

**PLANNING ACT 2008**

**APPLICATION BY NATIONAL GRID ELECTRICITY TRANSMISSION FOR AN ORDER GRANTING  
DEVELOPMENT CONSENT FOR SEA LINK**

**PINS REFERENCE: EN020026**

**INTERESTED PARTY NUMBER:** [REDACTED]

---

**WRITTEN REPRESENTATIONS ON BEHALF OF SAVE MINSTER MARSHES**  
**18 NOVEMBER 2025**

---

**Introduction**

1. These written representations are submitted on behalf of Save Minster Marshes (“**SMM**”) in respect of the above application for a Development Consent Order (“**the DCO Application**”) for the Sea Link project (“**Sea Link**”).
2. These comments are made without prejudice to any future representation SMM may make about the DCO Application throughout the examination process.
3. Our primary areas of concern in relation to the DCO Application are:
  - (1) The ‘need’ case and non-compliance with mitigation hierarchy
  - (2) Consideration of alternatives
  - (3) Project costs and construction methods
  - (4) Ecology and habitat impacts
  - (5) Land use
  - (6) Cumulative effects
  - (7) Economic and social impact
  - (8) Traffic, pollution and health
  - (9) Flooding
  - (10) Procedural flaws
  - (11) Inadequate mitigation
  - (12) The results of the Save Minster Marshes survey
4. As the Examining Authority will be aware, the Applicant has proposed to make changes to the DCO Application and has indicated that it will submit a change request in

November 2025.<sup>1</sup> A consultation process on the proposed changes ran in parallel with the DCO main timetable and ended on 7 November 2025. At the time of writing, SMM is not aware whether a change of request has been submitted. SMM filed written representations raising concerns about the adequacy of this latest consultation process and the nature of the changes being proposed which, in SMM's view, are substantial. Matters which are materially relevant to the Examining Authority's decision whether to accept the Applicant's proposed changes are therefore included under issue (10) below.

### **Context**

5. The proposed location of landfall of the Kent element of Sea Link is in the national and internationally protected marine environments of the Thanet Coast and Sandwich Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site; the Sandwich Bay and Hacklinge Marshes SSSI; and the Sandwich and Pegwell Bay National Nature Reserve. The proposed location of the infrastructure is adjacent to the inland section of the Sandwich Bay and Hacklinge SSSI, which supports an extensive variety of wildlife (described further below). This section of the SSSI will be almost totally enclosed by energy infrastructure should Sea Link go ahead. The close proximity of the main converter and substation buildings and associated infrastructure will mean that these protected sites and their wildlife will be impacted both during the construction and operational phases.
6. The proposed location has a small number of other power-related developments, including a Grid Stability plant<sup>2</sup> and a vast BESS plant that has already raised the land area by at least 1 metre - causing run off pollution into the Minster Stream.<sup>3</sup> The Applicant's Nemo Link project in 2019 led to the construction of a converter station and associated infrastructure on the old Richborough Power Station site nearby. The biodiversity of this area has already been drastically affected by this number of large developments, and it is therefore extremely important that the cumulative impact of these combined developments and any future ones are taken seriously into consideration.

---

<sup>1</sup> National Grid, 'Change Application Consultation Document' (October 2025).

<sup>2</sup> That was granted permission without an EIA.

<sup>3</sup> E.g. planning permission for the development of an electrical grid stability facility (ref: TH/23/0170) connected to the high-voltage substation and energy park; and a solar farm with Richborough Energy Park (formerly called Richborough Power Station) encompassing a 400kV high voltage substation connected to the National Grid.

## **Minster Marshes**

7. The inland section of the Sandwich Bay and Hacklinge Marshes SSSI, as well as being situated within a nature-protected area, lies adjacent and is functionally linked to Pegwell Bay (which has SSSI, Ramsar, SAC and National Nature Reserve status). The area acts as a critical ecological superhighway connecting Pegwell Bay with the rest of the South East and further afield. It is home to hundreds of bird species, many of which are on the endangered list, including significant populations of 32 red-listed bird species, 46 amber listed birds, and 74 other species, including species in danger of extinction in the UK such as nightingale, cuckoo, partridge, skylark, grasshopper warbler, garden warbler, curlew, golden plover, lapwing, hen harrier, marsh harrier, yellow hammer, tree sparrow, jack snipe, common snipe, turtle dove and more.<sup>4</sup>
8. Minster Marshes is an undisturbed home for species that are struggling to find habitat in the face of encroaching human development on the Isle of Thanet and elsewhere in Kent and the UK. These include endangered riparian mammals, European eels, beavers and water voles along the Minster Stream and River Stour, as well as healthy populations of grass snakes, protected slow worms, brown hares and endangered bees, among other species.
9. Minster Marshes is also classified as Grade 2 agricultural land, with areas under the DEFRA Higher Level Stewardship scheme, but also classified as Best and Most Versatile (BMV) land. The Isle of Thanet's farmland is classified as "excellent" (just 2% of Kent's farmland makes this grade). Being surrounded by sea with a maritime climate and little frost, has some of the best crop production land in the UK.

## **Areas of concern**

### **(1) The 'need' case / non-compliance with mitigation hierarchy**

10. The Applicant's need case is set out in its Planning Statement (Document 7.1) and Strategic Options Back Check Report (Document 7.2). These documents contain generalised commentary on the national policy position that there is an urgent need for new electricity network infrastructure, before asserting that the capacity of the existing network in East Anglia and the South East is insufficient to accommodate the connection

---

<sup>4</sup> RSPB, 'Birds of Conservation Concern 5' – see <https://www.bto.org/sites/default/files/publications/bocc-5-a5-4pp-single-pages.pdf>

of proposed new power sources connecting in the area. Beyond that, very little is provided by way of specific analysis explaining the need for this particular project in this location, with the technologies proposed. The Planning Statement identifies NPS EN-1, NPS EN-3 and NPS EN-5 as being relevant to the DCO Application.

11. NPS EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. Although section 4.2 states the provision of nationally significant low carbon infrastructure is now considered to be a development of *“critical national priority”* (§4.2.2), it also emphasises that applicants for such infrastructure *“must continue to show how their application meets the requirements in this NPS and the relevant technology specific NPS, applying the mitigation hierarchy, as well as any other legal and regulatory requirements”* (§ 4.2.10).
12. While SMM of course accepts the policy position in NPS EN-1 and EN-5, we do not consider it credible that the option of landfall through Pegwell Bay is the *only* option to provide this reinforcement and transmission system, as claimed by the Applicant. It is notable that the Applicant has provided scant information to justify the single choice of the Kent landfall option. Based on the current detail provided, which fails to explain why a project in this specific and sensitive location is required despite the significant and detrimental impact it would have on Pegwell Bay and Minster Marshes, SMM’s position is that there is insufficient information available to the Examining Authority upon which it can be satisfied that the Applicant’s need case has been made out.
13. In addition to the overall lack of information justifying the Applicant’s need case, SMM highlights the following issues:
  - 13.1. **Failure to apply mitigation hierarchy.** This is a requirement under NPS EN-1. The policy in NPS EN-1 applies a policy presumption that, subject to any legal requirements (including under section 104 of the Planning Act 2008), the urgent need for CNP Infrastructure to achieving energy objectives will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. It is therefore incumbent on the Applicant to demonstrate, and on the decision-maker to be satisfied, that the mitigation hierarchy has been correctly applied in order for the presumption to be engaged. Accordingly, NPS EN-1 at §4.2.7 and §4.2.10-12 provides (emphasis added):

“The CNP policy does not create an additional or cumulative need case or weighting to that which is already outlined for each type of energy infrastructure. The policy applies following the normal consideration of the need case, the impacts of the project, and the application of the mitigation hierarchy. As such, it is relevant during Secretary of State decision making and specifically in reference to any residual impacts that have been identified. It should therefore also be given consideration by the Examining Authority when it is making its recommendation to the Secretary of State.

...

4.2.10 Applicants for CNP infrastructure **must continue to show how their application meets the requirements in this NPS and the relevant technology specific NPS, applying the mitigation hierarchy**, as well as any other legal and regulatory requirements.

4.2.11 Applicants **must apply the mitigation hierarchy and demonstrate that it has been applied**. They should also seek the advice of the appropriate SNCB or other relevant statutory body when undertaking this process. Applicants should demonstrate that all residual impacts are those that cannot be avoided, reduced or mitigated.

4.2.12 Applicants should set out how residual impacts will be compensated for as far as possible. Applicants should also set out how any mitigation or compensation measures will be monitored and reporting agreed to ensure success and that action is taken. Changes to measures may be needed e.g. adaptive management. The cumulative impacts of multiple developments with residual impacts should also be considered.”

- 13.2. Given the preferred single option of landfall at Pegwell Bay, *avoidance* measures have been ruled out entirely. A critical element of the mitigation hierarchy has therefore been bypassed completely. The Applicant has only provided vague commitments that a Biodiversity Management Strategy will be produced to accompany the DCO once the impact assessment process is complete at the Environmental Statement stage. There is a similarly vague commitment to “*investigate*” mitigation opportunities to deliver long-term improvements to offset the permanent loss of fields currently used by non-breeding golden plover and to enhance the Stour corridor. No details are provided despite the Applicant’s own conclusion that the loss of these fields will require offsetting. The Applicant has still not provided a satisfactory explanation for why an appropriate impact assessment and necessary investigations of mitigation measures have not been conducted *prior* to this application being submitted for examination. It speaks

volumes of an approach by an applicant which seeks to ‘kick the can’ as far down the road as possible in attempt to avoid complying with its policy, legal and regulatory requirements. Without sufficient detail as to what compensatory habitats are going to be provided (and how these would be managed going forward) the Examining Authority is not in a position to assess their likely effectiveness.

**13.3. Failure to follow ‘Site Selection Guidelines’.** The Applicant’s choice of site location is inconsistent with its own ‘Site Selection Guidelines’ which provide that development should be avoided on marshy ground. Despite this, the Applicant proposes to build on alluvial clay soil, where the shrink / swell capacity of the soil is very high. The Applicant also proposes the installation of a temporary bridge across a wetland location which consists of inherently unstable land that is unsuitable for the construction of such a heavy and extensive development. The Applicant’s plans to operate heavy construction machinery along the edge of the riverbank are of particular concern, especially in light of the damage caused by the construction work for the Nemo Link Project (also by the Applicant) which collapsed the surrounding riverbank and has still not been repaired. The Applicant has relied primarily on desktop studies in lieu of physical land surveys. Had the Applicant undertaken appropriate and adequate surveys, it would have been apparent that the areas being proposed are wholly unsuitable to this project and do not support the Applicant’s choice of site location (**See Appendix 5: Video and photographic evidence**).

**13.4. Failure to properly assess the environmental impact of ‘trenchless techniques’.** The details provided by the Applicant on the use of “trenchless techniques” is limited and there has been no proper assessment of the environmental impact of this technology. The Applicant’s claims that it will rely on trenchless techniques to avoid any significant effects should be treated with the utmost caution, particularly in light of the similar commitments it made in respect of the recent Nemo Link installation which, in the end, the Applicant reneged on, leading to irreparable damage to saltmarsh and marine habitats. In addition, the Nemo Link project’s proposed mitigation measures have never been implemented.

- 13.5. Further, there is a risk that the use of open-cut trenching techniques will result in an impact to priority habitats (including Mudflats, Coastal Saltmarsh, Reedbeds, Coastal and Floodplain Grazing Marsh, Deciduous Woodland and Open Mosaic Habitat), and the Sandwich Bay SAC, SPA and Ramsar site. These impacts should be avoided (if the mitigation hierarchy were applied correctly). The single choice of a landfall location, however, has meant that sequential testing has not been undertaken, and *mitigation* is being relied on solely (entirely bypassing the *avoidance* stage).
14. The Energy Security and Net Zero Committee is currently conducting an inquiry into ‘The Cost of Energy’. At a recent oral evidence session held on 15 October 2025 (attended by Polly Billington, MP for East Thanet), industry leaders<sup>5</sup> gave evidence to the Committee that electricity demand is falling and that infrastructure is being built which is unnecessary to service that falling demand. Simone Rossi (CEO at EDF UK) for example stated as follows (emphasis added):

“I do not agree with the evidence, to be honest with you. As Rachel alluded to, we have in front of us a system where, even if the wholesale price were to halve, as she indicated, the bills will rise. There are two main drivers that we have in front of us in the growth of the bills. One is the demand reduction. **We are building infrastructure as if there was more demand, but, in reality, there is less and less demand**, so you have a bigger burden on smaller shoulders. That is problem No. 1.

...

**The real question is whether we are building the infrastructure ahead of the demand, or so much ahead of the demand.** What is the consistency between the demand and the supply? I go back to my earlier point that left some of you shocked. As I said, and I repeat, **for 20 years there has been a prediction that electricity demand will grow where indeed it has fallen.** Nobody seems to check the numbers. If you go and check the numbers on the DUKES, which are the Department for Energy Security and Net Zero statistics, you will see for yourself with your eyes that that is indeed what has happened.

The real question, to policymakers or Government, is to ask, “How do we balance the electrification that is a creation of the demand that might well come one day, but for the time being has not come at all, with infrastructure?” If infrastructure is built quickly, this problem that we have alluded to of these fixed costs that are

---

<sup>5</sup> Including the CEOs of OVO, E.ON, Centrica, EDF UK, Scottish Power and Octopus Energy.

increasing on a smaller base, on a smaller demand, will be very difficult to solve, because it will push up the bills.”<sup>6</sup>

15. SMM recognises the national need to adapt the electricity transmissions network to transition to a more sustainable and decarbonised energy future. However, this need for new energy infrastructure should be viewed in the context of the latest evidence being given from industry leaders which raises concerns about the impact of infrastructure which far surpasses demand requirements and results in significant costs increases for consumers in a time of a cost of living crisis.
16. Planning decisions should ensure that the adverse impacts of development in the countryside are minimised (including securing real nature recovery opportunities), and that they are genuinely sustainable and enjoy the support of local communities. On 30 October 2025, the Government published its *‘Unlocking the benefits of the clean energy economy’* report, which emphasises that the Government’s Clean Energy Superpower Mission involves, and should not be at the expense of, protecting the natural world:

“The climate and nature crises are fundamentally linked, and we must address them together. We will use our land and resources more efficiently and innovatively, creating woodland and restoring peatland to store carbon and protect us from climate impacts. As a result, we will see reduced flood risks, improved water quality, and cleaner air. We will protect our countryside and increase access to nature, so the British people can enjoy what is rightfully theirs.”<sup>7</sup>

17. It is therefore inherent in the Government’s policy agenda that measures to tackle the challenges of energy insecurity and climate breakdown are inextricably linked. The national need for new energy infrastructure in the longer term should not be used to justify schemes which cause irreparable damage to the natural landscape, ecology and biodiversity.
18. In respect of this DCO Application, insufficient information has been provided to justify the choice of location, and the Applicant has failed to comply with the mitigation hierarchy as avoidance before mitigation has not been properly or genuinely considered. These issues raise considerable doubt as to the appropriateness of this DCO Application and the Applicant’s needs case. Unless the Applicant can (1) properly justify its choice of

---

<sup>6</sup> Energy Security and Net Zero Committee, Oral Evidence: The cost of energy, HC 736, Wednesday 15 October 2025, Questions 272-355. See <https://committees.parliament.uk/oralevidence/16535/html/>

<sup>7</sup> UK Government, *‘Unlocking the benefits of the clean energy economy’* (October 2025), p.6.



a single choice of the Kent landfall option and (2) demonstrate compliance with the mitigation hierarchy, then it follows that the presumption in favour of granting consent for energy NSIPs cannot be applied.

## **(2) Alternatives**

19. Regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“**the EIA Regulations**”) requires that an Environmental Statement (“**ES**”) includes a description of the reasonable alternatives studied by the applicant (as relevant to the proposed development and its specific characteristics), and an indication of the main reasons given for the option chosen, taking into account the effects of the development on the environment.
20. Although NPS EN-1 does not contain a general requirement to consider alternatives, it does reflect the need for the ES to include information about the main alternatives that were studied, including an indication of the main reasons for the choice, taking into account the environmental, social and economic effects and, where relevant, technical and commercial feasibility, in a proportionate manner (§4.3.15). (**see Appendix 1: Hydrogeologist report for analysis of alternative sites**)
21. NPS EN-5 provides that where at all possible, applicants should ensure that the principles set out in the ‘Horlock’ and ‘Holford’ Rules are embodied in the design of proposals for overhead line routes and their associated infrastructure (§2.11.7).
22. The Horlock Rules state that developers should:
  - 22.1. Consider environmental issues from the earliest stage to balance the technical benefits and capital cost requirements for new developments against the consequential environmental effects in order to keep adverse effects to a reasonably practicable minimum.
  - 22.2. Seek to avoid altogether internationally and nationally designated areas of the highest amenity, cultural or scientific value by the overall planning of the system connections.
  - 22.3. Protect as far as reasonably practicable areas of local amenity value, important existing habitats and landscape features including ancient woodland, historic hedgerows, surface and ground water sources and nature conservation areas.

- 22.4. Take advantage of the screening provided by land form and existing features and the potential use of site layout and levels to keep intrusion into surrounding areas to a reasonably practicable minimum.
- 22.5. Keep the visual, noise and other environmental effects to a reasonably practicable minimum.
- 22.6. Consider the land use effects of the proposal when planning the siting of substations or extensions.
- 22.7. Consider the options available for terminal towers, equipment, buildings and ancillary development appropriate to individual locations, seeking to keep effects to a reasonably practicable minimum.
- 22.8. Use space effectively to limit the area required for development consistent with appropriate mitigation measures and to minimise the adverse effects on existing land use and rights of way, whilst also having regard to future extension of the substation.
- 22.9. Make the design of access roads, perimeter fencing, earth-shaping, planting and ancillary development an integral part of the site layout and design, so as to fit in with the surroundings.
- 22.10. In open landscape especially, high voltage line entries should be kept, especially in open landscape, as far as possible visually separate from low voltage lines and other overhead lines so as to avoid a confusing appearance.
- 22.11. Study the inter-relationship between towers and substation structures and background and foreground features so as to reduce the prominence of structures from main viewpoints. Where practicable the exposure of terminal towers on prominent ridges should be minimised by siting towers against a background of trees rather than open skylines.
- 23. The Holford Rules, among other matters, state that developers should:
  - 23.1. Avoid altogether, if possible, the major areas of highest amenity value, by so planning the general route of the line in the first place, even if total mileage is somewhat increased in consequence.

- 23.2. Avoid smaller areas of high amenity value or scientific interest by deviation, provided this can be done without using too many angle towers, i.e. the bigger structures which are used when lines change direction.
24. Since the Sea Link project was first announced publicly, SMM has raised concerns about the Applicant's failure to give any genuine consideration of any alternatives to the proposed site. At all times, consultees were being asked to consult on a single, preferred option in Kent. Even at the early non-statutory consultation stage in October 2022, consultees were told (emphasis added):
- “Our Proposals in Kent  
Considerations
- We have considered and assessed a number of options for marine cable landfall locations, converter station sites and interlinking HVDC cable corridors, as well as the HVAC connection between the converter site and the nearby electricity transmission system.
- We have narrowed these options down to a single converter station site, for which we have identified preferred route corridors** for the HVDC and HVAC connection infrastructure.”<sup>8</sup>
25. Since then, the Applicant has sought to retrofit its assessment of alternatives by claiming that it has revisited the decision making process and reconsidered alternative locations in close proximity to the proposed location, but has nonetheless maintained its conclusion that the proposed location remains the best option. The Applicant, however, has failed to clearly articulate its reasons for that conclusion. In circumstances where the single location preferred by the Applicant will have considerable effects on protected wildlife and species habitat, including on a Ramsar and SSSI site at Pegwell Bay and the Minster Marshes SSSI, the Applicant must provide a properly reasoned and intelligible justification for decision to proceed with the proposed location.
26. As is evident from the history of the documentation published as part of the non-statutory and statutory consultation processes, consideration of alternative potential options for the Kent element of Sea Link have effectively been screened out for apparent cost reasons before ever being consulted upon.<sup>9</sup> There has been no proper attempt to explore

---

<sup>8</sup> Project Background Document (October 2022), p.30. Available at 'Archive non-statutory consultation documents': <https://www.nationalgrid.com/document/346196/download>

<sup>9</sup> Note the '*Independent Review of OCSS Qualifying Coordinated Project: OCSS\_01 North Falls, Five Estuaries & Sea Link*' report produced by ARUP is heavily redacted on costs and only identifies one landfall option in Kent.

reasonable alternatives which would avoid the severe environmental and habitat impacts of Sea Link in its current guise.

27. For these reasons, the Applicant's ES fails to comply with the requirements of regulation 14(2)(d) of the EIA Regulations or NPS EN-1 (§4.3.15) given its failure to include information about the main alternatives that were studied and the reasons for the single, preferred option chosen.
28. Further, in advancing this proposal on the basis of a single, preferred landfall option from the outset, the Applicant has failed to adhere to the Horlock and Holford Rules in several respects. These include a failure to: (1) consider environmental issues from the earliest stage to balance the benefits against the consequential environmental effects; (2) seek to avoid altogether international and nationally designated areas of the highest value (which applies here to the Sandwich Bay and Hacklinge Marshes SSSI and Pegwell Bay which has SSSI, Ramsar, SAC and National Nature Reserve status); (3) protect as reasonably practicable areas of important existing habitats and landscape features; (4) consider the land use effects of the proposal when planning the siting of substations or extensions; (5) keep visual, noise and environmental effects to a reasonably practical minimum; and (6) consider the options available when planning the siting of substations, extensions, equipment, buildings and ancillary development.

### **(3) Project costs and construction methods**

29. The Applicant's assessment of the project's costs and likely construction methods is inadequate. In particular:
  - 29.1. **Failure to account for concrete piling.** The costs of the project do not appear to have been updated to reflect the need for 20 metre high concrete piling to sustain 2 metre deep concrete rafts covering an area of 9 hectares. This change in construction method was not part of the Applicant's initial proposal, and the failure to take them into account now means the overall cost of the project has been underestimated.
  - 29.2. **Failure to detail proposed construction methods.** The information provided by the Applicant on the proposed construction methods are unclear. Where detail is provided, this is inconsistent, contradictory and omits key elements. For example, the proposals appear to include significant construction and drilling

activity in and around Pegwell Bay; however, the resulting adverse impacts to the ecology of the bay and the seabed in the SSSI / SPA are either missing or heavily downplayed. In addition, in respect of horizontal directional drilling, the Applicant suggests that these works will last 120 days (if 24/7 drilling is undertaken); however, the details of the activities set out in the ES only account for a maximum of 92 days.<sup>10</sup>

29.3. **Failure to assess construction methods and impacts of use of Hoverport.** The changes proposed by the Applicant in its October 2025 consultation include a change to access at the Hoverport, Kent. The proposed change involves extending the width of potential access from the hoverport to the intertidal mudflats. The Applicant states that *“Our project team is committed to having no significant impact on the saltmarsh by using special construction techniques and by adjusting the cable route”*.<sup>11</sup> The Applicant, however, has failed to provide any details of the specific *“special construction techniques”* it intends to use (see Appendix 2: **Response to the request for Change 1 – Access to the Hoverport, Kent**).

29.4. The Applicant’s ES states that although the hoverport is suitable for reptiles, *“This area was included within the Order Limits too late to be included in reptile survey, but since the former hoverport will **only be used for operational monitoring and maintenance access no civil engineering highway works are planned**; rather the existing track and hardstanding areas will be used”* (§2.7.47) (emphasis added). Despite this, the Applicant has also indicated that the hoverport will be used as access for construction equipment, including *“up to four 15-20t excavators”*.<sup>12</sup> Further, there will be a requirement to use sheet piling machinery given the use of coffer dams.<sup>13</sup> The movement of heavy machinery on and off the hoverport apron has the potential to damage the underlying concrete and risk the leaching of heavy metals into the SSSI / SPA. SMM is unaware of the Applicant having undertaken any detailed environmental survey of the hoverport, nor any radar surveys or core samples to ascertain the stability and composition of the hoverport for the uses proposed. Therefore, although the Applicant now intends

---

<sup>10</sup> 6.2.4.5 (B) Part 4 Marine Chapter 5 Marine Ornithology [AS-115], Table 5.16.

<sup>11</sup> National Grid, ‘Change Application Consultation Document’ (October 2025), §4.2.6.

<sup>12</sup> 6.2.1.4 (C) Part 1 Introduction Chapter 4 Description of the Proposed Project [AS-093].

<sup>13</sup> 6.2.4.1 (B) Part 4 Marine Chapter 1 Physical Environment [AS-113].

to use the hoverport as a permanent compound, it has not provided any demonstrable impact assessment of the weight-bearing capability of using the hoverport apron for this purpose, or the likely effects of incorporating the hoverport into the proposed scheme.

30. The project's costs and construction methods used are directly relevant to supporting the Applicant's need case, compliance with the mitigation hierarchy, and the approach to alternatives. Without an accurate and up to date understanding of these matters, the Examining Authority cannot have sufficient confidence that the necessary requirements have been satisfied.

#### **(4) Ecology and habitats impact**

31. NPS EN-1 requires the Applicant's biodiversity assessment to:
- 31.1. set out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species, and on habitats and species identified as being of principal importance for the conservation of biodiversity;
  - 31.2. demonstrate how opportunities were taken to conserve and enhance biodiversity;
  - 31.3. avoid significant harm to biodiversity, including through mitigation, reasonable alternatives or appropriate compensation measures;
  - 31.4. set out proposals for the conservation of ancient woodland and veteran trees, or justify their loss where it is unavoidable; and
  - 31.5. include appropriate measures to mitigate effects on biodiversity features, including restoration and enhancement of habitats.
32. NPS EN-5 requires consideration of the impact of proposed overhead lines on large birds, particularly in feeding, hunting and breeding areas and migration corridors.
33. The Examining Authority will need to be satisfied that due consideration has been given (and appropriate weight is attached) to designated sites, protected species, and habitats and species of principal importance for the conservation of biodiversity, and to biodiversity interests within the wider environment. Further, the Secretary of State has the option of refusing consent where the harm to species and habitats of principal

importance for the conservation of biodiversity are not outweighed by the project's benefits and through giving substantial weight to any such harm to features of national or regional importance in the planning balance.

34. With that in mind, there are a number of issues with the DCO Application and its approach to the effects of the proposal on biodiversity and ecology, including rare and protected species and habitats and sites protected by legislation and policy.
35. The Applicant's ecological surveys fail to address the importance of protected and vulnerable species, including bats, benthic, birds, fish, flora, invertebrates, mammals, reptiles, riparian mammals, trees and hedges. (see **Appendix 3: Impact of Sea Link Construction on Bat Populations at Minster Marshes**). Pegwell Bay and Minster Marshes are a vital wintering habitat for many species of bird. Data compiled by Bird Wise East Kent on flight initiation distances provides a useful starting point for estimating human disturbance effects and delineating buffer areas. This data shows:

Common Name	Name	Family	Mass (g)	FDI (m)
Brent goose	<i>Branta bernicla</i>	Anseridea	1450	66.41
Curlew*	<i>Numenius arquata</i>	Scolopacidae	751	214.29
Dunlin*	<i>Calidris alpina</i>	Scolopacidae	48	38.67
<b>Golden plover</b>	<b><i>Pluvialis apricaria</i></b>	<b>Charadriidae</b>	<b>200</b>	<b>63.26</b>
Grey plover*	<i>Pluvialis squatarola</i>	Charadriidae	215	69.01
Lapwing*	<i>Vanellus vanellus</i>	Charadriidae	270	31.63
Oystercatcher	<i>Haematopus ostralegus</i>	Charadriidae	500	77.74
Purple sandpiper*	<i>Calidris maritima</i>	Scolopacidae	67.5	36.36
Redshank	<i>Tringa totanus</i>	Scolopacidae	143	59.09
Ringed plover*	<i>Charadrius hiaticula</i>	Charadriidae	64	43.04
Sanderling	<i>Calidris alba</i>	Scolopacidae	54	26.44
Turnstone	<i>Arenaria interpres</i>	Scolopacidae	105	25.12

\* Red listed

*Table 1: Bird Wise East Kent flight initiation distance data. Journal of Fish and Wildlife Management 7(1). DOI: 10.3996/082015-JFWM-078. February 2016.*

36. 'Flight initiation distance' measures the distance at which a bird begins to flee from an approaching threat. The data above indicates that several bird species which currently inhabit the Pegwell Bay and Minster Marshes area are likely to be disturbed at relatively short distances of human intervention, including lapwing (c. 30m), golden plover (c. 60m) and curlew (c. 200m). When regularly disturbed, the birds are unlikely to return to the area. Further, following a 99% decline in the turtle dove population between 1967-2023, successful intervention has meant that a breeding pair was sighted on Minster Marshes earlier this year. The disturbance which is bound to ensue from the construction work associated with this proposal will also mean that this pair will not return.
37. There is nothing in the Applicant's ES which demonstrates that this risk has been properly assessed when determining the impact of construction on bird species. Instead, the ES simply provides that at the operation / maintenance phase the effects will be "*short to medium moderate adverse (significant)*" (§2.9.216-219)<sup>14</sup> Notably, the Applicant appears to have assessed the impacts on these species at the construction phase for the Suffolk element of the proposal only, but not for the Kent onshore element.
38. The area is also a longstanding breeding ground for herons and other waterbirds. Despite this, the heronry, which normally is located at the north-east end of the SSSI nearest to the converter station site, has not been used by waterbirds in the last breeding year. The RSPB's local group's view is that this is a result of light and noise pollution from cumulative impacts of development surrounding the SSSI.<sup>15</sup> Again, the Applicant's ES does not appear to even address this impact, with no analysis of the impact on breeding waterbirds for the onshore Kent element of the proposal. In respect of the offshore elements, the ES does not address the heronry directly, and simply claims that the impacts to foraging and non-breeding waterbirds will be "*negligible (non-significant)*" at the construction and operation / maintenance phases (§5.9.62-65, §5.9.79-81, §5.9.82-85, § 5.9.94-95)<sup>16</sup>

<sup>14</sup> 6.2.3.2 Part 3 Kent Chapter 2 Ecology and Biodiversity [APP-062].

<sup>15</sup> The Isle of Thanet News, 'Dismay at loss of herons and nesting birds in Minster Marshes area with 'industrial' noise and light pollution blamed' (14 July 2025). See: <https://theisleofthanetnews.com/2025/07/14/dismay-at-loss-of-herons-and-nesting-birds-in-minster-marshes-area-with-noise-and-light-pollution-blamed/>

<sup>16</sup> 6.2.4.5 Part 4 Marine Chapter 5 Marine Ornithology [APP-078].



39. The Applicant's arboricultural impact assessment provides that (§6.3.3):

“In total, three individual trees and part of one hedgerow of moderate quality (Category B); and five individual trees, 10 tree groups, six part tree groups, one hedgerow and one part hedgerow of low quality (Category C) are likely to be removed to facilitate the Proposed Project. All of the trees to be removed are within the Order Limits.”<sup>17</sup>

40. The Applicant therefore plans to remove entirely the longest and widest stretch of hedgerow on Minster Marshes (200 metre length, 20 metre width), which is currently where all bird ringing and ornithological monitoring is carried out. Due to its length and depth, the hedge is of vital importance to a range of wildlife. Again, the Applicant has not considered this matter in its ES and assessment of likely impacts.

41. Similarly to the analysis of protected and vulnerable species, the Applicant's analysis of protected sites (e.g. the Thanet Coast and Sandwich Bay SPA, Minster Marshes SSSI) fails to consider how construction effects (noise, vibration, dust) and operation effects (visual/electromagnetic disturbance) will affect these designated features. Where surveys have been provided, the conclusions are inconsistent, anonymised, undated and use baseline datasets which are unreferenced. The weight to be attached to these surveys should be severely limited unless further clarifying information is provided

42. In SMM's view these issues raise serious concerns about the Applicant's ability to satisfy the Examining Authority that species and habitats of principal importance for the conservation of biodiversity will be protected from the adverse effects of development and / or otherwise outweighed by the project's benefits. As detailed above, there are significant gaps in the Applicant's assessment methodology. The conclusions reached which claim the effects both at the construction and operation / maintenance phases will be minimal (or even negligible) do not reflect the reality on the ground. There is insufficient information currently for the Examining Authority to reach a conclusion on biodiversity matters, and in particular to test the Applicant's doubtful claim that there would be no likely significant residual effects during the construction or operation of the Sea Link project.

43. SMM's view is that it is not possible to effectively mitigate these protected sites given their unique features. Nevertheless, in the event that the Examining Authority and Secretary of State are minded to recommend / grant consent, then SMM proposes that the following

---

<sup>17</sup> 6.10 Arboricultural Impact Assessment Part 1 of 2 [APP-294].

mitigation measures should be provided at a minimum to help minimise the adverse effects of the project on species and habitats:

- 43.1. Creation of compensatory habitats such as wetland restoration or grassland creation, with defined locations, sizes and management plans.
- 43.2. Use of seasonal construction restrictions to avoid bird and riparian mammals breeding seasons. The Applicant has only considered Cetti's Warbler when in reality a number of Schedule 1 birds nest on the site including Barn Owls and Tree Sparrows, while beavers breed between December and April and water voles breed between April to September. To avoid all disturbance to protected species, the only months construction can occur is in October and November,
- 43.3. Implementation of noise and light mitigation (e.g. directional lighting and acoustic barriers) to reduce disturbance to nocturnal species such as bats or migratory birds. While the Applicant has included directional lighting in their mitigation, they have not mentioned acoustic barriers.
- 43.4. Monitoring and adaptive management plans to ensure mitigation effectiveness, with independent ecological oversight to ensure accountability.

## **(5) Land use**

- 44. With reference to agricultural land, NPS EN-1 provides expressly that applicants should *"seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5)"* (§5.11.12). It goes on to state that the Secretary of State should ensure that development is not sited on BMV land *"without justification"*, and *"where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality"* (§5.11.34).
- 45. As the Planning Statement recognises: ***"50.11% (85.01 ha) of the land within the Order Limits for the Kent Onshore Scheme is graded as BMV land, with the majority (53.36 ha) of this BMV land being ALC Grade 3a"*** (§7.9.5). It also confirms that *"Permanent loss of agricultural land reported under the construction phase would remain lost during the operational phase"* (§7.9.9), and that *"construction of the permanent infrastructure for the Proposed Project would involve the **permanent loss of BMV land** (11.45 ha for the*

*Suffolk Onshore Scheme and 12.21 ha for the Kent Onshore Scheme), which is assessed as a significant effect” (§7.9.12) (emphasis added).*

46. Despite acknowledging these “*significant*” effects, the Applicant’s conclusion on the loss of valuable agricultural land is set out briefly in two paragraphs as follows:

“7.9.15 In summary, the Proposed Project minimises impacts on BMV agricultural land as far as practicable and includes mitigation measures to reduce impacts on the soil resource. The permanent loss of BMV land is considered necessary on the basis that there is urgent need for CNP Infrastructure such as the Proposed Project. Dealing with the local policy tests, the benefits provided by the Proposed Project, explained in Section 5 of this Planning Statement, outweigh the resultant loss of BMV agricultural land. The routeing and siting selection process confirms that there are no other suitable sites of poorer agricultural quality that can accommodate the Proposed Project. The impact on the viability of agricultural holdings was scoped out of the ES and will be dealt with through compensation agreements which lie outside of the ES process (as explained in Application Document 6.15 Scoping Opinion 2022).

7.9.16 Overall, it is considered that the Proposed Project is in accordance with the national and local policies relating to the protection of agricultural land as the use of agricultural land and the permanent loss of BMV land during construction is justified.”

47. Based on the information currently presented by the Applicant, it is not possible to discern how the Applicant has come to the conclusion that alternative locations for Sea Link that would use poorer quality land are not available – particularly when a single landfall option has been proposed from the outset and no proper assessment has been provided to date demonstrating a sequential site selection process which seeks to avoid the loss of BMV land.<sup>18</sup> The Applicant also makes vague assertions as to the benefits of the proposal outweighing any resultant loss of BMV land, without giving any recognition to the economic or other benefits of Best and Most Versatile land as required under national policy (see §187(b) NPPF), including the need to secure the nation’s future food security. The result of taking BMV land permanently out of production has not been addressed. Likewise, whether any compensation will be provided for damage to existing farmland has not been clarified. SMM also notes that the DCO Application fails to address the impact on land subject to Higher Level Stewardship schemes. Without

---

<sup>18</sup> Although the ‘Corridor and Preliminary Routeing and Siting Study’ identified four strategic options, these were discounted in favour of the current location proposal on the basis of costs reasons alone.

further information, it is simply not possible to conclude that the permanent loss of BMV land has been properly justified in accordance with NPS EN-1.

48. Further, the proposals involve considerable works on alluvial clay soil structure which is highly unsuitable for construction. Research into the original build for the Richborough Power Station (commenced in 1958) has shown that cracks appeared in the structure in 1962 and by the year 2000 concrete piles had to be used to underpin the soil. Further cracking was managed by encasing the cooling towers in a second layer of concrete. These deficiencies in the alluvial clay soil structure have not been acknowledged by the Applicant and incorporated into its analysis. **(see Appendix 1: Hydrogeologist report).**

#### **(6) Cumulative effects**

49. NPS EN-1 notes that the EIA Regulations require an assessment of potential cumulative effects as part of the Environmental Impact Assessment (“EIA”), and that the decision maker should take this into account.
50. The Planning Statement (§7.16.31) notes the following in respect of the cumulative “*inter-project*” effects for the Kent element of Sea Link:

“For the Kent Onshore Scheme there is the potential for a significant inter-project cumulative effect on LCA E1 Stour Marshes given the concentration of energy related development close to and within Richborough Energy Park. It should be noted the industrial setting presents a less sensitive part of LCA E1, which does not exhibit characteristics of the wider marsh. The mitigation planting associated with the Kent Onshore Scheme would provide some separation between the combined developments and the wider marsh landscape, thereby limiting the potential for cumulative significant effects to within the eastern periphery of LCA E1.”

51. SMM is particularly concerned that major components of the project (i.e. landfall at Pegwell Bay and the converter / substation near Minster Marshes) are being added to previous infrastructure projects<sup>19</sup> on a small island which will further strain and damage

---

<sup>19</sup> E.g. the Nemo Link converter station and other consented projects such as the Richborough Energy Park development referred to above.

what is already a pressurised landscape and could be considered a ‘Zone of Sacrifice’ for the benefit of the wider UK.

52. The Applicant’s analysis of combined cumulative effects fails to properly recognise these impacts. For the Suffolk element of Sea Link, the Applicant states that *“In order to reduce the potential spread of infrastructure through other parts of Suffolk’s rural environment, the Proposed Project has sought opportunities to concentrate development in a single area”* including exploring *“potential for sharing some elements of infrastructure, such as temporary and permanent access, and allows for shared mitigation in the future”* (§7.16.34). Notably, these opportunities do not appear to have been explored in respect of the Kent element – again raising serious doubts as to whether the effects from combined energy projects have ever been properly considered.
53. SMM has reviewed the Applicant’s list of projects within a 5 kilometre radius of the proposed Kent Onshore Scheme which may be capable of contributing cumulative effects. Through this process 17 separate developments have been identified which the Applicant has designated ‘Tier 1 – Most Likely’ – i.e. indicating a high likelihood that they will go ahead. These developments include the Manston Airport proposal; nine separate residential and mixed use developments including 4000 homes and four schools; and seven separate solar farms and battery storage facilities covering an area of 130 ha.
54. The Applicant, however, has listed developments within a 20 km radius. But then the cumulative impact assessment provides as follows:

“For the assessment socio-economics, recreation and tourism effects, the study area is defined at varying geographic levels according to the likely spatial extent of the effect under consideration (as set out in Application Document 6.2.3.10 Part 3 Kent Chapter 10 Socioeconomics, Recreation, and Tourism). As a result, the following study areas have been adopted:

- 60-minute travel area from the Kent Onshore Scheme Boundary for economic impacts\*;
- 1 km from the Kent Onshore Scheme Boundary for Local communities affected by severance; and
- 500 m from Kent Onshore Scheme Boundary for residential properties, business premises, visitor attractions, community facilities, open space, development land and PRoW and recreational routes.

\*For cumulative economic impacts, professional judgement has been used to determine which cumulative schemes are assessed, as only comparable major

infrastructure projects are anticipated to lead to potential significant cumulative socio-economic effects.”<sup>20</sup>

55. Whereas SMM’s analysis has used a 5 kilometre radius to identify a range of developments which are capable of contributing cumulative effects, the Applicant has opted for a significantly reduced catchment area (1 kilometre and 500 metres respectively). This has resulted in these developments being scoped out of the assessment, allowing the Applicant to dismiss or minimise any cumulative impacts which affect the local communities as being of only minor significance.

#### **(7) Economic and social impact**

56. The Applicant seeks to rely on employment generation and wider economic benefits to the local area as benefits of the proposed development (see 7.1 Planning Statement, section 5.3). On closer analysis, however, these supposed benefits appear to be heavily exaggerated. The Applicant’s socio-economic and tourism analysis states that “*The scale of operational employment generated is likely to be very limited, and as a result any effect on GVA will be small*” (emphasis added) (§10.3.7).<sup>21</sup>
57. The majority of the workforce for the project will be sourced from outside of the local area. Moreover, the Applicant provides only a vague reference to the “*potential*” for training benefits and apprenticeships (§10.3.6), rather than any firm commitment to creating employment opportunities for those in the local community.
58. In addition, the potential damage to local tourism and business has not been adequately addressed. As above, the Applicant has only considered the impact on tourism within a 500 metre radius of the draft order limits, and on communities within 1 kilometre of those limits. This is a wholly unrealistic assessment given that all communities and business across the Isle of Thanet will be impacted by the construction and the vast number of vehicle movements which will serve a development of this nature and extent.

#### **(8) Traffic, pollution and health**

59. The Applicant’s analysis also underplays the impact on traffic, pollution and health and wellbeing.

---

<sup>20</sup> 6.2.3.13 Part 3 Kent Chapter 13 Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073], p.4.

<sup>21</sup> 6.2.3.10 ES Part 3 Kent Chapter 10 Socio-economics, Recreation and Tourism [APP-070].

60. In respect of traffic:

- 60.1. It is notable that the Applicant's traffic survey analysis was undertaken in January when the area experiences its lowest levels of tourism and seasonal business are closed. Despite the Applicant being made aware of this, it has decided not to conduct any further surveys which would reflect a more representative picture. The highway accident statistics are also misrepresented by the Applicant.
- 60.2. SMM has written to National Highways concerning the amount of construction traffic that a project of his scale will generate, particularly as the Applicant's documentation is not clear on the quantity of vehicles which will be needed. SMM's calculations indicate that there will be 40,000 lorry loads of aggregate needed to raise the site by 2 metres, and potentially further heavy loads for de-watering.
- 60.3. The Applicant's proposal appears to envisage bringing aggregate to the site from Ramsgate. The Ramsgate tunnel, however, was closed in the summer of 2025 following a car fire.<sup>22</sup> The Applicant does not appear to have updated their risk assessment for dangerous wide loads on this route, nor do the plans adequately assess the risk of unexploded ordinance, which was a major issue uncovered during the NEMO Link construction in Pegwell Bay.<sup>23</sup>
- 60.4. The A299 Thanet Way, which serves as the main arterial road into the Isle of Thanet, currently has a 50 mph speed limit for nine miles because, for at least the second time, clay soil shrinkage has caused the road surface to undulate dangerously. In 2024, £4.4m was spent on reinforcing the road, but this has failed to solve the issue. The Applicant does not appear to have factored in the cost of damage the heavy machinery will cause along this road in its project costs or impact assessment.
- 60.5. Access to the pylon restringing side of the development will be through Minster village. All access roads to the village are single track unless Tothill Street is

---

<sup>22</sup> The Isle of Thanet News, 'Royal Harbour Approach tunnel remains shut for 'foreseeable future' following car fire' (30 June 2025). See <https://theisleofthanetnews.com/2025/06/30/royal-harbour-approach-tunnel-remains-shut-for-foreseeable-future-following-car-fire/>

<sup>23</sup> The Isle of Thanet News, 'Nemo Link team discovered 985 potential unexploded bombs on cable link route to Pegwell' (23 August 2017). See <https://theisleofthanetnews.com/2017/08/23/nemo-link-team-reveals-discovery-of-985-potential-unexploded-bombs-on-cable-link-route-to-pegwell/>

closed to parked cars. The Applicant estimates that there will be on average 30 HGVs / day accessing this side of the development, yet the Applicant has as of yet provided no traffic management plan to show how this will be managed.

61. The Planning Statement considers the effect on health and wellbeing arising from impacts on accessing open space, leisure and play facilities, and from transport access and connection during both the construction and operational phases as “*not significant*” (§7.15.17-18). However, the closure of the King Charles III footpath for up to eight times per hour for high goods vehicle crossing cannot simply be dismissed as “*negligible*”. The proposal will also impact the St Augustine Trail PRoW – an important Christian pilgrimage route which the Applicant plans to permanently reroute (at least in part). The Applicant fails to consider the effect of surrounding the Great Oaks Small School (a specialist SEN school) with building and heavy traffic movements, and the impact this would have on the education of pupils who attend the school. The Applicant has stated that they will only work during school holidays to avoid disruption to pupils, but this is the main bird breeding season. It is impossible to avoid both disturbing breeding birds and riparian mammals and the pupils at Great Oaks.
62. Finally, SMM has considerable concerns about the fire risks associated with placing electrical infrastructure in this location. The recent North Hyde fire at Heathrow was caused by a preventable technical fault due to a lack of maintenance, and it casts serious doubts on the Applicant’s ability to maintain this level of infrastructure in such a vulnerable location. There have been seven electrical substation fires and two battery fires in the United Kingdom in the past year. A proposal in this location, sited next to one of the largest battery storage plants in the United Kingdom (which lies southwest of the Isle of Thanet in the same direction as the prevailing winds) and a biogas plant to the north puts the population of the Isle of Thanet at an unacceptable fire risk.

## **(9) Flooding**

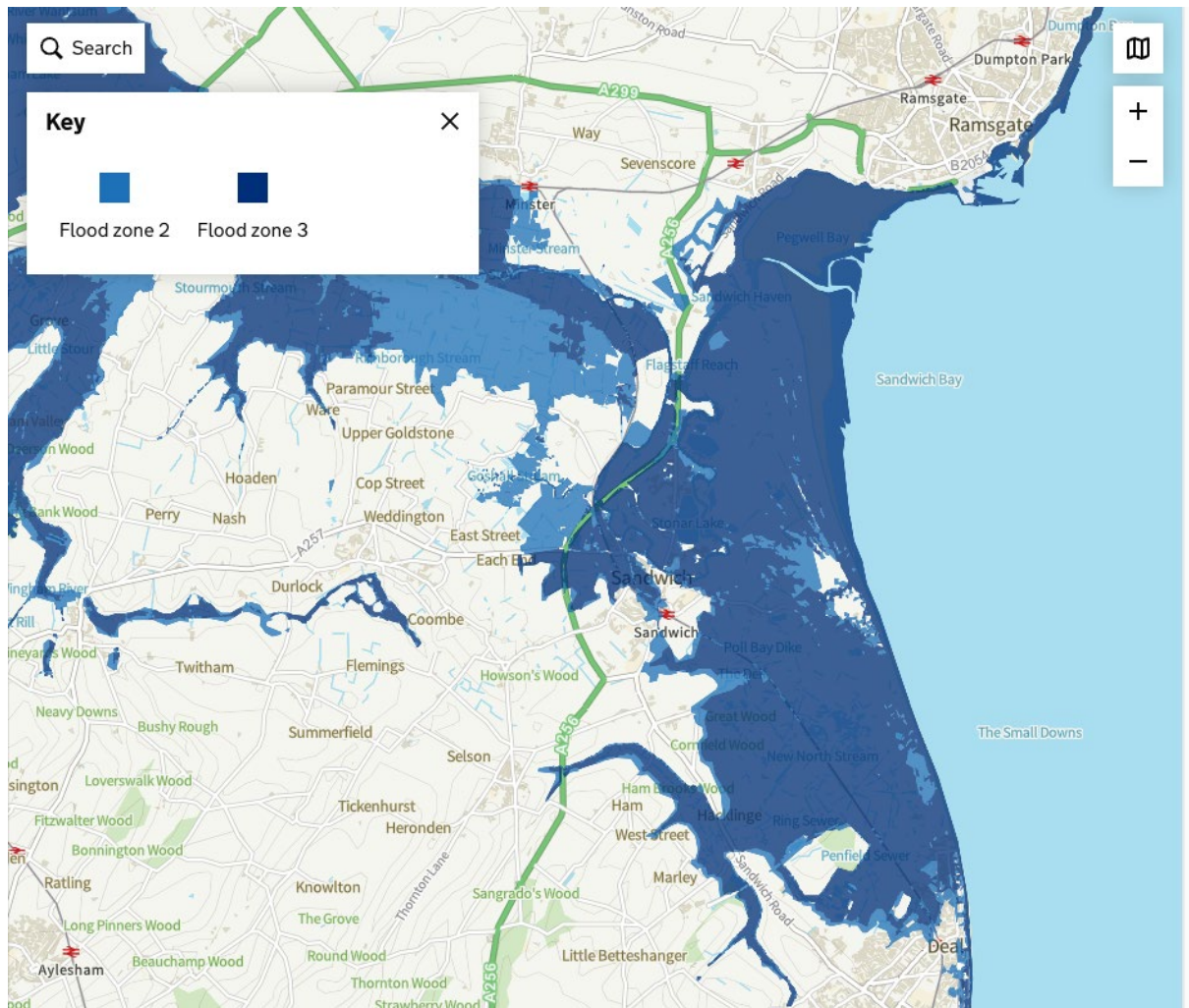
63. The matters pertaining to flood risk that the Secretary of State should be satisfied of when determining the DCO application are set out at §5.8.36 of NPS EN-1. These include the need for the application to (1) be supported by an appropriate FRA, (2) apply and satisfy the Sequential Test as part of site selection, and (3) apply the sequential approach at the site level.



64. The Applicant claims it has complied with all of these elements, including the requirements of the NPPF / NPPG and local development plan. However, the Applicant has failed to address how it will manage groundwater flooding caused by the exceptionally high ground water in the Isle of Thanet area. This matter is merely recognised but not addressed substantively in its flood risk analysis. The Examining Authority should note that in June 2025, the Isle of Thanet and Sandwich received 2 inches of rain in under a 2 hour period, which caused extensive flooding to the area. There is a history of near-catastrophic flooding in Sandwich, including the closure of the A256 Sandwich Bypass in June 2025 following flash flooding.<sup>24</sup>
65. Unsurprisingly, the EA's 'flood map for planning' shows that considerable areas of the Kent coast, including the inland section of the Sandwich Bay and Pegwell Bay are identified within Flood Zones 2 and 3, with the latter triggering a requirement for passing the exception test.

---

<sup>24</sup> BBC News, 'People rehomed after 'catastrophic' floods' (14 June 2025). See <https://www.bbc.co.uk/news/articles/c0eqv73d55eo>



*Image 1: 'Flood map for planning' for the Sandwich Bay area (flood zones 2 and 3)*

66. The suggestion that flooding in this area is less than a 1 in 100 year event is not borne out by recent experience.<sup>25</sup> These risks will only become worse if the Applicant's proposal to cover 9 hectares of land in concrete at 20 metre depth comes forward.

## **(10) Procedural flaws**

### *Future site visits*

<sup>25</sup> The Isle of Thanet News, 'River Stour floods put East Kent farmland at risk says Minster farmer' (27 September 2025). See <https://theisleofthanetnews.com/2025/09/27/river-stour-floods-put-east-kent-farmland-at-risk-says-minster-farmer/>

67. SMM have concerns in respect of the Examining Authority's planned site visits timetabled for March 2026. In particular, we are concerned that conducting a site visit in this period will not allow the Examining Authority to have a full understanding of the likely impacts of this project on the River Stour during the winter months, in particular the damage to BMV land which has been caused currently by the operation of lightweight vehicles by National Grid's contractors on the marshes following heavy rain. SMM therefore invite the Examining Authority to undertake additional site visits now, during the winter months, to ensure they have a complete picture before making their recommendation.
68. The Examining Authority will be aware that under Rule 16 of The Infrastructure Planning (Examination Procedure) Rules 2010, the Examining Authority (or members of the Examining Authority) may make unaccompanied site visits to an application site before, or during the examination; and may also undertake one or more accompanied site visits during the examination which it will notify to all interested parties.<sup>26</sup> If it would assist the Examining Authority, members of SMM would happily accompany the Examining Inspectors in a future site visit to draw attention to particular features of the proposal's location and its surroundings, or, alternatively, provide a route map for those locations and features in advance of any future visit.

Flawed consultation process on proposed changes

69. The Applicant's 'Change Application Consultation Document' claims that the Applicant is *"proposing to make small changes to the application"* and that *"[t]he changes we are proposing do not substantially alter the project as a whole"* (§1.1.3-1.1.4). Those changes are set out at section 4 of the document, and are said to consist of five proposed changes:
- 69.1. Change 1 – Change to access at the Hoverport, Kent. The proposal is to extend the width of potential access from the hoverport to the intertidal area within the Order limits. It is claimed this will mean there will be no significant impact on saltmarsh from driving vehicles on or close to the saltmarsh habitat when accessing the intertidal area during construction, operation and maintenance.
- 69.2. Change 2 – Change of works plans at Friston (Kiln Lane) substation, Suffolk. The proposal is to adjust the area for the new substation at Friston (Kiln Lane) so that

---

<sup>26</sup> See also Guidance: Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects (30 April 2024), Paragraph 016 Reference ID 07-016-20240430.

it matches the area already approved for two Scottish Power Renewables wind farm projects, East Anglia ONE (North) and East Anglia TWO. This is said to be for consistency purposes to make plans easier to understand for local people and stakeholders and ensure landscaping / drainage plans are consistent.

69.3. Change 3 – The Henge, Suffolk. The proposal is to adjust the boundaries of the project and move the planned underground cable route, so it goes around a newly discovered heritage asset (a Neolithic Henge), with a 30-metre buffer zone to avoid the Neolithic Henge.

69.4. Change 4 – Benhall Railway Bridge, Suffolk. The proposal is to add additional land around Benhall Railway Bridge (on the B1121) into the Order limits, to provide additional flexibility when transporting large equipment to the new converter station.

69.5. Change 5 – Increase in area for maintenance of new hedge to south of B1119, Suffolk. The proposal is to widen the strip of land south of the B1119 (near Fristonmoor Lane in Suffolk) to give additional space to plant the proposed new hedge and maintain the new hedge and the ditch. The new hedge is said to be an essential mitigation measure to reduce effects on the landscape and visual amenity and screen views of the converter station, as well as helping wildlife move between woodland and hedgerows/trees.

70. The Guidance on the examination stage for Nationally Significant Infrastructure Projects provides that:<sup>27</sup>

“It is expected that applications will be as well prepared as possible prior to submission and an application will not be accepted by the Planning Inspectorate to proceed to examination if it is not of a satisfactory standard. However, there are occasions when applicants may wish to make changes to an application after it has been accepted for examination, but this should not be the routine practice.

...

In deciding whether to accept an applicant’s proposed changes to an application, the Examining Authority will need to consider a number of factors such as whether:

---

<sup>27</sup> Guidance: Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects (30 April 2024), Paragraph 018 Reference ID 07-018-20240430.

- the changes would mean the project is effectively a different one from that contained in the application;
- the application (as changed) is still of a sufficient standard for examination;
- sufficient consultation on the changed application can be undertaken to allow for the examination to be completed within the statutory timetable;
- the changes would breach the principles of fairness and reasonableness for parties participating in the examination; and
- any other procedural requirements can still be met.

It is expected that applicants will discuss the implications of any changes they wish to make with relevant statutory consultees and notify the Examining Authority at the earliest opportunity. This means that proposed change requests must be made at an early stage in the examination to enable any appropriate consultation on the change within the statutory examination period.”

71. The Guidance also provides that *“Making substantial change requests is likely to be incompatible with a fast-track examination process, as there will be insufficient time to accommodate changes to the 4-month examination timetable to allow for representations to be made about proposed changes”*.<sup>28</sup>

72. In the present case, the Applicant’s proposed changes are not acceptable both on a procedural and substantive basis:

72.1. **The consultation is procedurally flawed.** It is well-established that whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon, it must be carried out properly: *R v North East Devon Health Authority ex p Coughlan* [2001] QB 213, [108]. As such, there are four basic requirements for legally adequate consultation (“the *Gunning* criteria”), namely: (1) the consultation must be at a time when the proposals are still at formative stage; (2) the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response; (3) adequate time must be given for consideration and response; and (4) the product of the consultation must be conscientiously taken into account in finalising any proposals: *R v Brent London Borough Council ex p Gunning* [1985] 84 LGR 168, [189].

72.2. The Applicant announced its intention to make changes to the DCO Application on 7 October 2025 and provided a deadline for responses by 7 November 2025. The timing and duration of consultation will vary from project to project,

---

<sup>28</sup> Paragraph 018 Reference ID 07-018-20240430.

depending on size and complexity, and the range and scale of the impacts. Nevertheless, it is axiomatic that a reasonable time period will need to be provided for consultees to examine relevant documents and provide their responses. In a DCO application of this scale and controversy, with proposed changes that require detailed technical input (especially regarding impacts), a consultation period of just 31 days as provided by the Applicant here is unrealistic and disproportionate to the issues at hand. The obligation is that *“those with a potential interest in the subject matter know in clear terms what the proposal is and exactly why it is under positive consideration, telling them enough (which may be a good deal) to enable them to make an intelligent response”*: as per Lord Woolf MR in *Coughlan*, [112]. The Applicant’s consultation document, which runs to fewer than 20 pages and fails to provide any substantive detail of the proposed changes, cannot reasonably be said to meet that standard. In particular, the Applicant’s failure to carry out an environmental survey of the impacts arising from the proposed changes to the hoverport means the public are simply unable to properly understand the effect of these proposed changes and provide a considered and informed response.

72.3. Further, the Applicant has failed to properly notify affected and interested parties of the consultation. SMM, for example, were not notified directly by the Applicant, but instead learnt of the consultation one week after it had commenced, on 13 October, having been alerted to the change on the Sea Link website by a third party. SMM will not be the only ones who will have had their right to make representations severely curtailed. The Applicant on their website claims that *“We have now written to relevant stakeholder and residents living near to the changes we are proposing”*; however, SMM are aware of several examples of residents who live directly opposite the hoverport and within the draft order limits who have not been contacted, or who were only notified several days after the consultation period had commenced.

72.4. Given the above, it is clear that, at least, *Gunning* criteria (1)-(3) have been breached, and it remains to be seen whether the Applicant proceeds to take into account the product of this latest consultation before finalising any proposed changes submitted to the Examining Authority in accordance with *Gunning* criteria (4).

72.5. **The changes proposed are substantial.** In particular:

- 72.5.1. The Applicant held its statutory pre-application consultation between October and December 2023. The documents made available to the public at that time did not indicate any use for the hoverport site. In July 2024, the Applicant produced amended plans which included, for the first time, the use of the hoverport site for construction, maintenance and a construction compound. The Applicant explained that this was to avoid damage to the saltmarsh during construction, and that the area would be used solely as access for construction traffic. When the DCO Application was accepted for examination in April 2025, this was on the basis that no detailed environmental survey had been undertaken given the limited use of the hoverport area for maintenance works within the intertidal zone, despite the sensitive saltmarsh habitat. Between October 2023 and September 2025, the Applicant had almost 24 months in which to carry out a detailed survey of the hoverport area but decided not to do so.
- 72.5.2. The Applicant now proposes a significant and substantial change to the proposal which was originally submitted for examination. The Applicant seeks to extend the extend the width of potential access from the hoverport to the intertidal area, to include the carrying out of construction involving at least four 15-20t excavators, which brings with it the risk of heavy metal leaching and other pollutant impacts. Despite this risk, the Applicant has again refused to undertake a detailed environmental survey, and simply provides a bare assertion in the Change Application Consultation Document that *“There won’t be any new or different significant environmental effects introduced from the proposed change as it provides enough flexibility for the access route to have no significant impact on the sensitive saltmarsh habitat”* (§4.2.8).
- 72.5.3. SMM has already submitted representations in respect of the proposed change to the hoverport which identifies several concerns, including (1) a lack of clarity over the changes being proposed, and (2) the serious risk of pollution from use of the hoverport apron and the excavation of the exit pits. The detail will not be repeated here, but the relevant submission is

provided at **Appendix 2: Response to the request for Change 1 – Access to the Hoverport, Kent.**

72.5.4. Given the lack of any proper environmental assessment carried out over the hoverport area, the Applicant cannot reasonably argue that there will not be any new or significant environmental effects introduced from the proposed change. It simply does not have the information to make such a definitive statement. In any event, the failure to provide an environmental survey / assessment means that the Examining Authority is not in a position to judge whether the changes would mean the project is a different one from that contained in the original application. Further, without that environmental assessment, statutory consultees and interested parties have not been given a proper opportunity to consider the proposed changes and provide an intelligent response.

73. It follows from the above that an adequate consultation has not been carried out. Accepting the Applicant's proposed changes would breach the principles of fairness and reasonableness for parties participating in the Examination. The consultation period will need to be extended in order to (1) allow the Applicant to carry out and produce the results of a detailed environmental survey / assessment of the likely effects of the proposed changes, and (2) allow sufficient time for parties participating in the examination to consider this information and provide their responses. Extending the consultation period in this way, while necessary, would undermine the ability for the Examination to be completed within the statutory timetable. Regardless, even on the limited information available, it is clear that the proposed changes are substantial and represent a significant departure from the project contained in the original application and the expectations which have been set by the Applicant and communicated to the public.

74. For these reasons, the Examining Authority should refuse to accept the Applicant's proposed changes.

Flawed pre-application consultation

75. SMM acknowledges that the DCO Application has been accepted for examination, and that this decision cannot be reopened during the examination stage. Nevertheless, SMM has previously raised a number of concerns about the adequacy of the Applicant's pre-



application consultation process. These concerns included the fact that (1) the Kent element of the proposal was screened out prior to the non-statutory consultation, meaning that consultees were not given a proper opportunity to argue in favour of alternatives; (2) the consultation was not adequately publicised and there has been a failure to properly inform those affected by the proposals or with a potential interest in the subject matter; and (3) relevant documents were not provided to affected parties, including landowners whose land is being compulsorily purchased.

76. As is evident in the new issues which have arisen in respect of the latest consultation into the proposed changes to the scheme, the public's ability to engage substantively with this process continues to be curtailed in practice by the Applicant.

#### **(11) Inadequate mitigation**

77. While SMM welcome the opportunity to explore mitigation measures which would adequately address the adverse impacts of the proposal (see e.g. those set out in the ecology section above), the mitigation currently being proposed by the Applicant is wholly unsatisfactory. In particular:

77.1. The proposed mitigation land is not functionally linked land and is surrounded by the River Stour with permanent moorings and frequent traffic on one side, and a busy dual carriageway on the other. It will also be subject to constant light pollution and noise from the nearby salvage yard, metal fabrication unit (Stevens & Carlotti) and Discovery Park; as well as vibration from a new solar plant on the other side of the River Stour. The mitigation land is unsuitable as a replacement for the species and habitats it is intended to support. Golden plover rely on large open spaces like Minster Marshes.

77.2. Further, the experiences on the nearby NEMO Link project do little to inspire confidence in the Applicant's proposed mitigation measures. In addition, the NEMO Link project has caused irreversible damage to soil structure on agricultural land (see circled area in image below and **Appendix 1: Hydrogeologist report**).



*Image 2: Aerial view of part of NEMO Link project site area*

77.3. The image above also shows vehicles in the current ground survey works are not entering / exiting the site via a single route as required to avoid damaging a larger area than is necessary. SMM has spoken with the site foreman who has confirmed that no traffic management plan is in place, mats have not been used, and heavy machinery has blocked public and landowner access. One can expect the same type of behaviour will occur if the Sea Link proposal goes ahead.

## **(12) Public opposition and survey results**

78. SMM recognises that the number of objections to this scheme is not a material consideration. Nonetheless, it is notable that when the Applicant conducted its own research and questioned 955 people about the Sea Link proposal in Kent, 58% of respondents opposed its positioning on Minster Marshes, citing flood risk and ecology concerns. The substance of those concerns, for the reasons outlined above, are material to the consideration of this application. In addition, in their letter of 1<sup>st</sup> September to the Examining Authority, the Applicant stated: *“For this application over 6,000 Relevant Representations have been received, which to the best of the Applicant’s knowledge is a greater number than have been received on any DCO application to date.”* This is indicative of the strong feelings against the Applicant’s proposals.

79. More recently, SMM has undertaken its own survey of attitudes towards the proposal and the DCO process. We have had over 700 respondents in the month we have been running

the survey. The quantitative results are shown in the table below and the narrative responses are attached at **Appendix 4: Narrative responses**.

	Agree	Somewhat agree	No opinion/ don't know	Somewhat disagree	Disagree	Highest number % of total
NG have explored brownfield sites	10	4	13	45	<b>609</b>	<b>89%</b>
Marshland is suitable for building Europe's largest converter station	5	3	2	11	<b>660</b>	<b>97%</b>
Project will deliver BNG	10	4	13	33	<b>620</b>	<b>91%</b>
Location choice will have a positive climate change impact	8	3	7	28	<b>587</b>	<b>93%</b>
I feel my points will be dealt with fairly	23	34	87	130	<b>401</b>	<b>59%</b>
Reduction of open spaces in Thanet has had a negative impact on my mental health	<b>472</b>	116	52	12	26	<b>70%</b>
I use hoverport for recreation	<b>427</b>	91	111	11	37	<b>63%</b>

*Table 1: Save Minster Marshes survey  
(conducted via JotForm over one month; 712 responses received;  
full download available)*

80. The results above are indicative of a proposal which has been advanced without any proper consideration of the views of the local community. 97% of respondents believe that Minster Marshes is not a suitable location for a project of this scale and nature. Concerningly, 59% of participants do not have faith that their views will be properly considered and represented through this DCO process. SMM hopes that this Examination process will provide an opportunity for those views to be heard and to be taken into account, which until now the Applicant has tried at every opportunity to sideline.

## **Conclusion**

81. For all the reasons above, SMM's position is that the Applicant has substantially underplayed the significant adverse impacts of Sea Link on the natural landscape, ecology and biodiversity, in addition to failing to properly apply the mitigation hierarchy and assess reasonable alternatives. These matters are highly relevant to the Examining Authority / Secretary of State's consideration of (1) the overall planning balance, (2) the relevance of NPSs EN-1 and EN-5, and (3) the application of section 104 of the Planning Act 2008. Further, the failure to conduct proper consultation both at pre-application

stage and in respect of the latest proposed changes to the application, means that the principles of fairness and reasonableness for parties participating in the Examination have been compromised.

82. Unless the issues above can be resolved through future Examination hearings, then it follows that **the DCO Application cannot be recommended for approval.**
83. SMM would welcome the opportunity to assist the Examining Authority further at future stages of this process, including any additional issue-specific hearings which are timetabled in due course.

**SAVE MINSTER MARSHES**

**18 November 2025**

**APPENDICES:**

**Appendix 1: Hydrogeologist report**

**Appendix 2: Response to the request for Change 1 – Access to the Hoverport, Kent**

**Appendix 3: Impact of Sea Link Construction on Bat Populations at Minster Marshes**

**Appendix 4: Narrative responses to SMM survey**

**Appendix 5: Video and photographic evidence (zip folder)**