

Sea Link Nationally Significant Infrastructure Project (NSIP) Application

Planning Inspectorate Reference: EN020026

Deadline 6 - Comments on the Report on the Implications for European Sites (RIES) – response by CPRE Kent Unique Reference Number: [REDACTED]

While CPRE Kent submits the comments below on the RIES, these are made pending further information from the Applicant and further comments from a number of statutory bodies. In particular, we note from Natural England's Deadline 5 response that it had not yet completed a review of all relevant documentation and therefore hoped to respond further at this deadline (Deadline 6). Likewise, we note at ISH3 the Environment Agency explained that its Deadline 5 flood risk position was already out of date as further positions have now been agreed with the applicant, again to be submitted at Deadline 6.

Accordingly, CPRE Kent will likely need to further consider such updated positions in its summary statement at Deadline 7, once all outstanding documentation has been submitted.

In terms of our substantive response, we welcome the Examining Authority's observation at ISH3 that it is "*not convinced*" the Applicant has demonstrated that all residual impacts are those that cannot be avoided, reduced or mitigated. In CPRE Kent's view, the scale of unresolved issues at this very late stage in the examination process only serves to reinforce the point we have made from the outset, namely Pegwell Bay is clearly the wrong landfall location. In this respect, it remains our clear view that the scheme failed at the first and most important stage of the mitigation hierarchy, namely avoidance. Instead, the Applicant is still trying to patch fundamental evidential and design flaws at the end of the examination, rather than demonstrating that the scheme was genuinely shaped by avoidance from the outset.

We note however the ExA's have a particular concern that the Applicant's approach to in-combination effects has been too narrow. In this respect, we again wholeheartedly agree. Whilst much of the ExA's concerns on this point are seemingly directed towards the Suffolk end of the scheme, we would strongly argue the same issue clearly applies in Kent. As we, KWT and others have continually pointed out, the Nemo Link has already disturbed the Thanet Coast and Sandwich Bay SPA and Ramsar, and the Thanet Coast SAC, through open-cut trenching of intertidal mudflats and saltmarsh habitats. Sea Link would obviously impose further pressure in the same location, as obviously would the reasonably foreseeable Aberdeenshire to Richborough project (with the fact this project has been omitted from the cumulative impact assessment indefensible in our view). In this respect, we would strongly agree with KWT and others that neither a lawful or precautionary approach to the assessment of cumulative impacts has been taken.

Overall, it remains CPRE Kents strong view that the mitigation hierarchy has not been properly met. The scheme has not sort to avoid harm but is instead still trying to make a clearly unsuitable landfall location work.

Against this context, we make the following detailed comments/observations against the specific REIS questions:

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<p>RIESQ3 – Sandwich Bay SAC: trenchless landfall techniques</p>	<p>CPRE Kent completely agree with the point made by KWT that, as HDD is clearly being relied upon as mitigation measure, it was incorrect to screen out likely significant effects at the screening stage. Further, as we and others have continually pointed out, there is an obvious and very real risk that if trenchless methods fail the applicant will simply just seek a post-consent change to open-cut trenching.</p> <p>Against that context, we agree with KWT that the Order must be completely clear that open-cut trenching through saltmarsh or any other irreplaceable habitat cannot be permitted under any circumstances, including by way of any post-consent change. Requirement 16 should therefore be strengthened so that, if no feasible trenchless solution can be delivered at Pegwell Bay, the project does not proceed at this landfall location without a proper consideration of alternative happening first.</p> <p>Without such stronger wording and without assessment of the true worst case, a conclusion of no likely significant effect can not be maintained.</p>
<p>RIESQ7 – Stodmarsh SPA / Ramsar: loss of FLL for hen harrier</p>	<p>Whilst CPRE Kent have not previously commented upon this issue, we nonetheless surprised to learn that species-specific survey work has not been conducted with respect to Hen Harriers given the proximity of the Stodmarsh SPA. Against this context, we can not see how a conclusion of no likely significant effect can be made so look forward to seeing Natural England’s response/may seek to comment further.</p>
<p>ID 3.3.19 – HDD failure risk at Pegwell Bay</p>	<p>We again repeat our point made at ID 2.3.7 above that If HDD and other trenchless methods fail, the scheme should simply not proceed at this location.</p>
<p>ID 3.3.23 golden plover mitigation site</p>	<p>Whilst we welcome the ExA summarising the concerns have consistently made regarding the completely ineffectual golden plover mitigation land with the RIES, we still cannot agree the proposed mitigation will truly replace the function of the existing land.</p> <p>Accordingly, CPRE Kent remains utterly unconvinced that the proposed mitigation land has been shown to be suitable or functionally equivalent to the land that would be lost.</p>