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Our ref: 471708
Your ref: -



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By email only, no hard copy to follow

Dear Transport Infrastructure Planning Unit

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

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

Consultation seeking comments from the Applicant, Natural England, Network Rail, the Mee Family, Hill Residential Ltd., MOPAC, the RSPB and the owners and operators of Whitecroft Care Home dated 10 May 2024

Following our previous advice on the potential implications for the Lower Thames Crossing Project of the enhanced duty within Section 85 of the Countryside and Rights of Way Act in our letter of the 1 May 2024 (our reference 474297), Natural England is pleased to provide below our response to the further ask from the Secretary of State in their letter of the 10 May 2024.

The letter of the 10 May details that 'The Secretary of State requests that the Applicant and Natural England should seek to agree a position on this [the enhanced duty] and, if an agreed position is possible, to set out what, if any, amendments they agree should be made to the Development Consent Order to address the enhanced duty. Where an agreed position cannot be reached, the Secretary of State invites both parties to set out their respective views on what is needed to meet the enhanced duty'.

As summarised in our letter of the 1 May 2024, Natural England expressed concern during the pre-application and the examination stages of the project in relation to the nature and scale of the landscape and visual impacts to the Kent Downs National Landscape and the effectiveness of the mitigation measures. Given the number of significant, adverse residual landscape and visual impacts resulting from the project at Year 15, our advice remains that further options to mitigate these impacts should have been more fully explored.

Natural England had a constructive meeting with the Applicant on the 16 May 2024 to explore whether it would be possible to reach an agreed position in relation to the enhanced duty which requires, that 'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.

The discussion focussed on additional mitigation measures that the Applicant could deliver, including amendments to the design of the green bridges to provide a high-quality user

experience, which may help to further reduce impacts from the greater severance, urbanising and visual effects for recreational users within the Kent Downs National Landscape resulting from the project. Whilst we support and welcome the Applicant considering further measures to reduce the nature and scale of the residual adverse impacts to the National Landscape, our advice remains that such measures are mitigation for the landscape and visual impacts of the scheme rather than enhancements so do not appear to further the conservation and enhancement of the natural beauty of the Kent Downs.

As detailed in our letter of the 1 May 2024, our advice is the enhanced duty requires that measures should be proposed to further the statutory purposes of a protected landscape. These should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate, proportionate to the type and scale of the development and its implications for the area and effectively secured.

Regrettably, in the absence of the submitted scheme avoiding or fully mitigating its impacts to the National Landscape, Natural England has not been able to reach agreement with the Applicant that their proposal has sought to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape.

As requested by the Secretary of State, if it has not been possible to reach agreement with National Highways, to help demonstrate compliance with the enhanced duty Natural England would expect the Applicant to propose project(s) which are above and beyond those required to mitigate the impacts.

We would recommend the Applicant provide details of one or more projects, funded by the Lower Thames Crossing project, that deliver tangible outcomes within the adopted the Kent Downs Area of Outstanding Natural Beauty Management Plan 2021-2026 for consideration by the Secretary of State. We suggested, during our discussion on the 16 May, that the Applicant considers whether there are any such projects they can propose and deliver which would help demonstrate they have fulfilled their obligations under the amended duty.

We trust these comments are helpful.

Yours faithfully

James Seymour
Deputy Director, Sussex and Kent Team

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