

From: [REDACTED]
To: [Cleve Hill Solar Park](#)
Subject: Natural England's Deadline 7 submission
Date: 13 November 2019 22:19:17
Attachments: [REDACTED]

Dear Cleve Hill Case Team,

Please find attached Natural England's comments on the RIES and responses to the Rule 17 questions.

Many thanks,

Alison Giacomelli
Sussex and Kent Area Team
Natural England
Guildbourne House
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[REDACTED]

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We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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Date: 13 November 2019
Our ref: 299976
Your ref: EN010085



David Rose
Lead Member of the Panel of Examining Inspectors
Cleve Hill Solar Park Case Team
The Planning Inspectorate

Customer Services
Hornbeam House
Crewe Business Park
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CW1 6GJ

BY EMAIL ONLY

Dear Mr Rose

**EN010085 Cleve Hill Solar Park
Natural England's submission for Deadline 7: Comments on the Report on Implications for European Sites (RIES) and response to Rule 17 information request.**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England's responses to the questions set out in the Request for Further Information under Rule 17 [PD-009] are set out at Annex A to this letter.

Comments on the RIES [PD-010]

Natural England's view is that the RIES is an accurate presentation of the advice that we have given throughout the Examination. Since Natural England's last submission at Deadline 5, the Applicant has submitted an updated outline Landscape and Biodiversity Management Plan (LBMP) at Deadline 6 [REP6-005], confirmed the terms of reference and governance of the Habitat Management Steering Group to be included in the Deadline 7 version of the outline LBMP, and produced a written representation on marsh harriers in response to the Rule 17 request for further information. As set out in our Statement of Common Ground submitted for Deadline 7, this additional material enables Natural England to advise that when a formal appropriate assessment is undertaken, the evidence before the Secretary of State is sufficient to support a conclusion of no adverse effect on the integrity of The Swale Special Protection Area (SPA) and Ramsar site.

Yours sincerely

Alison Giacomelli
Sussex and Kent Area Team

Annex A

Natural England's response to the Examining Authority's Rule 17 request for further information

Reference	Respondent	Question:	Answer:
R17.2.2	Natural England	<p>The Applicant has added the creation of additional surface water features, including scrapes, to the operational management prescriptions for the FGM HMA in the updated outline LBMP at Deadline 6 (in table 2 on page 26 and at Appendix K [REP6-006]). The Applicant considers that the further details of the management of the FGM HMA in the SSSI are such that <i>'NE should be able to conclude no adverse effect on integrity with regards to lapwing and golden plover'</i> [REP6-015].</p> <p>However, the ExA notes that details of the constitution and status of the HMSG are yet to be added to the outline LBMP [REP6-006], as addressed in R17.3.2 below. Further to its view set out in [REP5-050], can Natural England confirm if the Applicant's assertion in [REP6-015] is correct and provide its current position on whether an Adverse Effect on Integrity (AEoI) of the Swale SPA and Ramsar site for brent goose, lapwing and golden plover can be excluded?</p>	<p>Natural England welcomes the SSSI enhancement measures that have been added to Appendix K of the Outline LBMP [REP6-006].</p> <p>As noted in our answer to ExQ2.1.12, the uncertainty over whether lapwings and golden plovers will use the AR HMA was discussed at the HMSG meeting on 23 August 19. The experience of the land managers on the HMSG was that waders are attracted in by the bare earth of arable. Therefore, the recommendation was to create a scrape on the SSSI grassland to attract birds in, so that they are more likely to use the AR HMA for foraging. As the Outline LBMP now includes this provision (section 16.2.2) subject to consultation with the HMSG and SSSI consent from Natural England, we are satisfied that the recommendation of the HMSG has been acted on.</p> <p>Natural England can confirm that our advice is that the mitigation measures set out in the Outline LBMP are sufficient in relation to lapwings, golden plovers and brent geese. Therefore, NE can advise that when a formal appropriate assessment is undertaken, the evidence before the Secretary of State is sufficient to support a conclusion of no adverse effect on the integrity of the SPA.</p>
R17.2.3	Natural England and Kent Wildlife Trust	<p>At the Environmental Matters ISH (ISH6), the likelihood of marsh harriers using the habitat 'corridors' between array fields was discussed. The conservation interests thought that monitoring surveys, triggers and remedial measures were still needed to determine firstly if marsh harrier use is as predicted by the Applicant, and secondly to respond positively to a shortfall in predicted use, should it</p>	<p>At the Common Ground meeting on 28 October, potential additional remedial measures outside the developed area were discussed (habitat management for marsh harriers in the AR HMA and FGM HMA around the outside edge of the array could be considered provided they don't conflict with the other management aims of those habitat areas) and are expected to be included in the Deadline 7 version of the Outline LBMP.</p>

		<p>arise. (E.g. small mammal/ prey species monitoring as well as behavioural observations.) These points were reiterated in Natural England and Kent Wildlife Trust's Deadline 5 submissions [REP5-050] and [REP5-048]. The Applicant's Deadline 6 version of the outline LBMP [REP6-005] includes behavioural monitoring/ flight surveys and small mammal sampling surveys (in relation to marsh harrier prey availability) to inform triggers and remedial actions. Do these updated proposals satisfy Natural England's and Kent Wildlife Trust's concerns in this respect?</p>	<p>Subject to that potential remedial measure being added, Natural England is satisfied that the updated triggers and remedial actions (along with the additional evidence supplied by the Applicant in answer to R17.2.4) are sufficient to address our concerns relating to marsh harriers.</p>
R17.2.5	Natural England and Kent Wildlife Trust	<p>Based on the Applicant's answer to question R17.2.4 above, can Natural England and Kent Wildlife Trust provide an opinion on the robustness of the estimates provided, and explain whether they consider each to represent such a high percentage loss or change in overall availability of foraging habitat that it could lead to a finding of AEoI relating to the marsh harrier population associated with the Swale SPA?</p> <p>Also, in each case, should you consider the estimated change to be small but the judged effect on integrity nevertheless adverse, would the Applicant's proposals to improve the remaining foraging habitats and foraging resource and to monitor and respond to any shortfall of use by marsh harriers combine to address any remaining uncertainties, such that the mitigated situation can be judged to be one of no AEoI?</p>	<p>The Applicant provided Natural England with its written representation on marsh harriers, in response to R17.2.4, on 25 October, ahead of a Common Ground meeting on 28 October. That written representation is attached at Appendix B of the SoCG between the Applicant and Natural England, submitted for Deadline 7.</p> <p>Natural England made some comments on points of detail within the written representation on marsh harriers at the meeting on 28 October. However, our view is that the calculations areas of habitat loss, are helpful in determining potential impacts on marsh harriers. The Applicant calculates that 4.4% of the available foraging habitat will be lost under the solar arrays in the scenario where marsh harriers continue to use the ditch habitats. Natural England's view that this would not constitute an adverse effect on integrity as the management of the inter-array grasslands and other habitats is designed to provide greater prey availability than the current situation.</p> <p>The Applicant calculates that if the marsh harriers are deterred from using the inter-array grasslands, this would constitute a loss of 5% of foraging habitat. Natural England's advice is that this would not lead to an adverse effect on the integrity of the SPA, based on the fact that improved foraging habitat will be provided around the</p>

			edge of the solar park and along the ditches in the AR HMA; and also because it is unlikely that marsh harrier population is so constrained that loss of that part of the supporting habitat would lead to a reduction in productivity to the extent that the SPA population would be affected. This conclusion is also supported by the remedial measures set out in the Deadline 6 version of the outline LBMP [REP6-005], and referred to in our answer to R17.2.3 above.
R17.2.6	Applicant	The Applicant's position [REP6-015] that further remedial measures for marsh harrier are not required to conclude beyond reasonable scientific doubt that there will not be an AEoI of the Swale SPA is noted. Notwithstanding this, in light of Natural England's suggestions regarding off-site habitat creation for marsh harrier [REP5-050], does the Applicant intend to pursue available mechanisms to deliver any additional land that might be required? How would any such additional land be secured through the DCO or other legal mechanism?	Whilst this question is directed to the Applicant, Natural England would like to confirm that we now consider that the Applicant has provided enough information (through its answer to R17.2.4) to demonstrate that the remedial actions for marsh harrier in the outline LBMP (Deadline 7 version) are sufficient. Therefore, we no longer consider off-site habitat creation a necessary solution.
R17.3.8	Natural England and Kent Wildlife Trust	Do Natural England or Kent Wildlife Trust have any further comments or outstanding concerns on the updated outline LBMP provided by the Applicant at Deadline 6 [REP6-006] that are not covered elsewhere in your responses to these Rule 17 ExA questions?	Natural England has no further comments on the outline LBMP.
R17.7.7	Natural England	The ExA notes the response provide by Natural England to question ExQ2.8.17 in [REP-069]. However, please can Natural England provide an updated response in regard of progress of the designation of the proposed England Coast Path?	As noted in Natural England's response to ExQ2.8.17, the England Coast Path (ECP) proposals for Whitstable to Iwade stretch, which includes the application site, were submitted to the Secretary of State in June 2017. However, the need for a Habitats Regulations Assessment has delayed a decision. Natural England does not have a timescale for when a decision will be

			<p>announced, but it will not be before the Examination closes.</p> <p>Nevertheless, as set out in our written representation, the England Coast Path in this location will follow the Saxon Shore Way, and the visual impact on users of this route has been assessed appropriately in the Environmental Statement (ES). In Natural England's view, a decision on this stretch would not change the outcome of the assessment in the ES.</p>
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