

Thanet District Council's Response to the ExA's Third Written Questions at Deadline 6

EN020026 – Sea Link Project

ExQ3	Question to:	Question:	
1. General and Cross-topic Questions (GEN)			
General			Thanet District Council Response
3GEN2.	Applicant and all interested parties	<p>Critical national priority</p> <p>Paragraph 4.2.15 of NPS EN-1 says that where residual non-habitats regulations assessment or non-Marine Conservation Zone (MCZ) impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for CNP infrastructure. It goes on to say that the exception to this presumption of consent are residual impacts onshore and offshore which present an unacceptable risk to, or unacceptable interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. The same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk.</p> <p>a) Without prejudice to the position of any party, are there any issues in this case that might potentially fall into this category of the exceptions to this presumption of consent? For example, might the issue of flooding and the application of the sequential and exception test potentially fall into this category in the event of there being an “unacceptable risk”?</p> <p>b) Are there any further submissions any party wishes to make on the potential application of CNP policy in this case (should it be required)?</p>	The Council has no further comments to make in relation to concerns previously raised and would defer to statutory bodies with regards to the exceptions on presumptions of consent.
3GEN8.	Relevant planning authorities	<p>Independent design review</p> <p>Provide suggested wording to incorporate a post consent independent design review of the converter stations, Kent substation and River Fromus bridge</p>	Full wording has been provided in Requirement 3(d) set out in Appendix A of this document.
3GEN10.	Applicant, relevant planning authorities, Dover District Council (DDC), SCC, Kent County Council (KCC)	<p>Requirement 3</p> <p>Develop an agreed form of wording for the approval of details of the above ground elements of the proposed development. If agreement cannot be reached on specific points, explain what those points are and why agreement cannot be reached.</p>	See Appendix A of this document for full wording. The requirement has been amended to enable TDC control over the whole converter and substation to ensure the proposals comply with the relevant parameters and documents beyond just the design of the buildings.

3GEN17.	All local authorities	<p>Article 10</p> <p>Action point 115 from issue specific hearing 2 (ISH2) [EV6-033] asked all parties (applicant and councils) to meet/liase to agree suitable wording of article 10 which all parties are content with, with an update on progress and any agreement submitted by DL4. To date no suggested alternative drafting for article 10 has been submitted into the examination.</p> <p>Given the advanced stage of this examination and the absence of agreement, it appears likely that this is a matter upon which the ExA will need to adjudicate. To assist the ExA, can SCC work with all relevant local authorities to produce amended drafting for article 10 which addresses its previously discussed concerns, for submission by DL6.</p>	TDC has engaged with SCC and agrees with the wording of Article 10 submitted by SCC.
3GEN25.	Thanet District Council (TDC)	<p>Requirement 6</p> <p>In response to ExQ2 2GEN26, TDC [REP5-207] suggested that an Operational Management Plan should be secured through the dDCO via requirement 6 to capture the operational commitments and mitigation that are not secured elsewhere in management plans or requirements.</p> <p>Provide suggest additional drafting for requirement 6 which would address your concerns.</p>	<p>Suggested wording for Requirement 6</p> <p>“(t) Operational Environmental Management Plan (which must include any operational commitments and mitigations which are not explicitly set out in any other management plans listed above).”</p>

ExQ3	Question to:	Question:	
2. Landscape and visual			
			Thanet District Council Response
3LVIA3.	Relevant planning authorities	<p>Lighting</p> <p>The dDCO includes a provision in requirement 3 for the submission and approval of details of operational lighting. Does this meet your requirements or do you consider that an outline lighting management plan and/ or maximum parameters for lighting are still required? If so, explain why and provide suggested wording.</p>	<p>TDC are content that Requirement 3 would adequately require the submission and approval of details of lighting. However, TDC still maintains that maximum parameters for lighting should be secured in the REAC and controlled through the Operational Environmental Management Plan as suggested in TDCs response in 3GEN25.</p>

ExQ3	Question to:	Question:	
3. Ecology and Biodiversity			
			Thanet District Council Response
3ECOL12.	ESC, SCC, TDC, KCC, National Trust	<p>Outline Offshore Construction Environmental Management Plan, outline Construction and Environmental Management Plan (oCEMP) [REP5-068] and REAC – Environmental Clerk of Works</p> <p>Do the local authorities or the National Trust have any concerns relating to the use of an Environmental Clerk of Works as opposed to an Ecological Clerk of Works to oversee works, noting that ecology and biodiversity measures originally referred to use of an Ecological Clerk of Works and the term ECoW is used interchangeably within the document? It is noted that REAC [REP5-115] provision B48 still refers to an ecological clerk.</p>	<p>TDC are of the view that Environmental Clerk of Works (EnvCoW) and Ecological Clerk of Works (ECoW) are two distinct roles. ECoW will be responsible for managing and monitoring the impacts on flora and fauna and compliance with the relevant legislation. EnvCoW has a broader remit which can cover air and water quality, pollution prevention and general environmental legislation. Whilst the EnvCoW may have some responsibilities in relation to ecology it is unlikely they would have the necessary knowledge and expertise to carry the function of a ECoW.</p> <p>TDC requests that the oCEMP is updated to set out where are EnvCoW is required and their remit and where a ECoW is required and their remit.</p>

3ECOL13.	Applicant ESC, SCC, TDC, KCC	oCEMP [REP5-068] provision B02 – vegetation removal Confirm whether the provision should read 'Wherever possible' rather than 'The assumption will be' and if not, suggest alternative wording.	TDC agrees the wording should be amended to "Wherever possible"
3ECOL14.	Applicant TDC, KCC	oCEMP [REP5-068] provision B04 – invasive non-native species For transparency should the list of invasive non-native species also refer to Nuttall's waterweed and if not, why not?	TDC does not agree that Nuttall's Waterweed needs to be specified. The list of invasive non-native species set out in B04 is not definitive but an example of invasive non-native species that may be present. B04 commits to pre-commencement checks/surveys for presence of invasive non-native species which must check for all invasive non-native species and not just those listed in B04 specifically.
3ECOL15.	Applicant ESC, SCC, TDC, KCC	oCEMP [REP5-068] provision B05 – two stage habitat manipulation Should this provision refer to 'reptiles' rather than 'common reptiles' and if not, why not?	TDC agrees with the proposed amended wording.
3ECOL16.	Applicant ESC, SCC, TDC, KCC	oCEMP [REP5-068] provision B07, B36, B53 – hedgerow gap filling Should 'where practicable' be removed or an alternative form of wording adopted to ensure that the conclusions of the environmental impact assessment in respect of bats and dormice can be relied on and if not, why not? Where relevant provide alternative wording.	TDC agrees that the wording 'where practicable' should be removed for B07 and B36 but not for B53. The mitigation allows for a maximum gap of 10m which will be made smaller where this is practicable and thus the wording of 'where practicable' would appear reasonable in regard to B53. TDC would defer to KCC to confirm if the maximum 10m gap is appropriate.
3ECOL18.	Applicant TDC KCC	oCEMP [REP5-068] provision B44 – noise fencing Should this article be updated to refer to all relevant named designated sites and if not, why not?	TDC understands the noise fencing is required as a best practicable method to reduce noise particularly on the Sandwich Bay to Hacklinge Marshes SSSI which lies adjacent and within the order limits. However, clarity is required as to whether the mitigation is required for other designated sites. TDC defers to KCC/the Applicant to confirm this.

ExQ3	Question to:	Question:	
7. Agriculture and soils			
			Thanet District Council Response
3AS1.	Relevant planning authorities Applicant	Reinstatement of field drains Relevant planning authorities: Commitment W10 of the REAC states that field drains will be permanently reinstated or rerouted ensuring their existing function is maintained. Provide comments as to whether this is sufficient to ensure that agricultural land drainage is adequately reinstated, taking into account the provisions of requirement 10 of the dDCO. If this commitment is insufficient, explain what measures are required. Applicant: Provide an update to the response given to Suffolk Energy Action Solutions (SEAS) in [REP3-064] table 29.1 in relation to obtaining details of current land drainage systems.	During ISH3 the Applicant advised that, in response to the Save Minster Marshes comments on surface water ponding elaborating on their submissions REP4-145 and REP4-146, that the area within the order limits is poorly drained. Commitment W10 only secures the return to their existing function which in the case of Kent would be of poor condition. Can the commitment include an opportunity to improve drainage rather than simply return the land to a status of poor drainage conditions?
3AS7.	Relevant planning authorities	Outline Soil management plan (oSMP) Would the oSMP make adequate provision for the reinstatement of land, soil management and handling? If not, explain why not and provide suggested wording for additional provision.	TDC is content with the oSMP. The only comment would be is that is unclear how long the soil will be stockpiled and whether the proposed methods are suitable for either short, medium or long term stock piling and management of the soil.

3AS8.	Relevant planning authorities	<p>Reinstatement to pre-development agricultural land quality</p> <p>Provide comments as to whether the measures included in the oSMP would ensure that land would be restored to its pre-development agricultural grade. If not, provide details and suggested wording of additional measures or commitments.</p>	<p>TDC is unable to comment on the specific measures in the oSMP, there is an opportunity to improve the condition of the soil where possible. This would then ensure that the soil is reinstated to at least its pre-development agricultural stage.</p> <p>The oSMP currently does not set out the proposed mitigation/actions to be taken if the land cannot be restored to its pre-development agricultural grade.</p>
3AS9.	Relevant planning authorities	<p>oSMP</p> <p>Would the measures set out in the oSMP section 9. table 9.1 monitoring requirements be sufficient to ensure soil structures would not be detrimentally affected? Does this take into account the sandy soil types in Suffolk and the salt and marshy soil types in Kent?</p>	<p>TDC notes that the oSMP provides a general management plan for the soils and the soil profiles. It is unclear in the ES and the application whether the soils are defined as salt or marshy. However, based on the oSMP, the measures in table 9.1 should be applicable to the relevant soil type/profiles.</p>

ExQ3	Question to:	Question:	
9. Air Quality			
			Thanet District Council Response
3AQ3.	Applicant ESC TDC	<p>Modelling parameters</p> <p>Explain why there is a difference in approach to surface roughness parameters and NO_x to NO₂ conversion in the updated appendix B technical note [REP5-136] compared with the original modelling report [APP-186]?</p> <p>The ExA notes that surface roughness parameters have changed from 0.5 to 0.3 m and the updated technical note uses a NO_x to NO₂ conversion rate of 70%, whereas the original assessment applied the Defra calculator.</p> <p>ESC and TDC may wish to comment.</p>	<p>TDC is unable to comment on critical loads and deposition rates on ecological receptors which would be considered by NE. TDC is satisfied with the assessment and mitigation in relation to human health.</p>
3AQ4.	ESC TDC Royal Society for the Protection of Birds (RSPB) NE	<p>Outline Air Quality Management Plan (oAQMP) and other air quality control measures (REAC and oCEMP)</p> <p>Comment on whether any further amendments to the oAQMP [REP5-074], [REP5-076] or other air quality controls are required and propose alternative drafting where relevant.</p>	<p>TDC considers that no further amendments need to be made.</p>

ExQ3	Question to:	Question:	
10. Noise and vibration			
			Thanet District Council Response
3NV2.	ESC TDC	<p>Night time working controls for arrivals and departures from site</p> <p>The applicant's response to 2NV2 [REP5-135] suggests that day time controls in the REAC [REP5-115] or the outline Construction Noise and Vibration Management Plan (oCNVMP) [AS-131] [AS-133] are sufficient to control arrival/departure noise for 24 hour working. Notwithstanding the councils' position on working hours, are the councils satisfied that the proposed control measures would otherwise be sufficient to control night time noise? If not, suggest drafting for any other controls that might be required.</p>	<p>Document 6.2.3.9 Part 3 Kent Chapter 9 Noise and Vibration [REPAS-111]</p> <p>The assessment indicates (at Night-time Construction Noise section - 9.9.11 to 9.9.13) that there are no NSR within the construction noise study area for likely night-time construction works. Construction noise effects during likely night-time works are therefore not significant.</p>
3NV4.	Applicant ESC TDC	<p>oCEMP [REP5-068] measures NV04 and NV05</p> <p>Can the applicant include reference to the British standard methodology (or its successor) that would be followed in these measures and if not, why not?</p> <p>ESC and TDC may wish to comment.</p>	<p>TDC supports the inclusion of BS5228 -1:2009+A1:2014 noise and BS5228 -1:2009+A2:2014 vibration.</p>
3NV5.	ESC TDC RSPB NE	<p>Outline Construction Noise and Vibration Management Plan and other noise control measures (REAC and oCEMP)</p> <p>Comment on whether any further amendments to the oCNVMP or other noise controls are required and propose alternative drafting where relevant.</p>	<p>The noise controls and measures secured by REAC and the oCEMP provide a robust and comprehensive framework for controlling construction noise and no further amendments are considered necessary.</p>

ExQ3	Question to:	Question:	
11. Socio-economics, recreation and tourism			
			Thanet District Council Response
3SERT2.	Applicant KCC SCC East Suffolk Council Thanet District Council Dover District Council	<p>Tourism monitoring and contributions</p> <p>SCC [REP5-185] has stated that the applicant should commit to monitor effects on accommodation capacity and tourism in coordination with cumulative developments. SCC also suggests a proportionate contribution to foster tourism, similar to the fund created by Sizewell C, if further embedded mitigation is not feasible.</p> <p>Applicant: The ExA requires that the applicant commit within the DCO to monitoring of tourism impacts (including the availability of accommodation) through the construction and into the operational phases. Could this include a tourism fund, if the monitoring demonstrates significant tourism impacts? If this is not included, provide reasons why not.</p> <p>All County and District Councils: The ExA require that the Councils</p>	<p>TDC is keen to work alongside the other Council's to provide wording for a requirement within the DCO in relation to the monitoring and possible adaptive management of tourism impacts. However, due to the timeframe between the ISH3 and Deadline 6 it has not been possible to undertake this Action Point for this submission.</p>

		work together to provide wording for a requirement for the applicant to monitor the effects of the proposed development on tourism and accommodation, with adaptive management/mitigation if required.	
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ExQ3	Question to:	Question:	
12. Health and wellbeing			
			Thanet District Council Response
3HW3.	Applicant	<p>Mental Health and Wellbeing Monitoring Plan SCC [REP5-178] considers that the applicant should develop and implement a proportionate but robust Mental Health and Wellbeing Monitoring Plan for the duration of the proposed development (construction and early operation), with clear reporting routes and defined review points. The ExA requires the applicant to commit to such a monitoring plan. If the applicant does not agree to this, explain in detail why.</p>	TDC welcomes and supports the provision of Mental Health and Wellbeing Monitoring Plan.

ExQ3	Question to:	Question:	
13. Onshore Cumulative effects (intra-project)			
			Thanet District Council Response
3CEIntra2.	Applicant, All Councils	<p>REAC commitment (GG40) to review / mitigate significant intra-project cumulative effects Do you agree with the proposed wording for REAC commitment GG40 offered by SCC in answering ExA question 2CEIntra2 in [REP5-204]? In responding clearly explain your reasoning for your position and provide/justify any changes to the wording.</p>	TDC agrees with the wording set out by SCC. This provides a reasonable precautionary approach which allows the Applicant to confirm assumptions in the ES with regard to intra-project cumulative effects and provide additional mitigation where necessary following the mitigation hierarchy.
3CEIntra3.	Applicant	<p>Construction Core Working Hours Does the applicant accept the proposed core working hours suggested by SCC in order to protect public health in responding to ExA question 2CEIntra2 in [REP5-204]?</p>	TDC supports the proposed core working hours suggested by SCC.

ExQ3	Question to:	Question:	
15. Marine physical Environment			
			Thanet District Council Response
3PE4.	ESC, TDC, EA, MMO	<p>Outline Offshore CEMP [REP5-066] provision MPE06 Confirm whether the beach profile and erosion rates monitoring provision in MPE06 should be subject to the caveat 'where rock bags are planned to be placed' and if not, suggest alternative wording.</p>	<p>TDC states that placing artificial coastal management structures on the foreshore can have effects on sediment transport across the bay and therefore impact a wider area than the local site where rock bags are placed. Where such structures are built on the foreshore it is typical that a sediment transport model is produced to establish the impact of the structures, albeit temporary in this case. This is often undertaken as part of a Water Framework Directive Assessment which also identifies impacts on bathing water quality.</p> <p>Monitoring should be undertaken over the whole of Pegwell Bay.</p>

3PE6.	TDC, EA, NE, MMO	Outline Offshore CEMP [REP5-066] provision MPE09 Should the need for further monitoring after five years in MPE09 be subject to agreement with relevant stakeholders?	Yes, access to TDC land to undertake monitoring after five years would be subject to TDC land use licensing, which will consult with relevant council departments.
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APPENDIX A – RESPONSE TO 3GEN10.

Detailed Design

3.—(1) Suffolk Converter Station, Kent Converter Station and Kent Substation

- (a) No above ground works included in Works Nos. 3B, 9B and 11 (Suffolk converter station, Kent converter station and Kent substation) may commence until details layout, scale, operational lighting, surface finishes and materials, which must be in accordance with the relevant Key Design Principles, have been submitted to and approved by the relevant planning authority, following consultation with Historic England for Works 9B and 11.
- (c) In paragraph (2)(a) the Key Design Principles mean those set out in the relevant tables in the Design Principles – Suffolk and Design Principles – Kent, certified under article 60 (certification of documents). For avoidance of doubt, in paragraph (3)(a) the above ground works include the construction of the platform but excludes other elements that are not above finished ground level.
- (d) In submitting the details set out in paragraph (2)(a), a statement must be included confirming the detailed design has been reviewed by an independent design review panel along with the actions taken.
- (e) The authorised development must be carried out in accordance with the details approved or confirmed by the relevant planning authority further to sub-paragraphs (2)(a).

(2) Suffolk Substation (Friston)

- (a) Unless otherwise approved by the relevant planning authority, the Suffolk Substation (Work No 1B) will be constructed in accordance with the following details (which accord with the documents submitted for the discharge of Requirement 12 of part 3 of schedule 1 to SI 2022/433):
 - (i) Substation buildings will be clad in metal cladding using either cool sky tones, light/mid-range ground colours, and darker hedgerow/woodland elements. These colours would include RAL DESIGN 240 80 05, RAL DESIGN 110 60 20 or RAL DESIGN 120 50 05 or similar.
 - (ii) The roof cladding should match the colour of the uppermost wall cladding on the buildings.
 - (iii) The door colour should match the colour of the cladding around it.
 - (iv) Perimeter security fences would be coloured green (RAL DESIGN 110 60 20 or similar).
- (b) Insofar as the details approved pursuant to Requirement 12 of SI 2022/433 are amended or if the East Anglia TWO or East Anglia ONE North projects do not progress as currently planned, then the relevant planning authority shall have regard to such circumstances when considering whether to approve otherwise pursuant to paragraph (a). 97

(3) Bridge over the River Fromus

- (a) Development of the bridge crossing of the River Fromus (part of Work No. 3a) must not commence until details of the layout and scale of the bridge have been submitted to the relevant planning authority, and the relevant local planning authority has confirmed, following consultation with the Environment Agency, that the parameters set out in (4)(b) have been met.
- (b) The bridge over the River Fromus should be designed in accordance with the following parameters:
 - (i) the bridge shall not have a soffit height lower than 10.49 m Above Ordnance Datum (approximately 4m above the Q95 flow level);
 - (ii) abutments for the bridge shall be set back no less than 8m from the top of the bank; and
 - (iii) the bridge shall not have a deck width greater than 6m.
- (c) The details of layout and scale submitted under (a) must be accompanied by a technical statement demonstrating how, recognising the minimum size parameters in (b)(i) and (ii), the Applicant has sought to reduce the scale of the bridge, having regard to the relationship with the landscape mitigation proposals, the articulation of the spanning structure, the design of the abutment walls, and the design of the parapet railings. The technical statement will include a plan, elevation and section drawings, and 3D renders of the bridge design in key view VP02 and CH02.
- (d) No part of the finished external treatment of the bridge crossing of the River Fromus comprised in Work No. 3A(a) (part of the authorised development comprising the access road to the Suffolk Converter Station) must be implemented until details of the external colour and surface finish (in line with the process established in Design Principle ID.3) have been submitted to and approved by the relevant planning authority.
- (e) Should the bridge design comprise a soffit height of less 12.49 m Above Ordnance Datum (approximately 6m above the Q95 flow level), then development of the bridge must not commence until a macro invertebrate monitoring and contingency plan has been submitted to and approved by East Suffolk Council, following consultation with the Environment Agency. The invertebrate monitoring and contingency plan must include:
 - (i) The requirement to carry out Water Framework Directive compliant surveys twice yearly (spring and autumn), upstream and downstream of the Fromus crossing for a period of five years following completion of the construction of the Fromus crossing.
 - (ii) Principles of the contingency monetary fund set out in (f) and criteria for when provision of the fund would be triggered. (f) Following receipt and review of the monitoring results under (e)(i), should the criteria in (e)(ii) be exceeded, then a contingency fund would be provided to fund measures to encourage the passage of macro invertebrates around the Fromus crossing and/or enhancement of Water Framework Directive invertebrate habitat upstream of the Fromus crossing. This would be secured via an appropriate legal agreement.