



# The Planning Inspectorate

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Natural England  
National Highways  
For information – to all Interested Parties

Your Ref:  
Our Ref: TR010032  
Date: 8 December 2023

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Dear Sir/Madam,

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

### **Planning Act 2008 – Section 89(3) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rules 9 and 17**

#### **Procedural Decision<sup>1</sup> 45 to seek further information about the designation of ‘The Wilderness’**

We are writing to inform you of a procedural decision made by the Examining Authority (ExA) to seek further information about the designation of ‘The Wilderness’ under the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17.

‘The Wilderness’ is an area of woodland located to the east of North Road (the B186), south of Fen Lane, North Ockendon and north of Hall Lane, South Ockendon. It is shown on the plan in **Annex A**, which in turn is sourced from Natural England’s (NE) submissions at Deadline 7 [[REP7-215](#)] on page 76.

In its Deadline 7 submission at Section 5 (from page 74), NE indicates that a portion of ‘The Wilderness’ shown hatched in blue on the plan in Annex A and referred to as the ‘southern section’:

- *‘is classed as ancient semi-natural woodland; the northern section is classed as long-established woodland’; and that*
- *‘[t]he polygon [representing the entire woodland] will be split and the Wilderness added to the pending Ancient Woodland Update layer.’ (ExA emphasis added.)*

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<sup>1</sup> All Procedural Decisions made by the ExA for the Lower Thames Crossing examination can be found in the Procedural Decisions Log [[PD-007](#)].

Additionally, the document also suggests that NE:

- ‘welcome the Applicant’ submission of a without prejudice assessment of The Wilderness as ancient semi-natural woodland (National Highways Deadline 6 Submission - 9.132 Post-event submissions, including written submission of oral comments, for ISH9, Examination Document REP6-090).’

It states that:

- ‘[g]iven Natural England’s Ancient Woodland Inventory Unit’s confirmation that the southern section should be classed as [Ancient Semi Natural Woodland], we recommend the Applicant adopts its without prejudice assessment to take account of this new designation and amends the relevant control documents to account for the 0.44ha increase in the area of ancient semi natural woodland impacted by the scheme.’ (ExA emphasis added.)

NE’s Deadline 7 submissions introduce ambiguity on the status of this site which is referred to as ‘pending’ designation and as ‘this new designation’. Documents submitted by Natural England at Deadline 8 [REP8-154/155] and the Statement of Common Ground between the Applicant and Natural England [REP8-012] did not clarify the position. The Applicant’s response to ExQ3 11.1.8 [REP8-115] on ‘The Wilderness’ provides a headline approach but does not amount to a fully structured response to relevant policy in designated NPSNN paragraph 5.3.2, should ‘The Wilderness’ be designated as ancient woodland.

Since the closure of Deadline 8 on 5 December 2023, the ExA has been made aware of media coverage ([BBC Essex: 7 December 2023](#)) indicating that a determination may have been made by NE that ‘The Wilderness’ (or part of it) is formally designated ancient woodland. We place no evidential weight on this media coverage but do seek responses to the following questions.

#### **45. EPR – Rule 17: request for further information: ‘The Wilderness’**

##### **Questions to Natural England**

- A. NE is asked if ‘The Wilderness’ (identified as the area hatched in blue on the plan in Annex A) is currently designated as ancient woodland? Or is it still pending a designation decision? (By **Deadline 9A** on 15 December 2023.)
- B. NE is asked to advise the ExA of the designation status of ‘The Wilderness’ in writing at **Deadline 9A** on 15 December 2023. Advice about a formal designation decision should be accompanied by a record of the designation decision. The designation process should be explained. If the site remains ‘pending’ designation, then the effect of that status and its policy consequences should also be set out.
- C. The Applicant may respond to material provided by NE at Deadline 9A at **Deadline 10** on 20 December 2023
- D. If the designation status of ‘The Wilderness’ has not changed by Deadline 9A, NE is requested to confirm the status of the Wilderness at the last available point in the Examination which is **Deadline 10** on 20 December 2023.

##### **Questions to the Applicant**

If the designated status of 'The Wilderness' (identified as the area hatched in blue on the plan in Annex A) has changed to ancient woodland (or without prejudice if it were to change to ancient woodland as NE indicate is likely):

- E. What policy response does the Applicant propose to take to designated NPSNN paragraph 5.3.2 which states that: '*[t]he Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss...*'? (By **Deadline 9A** on 15 December 2023.)
- F. Are there any additional siting or design measures that the Applicant can take to eliminate or further reduce the effects of the Proposed Development on 'The Wilderness' land shown hatched blue in Annex A, beyond or in more detailed and clearly justified terms than those identified in the response to ExQ3 11.1.8 [REP8-115]? If so, what are those measures? If it is concluded that no such measures can reasonably feasibly be taken, what are the reasons for this conclusion and is any additional reasoning beyond that provided in response to ExQ3 11.1.8 needed in order to respond to NPSNN paragraph 5.3.2? (By **Deadline 9A** on 15 December 2023.)
- G. What (if any) implications would an ancient woodland designation have for the Applicant's Biodiversity Net Gain (BNG) assessment and for biodiversity mitigation and compensation measures included in the application? (By **Deadline 9A** on 15 December 2023.)
- H. What (if any) changes to the application would be needed to provide land required for any of the purposes identified in (G)? (By **Deadline 9A** on 15 December 2023.)
- I. What (if any) changes to the application would be needed to underpin management measures proposed to deliver mitigation and compensation measures on land required for any of the purposes identified in (G)? (By **Deadline 9A** on 15 December 2023.)
- J. What (if any) changes would be required to the Applicant's currently submitted control documents to secure anything arising from (H) or (I)? If amendments to the control documents are deemed necessary and can be submitted by **Deadline 9A** on 15 December 2023 then please submit them. If they are deemed necessary but cannot be submitted by that Deadline, please indicate how a process to deliver the necessary changes could be secured?
- K. NE may comment on any material provided by the Applicant in response to questions E – J at Deadline 9A at **Deadline 10** on 20 December 2023

These questions are directed to NE and the Applicant. Other Interested Parties are not required to respond. They may respond if they consider that the matters raised are relevant to them and they are able to answer the questions providing important and relevant information.

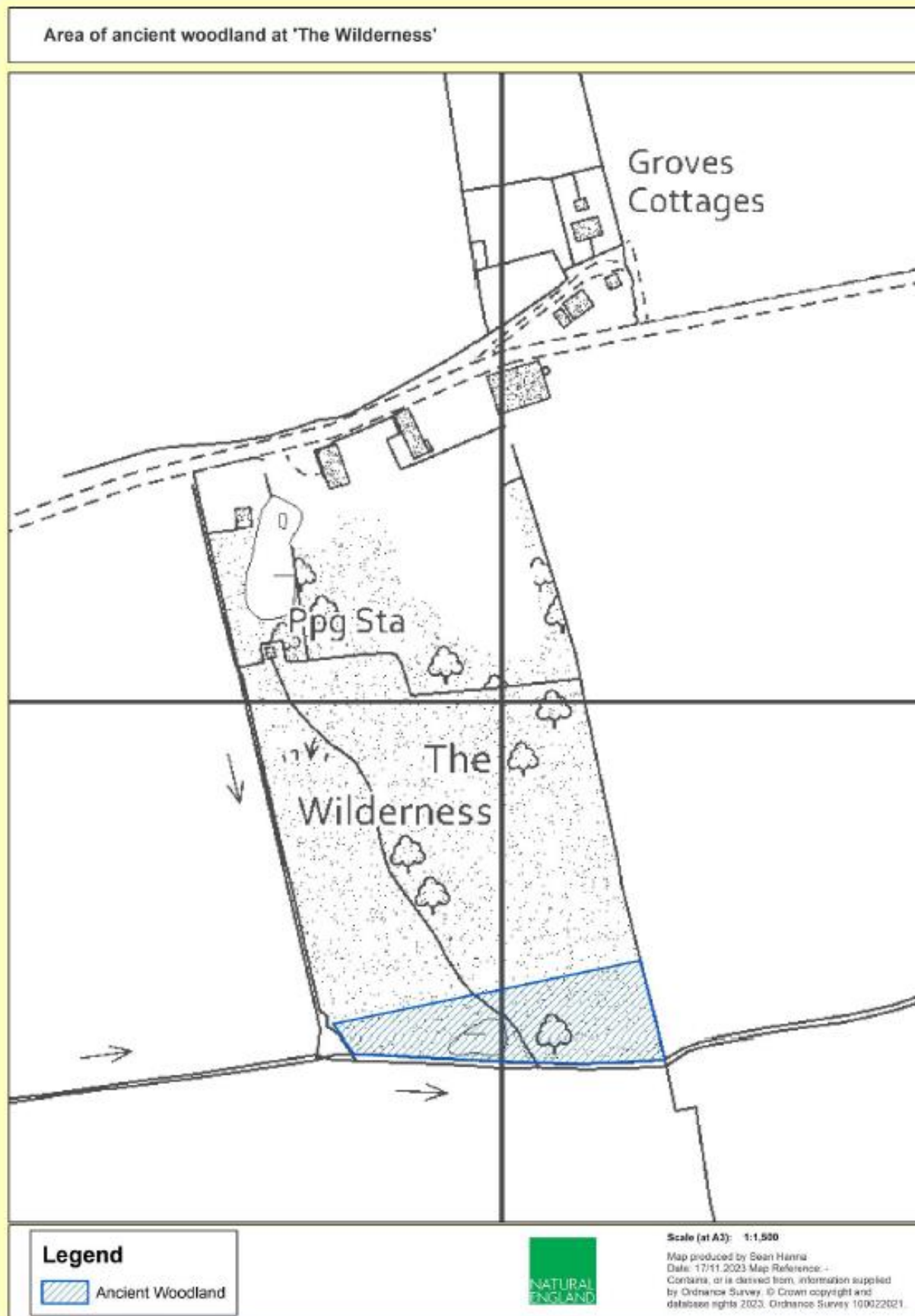
If you have any questions on the matters addressed in this letter, please do not hesitate to contact the case team using the contact details at the head of this letter.

Yours faithfully,

*Rynd Smith*

Rynd Smith  
**Lead Panel Member for the Examining Authority**

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Source: NE Deadline 7 Submission [REP7-215] on page 76. Do not scale.