



**Submission
for the
Royal Society for the Protection of Birds**

Submitted for Deadline 9

15 December 2023

Planning Act 2008 (as amended)

In the matter of:

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

Planning Inspectorate Ref: TR010032

RSPB Registration Identification Ref: LTC – AP1738

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1. Introduction

- 1.1 Further to the RSPB's submission of our Relevant Representation (RR-0942) and Written Representation (REP1-278), we have had regard to submissions made to the Examination, in particular those made by Natural England (REP4-324, REP5-109, REP6-152 and REP7-215) relating to the environmental issues raised by the Project. Our principal focus was on the possible impacts of noise and visual disturbance from the Project on the Thames Estuary and Marshes Special Protection Area/Ramsar site and functionally linked land (FLL). We have now concluded on this matter as noted in section 2 below.
- 1.2 Also in this submission we raise an important issue regarding post consent pre-construction monitoring and report on the ongoing discussions with the Applicant relating to the temporary use of RSPB owned land at Shorne Marshes as a compound and its subsequent restoration.

2. Concerns regarding noise and visual disturbance of the Thames Estuary and Marshes Special Protection Area/Ramsar and FLL

- 2.1 In our earlier submissions (REP1-278, REP3-198, REP4-351) we stated our concern about the risk of noise and visual disturbance to the intertidal habitats of the Thames estuary, including functionally linked land (FLL) as identified on Figures 1 and 2 in Appendix A to the Habitats Regulations Assessment Screening Report and Statement to Inform Appropriate Assessment (the HRA) (APP-487). In particular we highlighted our concerns regarding the lack of detail provided for the proposed noise and visual disturbance mitigation measures associated with construction of the North Portal.
- 2.2 The Applicant directed us to sections and figures within the HRA (APP-487). The RSPB would have welcomed further details on the specifications of the noise and visual disturbance attenuation mitigation measures during the Examination. These have not been forthcoming, with the Applicant arguing that this is a matter for detailed design post consent.

- 2.3 The RSPB accept that the commitments made at HR004, HR005 and HR006 within the Code of Construction Practice First Iteration of the Environmental Management Plan Register of Environmental Actions and Commitments (REAC) (REP7-123) provide an assurance that adequate mitigation measures will be put in place that will protect the Thames Estuary and Marshes SPA/Ramsar or Functionally Linked Land from disturbance. Commitments also exist for ongoing monitoring of the effectiveness of the measures and enables further mitigation actions to be taken if adverse construction-related effects are determined (HR009). The RSPB is content with these commitments, which must be legally secured under the DCO.
- 2.4 Monitoring of the effectiveness of the mitigation measures will require confidence in the then baseline environmental context. The data used in the assessment of likely significant effects of the Project has been collected over several years, with the majority of the ornithological surveys taking place during 2017-2019 (see APP-396). We consider there will be a need to update this baseline information given the time span between surveys and the likely construction commencement date, which has already been delayed by 2 years as a result of a Ministerial Statement (as discussed at PD-012).
- 2.5 We recommend that at least one year's data is required to inform the pre-construction baseline. We note the Applicant's recognition of the need to carry out pre-construction surveys (REP2-046) but would agree with Natural England's comments made at Deadline 7, in which they seek to significantly broaden the scope of these surveys (REP7-215). We expect further submissions on this issue from the Applicant and Natural England at Deadline 8, and we will review these.

3 Land at Shorne Marshes

- 3.1 The RSPB met the Applicant on 15 August 2023, to discuss the design of the restoration at our Shorne Marshes nature reserve, following the use of part of the site as a construction compound (known as Milton compound). The RSPB provided an updated specification for the habitat restoration, and the meeting was good with positive engagement from the Applicant on the RSPB's requirements.

- 3.2 A further meeting was held with the Applicant on 29 November 2023, principally to discuss progress with the restoration design. A discussion over text that could be used by the Applicant to describe the restoration followed and the RSPB provided further information to assist the Applicant's understanding of the required restoration. The restoration is now noted in the Stakeholder Actions and Commitments Register (SACR) at SACR-022 (Applicant's Deadline 8 submission, 7.21 Stakeholder Actions and Commitments Register, v6.0 December 2023, no examination reference available), and we can confirm our agreement to this entry, which describes in headline terms the restoration required and how the final detailed design will be achieved.
- 3.3 Disappointedly a restoration concept plan which was promised by the Applicant at the August meeting has not been provided. The RSPB considers that this plan is an essential document to assist interpretation by the Applicant and its contractors of the nature of the required restoration. Further engagement with the Applicant is anticipated on this plan post Examination with the Applicant suggesting progression in January 2024 and we will inform the Secretary of State post-examination as a matter of record of any progress made on this aspect.
- 3.4 The restoration is also briefly described in the Applicant's Deadline 8 submission, 6.3 Environmental Statement Appendices, Appendix 2.2 – Code of Construction Practice including Register of Environmental Actions and Commitments (REAC), First Iteration of Environmental Management Plan v8.0 (no examination reference available), at TB022. We confirm we agree with this entry.