

Date: 26th November 2025

Examining Authority
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

By email: southeastanglialink@planninginspectorate.gov.uk

**RE: Sea Link (EN020026) Nationally Significant Infrastructure Project (NSIP) Application –
Written Summaries of Oral Submissions (Deadline 1a) – Kent Wildlife Trust [REDACTED]**

11th November 2025 - Issue Specific Hearing 1 on Scope of the Development

Comments on Agenda Item 5. Cumulative Impacts:

During the Issue Specific Hearing 1 (“ISH1”), the Examining Authority (“ExA”) expressed explicit concern that *“no mitigation has been confirmed at this stage”* with respect to significant intra-project cumulative effects. The ExA further noted that, *“from an HRA perspective, we do need certainty around the actual mitigation that will be implemented. So at the moment, I’m left with a degree of uncertainty around what the precise mitigation is.”* Kent Wildlife Trust (“KWT”) shares this concern in full. National Grid’s, hereinafter referred to as “the Applicant”, response during ISH1, that mitigation cannot yet be defined because there is insufficient knowledge of how long effects will last, signals a fundamental failure to satisfy the legal requirements of the Habitats Regulations.

Under Article 6(3) of the Habitats Directive, which is transposed into domestic law through Regulation 63 of the Conservation of Habitats and Species Regulations 2017, an Appropriate Assessment must present *“complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed.”* This standard is not optional. It is the legal threshold that must be met *before* consent can lawfully be given. The Applicant’s position, acknowledging uncertainty, deferring definition of mitigation, and stating that effects cannot yet be fully characterised, directly contradicts this requirement.

The Government’s own guidance reinforces this obligation. The Planning Inspectorate’s Advice Note makes clear that the competent authority may only conclude no adverse effect on integrity where mitigation measures are clearly defined, proven to be effective, and secured for the lifetime of the project. Measures that are hypothetical, illustrative, or yet to be designed cannot lawfully be relied upon. Yet in this case, key mitigation, particularly in relation to cumulative effects on designated sites, overlapping disturbance pathways, and functionally linked land, remains undefined or conditional, with the Applicant repeatedly stating during the hearing that these matters will be developed later.

This approach is incompatible with established case law. In *People Over Wind* (C-323/17), the Court of Justice confirmed that mitigation cannot be used to screen out likely significant effects, and in *Holohan* (C-461/17) the Court held that mitigation must be based on objective and site-specific evidence. In *Commission v Italy* (C-304/05), the Court stated that an assessment lacking detailed, binding and scientifically certain mitigation cannot be considered an *“appropriate assessment”* for the purposes of Article 6(3). The Applicant’s admission that

mitigation cannot yet be fixed, because the nature or duration of impacts remains unknown, places their HRA firmly outside the bounds of this legal framework.

KWT is therefore deeply concerned that the HRA and Environmental Statement currently relies on assumptions of future mitigation rather than secured, deliverable measures. This leaves the ExA without the certainty required by law. If the Applicant cannot define necessary mitigation at this stage, then the legal test under Regulation 63 cannot be satisfied. The only lawful conclusion, given the level of uncertainty acknowledged by the Applicant themselves, is that the HRA fails to rule out adverse effects on site integrity.

Comments on Agenda Item 6. Trenchless Landfalls:

KWT wishes to reiterate the serious concerns raised during ISH1 regarding the Applicant's reliance on trenchless techniques (HDD) at Pegwell Bay and the credibility of their assurances.

During the hearing, the Applicant asserted that they could not comment on, or draw from, the experience of the National Grid Ventures ("NGV") Nemo Link project because NGV is a "separate company" and that they *"don't have any special insight as to the nature of their decision-making at that time."*

The ExA quite rightly challenged this position, noting:

"My first port of call would be to go to my sister corporation and find out what information had been gathered on a project, so I assume there has been conversations between the two organisations?"

This exchange highlights a fundamental issue: the Applicant is asking the ExA to accept its assurances about the feasibility and reliability of HDD at Pegwell Bay, whilst simultaneously disclaiming any understanding of why trenchless techniques failed for their own sister organisation operating on the same coastline, within the same designated site, under almost identical physical constraints.

KWT raised this directly in the hearing, and these comments are reproduced here as part of our formal written submission (Deadline 1a):

"Firstly, I just want to point out that for Nemo, National Grid Ventures stated throughout the DCO process that trenchless techniques were feasible, but for whatever reason they went back on their promise. I find it concerning that National Grid haven't contacted and engaged with National Grid Ventures as to why they then couldn't use HDD, and therefore you can understand why we have no trust that HDD will be used for Sea Link.

Secondly, KWT is both a landowner and the long-term land manager of Sandwich and Pegwell Bay, and from our long-term management and interaction of the site, we can state with certainty that:

- The saltmarsh has not recovered from Nemo.
- The open-cut trenching has left a permanent scar – what was once saltmarsh vegetation, is now open water.
- The trenching severed the bank that separated the brackish lagoon from the tidal system, altering the hydrological function of the saltmarsh.
- This breach allowed saltwater to permanently flood the lagoon, resulting in the complete loss of freshwater that was heavily used and relied on by birds and

invertebrates – directly damaging and impacting the integrity of the Thanet Coast and Sandwich Bay SPA, Ramsar and SAC.

- The bank was not reinstated, despite National Grid Ventures promising that they would – they also claimed within Nemo Link’s Environmental Statement and subsequent project documents that the saltmarsh impacts would have quote “short-term effects”, with no significant impacts, and quote “temporary loss of vegetation expected to recover within 2-5 years”. However, we are nearly 8-years on, and the saltmarsh has not recovered; the brackish lagoon has been permanently altered, and the vegetation has not re-established to pre-impact condition.

Therefore, how can Kent Wildlife Trust, the Examining Authority, Natural England and other Interested Parties have confidence in National Grid’s current assessment of impacts for Sea Link, when previous assessments about impacts were so significantly and demonstrably wrong?”

It is a matter of record, not opinion, that the environmental predictions made during the Nemo Link DCO were severely inaccurate, and the mitigation commitments were not delivered. The Applicant’s refusal or inability to secure information from NGV about why trenchless techniques failed previously, and why open-cut trenching was ultimately used, leaves the ExA without a robust evidence base on which to rely. This is particularly relevant given that HDD failure at Sea Link could result in the same irreversible impacts to the same internationally designated site.

This is directly relevant to the legal tests under the Habitats Regulations. The ExA must be satisfied, beyond reasonable scientific doubt, that trenchless techniques *will* avoid adverse effects on site integrity. That threshold cannot be met where:

- the Applicant cannot explain why HDD failed before,
- cannot guarantee that open-cut trenching will not be required again, and
- cannot demonstrate that the ecological harm caused by open-cut trenching is avoidable or recoverable.

Based on the evidence before the Examination, including the Applicant’s own admission of uncertainty, that legal test is not met.

11th November 2025 - Open Floor Hearing 2

The following section provides KWT’s written summary of the oral submissions delivered at the Open Floor Hearing on 11th November 2025.

Kent Wildlife Trust’s Written Oral Submission:

“Good afternoon.

Kent Wildlife Trust is one of several landowners at Sandwich and Pegwell Bay, having bought and managed the site since 1987. The mosaic of habitats – from saltmarsh, mudflats, dune systems and grazing marsh – sits at the heart of the nominated World Heritage Site, the East Atlantic Flyway, supporting the millions of migratory birds that visit the site each year. Home to Kent’s largest seal population, it is quite simply, one of the most sensitive and ecologically valuable coastal systems in the county.

Given this significance, it is deeply concerning how Pegwell Bay and Minster Marshes have been selected for Sea Link. They are the beating heart of an internationally protected ecosystem – an

ecosystem that naturally stores carbon, absorbs floodwaters and buffers the coast – yet these habitats now face irreversible harm in the name of addressing the very crisis they help us withstand.

Overall, the DCO documents present what is, in effect, a retrospective justification for a pre-determined decision to select Pegwell Bay and Minster. Reasonable alternatives were dismissed early, and crucially, were never put before the public. This is a procedural failing, but it is also a strategic one: the project is being forced into the most environmentally sensitive location because the Applicant did not allow the process to genuinely consider anything else.

That failure is made even more serious by the fact that the environmental baseline the project relies upon is incomplete. Almost every protected species assessment is based on a single survey season – with some relying entirely on desk-based data. No baseline habitat assessment has been conducted for the proposed golden plover mitigation site, meaning the Applicant cannot guarantee that it is even suitable. What we do know is that it sits only a stone's throw from where we are sitting now, directly beside the A256 — a road identified in the Applicant's own Noise Chapter as one of the most dominant and persistent noise sources in the area.

We also cannot ignore the history of the site. With National Grid's previous cable, Nemo Link, trenchless techniques were promised and then abandoned, causing catastrophic and long-lasting damage to the saltmarsh – damage that has still not recovered and can be seen today. Sea Link's DCO acknowledges open-cut trenching may be required – including preferred open-cut trenching through intertidal mudflats, a Priority Habitat and foundation of the SPA's qualifying bird assemblages. Therefore, it is concerning that the Applicant is not taking the same caution at the Kent landfall site, as they are at Suffolk, where trenchless techniques will be used to avoid all intertidal habitats.

Crucially, Sea Link is not the last proposed project to effect Sandwich and Pegwell Bay. National Grid's Beyond 2030 Strategy already identifies Pegwell Bay as the preferred landfall for a third interconnector project to connect Scotland windfarms to Kent – a project that has been omitted from Sea Link's cumulative impact assessment despite its clear relevance as a foreseeable project with overlapping environmental pathways. We are witnessing the gradual transformation of an internationally protected ecosystem into a default landing point for high-voltage infrastructure. As with the Suffolk side, the Kent coastline is being treated as a “zone of sacrifice” simply because of its geographical convenience.

This is not strategic planning. It is incremental erosion of a designated site – death by a thousand cuts, delivered through separate projects that are chipping away at the habitats this ecosystem depends on.

Kent Wildlife Trust fully supports the transition to clean energy – but you cannot destroy the environment to save the environment. Climate change is the defining challenge of our time, but the solution cannot be to erode the very ecosystems that protect us from its impacts. There are alternative landfall options. There are alternative converter station sites. And there are alternative strategic approaches that could avoid this internationally protected landscape entirely.

The Examining Authority is being asked to accept a project whose risks remain unclear because the evidence base remains incomplete. We will provide the technical detail in our Written Reps, but here today our message is simple: the risks are too great, the evidence too thin, and the consequences irreversible. Pegwell Bay and Minster Marshes are not suitable locations for this

project. They are too important, too fragile, and too integral to Kent's ecological and climate resilience to be treated as expendable.

In closing, Kent Wildlife Trust urges the Examining Authority to scrutinise this application with the utmost rigour. We ask you to ensure that alternatives are properly explored, that environmental risks are fully evidenced, and that no project proceeds unless it can be shown, beyond reasonable scientific doubt, that the integrity of these protected sites will be preserved.”

Kind regards,

Emma Waller
Planning & Policy Officer
Kent Wildlife Trust

