

PLANNING ACT 2008

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

PINS REFERENCE: EN020026

INTERESTED PARTY REFERENCE: 

**SUBMISSIONS ON BEHALF OF SAVE MINSTER MARSHES
FOR DEADLINE 7**

Introduction

1. These are written submissions on behalf of Save Minster Marshes (“**SMM**”) in relation to Deadline 7 of the SeaLink DCO Examination. This submission addresses
 - a) Items that we do not believe have been resolved satisfactorily
 - b) Comments on Action points from ISH3
 - c) Comments on RIES
 - d) Comments on submissions post Deadline 6

Items we do not believe have been resolved satisfactorily

2. REP6-025, 6.2.32 Ecology & Biodiversity paragraph 2.9.31 “Installation of overhead line pylons either side of Sandwich Bay to Hacklinge Marshes SSSI will not cover the entire breeding season (March to September included) but will either take place outside the bird breeding season or will only occupy approximately two months of the breeding season unless otherwise agreed with Natural England. Any works causing noise levels above 60dB Lamax at the boundary of the SSSI, will take place outside the bird breeding season (March to August included).” Is still somewhat confusing about whether the SSSI will be impacted by pylon construction during

the breeding season that includes September and which 2 months will be discounted. We believe this should be much clearer and consistent with REP6-135 REAC items B50 and B6 . Different season dates and exclusions area used and we contend that for the avoidance of doubt there should be no interference or work near the SSSI for the entirety of the breeding season March to September inclusive.

3. Point B53 of REP6-135, REAC a new addition “Larger gaps in hedgerows or woodland belts would be reduced to a maximum of 10 m during the night by hurdles or similar. These temporary structures would be retained until replanted vegetation matures or replaced by ‘dead hedging’ using cut woody material retained from hedgerow gap creation” appears to suggest now that gaps in hedging will not be replanted but may be replaced by slash and leave. This is not acceptable. Trees and hedges removed must be replanted to secure least environmental damage.
4. AQ11 of REP6-135, REAC appears to say that the generator size is currently not agreed upon and the applicant is reserving the right to increase the size of the generators after the DCO process is completed. They continue in NV09 “ Additionally, **where practicable** the substation and converter station designs will seek to achieve noise levels at nearby noise sensitive receptors ~~in line with the aims of the local authorities, or otherwise~~ as low as reasonably ~~practicable~~.possible”. The two items taken together appear to mean that the size of the generators can increase and there will be nothing that the LAs can do about the increased noise. We would question whether this is acceptable to the LAs and whether the ExA think that this is reasonable.
5. Point MM04 of REP6-093, Document 9.101: Kent Onshore Scheme – Fluvial Flooding from the River Stour states “The Applicant will seek to carry out survey activities, **where practicable**, during summer months to maximise suitable survey weather windows.” We think that this should be a commitment and should state the survey window and what is proposed rather than the somewhat vague “where

practicable” and “summer months”, since noise impacts on cetaceans and pinnipeds is of concern to us.

6. We are pleased to see the noise impact on birds in the Sandwich Bay to Hacklinge Marshes SSSI has been acknowledged in B44 of REP6-135 and the proposal to use noise buffer fencing in mitigation. But SMM are somewhat mystified that Cetti Warbler’s nests are given special attention in B48 – whereas all the other breeding birds in the area will also be nesting at the same time and appear disregarded. Can the ExA please ask the applicant to explain this attention or rather the disregard for other breeding birds and request a similar commit for all breeding birds that are recorded in this area.
7. We are pleased to see that the applicant has finally acknowledged the impact of fluvial flooding and has produced REP6-093, Document 9.101: Kent Onshore Scheme – Fluvial Flooding from the River Stour. From this we can see the effects of the pylon bases are considered negligible. The response from the applicant, diagrammatically laid out in Plate 2.1 that shows 10 attenuation ponds within the line of pylons, one attenuation pond that is south of the Fishing Lakes and appears to be on top of the Minster Stream (we have mentioned this in our previous submissions) amongst others. This appears inconsistent with the later Plate 2.3 that appears only to show part of the pylon area in detail. The maps also indicate temporary attenuation ponds and not permanent ponds, so it is unclear to us how the increased flooding will be alleviated if the ponds are only temporary. We would also question whether the land-owners have been made aware of these requirements and are in agreement with their creation and would request the ExA to check these points with the Applicant.
8. Further to our point 8 above, we are still concerned that that the obvious risk of **Ground Water Flooding** is still not addressed by deadline 7. This will be of major concern for the construction of the Converter Station and Sub Station north of the River Stour and will contribute to increased construction costs, environmental

harm and the loss of carbon sequestering soils over 12h or more, when taking into account the footprint of the buildings plus permanent access roads.

9. In para 2.3.2 of REP6-093, Document 9.101: Kent Onshore Scheme – Fluvial Flooding from the River Stour, the Applicant states “the regulator’s position (the EA) is that any loss of fluvial floodplain storage should be compensated for. Floodplain compensation may be delivered in a range of ways, a typical example being to lower an area of land that is hydraulically connected to the same floodplain cell in which the losses occur, to re-provide storage on a volume for volume basis as a minimum” and goes on to state that this will be committed to in the REAC in W35. This currently states that it will be committed to in consultation with the Environmental Agency and will be explained in the “Floodplain Compensation Strategy detailed in the Drainage Management Plan”. Although new documents have been submitted – we cannot see that an up-to-date Drainage Management Plan has been submitted for further consideration.
10. In point B55 of REP6-135, REAC, SMM are delighted to see that the applicant has taken on board the suggestion that bird diverters must be provided for all new power lines and that these must be visible at night. We would like to know which type is proposed as it is very easy to type the words in the REAC – but not so easy to secure suitable types and we would be interested to see what it being proposed.
11. We have examined REP6-071 7.5.11 Marine Mammal Mitigation Plan. Table 1.2 roles appears to miss the Environmental Manager and the Environmental Clerk of Works who we understand from REP6-073 7.5.2 (D) Outline Offshore Construction Environmental Management Plan is to be appointed to manage compliance with standards and conditions at Pegwell Bay.
12. From REP6-071 7.5.11 Marine Mammal Mitigation Plan we understand that noise disturbance modelling for seals has not been updated since late submission 1 document 9.49 (REP1-122). Since the ExA has required the applicant to update the noise modelling at Pegwell Bay, we would welcome an update for further

consideration. Especially since REP6-071 7.5.11 Marine Mammal Mitigation Plan indicates that seals will not suffer noise disturbance during the construction of the coffer dams. Updated noise modelling may well impact this conclusion.

13. In addition to point 13 above, we do not agree with the Applicant that there is scant information available about the effects of human noise on marine mammals. Please refer the applicant to *“Temporary threshold shifts from mid-frequency airborne noise exposures in seals, June 2025, Colleen Reichmuth, Jillian M. Sills , Jason Mulsow, Marla M. Holt , Brandon L. Southall”* where impacts at 24dB have been identified. This would bring the haul out area at Pegwell Bay within the impact zone for noise regardless of the new modelling to be provided.
14. In REP6-025, 6.2.3.2 (G) Part 3 Kent Chapter 2 Ecology and Biodiversity we welcome the acknowledgement of the colliery spoil at the Hoverport hard standing and commitment in the REAC W37 – but note that this is Post Consent. The Applicant has had 4 years to investigate and prepare this information, suggesting that they were not ready for this DCO process.
15. Point MPE10 of REP6-135, REAC refers to the “Pegwell Bay Landfall Construction Method Statement” which is clearly not published yet. In B68 (Ibid) it is clear that this will not be provided until post consent. We continue to argue that leaving the construction detail to post consent will allow the Contractors a ‘get out clause’ for not following agreed practice. We could envisage another NEMO, where what was promised was not delivered in practice. We would request that the Applicant is required to finalise and commit to construction methods that are least damaging, since the option to Avoid within the Mitigation Hierarchy has been bypassed for this project.
16. We recall at ISH3 discussion of a Converter Station design that would not require removal of the connecting double hedgerow between the SSSI and the Minster Stream (refer to Transcript EV9-016 time code 00:30:17:18 - 00:30:54:02 to

00:32:07:13 - 00:32:26:26). We would request that we are given sight of this new proposed design as soon as possible.

17. We would also request that the ExA challenges the statement (ibid, at timecode 00:32:26:28 - 00:32:59:05) made by Dr James Riley that “There is connectivity between the SSSI and the Minster stream anyway along the railway corridor. So there is a there will be a lot more connectivity as a result of the plant in delivery of this project.” We believe this shows a complete lack of understanding of the site and particularly the hedgerow and the section of the Minster Stream that was referred to. Additionally we suggest that no amount of planting would be able to reproduce in 5 years the double row of mature hedge that was planted for the specific purpose of connecting the SSSI to the Minster Stream.

Comments on Action Points from ISH3

18. During ISH3 SMM were asked to provide evidence of the beaver lodge activity near the location of the temporary bridge (point 77 of EV9-018). We provided this evidence to the ExA as soon as we could. On examining the transcript we realised we had overlooked the need to send this information to the Applicant and will do so now that this has been identified as an oversight. We would request, however, that the ExA requires the Applicant to take this into serious consideration and request a response from them with time for us to respond too.
19. Point 22 of EV9-018 asks KCC to respond to whether they are satisfied with the traffic modelling. We have not had the benefit of a close working relationship with KCC (unlike SEAS and Suffolk County Council). Regardless of this we endorse the research of David Stevens, submitted to you for DL7, that questions the traffic modelling because the construction on the marsh will require stabilisation with aggregate. We would request that this aspect is given serious attention.
20. Point 24 of EV9-018 asks KCC to comment on whether there should be seasonal adjustment to traffic modelling. We have said throughout the process that the

baseline traffic modelling, conducted during the winter is unsuitable as a baseline. This still requires challenge, even if KCC have missed this important point.

21. Point 45 of EV9-018 asks KCC to comment on whether the mitigation hierarchy has been followed in regard to cumulative effects. We would suggest, although we were not asked directly, that this has been a problem throughout the DCO process. Richborough is fast becoming an industrialised zone.
22. We note that the Applicant has not yet provided answers to 56 and 57 of EV9-018 regarding noise. And would respectfully ask that we are given time to respond to this once the documentation has been provided publicly.

Comments on RIES

23. As set out in RR-4892, REP1-246, REP3A-171, REP4-144 and REP5-167 that the applicant's HRA [APP-290 / REP5-036] fails the precautionary principle on the Kent arm. The RIES acknowledges our concerns but leaves key issues unresolved for the Minster Converter Station site and Pegwell Bay landfall viz:
 - Trenchless techniques / open-cut fallback (Sandwich Bay SAC and Thanet Coast SAC/SPA/Ramsar)
 - Contaminant release at Pegwell Bay hoverport access (Thanet Coast SAC / Thanet Coast & Sandwich Bay SPA/Ramsar water quality):
 - Operational effects and functionally linked land from the Minster Converter Station
24. These unresolved RIES matters, taken with the conflicts between the applicant's generic assessments and site-specific evidence submitted, mean "no adverse effect on integrity (AEol)" *cannot* be concluded.

Comments on Submissions Post Deadline 6

25. Document AS-167 document 9.154 Approach to Adopting DESNZ Requirement Discharge Unit for Sea Link, was delivered on 24th November with only 5 days to respond.
26. PROCEDURAL FAIRNESS: SMM were surprised to see this document has been submitted so late, given the impact it will have on the DCO, and that there has been no time for us and the ExA to properly consider the document and take legal advice. We believe this may constitute a procedural fairness issue.
27. The response to the Fingleton report was the policy paper for DESNZ “Building our nuclear nation: government response to the Nuclear Regulatory Review 2025”. The positioning paper is focussed on the Nuclear industry. The Applicant’s attempt to requisition this as justification for their own lack of preparedness for the SeaLink project seems somewhat cynical to us. The DCO process has throughout, been built on the assumption that the Discharging Authorities will be the Local Authorities and Statutory Authorities. It is not acceptable at the eleventh hour to try to change this. We can see that it would be convenient for the Applicant to change the whole post consent process – but this is not what is intended by this document.
28. The document relates to Nuclear Industry DCOs. Recommendation 30 is completely clear on this point “DESNZ and MOD should establish a unit which discharges DCO requirement. Guidance issue by MHCLG should be updated to endorse the use of this unit as the discharging authority for DCOs **relating to nuclear development.**”
29. We can understand that the Applicant is ‘horizon scanning’ for future impacts. And it is clear that this unit may, at some point in the future, become the discharging authority for future electricity infrastructure projects as well as nuclear. But it is not in place now. And the DCO process surely has to run on the basis of the

examination of the documents presented to us, which were all premised on Local Authority and Statutory Authority discharge of conditions. Without oversight from these bodies, the Applicant will be left to 'mark their own homework' and this is not acceptable.