



Lower Thames Crossing
9.104 **Final Agreed** Statement
of Common Ground between
(1) National Highways and (2)
The Master, Fellows and
Scholars of the College of
Saint John the Evangelist in
the University of Cambridge
(Tracked changes version)

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Procedure) Rules 2010

Volume 9

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Revision history

<u>Version</u>	<u>Date</u>	<u>Submitted at</u>
<u>1.0</u>	<u>19 September 2023</u>	<u>Deadline 4</u>
<u>2.0</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~~), The Master, Fellows and Scholars of the College of Saint John the
Evangelist in the University of Cambridge,

~~Both parties have reached agreement on the position of the status of all 11 matters. Of the
11 matters contained within, 10 matters are not agreed, one is agreed in principle.~~

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Ground is an accurate description of the matters raised by

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engagement that has taken place to date.

On behalf of the Applicant

<u>Name</u>	
<u>Position</u>	
<u>Organisation</u>	<u>National Highways</u>
<u>Signature</u>	

On behalf of The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge

<u>Name</u>	
<u>Position</u>	
<u>Organisation</u>	<u>Savills UK Ltd</u>
<u>Signature</u>	

Lower Thames Crossing

9.104 Final Agreed Statement of Common Ground between (1) National Highways and (2) The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge (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 The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge, otherwise known as Saint John's College (hereafter referred to as "SJC"), 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) the Applicant, and (2) SJC.

1.2.2 The Applicant 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 the Applicant 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 the Applicant.

1.2.3 SJC possesses Category 1 interests in plots 09-01, 10-01, 10-13, 10-14, 10-15, 10-16, 11-68, 11-70, 11-71, 11-72 and 11-77 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 SJC and the Applicant).

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2 Matters

2.1 Final Position on matters

- 2.1.1 Engagement between the Applicant and SJC has been ongoing since September 2019. These discussions are summarised in Annex B of the Statement of Reasons **[Document Reference 4.1 (8)]**.
- 2.1.2 Following submission of SJC’s Relevant Representation, discussions on matters have taken place between the Applicant and SJC. These discussions will be summarised in subsequent updates to Annex B of the Statement of Reasons **[Document Reference 4.1 (8)]**.
- 2.1.3 The outcomes of discussions to date are presented in Table 2.1 which details and presents the matters which have been agreed or not agreed between (1) the Applicant and (2) SJC.
- 2.1.4 It is acknowledged there are some matters where further discussion may take place during the detailed design stage of the Project to finalise detail, or is subject to contract (between SJC and the Applicant), but the matter is agreed in principle. Matters to which this applies have an asterisk (*) next to them.
- 2.1.5 At Deadline 9A there are 11 matters, one is agreed in principle and 10 are not agreed.
- 2.1.6 Since Deadline 4 when the previous version of this SoCG was submitted, the following eight matters have been moved by LTC from ‘under discussion’, to ‘not agreed’:
- a. 2.1.1, Nitrogen Deposition, Site Selection Methodology
 - b. 2.1.2, Nitrogen Deposition, Weighting of agricultural land
 - c. 2.1.3, Nitrogen Deposition, Compensation
 - d. 2.1.4, Nitrogen Deposition, Mitigation
 - e. 2.1.5, Nitrogen Deposition, Duration and Term
 - f. 2.1.6, Nitrogen Deposition, oLEMP
 - g. 2.1.7, Nitrogen Deposition, Alternative Design
 - h. 2.1.8, Ancient Woodland Compensation, Land Use Justification
- 2.1.7 Two new matters that arose from Compulsory Acquisition Hearing (CAH) 5 have been added to this SoCG since Deadline 4. These matters are:
- a. 2.1.10, HS1 trackbed – which is a matter not agreed
 - b. 2.1.11, Voluntary Agreement – which is a matter agreed in principle
- 2.1.8 This is the final Statement of Common Ground between the Applicant and SJC submitted at Deadline 9A.

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Table 2.1 Final Position on Matters

Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
Nitrogen Deposition (plots 09-01, 10-13, 10-14 and 10-16)					
Site Selection Methodology	2.1.1	<p>SJC consider the methodology employed in the Project Air Quality Action Plan (PAQAP) is not sufficiently robust to justify the compulsory acquisition of its land <u>for the reasons given in the evidence submitted to CAH5 and subsequently confirmed in the written summary of oral evidence submitted at Deadline 8. SJC notes that LTC has not yet responded to this evidence and on this basis that LTC's assertion that its methodology is robust is no more than an unsubstantiated assertion.</u></p> <p>SJC believes inadequate consideration has been given to the acquisition of third party land by private treaty, which would avoid the need for compulsory acquisition. <u>This applies in particular to SJC's own land, albeit that discussions around this matter are now under way, as stated by LTC at CAH5, which SJC welcomes.</u></p> <p>Inadequate consideration has also been given to the availability of <u>more</u> suitable land <u>of lower agricultural grade</u> further from the project which would avoid the need for compulsory acquisition, <u>as set out in SJC's submissions at Deadline 8. SJC invites a direct response to these submissions and in</u></p>	<p>The Applicant considers the methodology to be robust and sufficient to support the compulsory acquisition of land for nitrogen deposition compensation.</p> <p>The ability to acquire sites by agreement (i.e. without having to rely upon the compulsory acquisition of land) was a differentiator where equally suitable options were available on ecological preference and constraints bases, as reported in the PAQAP. Land that was available and did not require compulsory acquisition was used wherever possible (e.g. where already owned by the Applicant (e.g. The Hole Farm site) or where the owner suggested the area as a potential site (e.g. the Buckingham Hill site)). No other sites that would not require compulsory acquisition were suitable when considered through the site selection methodology. Whilst the Applicant has therefore applied for compulsory acquisition in respect of the identified sites, in line with guidance the Applicant will continue to discuss with the affected landowners the acquisition of</p>	<p>Project Air Quality Action Plan (PAQAP) <u>[Document Reference 6.3 ES Appendix 5.6 (2)]</u> <u>Post-event submissions, including written submission of oral comments, for CAH5 [REP8-109] Statement of Common Ground between National Highways and Natural England [REP8-012]</u></p>	Matter <u>Not Agreed.</u>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>the absence of a direct response considers that LTC's site selection methodology is inadequate.</u></p> <p><u>In preparing this update to the SOCG SJC has reviewed LTC's submission following CAH5 at D8. SJC considers that LTC's submission does not address a number of the matters raised and does not satisfactorily address others, or fails to address them directly.</u></p>	<p>the sites by agreement before having to resort to compulsory powers.</p> <p><u>The Applicant has considered the matters raised in SJC's Deadline 8 submission which were all also raised during CAH5. The Applicant responded to all the points raised in SJC's CAH5 and Deadline 8 submissions in Post-event submissions, including written submission of oral comments, for CAH5 [REP8-109] and considers that the matters have been addressed. Furthermore, the Applicant has agreed the methodology with Natural England (SoCG ref 2.1.96 [REP8-012]) and consulted upon it in 2022 in the Local Refinement Consultation.</u></p>		
Weighting of Agricultural Land	2.1.2	<p><u>Noting that the Applicant acknowledges the significance of its impact on best and most versatile land in Chapter 10 of the ES, SJC believe inadequate weighting has been attributed to the loss of Grade I and II agricultural land at a time where food security is of increasing national importance.</u></p> <p><u>It is not clear to SJC, however, how the loss of land taken for compensation has been assessed in ES Chapter 10.</u></p>	<p>The Applicant recognises the impacts on best and most versatile land in Environmental Statement (ES) Chapter 10: Geology and Soils. The higher grades of agricultural land were also differentiators in the site selection methodology set out in <u>Table 7.5 of the Project Air Quality Action Plan [APP-350].</u></p> <p><u>The Applicant's ES Addendum [REF9-] submitted at deadline 9 (Section 3.11) includes an update to the Geology and Soils Environmental Statement Chapter</u></p>	<p>ES Chapter 10: Geology and Soils [APP-148] PAQAP [Document Reference 6.3 ES Appendix 5.6 (2)] Environmental Statement Chapter 10 –</p>	<p>Matter Not Agreed.</p>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<u>SJC invites the ExA to consider the weight to be attributed to this aspect in balancing whether the adverse impacts of the scheme as a whole outweigh the benefits that are claimed.</u>	<u>10 [APP-148] which has considered Grade I and II agricultural land in line with the Design Manual for Roads and Bridges LA 109 Geology and Soils. The Applicant does not agree with the assertion that the loss of agricultural land has not been adequately assessed within the application.</u>	<u>Geology and Soils [APP-148]</u>	
Compensation	2.1.3	<p><u>SJC has read the application and on the basis of this SJC are unclear whether compensation for nitrogen deposition is part of the Applicant's proposal and if so what form this takes.</u></p> <p><u>Noting the basic nature of the LA 105 guidance SJC has asked LTC to provide evidence of the application of the approach adopted for nitrogen compensation on other schemes.</u></p> <p><u>SJC believes that LTC simply proposes to acquire an overstated quantum of land to provide connectivity between parcels of land that have low value. There is no specific explanation as to how this compensates for nitrogen deposition on any identified target species. In initial discussions between LTC and SJC, LTC only referred to connectivity, not quantum.</u></p>	<p>The assessment of significant impacts from nitrogen deposition is presented in ES Chapter 8: Terrestrial Biodiversity and ES Appendix 8.14: Designated Sites Air Quality Assessment.</p> <p>The assessment on designated sites and habitats follows National Highways and Natural England guidance on the assessment of air quality effects.</p> <p>The Applicant has set out in the PAQAP, in consultation with Natural England, that the dual objectives of the nitrogen deposition compensation are to achieve a comparable area of compensation habitat creation to the significantly affected area (across the Project) and achieve additional ecological connectivity <u>between existing semi-natural habitats</u> within each identified ecological network that the affected sites lie within.</p> <p>The proposed nitrogen deposition compensation is located to provide</p>	<p>ES Chapter 8: Terrestrial Biodiversity <u>[Document Reference 6.1 ES Chapter 8 (2)]</u></p> <p>ES Appendix 8.14: Designated Sites Air Quality Assessment <u>[APP-403, APP-404, APP-405, APP-406]</u></p> <p>PAQAP <u>[Document Reference 6.3 ES</u></p>	Matter <u>Not Agreed</u>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p>The Applicant has determined, on a precautionary basis, the Project would have a negative effect of nitrogen deposition on habitats in close proximity to the highway, although it is not clear that the actual effect on target species, if any, has been established. The Applicant has asserted that it needs to provide compensation for impacts on designated sites, such as Shorne and Ashenbank Woods SSSI of an equivalent area. LTC have explained that the purpose of compensation land is to provide connectivity between habitats of a similar type. It is not clear from the application <u>or LTC's response</u> why the area needs to be equivalent, rather than simply being capable of providing such connectivity. LTC's proposals do not appear to provide connectivity between habitats of a similar type, for example, land to the <u>north</u> of the nitrogen compensation area <u>is of lower value, the land to the west</u> appears to be under considerable pressure from recreational and other activity and is very open compared with the habitat to the east. <u>In this area, SJC notes that the village of Shorne is likely to act as a barrier to connectivity, which does not seem to have been taken into account by LTC.</u></p>	<p>additional ecological connectivity within the ecological networks that affected sites lie within. While most affected habitats are woodlands, some other habitats such as grasslands are also affected. Ecological networks include a range of semi-natural habitats and the juxtaposition of different habitats provides greater diversity than single-habitat stands. The additional connectivity achieved from the proposed habitat creation therefore includes all semi-natural habitats within the identified networks. <u>Plate 7.19 of the PAQAP illustrates the connectivity of the site well and does not consider there is an ecological linkage through the village of Shorne.</u></p> <p><u>The Applicant has responded to all the points raised in SJC's CAH5 and Deadline 8 submissions in Post-event submissions, including written submission of oral comments, for CAH5 [REP8-109] and considers that the matters have been addressed. This includes details of the Applicant's engagement with SJC.</u></p> <p><u>In relation to National Highways DMRB LA 105 Air Quality, there are no Projects of a scale comparable to LTC which offer precedents for this approach to</u></p>	<p><u>Appendix 5.6 (2)</u></p>	

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>LTC have claimed strong support from Natural England (NE) for the approach followed by LTC. From evidence NE has submitted to the Examination and its consultation response, SJC is not convinced that NE has expressed strong support but would welcome any specific evidence on this point.</u></p> <p><u>SJC does not consider that LTC's approach satisfies the test for compulsory acquisition of land.</u></p>	<p><u>compensation. However, the applicant would point SJC to the recent A417 Missing Link DCO which assessed impacts from nitrogen deposition to one designated site and includes compensation land to offset that adverse effect. This can be found on the Planning Inspectorate's website.</u></p> <p><u>In response to SJC's point on NE's support for the methodology, the Applicant would direct SJC to the NE's Deadline 8 response (ISH11 Action Point 17 page 32) [REP8-154].</u></p> <p><u>The Applicant's robust approach to compensating for the effects of nitrogen deposition supports the requirement for the compulsory acquisition of land as set out in the DCO application.</u></p>		
Mitigation	2.1.4	<p><u>SJC's comments are made having read the application, including the PAQAP.</u></p> <p><u>Reduction of the speed limit below 70 mph was discounted without quantification so there is no way of knowing whether the benefits would have outweighed any claimed disbenefit and there are no other feasible methods of mitigation available.</u></p> <p><u>SJC has asked LTC for evidence of the utilisation of 9m barriers by National Highways. The only other method of mitigation is speed reduction and this has</u></p>	<p>Consideration of all mitigation options is set out in the PAQAP. Speed enforcement management measures on the M2 between junctions 3 and 4 are proposed as mitigation, but no other mitigation measures were assessed as feasible or effective. <u>The reason for this was an understanding of the existing speeds on the roads and the efficacy of any speed enforcement or limit. Details of this can be found in Annex A of the PAQAP.</u></p>	<p><u>PAQAP [Document Reference 6.3 ES Appendix 5.6 (2)]</u></p> <p><u>ES Chapter 5: Air Quality [APP-143]</u></p>	<p>Matter <u>Not Agreed.</u></p>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p>only been considered to the legal limit, so SJC struggle to see why it would be classed as mitigation, <u>since it is not additional</u>.</p> <p>SJC note that the largest single site affected by N deposition is Shorne and Ashenbank Woods SSSI . LTC do not propose to mitigate or compensate for the effects at this location, <u>in situ</u>, effectively requiring compensation to be provided further away from the highway network and accepting major adverse effects at any sensitive site in close proximity to the highway.</p> <p>Compensatory measures are discounted under Section 7.3.5 et seq of the PAQAP. Part of the reasoning is that it is unlikely that suitable measures could be designed for every significantly affected site which are sufficiently additional (para 7.3.19 of PAQAP). SJC consider that this has not been sufficiently considered. Measures such as removing biomass or fencing to reduce disturbance would be one-off measures, which would have longer term benefits and be considered as resilient and sustainable in perpetuity if the measures were committed to on an ongoing basis (see para 7.3.19 of PAQAP). The management measures described at 7.3.9 and 7.3.10 of the PAQAP would have considerable benefits at the sites affected, LTC discounts <u>this</u> with limited justification in favour of</p>	<p>Physical barriers are a potential mitigation measure assessed in compliance with the Design Manual for Roads and Bridges (LA105 paragraph 2.110.1) as a quantifiable measure. The assessment in the PAQAP identifies no feasible barrier mitigation options for the Project. <u>The use of 9m high barriers is based on quantitative evidence based on barriers in Holland.</u></p> <p>The PAQAP sets out the consideration of all mitigation and compensation measures in turn. The reasons for discounting measures on affected sites are given in the PAQAP. The rationale for a landscape-scale approach to compensation within the ecological networks that affected sites lie within is also given in the PAQAP.</p> <p>Remedial action to remove unnaturally high nitrogen levels in soils due to agricultural practices would be undertaken as part of the habitat creation measures, so that suitable conditions are created for habitat establishment.</p> <p>The assessment of the nitrogen deposition levels in the do something and do minimum scenarios are provided in ES Chapter 5: Air Quality.</p>		

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p>taking no action to provide compensation or mitigation and <u>instead</u> compulsorily acquiring productive Grade 2 agricultural land. <u>This has</u>, naturally high nitrogen composition, which has not been shown to be suitable for the type of species LTC seeks to compensate for (noting that LTC has not indicated in the PAQAP what these species are). <u>LTC</u> appear to have also ruled out the possibility of any speed restriction on this section of the highway. <u>▼</u></p> <p><u>Table 6.173 of Appendix 8.14 (Part 1 of 4) indicates that Operation – Ndep Base/DM/DS (max for site) kg N/ha/yr is 51.96 in the base, 47.9 in the Do Minimum, and 49.55 in the Do Something. SJC notes that the DS is lower than the base, without any mitigation. It is also noted that only the maximum increase is reported but it is suggested that 27.3 % of the entire site is affected, some 53.9 ha. It is suggested that it would be more than 15 years before the nitrogen deposition from the proposed LTC would reduce to DM levels. It is not clear how this has been assessed and LTC have not clarified this in their response.▼</u></p>	<p><u>In response to SJC point on durations, details on the Applicant's method for calculating duration is set out in ES Appendix 8.14 para 2.7.6 - 2.7.8 [APP-403].</u></p>		
Duration & Term	2.1.5	<p>SJC are not convinced that land is required permanently in perpetuity for compensation of nitrogen deposition as this <u>can be</u></p>	<p>The significant effects identified in the assessment are the effects of the Project over and above background levels in</p>	N/A	<p>Matter <u>Not Agreed</u>,</p>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<u>mitigated by the removal of biomass and compensated for by other management measures. It</u> will reduce over time due to increasing reductions in the use of fossil fuelled vehicles. SJC cannot see how this has been considered, <u>particularly beyond 2030. LTC have not provided a direct response to this point,</u>	operation of the new highway. As such, they will be permanent additional effects irrespective of whether the background level changes. The response to a permanent effect must be permanent compensation. <u>The consideration of the removal of biomass as a mitigation for nitrogen deposition can be found in Table 6.1 of the PAQAP.</u>		
<u>HS1 Trackbed</u>	<u>2.1.10 DL9A</u>	<u>During the oral submissions at CAH5, SJC referred to the fact it appeared that the HS1 track bed was identified in the Applicant's assessment area of affected sites for Nitrogen Deposition. SJC's view is that such land should be excluded from the calculation of land affected by nitrogen deposition. SJC has submitted further evidence on the overestimate of land affected at Deadline 8 and anticipates a direct response from LTC at Deadline 9.</u> <u>Noting the large scale and strategic nature of the designation of ecological sensitivity necessarily employed by Natural England in designating sites, SJC invites LTC's professional judgement on the ecological value provided by track bed, in order to justify why this needs to be mitigated or compensated for, in the latter case</u>	<u>The Applicant confirms that for the purposes of the assessment Natural England's published designated site boundaries have been used. These can be found on Natural England's open data portal (https://www.data.gov.uk/dataset/5b632bd7-9838-4ef2-9101-ea9384421b0d/sites-of-special-scientific-interest-england#licence-info).</u> <u>In calculating the extent of the nitrogen affect area the published boundary data for each site was employed. It is recognised that some sites' boundaries will include areas that aren't semi-natural habitats such as hard standing, tracks and, in some cases such as Shorne and Ashenbank Woods SSSI and Ockendon Railsides SINCR, a railway line. These</u>	<u>Post-event submissions, including written submission of oral comments, for CAH5 [REP8-109]</u>	<u>Matter Not Agreed</u>

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>demonstrating how the statutory tests are met. SJC notes that LTC's response is speculative and uncertain regarding the ecological value of the railway line.</u></p> <p><u>SJC has submitted further evidence at Deadline 8 on areas with little or no ecological value that have been included for the purposes of calculating areas affected by nitrogen deposition and seeks reassurance that areas have not been double counted, including areas that will be physically removed and replaced by the new road.</u></p>	<p><u>areas were not excluded from the calculation of extent as they form part of the designated site and may provide some ecological function within the site, for example the aggregate used as track bedding may function as shelter or hibernating sites for amphibians, reptiles and invertebrates associated with the site. However, it is recognised they form a very small percentage of the overall area of a designated site and so their inclusion is considered appropriate. The Applicant therefore considers the extent of compensation land proposed is comparable and appropriate to the area of designated sites significantly adversely affected.</u></p> <p><u>The Applicant responded to SJC's submissions made at CAH5 in Post-event submissions, including written submission of oral comments, for CAH5 [REP8-109]</u></p>		
oLEMP	2.1.6	SJC notes that the outline Landscape and Ecology Management Plan (oLEMP) are in outline only which unfortunately makes it difficult for SJC to be advised on whether the Applicants proposals are acceptable, necessary or justified.	The oLEMP sets out the outline design <u>and management measures, and is sufficiently advanced and detailed</u> for consenting purposes, which would be <u>further developed and implemented</u> , through detailed design to achieve the objectives set out in the oLEMP. The <u>nitrogen deposition</u> proposals have been	Outline Landscape and Ecology Management Plan (oLEMP) [Document]	Matter Not Agreed

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<u>SJC was promoting an alternative arrangement asset out below whereby SJC maintained ownership of the land and implemented management measures in agreement with LTC for which the further detail was essential but nonetheless considers that the current absence of detail makes the application deficient in terms of showing the compelling need to acquire the land.</u>	developed and agreed in consultation with Natural England as an appropriate response to unmitigable effects of the Project. <u>The applicant considered the alternative proposal promoted by SJC but were unable to progress it as it failed to provide the level of connectivity required to mitigate the identified impact (as shown in Plate 7.19 of the PAQAP).</u>	<u>Reference 6.7 (6),</u>	
Alternative design	2.1.7	SJC suggest an alternative way of managing the land going forwards that a) achieves the habitat connectivity that the Applicant is seeking, b) reduces nitrogen inputs to the land and c) retains Grade 2 farmland in sustainable production in the future. This has been focused on land within SJC's ownership, although we note from, aerial photography, that there are other smaller, less viable fields for agriculture, that look at least as suitable for these purposes in the surrounding area to both the north and the south of the route. In essence, SJC's proposals are to plant, close gaps and strengthen hedgerows, provide regenerative field margins to improve biodiversity and habitat corridors, and to reduce artificial fertiliser inputs to this land through regenerative farming	The alternative approach suggested by SJC would not achieve the necessary objectives of the nitrogen deposition compensation. In particular, the alternative proposal suggested would not achieve sufficient additional ecological connectivity within the ecological network that affected sites lie within, whilst meeting the twin objective of enabling the creation of a comparable area of compensation across the project in response to the existing areas of habitat that would be significantly affected. The site selection methodology is set out in the PAQAP, <u>and is supported by NE at deadline 8 [REP8-154]</u> which identifies the constraints and opportunities considered in selecting the sites.	N/A	Matter <u>Not Agreed</u> ,

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p>techniques. This will improve the soil structure and retain it for future generations, contributing to food security. Please refer to the plan appended in Appendix B.</p> <p>SJC notes there is a desire to plant 70% of the land with trees, and would suggest that this should not be done on prime agricultural land if there is a reasonable alternative.</p> <p><u>SJC's alternative proposal was a draft for discussion and SJC remained open to dialogue to agree what corridor widths were necessary to achieve connectivity, having based these on LTC's own design for wildlife corridors. SJC considers LTC's position on connectivity to be unsupported by evidence. SJC does not consider that the site selection methodology set out in the PAQAP is sufficiently clear to justify the acquisition of its land against the alternatives.</u></p>			
Ancient Woodland Compensation (plots 10-01, 11-72 and 11-77)					
Land Use Justification	2.1.8	SJC consider the Applicant's justification for plot 11-77 for the creation of a site for ancient woodland planting has not been fully explained.	The Applicant details the approach to ancient woodland compensation planting in ES Chapter 8: Terrestrial Biodiversity, specifically in Section 8.5 Project design and mitigation, paragraphs 8.5.31 - 8.5.34; and Section 8.6 Assessment of likely significant effects, paragraphs 8.6.9	ES Chapter 8: Terrestrial Biodiversity [Document Reference 6.1 ES	Matter Not Agreed .

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>It is clear that the whole of plots 11-77 and 10-01 are not required for the purposes of connectivity.</u></p> <p><u>It is not clear whether plots 11-77 and 10-01 are suitable for AW compensation, nor what is planned should this fail.</u></p>	<p>– 8.6.11, paragraph 8.6.53, and Table 8.29.</p> <p>As reported, the design of ancient woodland compensation planting is intended to compensate for the direct loss of this habitat and to add resilience into the wider network of ancient woodland sites through strengthening green corridors between retained woodland habitat.</p> <p>Plot 11-77 is located immediately west of Plot 10-01, both sharing a boundary with Shorne/Brewers Woods which is designated ancient woodland and part of Shorne and Ashenbank Woods SSSI. The western edge of Plot 11-77 aligns with a strip of woodland running north from Shorne/Brewers Woods to Shorne lfield Road. The inclusion of Plot 11-77 as part of the ancient woodland compensation planting in this area links this strip of existing woodland into Plot 10-01 creating a single large block of woodland planting. Its location links directly into the adjacent Shorne/Brewers Woods, building resilience into that network of woodland blocks, and would be managed to provide high quality woodland habitat of similar composition to those woodland areas. The location of the ancient woodland compensation</p>	<p><u>Chapter 8 (2)</u>, <u>Environmental Masterplan Sections 1 and 2 :</u> <u>[Document Reference 6.2 ES Figure 2.4 Section 1 and 1a (4)]</u> <u>and [Document Reference 6.2 ES Figure 2.4 Section 2 (5)]</u>,</p>	

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
			<p>planting around Shorne and Ashenbank Woods SSSI, and the ancient woodland it encompasses, is reported in ES Figure 2.4: Environmental Masterplan Sections 1 and 2.</p> <p><u>The full extent of these plots is required to contribute to the overall provision of ancient woodland compensation. This is distinct from nitrogen deposition compensation in that the Applicant is proposing an increase in the area of compensation planting proposed when compared to the area of ancient woodland lost. This is different to the approach for nitrogen deposition compensation where a comparable area of compensation is proposed to offset the area of designated sites that are adversely affected.</u></p> <p><u>In relation to what the Applicant would do should its approach to ancient woodland compensation should fail, the measures detailed within the outline Landscape and Ecology Management Plan (REF) set out the long-term management measures to ensure habitats are established and appropriately managed. The measures in this document, including the provision of an advisory group to discuss management approaches, address the risk of habitat</u></p>		

Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
			<u>creation not meeting the success criteria proposed.</u>		
Engagement & Consultation					
Failure to engage	2.1.9	<p>SJC considers only limited engagement has taken place between the Applicant and SJC. SJC believe the Applicant has not meaningfully considered the suggestions made by SJC and its advisors that alternative sites may be available to acquire by private treaty and which would not result in the loss of <u>the best and most versatile, agricultural land</u> .</p> <p><u>No engagement on nitrogen compensation land occurred prior to February 2022 and the first meeting to discuss this did not take place until September 2022. Two further meetings were held in June and August of 2023. SJC considers this to be limited engagement, during which LTC demonstrated an unwillingness to reach agreement on any position other than its own position.</u></p>	<p>The Applicant does not agree that its engagement with SJC has been limited <u>nor</u> that it has not meaningfully considered suggestions.</p> <p>In terms of engagement, Annex B of the Statement of Reasons records the material engagement between the parties. However, the Applicant believes it would be beneficial to set out the timeline of engagement which demonstrates that there have been extensive engagement and design accommodations where practicable:</p> <p>From the point at which the original plot (north of Shorne Ifield Road, plot 11-71) was identified and proposed for ancient woodland compensation (Supplemental Consultation, January 2020), the Applicant began engaging with SJC on accommodation works, specifically agreeing an access route and rights from Shorne Ifield Road to the retained land. The parties had agreed the accommodation works design, on 20 April 2021, and the Applicant prepared</p>	<p><u>Statement of Reasons, Annex B</u> <u>[Document Reference 4.1 (8)]</u></p>	Matter Not Agreed

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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
			<p>and issued a letter to document the commitment on 15 September 2021.</p> <p>It was the Applicant's understanding that SJC had no further issues, therefore a 'non-object' clause was included. However, the Applicant understands SJC took issue with this clause on 15 September 2021 and proceeded to outline their objection on the two grounds, (1) Justification for the extent of land acquisition for ancient woodland, and (2) justification for the location of land acquisition for ancient woodland</p> <p>In response to SJC objections, the Applicant updated and refined the Order Limits, at Local Refinements Consultation (May 2022) to align with SJC's suggestion, made orally during a phone call with John Wootton, to move the majority of ancient woodland compensation to land they own south of Ifield Road (and adjoining the existing Shorne Woods Country Park), plots 10-01 and 11-77. The then agent indicated SJC would be far more amenable to this land being acquired rather than land north of Shorne Ifield Road.</p> <p>The Applicant also formally responded to SJC's objections by way of email correspondence, outlining its justification</p>		

Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
			<p>and assessment of woodland compensation, on 2 February 2022.</p> <p>It was at this stage of the pre-application process that the Applicant identified, separately, a need for additional compensatory habitat to address the effects of Nitrogen Deposition. By a s.42 letter dated 1 February 2022, SJC was notified that their land further east had been identified as a potential site for Nitrogen Deposition compensation. SJC's response dated 2 February 2022, included the following: <i>"please note that if National Highways proceed on this basis [i.e including NDEP compensation land], then the College would invest considerable resources in objecting to the proposal and doing all it can to oppose not just this element of the proposal, but the scheme as a whole"</i>.</p> <p>Shortly after receiving this communication SJC changed their agent. On 18 July 2022 the new agent requested copies of SJC's consultation response to the Local Refinement Consultation (May 2022), where the Applicant identified the sites proposed for <u>nitrogen deposition</u> compensation. The Applicant forwarded copies on 19 July 2022 with a suggestion for a meeting.</p>		

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			<p>Engagement since the new agent has been instructed, has focused on nitrogen deposition. The Applicant has arranged four meetings with SJC's agent to discuss land requirements.</p> <p>On 17 August 2022, the Applicant discussed project land requirements including nitrogen deposition in detail and forwarded the nitrogen deposition site selection methodology. The Applicant held a further, without prejudice, meeting on Thursday 22 September to discuss the nitrogen deposition land requirements and the potential way forwards.</p> <p>Following those meetings, between November 2022 and January 2023, the Applicant made numerous attempts to progress matters. The Applicant (i) invited comments from SJC as to how they wish to proceed, (ii) provided a summary of the Project's voluntary agreement, and (iii) offered to consider commitments to mitigate impacts.</p> <p>Following DCO acceptance, the Applicant also signposted the agent to the relevant DCO documents.</p> <p>On 16 May 2023, the Applicant comprehensively responded to SJC's</p>		

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			<p>relevant representation, including confirmation that the Applicant is willing to reimburse part of the cost of SJC's expert air quality witness, in the spirit of constructive engagement. The Applicant has met with SJC's expert witness on two occasions, being 14 June 2023 which was a technical meeting addressing PAQAP queries and discussing way forwards, and 4 August 2023 which was a Without Prejudice meeting to explore scope of voluntary agreement for <u>nitrogen deposition</u> land (plots 09-01, 10-13, 10-14, 10-15 and 10-16).</p> <p>The Applicant remains willing to constructively engage with SJC in order to seek a voluntary agreement should SJC be open to discussions.</p>		
<u>Voluntary Agreement</u>	<u>2.1.11 DL9A</u>	<p><u>SJC are entering into negotiations with the Applicant to seek to agree an option agreement in relation to the land. Should agreement be reached in early 2024 then SJC will write to inform the Examining Authority</u></p> <p><u>Should the ExA conclude that less land is needed for the purposes of nitrogen and ancient woodland compensation, SJC invites the reduction to be on best and most versatile land in order that this can be</u></p>	<p><u>Following SJC's oral submissions at CAH5, the Applicant met with SJC's representative to discuss matters generally and agree next steps.</u></p> <p><u>The Applicant suggested both parties could proceed on the basis of its standard voluntary agreement without prejudicing SJC's position. The Applicant suggested it could separate the land requirements and progress with its voluntary agreement for land</u></p>	<u>N/A</u>	<u>Matter Agreed*</u>

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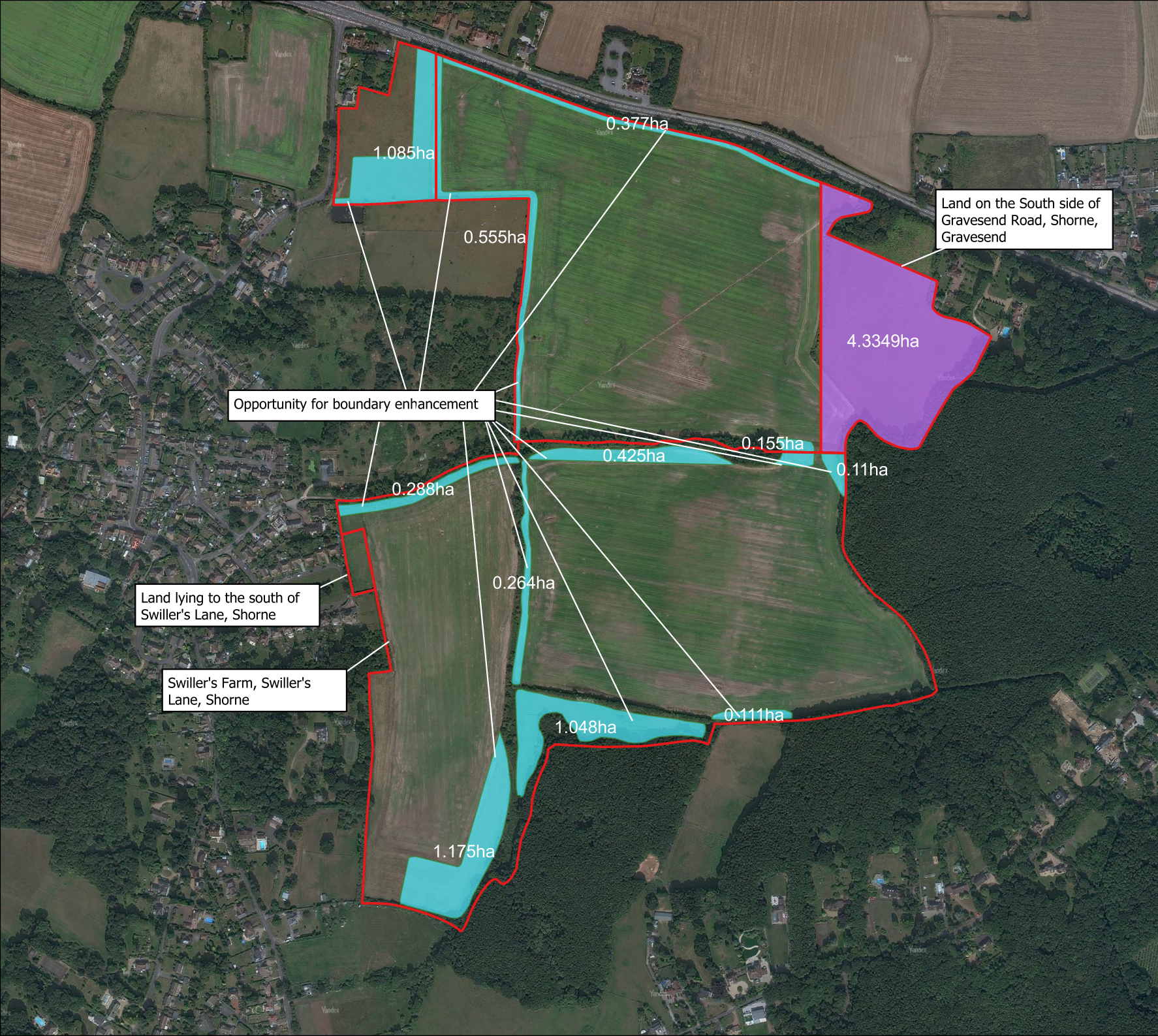
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Topic	Item No.	SJC Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>retained for food production, including its own land.</u></p>	<p><u>requirements at Shorne Ifield Road (ancient woodland compensation and utilities), or, proceed with its standard voluntary agreement for both Shorne Ifield Road and Swillers Farm (nitrogen deposition compensation) but only engross the Swillers Farm agreement and hold it to order pending determination of the DCO and the extent of land consented for nitrogen deposition compensation.</u></p> <p><u>The Applicant issued Heads of Terms on Monday 27th November 2023 and is willing to progress negotiations, on the above basis, following the end of examination and before DCO determination subject to SJC's confirmation.</u></p>		

Appendix A Glossary

Term	Abbreviation	Explanation
The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge	SJC	known as Saint John's College
Project Air Quality Action Plan	PAQAP	The section of the air quality assessment where the proposed viable mitigation measures are set out and assessed.
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.
Outline Landscape and Ecology Management Plan	oLEMP	A document which outlines the proposed management of the landscape and ecological elements of the A122 Lower Thames Crossing.
Site of Special Scientific Interest	SSSI	A conservation designation denoting an area of particular ecological or geological importance.

Appendix B SJC Alternative Design

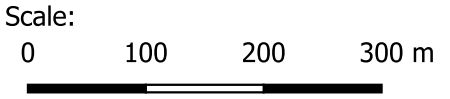


Map Showing Land Under Cambridge St Johns Ownership to the east of Shorne, Kent.

Identifying Land for Field Boundary Enhancement and Hedgerow Development.

Legend

- Cambridge St Johns Ownership
- Potential Land Parcels for Boundary Enhancement
- Whole Parcel of Land for Rewilding



Borders on all fields are suitable for enhancement to improve connectivity between existing hedgerows.

The complete parcel of land on the south side of Gravesend Road, Shorne could be fully rewilded to improve biodiversity.

Smaller parcels of land in fields within the study area have been identified for rewilding and/or border enhancement to improve existing nature corridors and biodiversity, including habitat for pollinators.

Total land for rewilding: 4.3349ha
 Total land for border development: 5.593ha
 Total land: 9.9279ha

Date: 07/07/2023
 Author: MM

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