1 Natural England has no comments to make following Compulsory Acquisition Hearing 5.

8 Annex 8: Summary of Natural England’s advice following Issue Specific Hearing 11 – Environmental Matters

8.1 Agenda Item 3: Kent Downs Area of Outstanding Natural Beauty (AONB) and wider landscape matters

a)	Landscape Impacts in Kent Downs AONB
i	Is there agreement amongst the parties that adverse landscape effects on the AONB are localised during construction and operation of the road (inclusive of utility works), or do the parties consider that there would be an adverse effect on the character and integrity of the AONB overall?
Summary of Natural England’s advice	<p>Whilst Natural England accepts that the scheme, geographically, falls within a localised area of the Kent Downs AONB, we do not consider that the impacts should be considered to be localised.</p> <p>Natural England consider that the adverse landscape effects on the Kent Downs AONB which are likely to result from the project should be considered as a significant residual adverse effect on the AONB as a whole. Whilst we have had constructive discussions with the Applicant to identify measures that will help to mitigate the impacts, we remain concerned that the mitigation proposed in the area either side of the A2, and where the road-widening is taking place, in its current form is not likely to be effective in achieving their landscape objective. We consider that significant adverse residual landscape and visual impacts will remain at Year 15. It is Natural England’s view that there will be an adverse effect on the character and integrity of the AONB overall.</p> <p>This view is in accordance with our previous submissions including our Written Representation (Examination Document REP1-262 paragraphs 6.1.1-6.1.2), our Deadline 3 Response (Examination Document REP3-193) paragraph 1.6.22, our Deadline 4 Response (Examination Document REP4-324) Annex A4 and Deadline 7 Response (Examination Document REP7-215) pp. 36-39.</p> <p>We recommend that the Environmental Statement is updated to detail how the residual impacts are to be reduced and that the mitigation is presented in an updated oLEMP.</p>
ii	<p>The Applicant has advised in response to both ExQ1 and ExQ2 why it has ‘adjusted’ the boundaries for the Cobham and Shorne Local Landscape Character Areas (LLCA) for the purpose of assessing landscape impacts; however, can it explain the level of sensitivity and significance of effects it would ascribe to those areas if the boundaries had not been ‘adjusted’ and instead the Kent Downs AONB LLCA boundaries (which echo the Kent County Council’s 2004 LCA) were used? Is there a difference?</p> <p>Having regard to the Applicant’s adjusted boundaries, can the Applicant explain what the significance of effect would be if the areas of Cobham and Shorne were not combined in the assessment but were considered and reported separately? Comments from the Kent Downs AONB Unit, Gravesham Borough Council and Kent County Council will be sought on the Applicant’s response.</p>
Summary of Natural	Natural England has no observations to make in relation to this matter beyond those within our Written Representation (Examination Document

England's advice	REP1-262).
iii	Will the Green Bridges over the A2 at their proposed widths provide valuable landscaping connectivity to reduce the severance between the historically linked landscape of Cobham and Shorne (noting that we do not need to re-visit the discussions on Green Bridge design)?
Summary of Natural England's advice	<p>Natural England concurs with the position statements presented at the ISH 11 by the Kent Downs Area of Outstanding Natural Beauty (AONB) Unit and Gravesham Borough Council regarding the limitations of the functionality of the Green Bridges in providing landscape connectivity in reducing the increased severance of the historically linked landscape of Cobham and Shorne.</p> <p>The Applicant's photomontages in Examination Document REP5-046 illustrate how the Green Bridges will look in operational Year 1 and in Year 15, once the vegetation matures. As we have previously stated in Annex A4 of our Deadline 4 Response (Examination Document REP4-324), we have significant concerns regarding the bridge design, including the planting widths, which will affect their functionality to reduce landscape severance and provide valuable landscape connectivity and a high quality experience for visual receptors including people recreating within the AONB. Our advice remains that the bridges have a 'grey' rather than a 'green' feel, being dominated by the roads and with only very narrow vegetation strips. We would reiterate our concerns expressed in our Deadline 4 Response (Examination Document REP4-324) that the Green Bridge designs do not embrace nor align with the good practice principles set out in recognised guidance including, for example, the Nature England Review (Examination Document REP4-329) and the Landscape Institute Green Bridge Technical Note (Examination Document REP4-330). These both recommend that for bridge design that seeks to achieve connection at a landscape (and ecosystem) level should be over 80m in width, or a width to length ratio of over 0.8.</p> <p>Natural England's therefore considers that it is unlikely the Green Bridges will be effective in providing landscape scale connectivity for people and wildlife impacted by the proposal and will not reduce the severance between the historically linked landscape of Cobham and Shorne.</p> <p>Natural England's advice remains that the design of the bridges should much more closely align with the dimensions recommended within the good practice guidelines and build upon the Applicant's own good practice Scotney Castle bridge within the High Weald AONB, also put in to maintain landscape connectivity.</p> <p>Post hearing, Natural England notes that the Applicant has modified the design of the 'green' elements of the Green Bridges at Brewers Road and Thong Lane South within the Design Principles v5.0 (Examination Document REP7-141) in which they appear to have combined the planting into a single area for each bridge. This is likely to result in significant additional visual impacts of the much widened A2 corridor and adjacent transport infrastructure for recreational users of the bridges. Given that the Green Bridges are one of the few mitigation measures that</p>

	<p>could, if designed well and in accordance with good practice guidelines, be implemented to reduce the nature and scale of the impacts, Natural England is concerned by this amendment. Planting on both sides of the Thong Lane and Brewers Road Green Bridges is important to help reduce the visual impact of the Lower Thames Crossing for recreational users within the AONB; Natural England recommends that the design of the Green Bridges should be modified to ensure they are effective in delivering a high-quality user experience as stated by the Applicant in their Design Principles. Given this change, Natural England recommends that the Landscape and Visual Impact Assessment is reviewed to provide clarity on whether the visual impacts and experience for recreational users has changed. If this is the case, then further mitigation measures should be provided.</p> <p>During ISH11 Natural England suggested that it would be useful to see additional photomontages of the proposed Green Bridges, to include viewpoints at distance and from a side-on perspective. This has been discussed with the Applicant and, on review, Natural England is content this is not necessary.</p>
iv	<p>Are there any landscaping mitigation measures not already proposed by the Applicant that would reduce the impact of the Proposed Development on the AONB, and/or any measures that would instead compensate for the harm (noting that we do not need to re-visit the discussions on the site selection for nitrogen deposition compensation areas)?</p>
Summary of Natural England's advice	<p>In regard of the further mitigation measures to reduce the nature and scale of the impacts to the Kent Downs AONB, we reiterate our previous advice as detailed in Section 6.1.52 if our set out in our Written Representation (Examination Document REP1-262).</p> <p>Natural England considers that the Applicant has the opportunity to provide additional mitigation measures to reduce the nature and scale of the impacts to the Kent Downs AONB. If the Secretary of State is minded to grant consent for the Project, we would recommend that the following measures are also more fully explored and secured:</p> <ul style="list-style-type: none"> • Use of natural stone or other finishes appropriate to the location, for example in the construction of retaining structures, to face bridge headwalls; • Greater consideration of the colour of materials used, with regard to the Kent Downs AONB Guidance on the selection and use of colour in development (2019);* • Greater consideration of the finishes to the built structures / street furniture; * • Potential for an additional Green Bridge at the Park Pale overbridge, to provide habitat connectivity and enhance the experience of recreational users crossing the A2 at this location; • Woodland planting to south of the High Speed 1 Rail Line (instead of 'shrubs with intermittent trees') to provide long-term filtering and screening of views towards the Project and help integrate it with its landscape setting; • Use of sensitively designed, sympathetic visual and noise barriers comprising close boarded fence with associated screening with

	<p>hedge and/or woodland planting, or vertical ‘green wall’ visual/acoustic barriers, to reduce effects on recreational receptors using proposed paths in proximity to the carriageway, in replacement of standard ‘highway estate boundary fencing’ illustrated in Figure 2.4;</p> <ul style="list-style-type: none"> • Only use indigenous species grown from seeds of local provenance to tie in with local vegetation; * • Creation of a more naturalistic edge to proposed attenuation ponds/wetland areas, to avoid an overly engineered appearance, and greater diversity of planting than the ‘Marsh and Wet Grassland’ and ‘Species Rich Grassland’ currently proposed around the pond;* and • Relaxation of normal highway design standards on side roads. <p>*Natural England has welcomed the discussions with the Applicant on these matters and hopes that these can be agreed in the near future; where this is possible we will update our Statement of Common Ground accordingly.</p> <p>In relation to wider offsite and ‘compensatory’ planting, the Project should ensure that this respects local landscape character as described in the Kent AONB Landscape Character Assessment Update (2020) for the West Kent Downs Local Landscape Character Area. We would therefore recommend that the Design Principles are updated to require the detailed design to be in accordance with the Kent Downs AONB Management Plan requirements for this area.</p> <p>Furthermore, we would like to re-iterate our recommendations in Annex A.4 of our Deadline 4 Response (Examination Document REP4-324) and in our Deadline 7 Response (Examination Document REP7-106) ExQ2 11.2.5 that high quality Green Bridges should be an integral component of the Project’s mitigation strategy and have the potential to deliver ecological and landscape connectivity. We still consider that there is much greater scope for delivering an exemplar approach to help mitigate the significant residual adverse landscape within the Kent Downs AONB, through innovative design following good practice examples.</p>
v	<p>The ExA would like an update on the draft S106 Agreement with Kent County Council comprising a ‘compensatory enhancement fund’ for the Kent Downs AONB Unit (as per the Applicant’s Response to EXQ1 12.2.9b [REP4-200] and as referenced in Item No. 2.1.62 of the Statement of Common Ground with Gravesham Borough Council [REP6-025]).</p>
Summary of Natural England’s advice	<p>Natural England has no comments to make in relation to this matter.</p>
b)	<p>Wider Landscape Matters</p>
i	<p>The Applicant has summarised the Proposed Development’s overall landscape impact in document [APP-524] at pages 68-69. It ascribes the overall impact as ‘Moderate Adverse’. The ExA would like to hear from relevant parties on whether they agree with this conclusion.</p>

<p>Summary of Natural England's advice</p>	<p>As explained during ISH11, Natural England does not consider the overall landscape impact should be considered as 'moderate adverse' given the nature and scale of the impacts resulting to the nationally important Kent Downs AONB. Our advice is that, rather than averaging out the impacts across the scheme, the worst case should be presented, which in this case we consider would mean that the impact for the Lower Thames Crossing should be considered, as a minimum, 'large adverse'.</p> <p>Natural England notes that, whilst the Combined Modelling and Appraisal Report - Appendix D - Economic Appraisal Package: Appraisal Summary Table Report (Examination Document APP-524) does not form part of the Environmental Statement, it appears to use a different assessment and evaluation methodology to that of the environmental impact assessment (Chapter 7 of the Environmental Statement, Examination Document APP-145). The introduction of different evaluation systems is unusual because it can introduce inconsistency. For example, in the evaluation of pattern in the landscape of the West Kent Downs (Examination Document APP-524, page 46), we note that although the ranking all the variables listed in steps two to four of this table as being at 'national level' or 'high level of impact' or 'rare', the overall score is 'moderate impact or effect'. We consider this scoring to be inconsistent.</p> <p>In environmental assessments we advise that it is common practice when trying to summarise impacts across a scheme to take the worst-case scenario that has been recorded rather than trying to average the scores to provide a summary of effect.</p> <p>As detailed in the question, In the case of landscape, the summary score is, overall, according to the document, a 'moderate effect'. However, Natural England considers the worst level of impact at minimum should be large-adverse due to the impacts that are predicted to take place at the nationally important AONB. A summary score of 'moderate' on page 49 and page 69 could therefore be misleading.</p> <p>By way of example, when comparing the evaluation in Examination Document APP-524, which concluded that impacts on the West Kent Downs would be only at 'moderate' level, whilst the effect identified in the Environmental Statement on page 176 of Examination Document APP-145, concluded that the residual significant effect is 'large-adverse' on the West Kent Downs Landscape Character Area – Natural England would concur with the latter evaluation.</p>
<p>ii</p>	<p>Are there any areas across the Proposed Development where operational lighting would have a significant landscape effect and are there any mitigation measures that could minimise the effect? The 'Environmental Lighting Zones' document [APP-199] may prove useful to aid this part of the discussion.</p>
<p>Summary of Natural England's advice</p>	<p>Natural England remains concerned about the potential for significant impacts from light pollution from both along the scheme itself (for example street lighting, lighting on the junction) and on the Green Bridges. These have the potential to result in increased impacts to the Kent Downs AONB and, given the detail of the lighting on the Bridges has yet to be confirmed these could result in additional impacts.</p>

	Natural England understands the Applicant is to propose a new Design Principle in relation to lighting within their Deadline 8 response and we will provide our further advice at Deadline 9.
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Agenda Item 4: Coalhouse Fort and Point

a)	Coalhouse Point
i	In addition to any questions raised within the Habitat Regulation Assessment and the Report on the Implications on European Sites, the ExA will be looking for the Applicant, Thurrock Council and the Environment Agency to confirm the current position of the discussions relating to the provision of water to allow the proposed wetland mitigation to be provided at Coalhouse Point.
Summary of Natural England's advice	<p>Natural England understands that the provision of water for the creation and ongoing management of wetland habitat at Coalhouse Point is secured within the REAC (HR010) and takes the form of a water inlet with self-regulating valve or equivalent structure within the sea wall to allow regulated tidal exchange at the stated location, unless otherwise agreed with Thurrock Council (to release water from the Coalhouse Fort moat system), or otherwise agreed with the Secretary of State.</p> <p>Natural England has provided advice to the Applicant and the Examining Authority to date based on the seawall water inlet option, and, as the secured option, this has formed the basis of our advice for Habitats Regulations Assessment (HRA) advice purposes. The Applicant has prepared a Technical Note agreed with Natural England (which forms Annex C.13 to the Statement of Common Ground to be submitted at Deadline 8) which assumes the seawall water inlet option (and is Natural England's preferred solution).</p>
ii	<p>Dependent upon the answer to (i) above, there are a number of issues that may require to be considered. It is recognised that there is an existing hydrological regime that currently includes flows entering the system from agricultural land in the catchment and ingress from the Coalhouse Fort moat system. In the Draft Statement of Common Ground between (1) National Highways and (2) Thurrock Council [REP6-031], Item No. 2.1.263 suggests that '... <i>the current proposal is to allow ingress of water from the River Thames through a water inlet with self-regulating valve, or equivalent ...</i>'.</p> <p>The ExA will be looking to the relevant parties to give a summary of their positions on the issues listed below, with full details to be provided in writing by Deadline 8, with a reflection on the points raised by others during the hearing:</p> <ul style="list-style-type: none"> • Hydraulically, how does this proposed alternate method of water supply change the hydraulic operation of the proposed wetland and the rest of the catchment from the use of the Coalhouse Fort moat? • What are the likely changes in chemical composition between the current water in the system utilising the Coalhouse Fort moat inlet and one directly from the River Thames? • Are the chemical and hydrological changes likely to provide the ecological environment intended or is there a risk that those species that wish to be encouraged will not colonise the mitigation habitat?
Summary of Natural England advice	Natural England would defer to the Applicant for technical details about the hydraulic comparability of the two water supply options. We would observe however, that a water supply arrangement from the existing Coalhouse Fort moat system would be a 'one-way' flow arrangement with no option of return of water to the river (except by the existing

	<p>outlet at Bowaters sluice). Whilst Natural England considers that such an arrangement would provide the necessary conditions by which required habitats could be created and maintained, it is much to be preferred that a two-way water exchange structure be created as this would have the effect of optimising the opportunity afforded for wetland habitat creation in this area, essentially by creating a creek-like system with associated saltmarsh-type habitats. The hydraulic differences (water flowing through the system versus water exchange with the tidal pattern) can be expected to lead to a greater diversity of habitat types developing, which is desirable.</p> <p>Natural England understands that the Coalhouse Fort moat is supplied by water from the river Thames, and whilst there might be expected to be a modest amount of freshwater input to the system from surface water sources (assumed to be limited to surface water run-off from rainfall), in essence the water chemistry is not thought to be significantly different in character.</p> <p>Natural England understands that both water source options have the ability to supply a wetland with the necessary water to achieve an outcome that meets the HRA requirements for the project. However, there are significantly greater optimised outcomes for wildlife to be gained from using a two-way tidal exchange structure as the preferred solution. This is because such a structure would result in a wetland closer to a creek system with the colonisation of saltmarsh-type habitats, and thus a more diverse series of habitats would arise.</p>
iii	<p>At Compulsory Acquisition Hearing 4, it was suggested that the water in the watercourse system would continue to be required for agricultural irrigation. The ExA wishes to hear the Applicant's and other IP's views on the following points, with detailed comments to be submitted in writing at Deadline 8, with a reflection on the points raised by others during the hearing:</p> <ul style="list-style-type: none"> • Would an inlet at Bowater Sluice increase or decrease the potential for watercourse water to be utilised as a source for irrigation purposes? • Would the chemical content of the water from this source allow it to be used as an irrigation source? • What amendments are proposed at Star Dam to manage the water from both sources, should a new inlet from the River Thames become the preferred option? • Within the catchment, at what point does the current ability to draw irrigation water from Coalhouse Fort inlet cease, and where would that change to if there was a supplementary source from Bowaters Sluice, or other, new, inlet from the river? • Who will be responsible for the setting of the operational parameters, the operation and maintenance of any new inlet structure and the Star Dam?
Summary of Natural England advice	<ul style="list-style-type: none"> • Would an inlet at Bowater Sluice increase or decrease the potential for watercourse water to be utilised as a source for irrigation purposes? <p>Bowater sluice is understood to be the catchment outfall / discharge point, not the proposed seawall inlet point (which is stated to be at</p>

	<p>TQ686761). Assuming the ExA intends to mean the location of the seawall inlet, Natural England assumes that there would be relatively little difference in the suitability of the water for irrigation purposes.</p> <ul style="list-style-type: none"> • Would the chemical content of the water from this source allow it to be used as an irrigation source? <p>Please see above.</p> <ul style="list-style-type: none"> • What amendments are proposed at Star Dam to manage the water from both sources, should a new inlet from the River Thames become the preferred option? <p>Natural England is not aware of proposed amendments at Star Dam.</p> <ul style="list-style-type: none"> • Within the catchment, at what point does the current ability to draw irrigation water from Coalhouse Fort inlet cease, and where would that change to if there was a supplementary source from Bowaters Sluice, or other, new, inlet from the river? <p>Natural England has no comments to make in relation to this question.</p> <ul style="list-style-type: none"> • Who will be responsible for the setting of the operational parameters, the operation and maintenance of any new inlet structure and the Star Dam? <p>Natural England understands that the Applicant would be responsible, but we note the knowledge of locally-based Thurrock Council staff, the Environment Agency and Natural England would be helpful in this respect.</p>
iv	<p>There appears to be a complexity in the limitations on working practices and timeframes within the Coalhouse Point area.</p> <ul style="list-style-type: none"> • Can the Applicant provide a simple breakdown of the allowable working periods, showing how the constraints are being met, alongside highlighting where it is secured in the REAC?
Summary of Natural England's advice	<p>Natural England has sought a REAC commitment which restricts wetland creation works (including a tidal gate installation) to the least disturbing period for non-breeding wetland birds. This appears to be the intention of the Applicant and is set out within their draft Technical Note as scheduled for the 'summer'. Natural England welcomes this timing mitigation measure.</p> <p>Shortly before the hearing, further information was submitted by the Applicant including a GANNT chart titled 'Coalhouse Point Ecological Mitigation Works' Exam Document AS-112, ISH11 Supporting Information item 4a). This chart indicates a 'Time Risk Allowance' meaning the works could extend into the more sensitive months causing greater disturbance. Whilst it is desirable for these works to be completed within the year of construction to avoid undue delay, in our view a suitably worded REAC commitment would give greater prominence to the need for the works to be completed within the summer period, if at all possible.</p>

Agenda Item 5: Mitigation Proposals

<p>a)</p> <p>I</p>	<p>Nitrogen Deposition and other Woodland Compensation/ Mitigation</p> <p>There remain issues with the compensation offered for the Nitrogen Deposition and other woodland compensation/ mitigation. The Applicant is to provide a simple explanation or summary indicating:</p> <ul style="list-style-type: none"> • How the land in the Change Application [CR1-001 and 002] at Blue Bell Hill and Burham was originally considered to be necessary and is now considered to be no longer required to be provided elsewhere. • The amount of Nitrogen Deposition compensation required to offset the project and why there is limited compensation provided in the Kent Downs AONB where the largest effect is said to occur. • Some of the proposed Nitrogen Deposition and other woodland compensation/mitigation locations have not yet had the benefit of detailed ecological surveys. What measures are proposed to mitigate the impact on the existing habitat and/or species found following the surveys? How is the mitigation secured? <p>A full description of all the points can be provided in writing at Deadline 8.</p>
<p>Summary of Natural England's advice</p>	<p>Given the evolving nature of the science and evidence base for air quality impacts, Natural England's advice in relation to the Nitrogen Deposition compensation proposed for sites that are not subject to The Conservation of Habitats and Species Regulations has focused on providing advice to the Applicant on their high-level principles and the landscape scale approach for delivery of the habitat compensation.</p> <p>As detailed in our advice to the Applicant provided on the 10 December 2021 (Examination Document REP4-344), in selecting sites, Natural England supported the Applicant's criteria for identifying potential compensation sites which included the proximity to the affected sites and habitats to help build their ecological resilience.</p> <p>We also recommended that additional principles such as soil type, the use of natural regeneration and the delivery of a mosaic of grassland, scrub and woodland habitats (to reflect the broad suite of habitats within the affected SSSIs) were included within the principles for NDep.</p> <p>As detailed in our advice of the 10 December 2021 (Examination Document REP4-344), we were not able to review individual sites or proposals, nor provide detailed advice on the scale of compensatory habitat being proposed. Rather our advice focused on the principles and achievement of the landscape scale approach to build resilience for the affected sites.</p> <p>Subject to the achievement of these overarching principles Natural England's advice was, and remains, supportive of the overall approach proposed by the Applicant. We consider that these overarching principles will help build resilience for the affected habitats and sites through habitat creation which enhances ecological networks and contributes to the wider nature recovery objectives of the Environment Plan.</p> <p>With the removal of a significant area of compensatory habitat provision at</p>

	<p>Blue Bell Hill and Burham from the order limits, Natural England suggests it would be helpful for the Applicant to provide clarity that there is still sufficient habitat creation for the impacts and how the scheme delivers the ecological resilience for the habitats impacted as part of a wider nature recovery network approach based.</p> <p>Natural England's fuller response to the Examining Authority's request in relation to the Applicant's air quality compensation in our response to Action Point 17 within Annex 9 of this letter.</p>
ii	<p>Are Natural England, and Local Authorities content with the proposed arrangements and the measures to safeguard any protected species located in areas to be planted as woodland? The ExA would welcome a summary of the issues with detailed explanations, if appropriate, to be submitted in writing at Deadline 8.</p>
Summary of Natural England's advice	<p>Natural England is broadly supportive of the approach proposed by the Applicant and will be pleased to work collaboratively at the detailed design stage, should consent be granted.</p>

Agenda Item 6: Potentially contaminated land

a)	Southern Valley Golf Course
i	<p>In its response to ExQ2 [REP6-131], Gravesham Borough Council indicated that there may have been historic use of potentially contaminated material within the Southern Valley Golf Course. To what extent has this been investigated and what remediation measures would be secured in view of the proposed use of this site.</p>
Summary of Natural England's advice	<p>Natural England has no comments in relation to the Southern Valley Golf Course and would defer to other interested parties.</p>

9 Annex 9: Natural England’s response to the action points arising from Issue Specific Hearing 11 – Environmental Matters

9.1 Natural England is pleased to provide our response to the action points from Issue Specific Hearing 11 below.

<p>Action Point 6</p>	<p>Photomontages of Green Bridges within the Kent Downs AONB Applicant and Natural England to discuss the possibility of the Applicant providing additional photomontages/representative viewpoints showing the Green Bridges as they would be seen from wider the landscape. To include the consideration of whether ‘side-on’ perspectives also ought to be provided. Applicant to provide an update at D8 and, if additional photomontages are to be provided, the Applicant to provide these at D9. Natural England, and other IPs, can then provide final comments at D10.</p> <p>Having discussed this matter further with the Applicant following the Hearing, Natural England considers that further visualisations showing distant views of the Green Bridges are not required. We confirmed this to the Applicant during a meeting with them on the 29 November 2023.</p>
<p>Action Point 8</p> <p>Natural England response</p>	<p>Landscape and Visual conclusions Provide a summary of your respective positions on the Applicant’s conclusions within Chapter 7, Landscape and Visual of the ES [APP-145] paragraph 7.9.22.</p> <p>Whilst Natural England notes that the Design Manual for Roads and Bridges LA107 recommends the combined consideration and report of landscape and visual impacts, such an approach is not advocated within the Landscape Institute’s good practice Guidelines for Landscape and Visual Impact Assessment (3rd Edition).</p> <p>As presented during our oral evidence at ISH11, Natural England’s advice remains that, where a combined assessment is undertaken the worst impact should be reported rather than an attempt to average the effects. This is particularly important given the significant variation in the landscape character areas through which the scheme passes including the nationally important Kent Downs AONB.</p> <p>Chapter 7 of the Environmental Statement (Application Document APP-145) reports a significant number of ‘large’ and ‘very large’ adverse effects to both landscape and visual receptors. Some of these (for example Viewpoint S-18) are stated by the Applicant to remain as ‘large adverse’ at summer year 15.</p> <p>Notwithstanding Natural England’s comments in our Written Representation (Examination Document REP1-262) and our comments in relation to Viewpoint S-03 in this letter regarding the assessment of significance for landscape and visual effects, given the number of ‘large’ and ‘very large’ effects reported by the Applicant, Natural England’s advice remains that the scale of landscape and visual impact resulting from the Project should, as a minimum, be ‘large adverse’ based upon the information provided in the Environmental Statement.</p>

We consider that the Wildlife Trusts (or the body who declares Local Wildlife Sites) will have a greater knowledge and understanding of the habitats and species for which these sites are important and are therefore best placed to advise on the potential impacts and appropriateness of any mitigation and/or compensation measures. As a result, Natural England has not provided (and does not feel able or that it is appropriate for us to provide) detailed advice in relation to the potential impacts from air quality impacts to Local Wildlife Sites beyond our advice and support for the high-level principles (as detailed in our pre-application advice within Examination Documents REP4-337 and REP4-339).

In relation to the Sites of Special Scientific Interest that the Applicant has identified will be affected by air quality impacts, these all fall within Kent, namely:

- Cobham Woods SSSI;
- Halling to Trottscliffe Escarpment SSSI;
- Shorne and Ashenbank Woods SSSI; and
- Wouldham to Detling Escarpment SSSI.

Taken together, these sites are nationally important for their woodland and calcareous grassland habitats and the species that they support. Based upon the compensation measures proposed by the Applicant and their location in Kent, Natural England advise that the measures are likely to be effective in building resilience around these sites. This advice is based upon the following:

- The habitat creation in Kent largely focusses on linking and/or buffering existing SSSIs (including some where the impacts will occur) helping to build long-term ecological resilience, Natural England understands the Nitrogen Deposition compensation sites will be secured in-perpetuity within the same geographic area; and
- The balance of habitats (a mosaic of approximately 70% woodland and 30% scrub, the detail of which will be agreed by the Advisory Group post consent) will, subject to detailed design, reflect the habitats to be impacted within the SSSIs.

As detailed in Natural England's advice at Issue Specific Hearing 6 (Examination Document REP4-324), Natural England supports the Applicant's landscape scale approach to build resilience across the network of affected sites and habitats both north and south of the Thames. In the absence of detailed information on the nature of the habitats and species within the local wildlife sites and non-SSSI habitats, Natural England is not able to advise on whether the geographical split of compensatory habitat provision for non SSSI impacts is appropriate. However, as we discussed and agreed with the Applicant during the pre-application period, we would expect at least the same area of habitat compensation being provided across the scheme to that being impacted.

Action Point 18	RIES and nitrogen deposition matters
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<p>Natural England response</p>	<p>To the extent that any of the matters raised in actions 14 to 17 bear on Habitats Regulations Assessment and positions summarised in the RIES, please respond to the RIES identifying the relevant actions and extracting relevant parts of your actions response.</p> <p>As the measures proposed within the Applicant's Project Air Quality Action Plan (Examination Document APP-350) and discussed during ISH 11 relate to sites to which The Conservation of Habitats and Species Regulations does not apply, Natural England has no submissions to make in relation to Action Point 18.</p>
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10 Annex 10: Natural England's comments relating to Issue Specific Hearing 12 - Social, Economic and Project Delivery Matters

- 10.1 Natural England notes that a number of actions for the Applicant relate to areas that we have provided comments on during our submissions. Once the Applicant has provided their responses at Deadline 8, Natural England is likely to want to provide comments on these at Deadline 9.
- 10.2 In relation to ISH 12 (part 2) Action Number 1 'Control documents detailed drafting - Provide an update on any detailed matters of drafting in respect of the control documents, or suggested amendments to them, in writing which, in your view, remain at issue', Natural England remains concerned regarding the degree of ambiguity within the various control documents and securing mechanisms. We feel that the use of phrases such as 'where reasonably practicable' and 'significantly in accordance with' does not provide a sufficiently high degree of certainty as to how the required ecological and landscape mitigation measures will be delivered to meet their objectives post consent.
- 10.3 We have provided detailed advice in relation to this matter in Annex E of our Written Representation (Examination Document REP1-262) and more recently in our Deadline 6 response (Examination Document REP6-152) in relation to the Applicant's evidence during ISH6 in relation to ancient woodland soils translocation. Natural England welcomed the proposed suggested amended wording proposed by the Applicant's expert, Dr Lascelles, during their evidence in which it was suggested that 'where reasonably practicable' could be replaced with 'where ecologically feasible', recognising that it would not be appropriate to translocate soils if they were contaminated for example.
- 10.4 Natural England welcomes the updated wording within the outline Landscape and Ecology Management Plan v5.0 (Examination Document REP7-133) which provides the clarity discussed during ISH6. Natural England would support the Applicant providing similar clarity within the control documents for all matters in relation to ecological and landscape mitigation to give sufficient confidence that the mitigation and compensation measures will realise their objectives.

11 Natural England's comments relating to Issue Specific Hearing 13 – Traffic and Transportation

11.1 Natural England has no comments to make in relation to the matters discussed at ISH13.

12 Annex 11: Natural England's comments relating to Issue Specific Hearing 14 – the draft DCO

- 12.1 Natural England notes that at Action Point 9, with respect to the Tilbury Link Road, Natural England was asked to 'Provide initial drafting in respect of amendment to subparagraph (3) of Requirement 17'.
- 12.2 Natural England is concerned if the passive provision for the Tilbury Link Road effectively constrains the alignment of the Tilbury Link Road, by setting various parameters (such as exit options etc.) before consultees have been afforded opportunity to comment on that scheme through consultation.
- 12.3 During the Issue Specific Hearing 14, the Applicant expressed in their verbal submission that neither the permission for, or optioneering of, the Tilbury Link Road would be constrained by the proposed passive provision intended by the drafting of the DCO at Requirement 17. Natural England considers however that passive provision with the Lower Thames Crossing must necessarily exclude some options for effective provision to be made. It remains unclear to us precisely what passive provision means on the ground, and thus the ability for Natural England to be consulted before that provision is made remains, in our opinion, an appropriate safeguard to be drafted into the LTC DCO.
- 12.4 With this in mind, we suggest the following drafting which would satisfy our concerns:
- (3) In this paragraph, "the proposed Tilbury link road" means a proposal which includes a road connection or junction onto the A122 from Tilbury which is—
- (a) reflected in a preferred route announcement by the Secretary of State;
- ~~(b) the subject of a request for a scoping opinion submitted to Thurrock Council under regulation 15 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, or an application to the Secretary of State under regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, whether the road forms the whole or part of the subject of the request for a scoping opinion (unless the Secretary of State directs the undertaker not to consider such a proposal as the proposed Tilbury link road);~~
- (b) included in a local plan adopted by the relevant planning authority under regulation 26 of The Town and Country Planning (Local Planning) (England) Regulations 2012; or
- (d) in the absence of that announcement, such other proposal (prepared following consultation on the environmental and other impacts) as is reasonably considered by the undertaker to constitute the likely route and function of that link road.
- 12.5 The drafting that we have proposed seeks to achieve at least one formal round of consultation on the Tilbury Link Road with Natural England before the Lower Thames Crossing makes its passive provision. With reference to draft Article 17, we consider that consultation with Natural England would have occurred by the time of (a) preferred route announcement by the Secretary of State, c) adoption of a local plan, but not necessarily by b) EIA scoping, or d) such other proposal, which appears much more uncertain.

13 Annex 13: Other matters which Natural England would like to raise

13.1 Natural England has worked collaboratively with the Applicant over several years and welcomes the progress that has been made on many matters. We also have a significant number of matters which remain unresolved. These are summarised in our updated Statement of Common Ground to be submitted by the Applicant at Deadline 8. In addition, we felt it may be helpful to provide a summary of these matters and how we feel they could be overcome as we approach the end of the Examination and have included these below.

Cumulative assessment of landscape impacts

- 13.2 Natural England notes the various discussions that have taken place through the Examination in relation to the traffic impacts and junction upgrades required at Blue Bell Hill. Given the potential for significant landscape and visual impacts to the Kent Downs National Landscape resulting from the junction upgrade(s) and any associated work to Blue Bell Hill itself, Natural England has recommended that these should be considered as part of the cumulative assessment for the Lower Thames Crossing (as detailed in Section 2.1.15 of the first draft of our Statement of Common Ground, Examination Document APP-099).
- 13.3 Following the Government's Network North announcement in October 2023⁵, in which funding has been committed to this scheme, having considered the guidance within Advice Note Seventeen: Cumulative effects assessment relevant to nationally significant infrastructure projects⁶, it appears that the works at Blue Bell Hill may constitute a 'Tier 3' project. These include projects 'identified in other plans and programmes (as appropriate) which set the framework for future development consents/approvals where such development is reasonably likely to come forward' (Table 2).
- 13.4 Section 3.4.3 of Advice Note Seventeen provides guidance on the level of assessment and for Tier 3 projects and details that 'For 'other existing development and/or approved development' falling into Tier 3, the applicant should aim to undertake an assessment where possible, although this may be qualitative and at a very high level'.
- 13.5 Natural England notes that the Applicant has included the works at Blue Bell Hill within Chapter 16 Cumulative Effects Assessment of the Environmental Statement (Examination Document APP-154). However, the cumulative assessment does not appear to consider the potential landscape and visual impacts to the Kent Downs AONB (nor ecological impacts), focussing on geology, soils and impacts to residential receptors. Landscape impacts have been considered for other projects within Chapter 16 (for example the East Anglia Green Energy Enablement and Albion Waterside Canal Basin, Gravesham projects). Natural England's advice therefore remains that the consideration of landscape and ecological impacts from the works at Blue Bell Hill should be detailed more fully within the application documents.

Summary of outstanding matters

13.6 Natural England acknowledges that significant progress has been made on several matters during the Examination which is welcomed. However, there are a significant

⁵ <https://www.gov.uk/government/publications/network-north>

⁶ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-17/>

number of outstanding concerns which remain, with several key items having switched to 'matter not agreed' in our Statement of Common Ground to be submitted at Deadline 8. We felt it may be helpful to summarise these below.

Green bridges

- 13.7 Natural England has provided extensive advice on the design and likely effectiveness of the Green Bridges, particularly those at Thong Lane south and Brewers Road. Given the significant new and additional severance that the Project will result in, Natural England considers that substantial, well designed and exemplar Green Bridges (as installed by the Applicant on other schemes) which align much more closely with all of the minimum requirements recommended in good practice guidelines referred to throughout the Examination (Examination Documents REP4-329, REP 4-33 and REP7-121).
- 13.8 Well-designed Green Bridges which meet (or much more closely align with) the minimum planting widths recommended have the potential to help mitigate the significant additional severance which will result from the Project. In the Kent Downs AONB, well designed Green Bridges are the only additional mitigation measure that the Applicant could deliver to reduce some of the large adverse effects to recreational users in the long-term.
- 13.9 Throughout our engagement with the Applicant over many years, given the nature and scale of the Project we have worked collaboratively to encourage them to deliver a project that meets the scheme objectives whilst delivering an exemplar of sustainable development. We are disappointed that the good practice implemented by the Applicant for landscape mitigation such as on the A21 Scotney Castle has not been incorporated to this much larger scheme.
- 13.10 Give the important role well designed Green Bridges can play to reduce the landscape and ecological impacts, Natural England's would expect a much stronger commitment from the Applicant to delivering a design which meets the good practice guidance to ensure they meet all of the Project's Design Principles and have suggested amended wording in response to ExQ3 Q16.1.3.

Securing mechanisms

- 13.11 Natural England has expressed concern throughout the Examination about the nature and scale of matters to be deferred to the post consent stage and how these will be robustly secured. The use of ambiguous wording such as 'where reasonably practicable' and 'significantly in accordance with' throughout the control documents and the securing mechanisms does not provide sufficient certainty as to what will be delivered or how stakeholders will be able to influence matters within their remit post consent.
- 13.12 Natural England welcomes the changes made by the Applicant to the oLEMP (Examination Document REP7-133) following ISH11 to provide greater ecological certainty on when it will not be appropriate to translocate ancient woodland soils (if there were contamination of invasive species). This is an example of the level of clarity that Natural England supports and would expect within the wording for all of the landscape and ecological matters within the various control documents and securing mechanisms.
- 13.13 Natural England provided a high-level review of the wording of the various control documents and securing mechanisms of concern to us in Annex E of our Written

Representation (Examination Document REP1-262). We also included a commentary on the areas of concern and suggested amendments to provide the level of certainty we consider appropriate. These suggested amendments, if incorporated into the appropriate control documents, would address Natural England's concerns. Despite the Applicant confirming to Natural England during a meeting on the 31 August 2023 that they were proposing to revisit the various control documents to make the wording clearer, disappointingly this has not been provided.

- 13.14 As a minimum, if the Applicant does not provide clearer wording as suggested by Natural England in our Written Representation of that recently provided for the ancient woodland soils translocation) and consent is granted, Natural England would recommend that the wording of the control documents and securing mechanisms are amended to be 'significantly in accordance with' and 'where reasonably practicable'.

National Landscapes

- 13.15 Natural England's comments and concerns regarding the assessment of landscape and visual impacts to the Kent Downs Area of Outstanding Natural Beauty are detailed in our Written Representation (Examination Document REP6-162) with our latest advice in relation to Viewpoint S-03 and the Applicant's visualisations of the junction from the Thong Lane Bridge are provided in this letter. Whilst we remain concerned with the assessment of the impacts for some viewpoints, Natural England's advice remains that the Applicant should commit to a more extensive and robust mitigation package. We have provided details of the additional mitigation measures in our Written Representation (Examination Document REP1-262) that we feel should be secured if consent is to be granted.

Mitigation road map

- 13.16 During Issue Specific Hearing 6 Natural England recommended it would be helpful for the Applicant to provide clarity on how each ecological and landscape impact was being mitigated or compensated. The submitted documents make it difficult for Interested Parties to follow the journey from the identification and location of an impact to how and where it is to be mitigated/compensated spatially. In our follow-up advice (Examination Document REP4-324) we suggested a potential format to help provide clarity. We also consider that an easier to interpret series of plans would assist as the Environmental Masterplan (Examination Document REP7-116 to REP7-122) are very cluttered and difficult to interpret.
- 13.17 Natural England's advice remains that a clear summary of where the impacts are being mitigated and/or compensated would be helpful to help ensure that the ecological and landscape impacts from the scheme will be fully addressed and that they achieve the requirements within the control documents and securing mechanisms. We would recommend the information requested within Examination Document REP4-324 should be provided by the Applicant to give confidence in the assessment and provide clarity as to how and where the impacts are to be compensated.

Pulverised Fuel Ash (PFA) Supply

- 13.18 Natural England requested within our Written Representations (paragraph 7.2.15) that the Applicant should ensure it has an adequate supply of Pulverised Fuel Ash (PFA) from which it can create the necessary open mosaic habitats. This matter is also outlined within the Statement of Common Ground at item 2.1.54 (as a necessary pre-requisite to agreement). To the best of our knowledge, the Applicant has yet to

evidence that it can supply the required volume of PFA, and an update is requested. We would therefore advise that such assurances are provided.

Natural England's confidential annex relating to sensitive breeding bird species

- 13.19 Natural England has previously raised concerns regarding the proposed upgrade of Footpath 200 to a bridleway in the area of Bowaters scrublands (Examination Document REP1-263). This is outlined further in our Statement of Common Ground at item 2.1.67, and the Applicant has responded via a Technical Note at Annex C.15 appended to the SoCG. In addition to the fundamental disagreement concerning the footpath upgrade in this location in the context of an emerging SSSI notification, one specific aspect of the Applicant's proposals in this area is the timing of construction works (should they be permitted), which could be damaging to the sensitive species which is known to nest in this area if undertaken as proposed.
- 13.20 Natural England would request a specific REAC commitment wording to secure a more appropriate construction window for bridleway installation works. To avoid disturbing effects to the specific sensitive breeding bird species in this area, a construction window of September – December (inclusive) is recommended. We understand from the Applicant that they are unable to propose further changes to the REAC at this stage in Examination proceedings, and although Natural England is discussing updated wording to our Statement of Common Ground to capture this request, in our opinion the REAC would be the appropriate place to secure this specific mitigation measure. The generic works timing restriction set out in REAC commitment TB004, whilst welcome, would not meet the specific needs of the species concerned, due to the early establishment of breeding territories.
- 13.21 We would be happy to work with the Applicant on suitable form of words, but to expedite matters we suggest the following further drafting for REAC Commitment TB029 'Bowater sluice scrub clearance':

'Any scrub clearance required to facilitate the upgrade of Footpath 200 at Bowater sluice would be minimised as far as reasonably practicable and would only be taken from south of the existing footpath route rather than from the scrub habitat to the north of the route. This would ensure the extent of continuous habitat north of the footpath remained intact. Construction work in this specific area would be limited to September – December (inclusive), to avoid disturbance effects to particular sensitive breeding bird species.'

15 Annex 13: Comments on any information requested by the ExA and received by D7 or CA Regs D2

- 15.1 Natural England has no additional comments, further to those within other sections of this letter, to make in relation to any additional information requested by the Examining Authority at Deadline 7 that is not covered elsewhere in this response.

16 Annex 14: Comments on any further information requested by the ExA under Rule 17 of the EPR

- 16.1 Natural England has no comments to make in relation to any further information requested by the Examining Authority under Rule 17 of the EPR that is not covered elsewhere in this response.