



# Lower Thames Crossing

## 9.68 ~~Final~~ Agreed Statement of Common Ground between (1) National Highways and (2) John and Elizabeth Gressier (Tracked changes version)

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Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

DATE: ~~December~~, 2023  
DEADLINE: ~~9A~~

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VERSION: ~~3~~.0

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### Revision history

Version	Date	Submitted
1.0	24 August 2023	Deadline 3
2.0	17 November 2023	Deadline 7
<u>3.0</u>	<u>15 December 2023</u>	<u>Deadline 9A</u>

## Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground between (1) National Highways (the Applicant) and (2) John and Elizabeth Gressier.

Both parties have reached agreement on the position of the status of all eight matters. Of the eight matters contained within, two matters are agreed in principle and six are not agreed, leaving no matters outstanding.

### On behalf of the Applicant

Name	[REDACTED]
Position	[REDACTED]
Organisation	[REDACTED]
Signature	

### On behalf of John and Elizabeth Gressier.

Name	[REDACTED]
Position	[REDACTED]
Organisation	[REDACTED]
Signature	

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Deleted: agree that this draft Statement of Common Ground is an accurate description of the matters raised and the status of each matter.

### LTC & Gressier - SoCG for D7

You forwarded this message on 14/11/2023 14:09.  
This message was sent with High importance.

9.68 SoCG between (1) National Highways and (2) .

SoCG Appendix 2 - Island Site Location.pdf

Dear [REDACTED]

The attached can be submitted as an agreed draft for

Regards



www.btffpartnership.co.uk

Deleted: BTFF Clockhouse Barn, Canterbury Road, Challock, Ashford, Kent TN25

## Lower Thames Crossing

# 9.68 Final Agreed Statement of Common Ground between (1) National Highways and (2) John and Elizabeth Gressier (Tracked changes version)

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# 1 Introduction

## 1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and John and Elizabeth Gressier, and where agreement has not been reached.
- 1.1.3 This **final** version of the SoCG has been submitted at Examination Deadline **9A**.

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## 1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared in respect of the Project by (1) National Highways, and (2) John and **Elizabeth** Gressier.
- 1.2.2 National Highways became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain, and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations of the Highways Agency, including in respect of the Project, to be conferred upon or assumed by National Highways.
- 1.2.3 John and Elizabeth Gressier possess Category 1 interests in plots 03-16, 03-23, 03-25, 03-39, 03-43, 03-52, 03-53 and 03-54 as outlined in the Land Plans **[Document Reference 2.2 (8)]** and **Book of Reference [Document Reference 4.2 (8)]**.

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## 1.3 Terminology

- 1.3.1 In the **final position on** matters table in section 2 of this SoCG, "Matter Not Agreed" indicates agreement on the matter could not be reached, and "Matter **Agreed\*\***" **indicates a matter that is agreed in principal but where further discussion may take place during the detailed design stage of the Project to finalise detail, or is subject to contract (between John and Elizabeth Gressier and the Applicant)**.
- 1.3.2 **However, the status of any matter in this document does not preclude John and Elizabeth Gressier from their rights under the Compensation Code.**

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## 2 Matters

### 2.1 Final Position on matters

2.1.1 Engagement between the Applicant and John and Elizabeth Gressier has been ongoing since March 2020. These discussions are summarised in Annex B of the Statement of Reasons [Document Reference 4.1 (8)],

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2.1.2 Following submission of John and Elizabeth Gressier's Relevant Representation, discussions on matters have taken place between the Applicant and Interested Party. These discussions are, summarised in subsequent updates to Annex B of the Statement of Reasons [Document Reference 4.1 (8)],

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a. The outcome of discussions to date are presented in 2.1.8 – Boundary Commitment

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2.1.3 This is the final Statement of Common Ground between the Applicant and John and Elizabeth Gressier submitted at Deadline 9A. There are eight matters in total of which six are not agreed and two are agreed in principle.

- 2.1.4 Table 2.1, which details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) John and Elizabeth Gressier.
- 2.1.5 At Deadline 7, there were eight matters, seven, of which were not agreed and one remained under discussion.
- 2.1.6 It is acknowledged there are some matters where further discussion will take place during the detailed design stage of the Project to finalise detail, or is subject to contract (between John and Elizabeth Gressier and the Applicant), but the matter is agreed in principle. Matters to which this applies have an asterisk (\*) next to them.
- 2.1.7 Since version 2 of this SoCG was submitted at Deadline 7 the following matter has moved from 'Matter Not Agreed' to 'Matter Agreed\*':  
a. 2.1.7 – Island Site
- 2.1.8 The following matter, has moved from 'Matter Under Discussion' to 'Matter Agreed\*':  
b. 2.1.8 – Boundary Commitment
- 2.1.9 This is the final Statement of Common Ground between the Applicant and John and Elizabeth Gressier submitted at Deadline 9A. There are eight matters in total of which six are not agreed and two are agreed in principle.

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Matter 2.1.7, Active Agreements & Commitments, Island Site, is the matter that

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**Table 2.1 Final Position on Matters**

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
<b>Case for Compulsory Acquisition</b>					
<b>Approach to identifying land use</b>	2.1.1	<p>Interested Party disputes the Applicants case for compulsory acquisition in the public interest. When the land was identified for acquisition for woodland planting, the Interested Party briefed the Applicant of their own intention to plant woodland on the land excluding the two small paddocks which form part of the curtilage of the residential property.</p> <p>The Applicant's awareness of the Interested Party's intention raises the question of whether the Applicant's use of compulsory powers is necessary.</p> <p>Chapter 8 of the environmental statement confirms that the loss of ancient woodland is irreversible and irreplaceable. As such there is no basis upon which the extent of mitigation planting is calculated, however the Applicant has not considered the Interested Party's request for amendments to the Order Limits. The assessment approach for mitigation need has been assigned by Natural England to achieve connectivity between woodlands in the wider landscape, suggesting that the</p>	<p>The Applicant considers there is a compelling case for the acquisition of the land referenced for the reasons set out below.</p> <p>The Applicant sets out benefits of the Project in Need for the Project and Chapter 4 of the Planning Statement.</p> <p>The Applicant recognises the Interested Party's 'proposed intention to plant woodland on part of their land holding' and the further steps they have taken, as noted in their comments noted in the column opposite received on 29 October 2023. However, this does not secure this land and proposed habitat creation as essential mitigation to be managed in perpetuity in line with the specific requirements to offset the loss of ancient woodland as detailed within the outline Landscape and Ecological Management Plan (oLEMP). In addition, part of the land is required for replacement land which must vest in the owner of the relevant open space. We therefore propose to include this land within our Order Limits for compulsory acquisition.</p>	<p>Need for the Project [<a href="#">APP-494</a>]  <a href="#">Planning Statement</a>  <a href="#">[Document Reference 7.2 (2)]</a>  <a href="#">Outline Landscape and Ecology Management Plan (oLEMP)</a>  <a href="#">[Document Reference 6.7 (7)]</a>  <a href="#">ES Chapter 8: Terrestrial Biodiversity</a>  <a href="#">[Document Reference 6.1 ES Chapter 8 (2)]</a></p>	Matter Not Agreed

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>applicant's use of compulsory powers would be an opportunistic means to an end rather than to achieving measurable mitigation.</p> <p>It is questionable that the Applicant's claim to establish high quality "woodland replacement" can be achieved by adding large areas of public open space through the area identified.</p> <p>The general principle stated that an approach to plant a greater extent of compensatory planting to offset a lesser area of loss should not be given greater weight over the rights of the interested party. The Applicant is using the NSIP to deliver additional standalone planting and access rights rather than it being a requirement of the Scheme. The interested party does not consider this is a compelling case in the public interest which justifies the compulsory acquisition of private land and the interference with the human rights of those with an interest in the land affected.</p> <p>The Interested Party cannot be prevented from enjoying their land and undertaking legitimate planting of part of the land</p>	<p>The land is proposed to be acquired in connection with ancient woodland compensatory planting. The Project's approach to ancient woodland compensatory planting is reported in Environmental Statement (ES) Chapter 8: Terrestrial Biodiversity, in paragraph 8.5.31.</p> <p>The objective of this approach is to create new, high quality woodland habitat which links into areas of existing woodland habitat, building resilience into the network of woodland within the wider landscape. This approach was discussed with Natural England and the Forestry England who agree, in their Statements of Common Ground, to the Applicant's landscape scale approach.</p> <p>These plots 03-23, 03-25, 03-39, 03-43, 03-52, 03-53 and 03-54 (owned by the Gressiers and proposed to be acquired) create a valuable link between two separate woodland SSSI's: Shorne and Ashenbank Woods SSSI and Great Crabbles Wood SSSI. Both include areas of ancient woodland within their boundaries.</p>	<p>Statement of Common Ground between (1) National Highways and (2) Natural England  <a href="#">[Document Reference 5.4.1.6 (5)]</a>,                      Statement of Common Ground between (1) National Highways and (2) the Forestry Commission  <a href="#">[REP4-106]</a>                      Planning Statement Appendix D: Open Space  <a href="#">[REP7-136]</a></p>	

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 Planning Statement [\[APP-495\]](#)¶  
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 Outline Landscape and Ecology Management Plan (oLEMP) [\[REP4-140\]](#)¶  
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 Environmental Statement (ES) Chapter 8: Terrestrial Biodiversity [\[APP-146\]](#)¶  
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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>identified for ancient woodland mitigation whilst the Applicant has no powers of compulsory purchase. The Interested Party is in the process of transferring part of their land (approx. 1.5ha) to a third party requiring that party to plant and maintain a suitable mixed broadleaf deciduous woodland and apply restrictive covenants on that third party to maintain that planting in perpetuity. The Applicant has been aware of these intentions to plant the land since initial discussions but has continued to proceed with applying to acquire the land compulsorily for the same use (to create woodland mitigation for the loss of ancient woodland). There is therefore no justification for the Applicant to have powers to acquire this area of land and use it for its own mitigation and calculations. This area should be removed from the Applicant's Order Limits.</p> <p>The Interested Party does not agree with the Applicant's approach to compensatory planting. According to Paragraph 8.5.31 of the Application Document - Environmental Statement (ES)– Chapter 8: – Terrestrial Biodiversity, the Applicant's approach has been devised in consultation with Natural England and Forestry England. The</p>	<p>Given the irreplaceable nature of ancient woodland and the time required to establish new woodland, it is a generally accepted approach that a greater extent of compensatory planting is required to offset a lesser area of loss. The Project has considered compensatory planting at a landscape-scale, and identified opportunities for new woodland blocks that create significant areas of new planting and strong links between adjacent habitats. These plots align with the Project's objectives around provision of essential ecological compensation to offset ancient woodland loss.</p> <p>In terms of design amendments, the Applicant has revised its replacement public open space design based on the Interested Party's representations.</p> <p>At Supplementary Consultation (January 2020), where the replacement public open space was first identified, the replacement land occupied the entirety of plots 03-23, 03-39, 03-43, 03-52, 03-53 and 03-54, measuring ~27 acres, and was directly adjacent to the Interested Party's garden curtilage.</p>	<p>ES Figure 2.4: Environmental Masterplan Sections 1 &amp; 1A (1 of 10) <a href="#">[Document Reference 6.2 ES Figure 2.4 Section 1 and 1a (4)]</a></p> <p>Draft Development Consent Order (DCO) <a href="#">[Document Reference 3.1 (11)]</a></p> <p>Planning Statement Appendix A: National Policy Statement for National</p>	

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>Interested Party understands that following consultation, the Applicant has identified that the objective of compensatory planting should be to enhance habitat connectivity. The Interested Party considers that the Applicant, knowing there is no basis for the replacement or reversal of ancient woodland loss, is seeking compulsory powers on parameters which are defined as a habitat improvement scheme by a consultee set to benefit from the proposed. Therefore, the Interested Party does not believe the compulsory powers being sought by the Applicant are appropriate.</p> <p>Paragraph 8.5.6 (f) of the Applicant's oLEMP is noted by the Interested Party, and does not dispute that it may be appropriate to add a glade for biodiversity benefit. However, the Interested Party does not believe that the use of the area as public open space is compatible with the objective to add biodiversity benefit as set out in the aforementioned document. The Interested Party fundamentally disputes the Applicant's position that public use of environmental mitigation land is compatible with its function and does</p>	<p>As a result of the Interested Party's security and privacy concerns, the Applicant has refined the replacement land design through multiple iterations which now result in an area covering plots 03-43 and 03-54, measuring ~2.43 acres (reduced from ~26 acres, reflecting a 90.65% reduction), and over 100 metres away from the Interested Party's garden curtilage. Please refer to Appendix A of this document which provides a series of distance measurements from the proposed replacement open space and existing Park Pale road to the Interested Party's boundary.</p> <p>In response to the Interested Party's contention that high quality woodland cannot be achieved by adding large areas of public space, the Applicant firstly disagrees that there are large areas of public open space proposed. Plots 03-54 and 03-43 represent an area of ~2.43 acres, of in total ~26 acres of proposed high quality woodland habitat. This equates to 9.3% coverage of open space upon the Interested Party's affected land. The Applicant has also contained the replacement open space over an area of proposed gas pipeline connection to existing where planting will not be permitted.</p>	<p>Networks (NPSNN) Accordance Table  <a href="#">Document Reference 7.2 Appendix A (2)</a></p>	

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		not consider this outcome to be achievable.	<p>The Applicant's approach to open space is reported in Planning Statement Appendix D: Open Space. ES Figure 2.4: Environmental Masterplan, Section 1, Sheets 2 and 4 show the replacement open space would mostly comprise grassland.</p> <p>The Applicant's approach to creating high quality habitat is stated in the oLEMP. The oLEMP outlines the management requirements for land east of Brewers Wood, which include <i>"to establish open rides and glades along utility diversion routes and along the proposed footpath routes for public access"</i> and <i>"to provide a structurally diverse and graduated woodland edge to the rides"</i>.</p> <p>The Applicant would also refer the Interested Party to paragraphs 8.5.6(f) and 8.5.10(f) which specifically propose planting woodland areas to <i>"incorporate open rides and glades...to add biodiversity benefit"</i> and <i>"temporary open space [i.e not hard standing] across 21% - 40% of the woodland"</i>. The provisions of the oLEMP are legally secured through Schedule 2, Requirement 5 'Landscape and Ecology' of the draft Development Consent Order (DCO).</p>		

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p>The identification of and design for replacement open space has sought to use land efficiently to avoid additional land take. Where opportunities exist to combine replacement land with land otherwise needed by the Project for environmental mitigation, the Applicant has done so, only where the public use of environmental mitigation land is compatible with its function.</p> <p>The landscaping proposals and environmental controls otherwise needed by the Project for land east of Brewers Wood help to ensure that the replacement open space meets the relevant statutory ("no less advantageous") and policy tests (NPSNN paras 5.166 and 5.181) by creating a setting for the replacement land equivalent to the existing open space at Shorne Woods Country Park that's being lost or changed.</p>		
<b>Consideration of alternatives to acquisition</b>	2.1.2	<p>The Interested Party disputes that due consideration has been given to the alternatives to acquisition of the land.</p> <p>Much discussion has been held to explore possible alternatives to compulsory acquisition of the land for the woodland planting scheme. The expression of the</p>	<p>The Applicant's approach to ancient woodland compensatory planting is reported in ES Chapter 8: Terrestrial Biodiversity, in paragraph 8.5.31.</p> <p>The objective of this approach is to create new, high quality woodland habitat which</p>	<p>ES Chapter 8: Terrestrial Biodiversity  <a href="#">Document Reference 6.1 ES</a></p>	Matter Not Agreed

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>Interested Party's intention to plant trees on the land did not alter the Applicant's approach to its Order Limits.</p> <p>A subsequent offer was made to agree a s.253 agreement for the interested party to manage the land – this was rejected on the ground of the Interested Party not being a competent authority.</p> <p>The interested party has concerns that the proposed competent authority has the necessary financial standing to meet the requirements in perpetuity. Therefore, the Interested Party is concerned that that the land cannot be managed effectively given the Interested Party's concerns of increased anti-social behaviour brought about by the creation of a public open space which adjoins Park Pale.</p> <p>The claim by the Applicant that the planting would facilitate the movement of species, including European protected species such as dormice, bats and great crested newts between existing woodland areas is challenged where large areas have been designated for public open space. If the Applicant wanted to build resilience into the network of woodland</p>	<p>links into areas of existing woodland habitat, building resilience into the network of woodland within the wider landscape. This approach was discussed with Natural England and the Forestry Commission, who agree, in their Statements of Common Ground, to the Applicant's landscape scale approach.</p> <p>These plots 03-23, 03-25, 03-39, 03-43, and 03-54 create a valuable link between two separate woodland SSSI's: Shorne and Ashenbank Woods SSSI and Great Crabbles Wood SSSI. Both include areas of ancient woodland within their boundaries.</p> <p>The habitat proposal for these plots would be managed in perpetuity to provide and secure high quality habitats in line with the requirements of the oLEMP, sections 5.3 and 8.24.▼</p> <p>This would build resilience into the network of woodland within the wider landscape and facilitate the movement of species, including European Protected Species such as dormice, bats, and great crested newts between existing woodland areas.</p> <p>By including these plots 03-23, 03-25, 03-39, 03-43 and 03-54 within the DCO, the Applicant secures this essential mitigation</p>	<p><b>Chapter 8 (2)</b>,</p> <p>Statement of Common Ground between (1) National Highways and (2) Natural England <b>[Document Reference 5.4.1.6 (5)]</b>,</p> <p>Statement of Common Ground between (1) National Highways and (2) the Forestry Commission <b>[REP4-106]</b></p> <p><b>oLEMP [Document Reference 6.7 (7)]</b></p>	

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>within the wider landscape and facilitate this aspiration, then the proposal to add swathes of public open space throughout the area should be removed from the Applicant's proposal. Due to the potential for detrimental human interference with the sensitive sites, the Interested Party believed that this undermines the warranty for effective management that the Applicant places on the competent authority.</p>	<p>requirement within its control and can ensure its creation and management aligns with the relevant control documents.</p> <p>Whilst an option of a section 253 was discussed in September 2020, the Applicant confirmed that this approach would not be suitable given the long term management requirements relating to the compensatory ancient woodland, as well as the requirement to ensure that replacement land was vested in Kent County Council.</p> <p>The Applicant's position is that this woodland is considered essential mitigation for the Project, and it will ultimately be the responsibility of the Applicant to maintain. The Applicant will be legally bound to the requirements of the DCO and it would be a criminal offence not to comply with them.</p> <p>The Applicant's preference is to engage a competent authority (for example Kent County Council) who have an established track record of maintaining woodland, and benefit from existing machinery to maintain that woodland along with existing employees and specialists. They are also likely to benefit from economies of scale.</p>	<p><a href="#">Draft DCO Document Reference 3.1 (11)</a></p>	

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 oLEMP [\[REP4-140\]](#)¶  
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 Draft DCO [\[REP6-010\]](#)¶

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p>This is considered the most economical and robust approach to secure long term management in perpetuity.</p> <p>In terms of essential mitigation compliance risk, it would also be preferable to contract with an organisation rather than an individual in cases of non-performance or default. The Applicant restated its management preference at a site meeting as recently as 21 July 2022.</p> <p>In response to the Interested Party's comments that the Applicant is unable to facilitate movement of species or build resilience into the wider network of woodland as a result of large swathes of replacement public open space, the Applicant disagrees and we would refer partly to the comment in the above section, 2.1.1, stating the replacement public open space represents 9.3% coverage of the Applicant's proposed woodland planting on the Applicant's land. The Applicant points to local precedents, namely the existing Shorne Woods Country Park, as examples of woodland habitat with extensive open space provision which supports nationally</p>		

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			important assemblages of wildlife, supporting its SSSI designation.		
Design & Management	2.1.3	The interested party requested input on the design and management of the woodland, which was rejected.	<p>The Applicant does not accept input on the design and management has been rejected. As set out above, the Applicant has refined its proposals following engagement with the Interested Party.</p> <p>The Applicant has held meetings to describe its planting design proposals, address any queries and seek feedback on proposals. On 23 November 2020, the Applicant's landscape lead attended a meeting to describe proposals and address concerns. At that meeting, the Interested Party expressed concern at the proposed design including open rides over existing and proposed utilities, one of which is from the open space replacement land to the Interested Party's garden curtilage boundary. The Applicant took an action to consider this design accommodation and has confirmed a form of defensive planting can be delivered.</p> <p>Accordingly, the Applicant has added a bespoke management requirement in the oLEMP at <a href="#">paragraph 5.3.4(i)</a>, to specifically</p>	<p><a href="#">oLEMP [Document Reference 6.7 (7)] Design Principles [Document Reference 7.5 (7)]</a>,</p>	Matter Not Agreed

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 Design Principles [\[REP6-046\]](#)

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p>respond to the Interested Party's concern, which states:</p> <p><i>"to manage understorey and groundcover planting to deter public access from the formal routes into the woodland, to protect the establishment of the ancient woodland [compensation planting] and provide security to neighbouring land and properties."</i></p> <p>The Applicant has also added a bespoke commitment within the Design Principles at Clause S1.08 in Table 5.1, which specifies:</p> <p><i>"Defensive understorey planting shall be planted to the boundary of adjacent private land to prevent public access."</i></p> <p>In addition, the Applicant has also offered a series of boundary treatments to the northern extent of open space to further reassure the Interested Party and deter trespass from the open space replacement land. The Applicant awaits the Interested Party's confirming their preferred boundary before formalising a commitment.</p>		

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Topic	Item No.	John and Elizabeth Gressier	The Applicant’s Response	Application Document Reference	Status
<b>oLEMP Advisory Group</b>	2.1.4	<p>The Applicant’s subsequent offer to install the Interested Party as a consultee on a steering panel for the management of the woodland was later withdrawn.</p> <p>As such it is believed that the applicant has not considered alternatives to justify the need for the compulsory acquisition of the land.</p>	<p>At a meeting on 21 July 2022, the Applicant explained its Design Principles, the proposed outline Landscape and Ecology Management Plan (oLEMP) document and long term management including the intention to set up a project wide steering group.</p> <p>The Interested Party’s agent enquired during the meeting about whether the Interested Party could be a consultee to any steering group so he can represent his own interests, as neighbour to the proposed woodland planting. The Applicant took an action to consider how that could be administered, and clarified as a post meeting note, in response to agent comments, that it could not make commitments at meetings without internal consultation and governance approval.</p> <p>Following internal review and governance, the Applicant responded to the Interested Party’s agent setting out its position on 1 November 2022, stating “we have considered this point carefully and I’m afraid there is significant concern about private individuals influencing the design of what is essential mitigation land for LTC. The</p>	<p><a href="#">Design Principles [Document Reference 7.5 (7)]</a></p> <p><a href="#">oLEMP [Document Reference 6.7 (7)]</a></p> <p><a href="#">oLEMP Appendix 1: LEMP Terms of Reference [Document Reference 6.7 Appendix 1 (3)]</a></p>	Matter Not Agreed

**Deleted:** Design Principles [\[REP6-046\]](#)  
 oLEMP [\[REP4-140\]](#)  
 oLEMP Appendix 1: LEMP Terms of Reference [\[APP-491\]](#)

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p><i>primary purpose of this land is to serve LTC as essential mitigation and replacement public open space and that must not be fettered. However, we do understand the Gressiers privacy and security concerns and I hope the combination of commitments we are offering will address those."</i></p> <p>The oLEMP includes a proposed Advisory Group. Please refer to oLEMP Appendix 1: LEMP Terms of Reference.</p> <p>The purpose of this Advisory Group is to, amongst other things, "provide a forum for collaboration between Group members to enable a fair, sustainable, productive and sensitive outcome" and "help inform decision making on habitat management". Local Planning Authorities are a key member group of the Advisory Group. The Interested Party will be entitled to contact their Local Planning Authority to relay any specific comments they may have in relation to the detailed design of the proposed woodland mitigation land.</p>		
<b>oLEMP impacts</b>	2.1.5	The claimant disputes that the application of compulsory powers will bring about the achievement of the aims set out in the	The replacement land is proposed in this location so that it meets the relevant requirements of s.131 and s.132 of the Planning Act 2008, as described in Planning	<a href="#">Planning Statement Appendix D:</a>	Matter Not Agreed

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>Outline Landscape Environmental Management Plan (OLEMP)</p> <p>The proximity of the Interested Party's land to areas such as Park Pale raises concerns about the future use of the land for Public Open Space. The requirement for the general public to pay to park at Shorne Country Park already forces illegal park along Park pale Road. By extending the Public Open Space through the Interested Party's land and through to connecting woodland will give rise to security concerns for the Interested Party and the likely increase of anti-social behaviour. This will contradict the aims and objectives of the OLEMP</p> <p>At meetings held between the Interested Party and the Applicant, the Interested Party has set out their concerns regarding precedented misuse of the land which the oLEMP will fail to counteract. No material actions have been taken by the Applicant considering matters arising from these meetings, as such, the Interested Party does not believe that the oLEMP will be adequate in its current form and believes the requirements set out in section 5.3.4 (i) to be too vague to be effective.</p>	<p>Statement Appendix D: Open Space. Paragraphs D.5.13 onward relate to the Applicant's assessment of the replacement land.</p> <p>The land is needed by the Project for environmental mitigation. The Applicant has sought to use land within Order Limits for replacement land to avoid additional land take where its use by the public is compatible with its environmental mitigation.</p> <p>The Applicant is aware of the Interested Party's security concerns and has offered a series of boundary treatments to the northern boundary of open space for the Interested Party's consideration. The Applicant first issued these on 23 November 2020 (with subsequent chasers) and to date has not received a response. The Applicant would encourage the Interested Party to confirm boundary preference so it can offer a formal commitment.</p> <p>The Applicant's position on anti-social behaviour at Park Pale is detailed throughout this response <b>in matters 2.1.3 to 2.1.6</b>. Furthermore, in respect of anti-social behaviour, the Applicant has confirmed that</p>	<p><a href="#">Open Space [REP7-136]</a></p> <p><a href="#">oLEMP [Document Reference 6.7 (7)]</a></p> <p><a href="#">Design Principles [Document Reference 7.5 (7)]</a></p> <p><a href="#">ES Figure 2.4: Environmental Masterplan Sections 1 &amp; 1A (1 of 10) [Document Reference 6.2 ES Figure 2.4 Section 1 and 1a (4)]</a></p> <p><a href="#">General Arrangement Plans Volume B (Sheets 1 to 20) [Document</a></p>	

**Deleted:** Planning Statement Appendix D: Open Space [\[REP3-108\]](#) ¶

¶ oLEMP [\[REP4-140\]](#) ¶

¶ Design Principles [\[REP6-046\]](#) ¶

¶ ES Figure 2.4: Environmental Masterplan Sections 1 & 1A (1 of 10) [\[REP4-124\]](#) ¶

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>The Interested Party considers that the Applicant is aware of the risk that their Scheme will lead to increased illegal activities on Park Pale and is satisfied that the Local Highway authority's obligation to enforce such offences will be sufficient. The Applicant is aware of the anti-social behaviour that can arise following its acquisition of the Southern Valley Golf Club where the Applicant now has to have 24 hour security.</p>	<p>the replacement public open space will vest with Kent County Council and be an extension of Shorne Woods Country Park (SWCP). During a meeting on 21 July 2022, the Interested Party expressed concerns over the usage of open space and requested user restrictions. The Applicant has engaged with SWCP's ranger, who has confirmed Kent County Council will be looking to apply the following restrictions: <i>no camping, fires, motorised vehicles, BBQ's, drone flying or hunting</i>. This was relayed to the Interested Party on the 1 November 2022.</p> <p>The Applicant has also specified a management requirement to <i>deter public access and provide security to neighbouring land and properties</i> at <u>paragraph 5.3.4(i) of the oLEMP</u>, and added a commitment that <i>defensive understorey planting shall be planted to the boundary of adjacent private land to prevent public access</i> in the Design Principles.</p> <p>Furthermore, the Applicant has subsequently updated the Environmental Masterplan to increase woodland planting near the application boundary, within the</p>	<p><u>Reference 2.5 Volume B (5)</u></p>	

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p>constraints of planting above existing utilities corridors.</p> <p>The Applicant acknowledges Park Pale is a highway maintainable by Kent County Council as highway authority and it is their responsibility to enforce against illegal parking. The Applicant has relayed local landowner issues to Kent County Council who are aware of issues and will continue to monitor the issues presented by local landowners. Kent County Council advise Park Pale has an existing Traffic Regulation Order and signage has been renewed since the Applicant first relayed local landowner concerns.. Kent County Council have also advised, by way of email dated July 2021, <i>"In regards to including double yellow lines in the LTC proposals, we agreed it was not something that should be included as there is work underway to hopefully resolve the issue through other means and if it was deemed that double yellows were required, then KCC as the highway authority would look to install these"</i>.</p>		
<b>Design accuracy</b>	2.1.6	The Applicant's planting scheme design fails to take account of the constraints of the landscape, a lack of on-site research during the pre-application stage has meant that other sites have been allocated for	The planting scheme design has taken into account the existing landscape features and looks to respect and enhance the setting of the existing mature trees located within the	N/A	Matter Not Agreed

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		woodland planting based upon Title, not curtilage, an example of this being the proposed planting of the garden of a property on Bowesden Lane, Shorne, disregarding the curtilage boundary from the adjoining pastureland by favouring the Title Boundary. This example calls into question the accuracy adopted by the Applicant in its design.	<p>site by not planting woodland immediately around them.</p> <p>Views across the landscape to important landmarks, such as the Darnley mausoleum have also been taken into account within the planting design and views have been retained.</p> <p>Whilst the aim of the mitigation proposals is to provide woodland planting, the Applicant has balanced the extent of woodland planting within the existing constraints.</p>		
<b>Active Agreements &amp; Commitments</b>					
Island Site	2.1.7	The Applicant has offered terms on a conditional basis whereby the interested party must not object to the Scheme in order to enter into this agreement to retain the Island Site. There is no justification for the freehold to be acquired on a permanent basis if the utility rights are simply imposed and therefore the area should be identified as temporary land subject to rights. Examples of this have been adopted throughout the scheme and identified as 'blue' land such as the laying of diverted utilities.	<p>The Applicant understands the Interested Party wishes to retain the freehold of the 'Island Site' which is the area of land in between the separate entrance and exit roads to the neighbouring landowner, Harlex Haulage.</p> <p>On 1 November 2022, the Applicant issued Heads of Terms, appending utility requirements, in accordance with its standard voluntary agreement. The Applicant remains willing to pursue that agreement and has not received a</p>	<a href="#">Draft DCO [Document Reference 3.1 (11)]</a>	Matter Agreed *

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
		<p>The reason given for the permanent acquisition of the entire Island Site is the requirement to place a relatively small UKPN substation at the southern end which takes up less than a tenth of the area concerned. This is not considered justification for the permanent acquisition of the whole of the Island Site. It would be standard practice for UKPN to acquire the substation site only and then the landowner grants an easement or wayleave for the additional apparatus. Therefore the Applicant simply needs to identify the 'Island Site' as temporary land and then transfer the balance of land not required, subject to imposed rights.</p>	<p>response, except the comment raised in this document received 28 July 2023.</p> <p>The permanent placement of the substation is subject to detailed design and prevailing ground conditions and surveys. In the absence of voluntary agreement, the Applicant requires flexibility to site the substation within the full extent of the Island Site (seen in Appendix B). This was communicated to the Interested Party on 2 September 2022.</p> <p>The Applicant is willing to progress the Heads of Terms which provide a contractual obligation by the Interested Party to directly enter the boilerplate lease required by UKPN to install their substation. Subject to agreement, and performing the obligations of that agreement, the Interested Party will retain the freehold as there will be no need to exercise compulsory acquisition. The Applicant encourages the Interested Party to confirm whether or not they are willing to progress a voluntary agreement, and if so, engage with negotiations on the Heads of Terms.</p> <p><u>It should be noted that article 25 of the draft DCO states that the Applicant 'may acquire</u></p>		

Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<i><u>compulsorily so much of the Order land as is required for the authorised development. Therefore, the Applicant would only acquire the area of land that is required for the substation.</u></i>		
<b>Boundary Commitment</b>	2.1.8	<p>Whilst six options of boundary treatment have been offered consisting of either timber fencing of a maximum height of 1500mm or metal estate fencing, ditch and fence or woven hurdle dead hedging, these are all considered ineffective for security purposes and there has been no commitment given in relation to ongoing maintenance of this boundary treatment.</p> <p>The Interested Party is further considering boundary treatment options in order to secure their boundaries and will relay these details to the Applicant. The agreed boundaries will be subject to the comments in item number 2.1.1 above.  <u>On the 10<sup>th</sup> November 2023, the Interested Party disclosed their boundary preference.</u></p>	<p>In response to the Interested Party's security concerns, the Applicant has prepared a series of boundary options to the northern boundary of replacement public open space. These were originally sent on 23 November 2020. Should the landowner confirm their preference, the Applicant is willing to offer a formal commitment, subject to governance approval.</p> <p>The Applicant welcomes the Interested Party's response on proposed boundary treatment as part of this document, and notes that the Interested Party has themselves implemented a ditch formed boundary with Park Pale to prevent trespass, which suggests that it is effective, contrary to the Interested Party's statement.</p> <p>In terms of maintenance, it will of course be the responsibility of the Applicant to maintain this fencing as it proposed within permanent land acquisition to prevent users roaming from the new public open space</p>	<p><u>oLEMP [Document Reference 6.7 (7)]</u>  <u>Design Principles [Document Reference 7.5 (7)]</u>  <u>ES Figure 2.4:</u>  <u>Environmental Masterplan Sections 1 &amp; 1A (1 of 10)</u>  <u>[Document Reference 6.2 ES Figure 2.4 Section 1 and 1a (4)]</u></p>	Matter Agreed*

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 ¶ Design Principles [REP6-046]¶  
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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p>replacement land, into woodland mitigation land, and further to the Interested Party's boundary. The Applicant understands this was a concern of the Interested Party and would welcome clarification.</p> <p>In any event, and absent agreement by the Interested Party to boundary treatment, the Applicant addressed security concerns by way of updating the oLEMP, specifying a management requirement to <i>"deter public access and provide security to neighbouring land and properties"</i> at paragraph 5.3.4(i) of the oLEMP. The Applicant has also added a commitment that <i>"defensive understorey planting shall be planted to the boundary of adjacent private land to prevent public access"</i> in the Design Principles.</p> <p>Furthermore, the Applicant has subsequently updated the Environmental Masterplan to increase woodland planting near the application boundary, within the constraints of planting above existing utilities corridors.</p> <p>Appendix A contains some measurements from the proposed replacement public open space to the Interested Party's boundary as way of context.</p>		

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Topic	Item No.	John and Elizabeth Gressier	The Applicant's Response	Application Document Reference	Status
			<p><u>The Applicant confirms receipt of the Interested Party's proposed boundary request on 10 November 2023. The Applicant notes this is detailed design and will accordingly consider this detail in accordance with its Design Principle S1.08, which is the relevant principle for the ancient woodland compensation area east of Shorne Woods Country Park.</u></p> <p><u>The Applicant is willing to continue discussions with the aim of issuing a letter commitment to formalise the consideration of the preferred boundary treatment following the end of Examination.</u></p>		

## Appendix A Public Open Space Measurements

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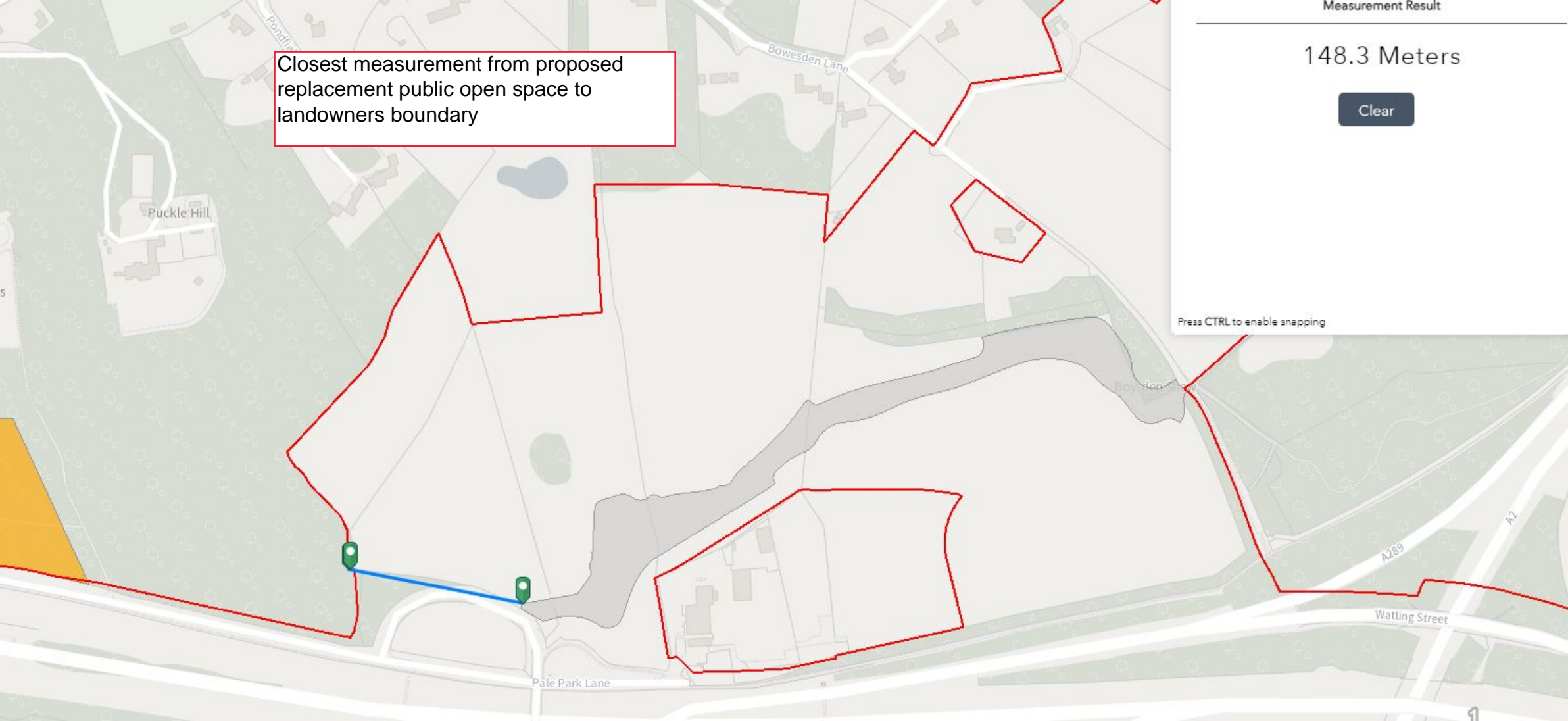
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148.3 Meters

Clear

Closest measurement from proposed replacement public open space to landowners boundary

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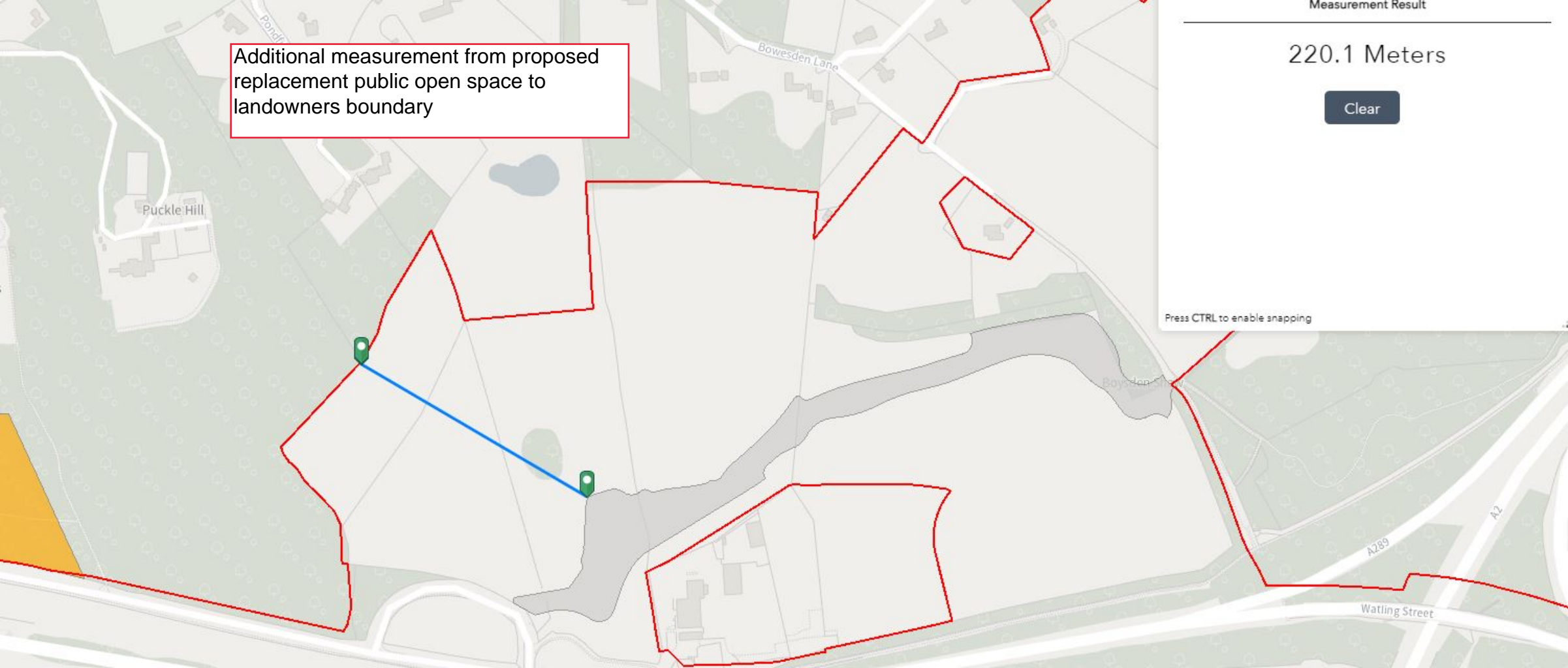


220.1 Meters

Clear

Additional measurement from proposed replacement public open space to landowners boundary

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Closest measurement from existing Park Pale carriageway to landowners boundary

19.9 Meters

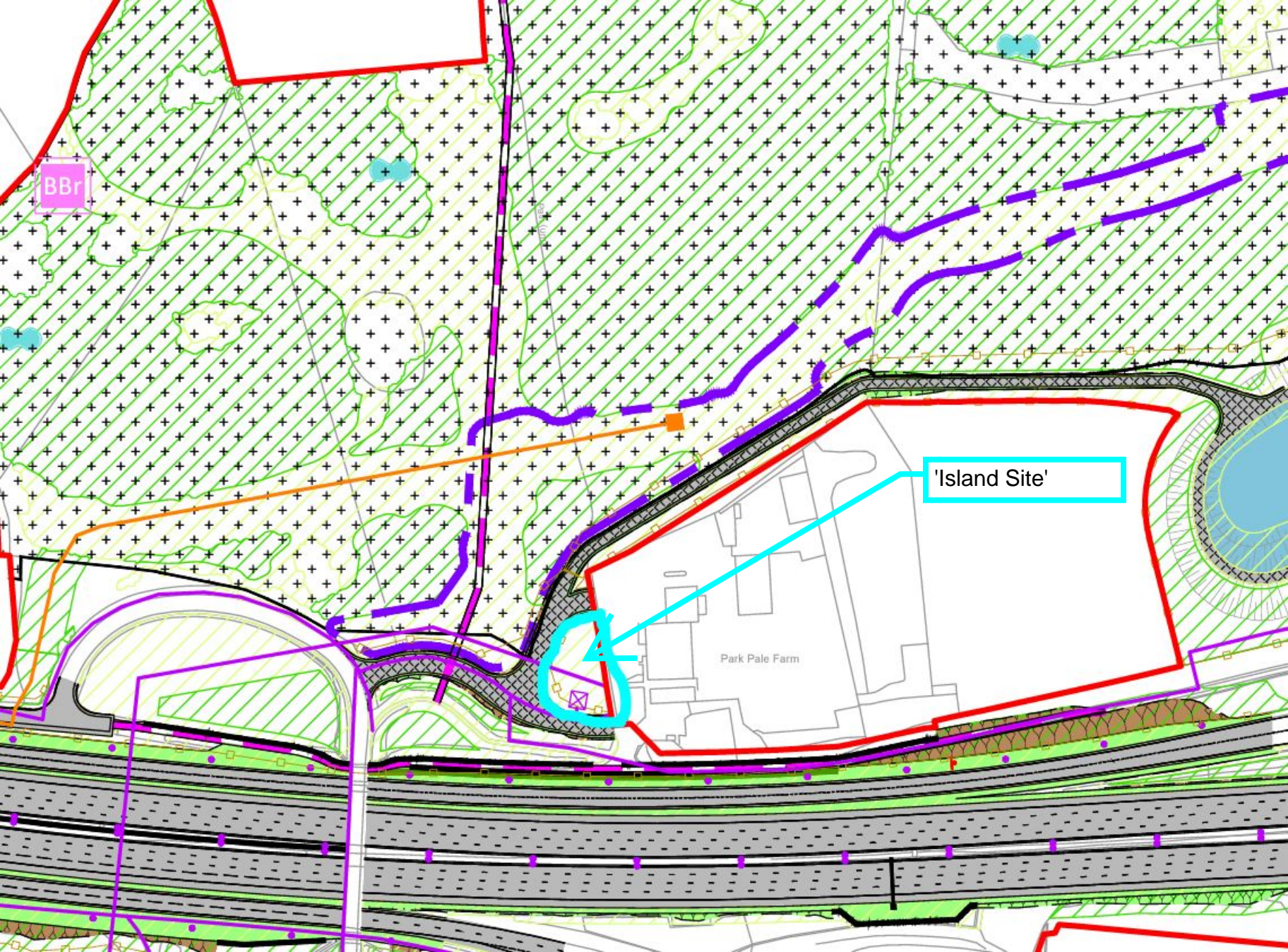
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## Appendix B Island Site Location



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'Island Site'

Park Pale Farm

## Appendix C Glossary

Term	Abbreviation	Explanation
Outline Landscape and Ecological Management Plan	oLEMP	A document which outlines the proposed management of the landscape and ecological elements of the A122 Lower Thames Crossing. Application document
Site of Special Scientific Interest	SSSI	A conservation designation denoting an area of particular ecological or geological importance.
Development Consent Order	DCO	A document which outlines the proposed management of the landscape and ecological elements of the A122 Lower Thames Crossing.
National Policy Statement for National Networks	NPSNN	The NPSNN sets out the need for, and Government's policies to deliver, development of Nationally Significant Infrastructure Projects on the national road and rail networks in England. It provides planning guidance for promoters of Nationally Significant Infrastructure Projects on the road and rail networks, and the basis for the examination by the Examining Authority and decisions by the Secretary of State.
Environmental Statement	ES	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
Shorne Woods Country Park	SWCP	Country Park located Shorne, Gravesend
UK Power Networks	UKPN	An energy network operator. Owns and maintains the electricity cables in South East England, the East of England and London.

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