

Responses to Representations

Reference
F/TH/13/0144 and
DOV/13/00143

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NEMO LINK PLANNING APPLICATION APPLICANT'S RESPONSE TO REPRESENTATIONS

Introduction

1. National Grid Nemo Link Limited (the Applicant) submitted an application for installation of 3.1km underground high voltage direct current cable from Pegwell Bay to the former Richborough Power Station together with an outline application for the erection of a converter station building and substation building with outdoor electrical equipment, internal roads and landscaping in March 2013.
2. During the consultation period Thanet District Council (TDC) and Dover District Council (DDC) received representations from the following statutory and non-statutory consultees: Kent County Council Public Rights of Way Service; Planning and Environment; Ecological Advice Service; Natural England (NE); Environment Agency (EA); River Stour Internal Drainage Board; Kent Wildlife Trust (KWT); National Trust (NT), Royal Society for the Protection of Birds (RSPB), Canterbury City Council (CCC), Sir Roger Gale MP and TDC's Conservation Officer.
3. NE provided representations in relation to Habitats Regulations Assessment (SPA and Ramsar sites and European Protected Species) as well as raising other ecological concerns. Information in relation to Habitats Regulations Assessment is presented in a separate report, Nemo Link: Effect on Integrity of European Nature Conservation Interests – Applicant's Submission (TEP Document Reference: 2700.142). Responses to Natural England's "non-HRA" concerns are provided in this note.
4. NE has visited the site of the proposed inter-tidal cables installation with the Applicant to further understand the project. Following receipt of written representations a meeting was held with the Applicant, TDC, DDC, NE, KWT, EA and the Marine Management Organisation (MMO) on 21st May 2013 to discuss concerns raised regarding ecological matters. There has been subsequent discussions and correspondence with KWT, EA and NE.
5. This note provides a formal response to the written representations received during the consultation period. Concerns raised have been grouped by topic.

Public Rights of Way

Representation

6. Concern was raised by Kent County Council that the Applicant's ES states that there will be moderate adverse impacts on the views and amenity of users of the Saxon Shore Way EE42 on the opposite bank of the River Stour to the application site. This assessment takes account of mitigation measures including a noise reduction fence and landscaping. The County Council requests that the Applicant submits compensatory measures to provide a footpath link across the Stour and extend footpath TE26 to the highway. The County Council suggests that securing the footpath improvement could be through a planning condition or Section 106 Agreement.

Applicant's Response

7. The level of adverse effects on views from part of the footpath which is reported in the Environmental Statement is not so severe as to warrant refusal of planning permission or require the need for compensation measures as suggested.

Invertebrates

Representation

8. The EA notes that common lugworm is one of the dominant species present within Pegwell Bay and an important food source for many of the wading birds that overwinter in Pegwell Bay. It states that KWT commissioned a survey several years ago that ran transects across the mudflat which showed very high densities of important prey species. The EA recommends that in the interest of completeness and currency, new samples should have been taken and reported in this area.
9. The EA has further noted that, although lugworm would not appear in samples up to 15cm depth, good survey practice would include occasional deeper samples in which lugworm would have been anticipated to be present.
10. KWT, NT and RSPB acknowledge that the proposed project will impact on 5.39% of the mudflat habitat within the SSSI. Although the trench will only disturb 0.065% of the mudflat there is a risk that compaction by vehicles and the cable laying process will lead to far greater impacts on habitat structure. Mixing of sediments will lead to a loss of benthic communities within the area to be trenched.
11. KWT, NT and RSPB note that the impacts of ploughing and compaction are poorly studied. However, research appears to indicate that where sediment has been mixed there is unlikely to be full recovery of the mudflat structure and benthic communities to post construction conditions.

Applicant's Response

12. Centre for Marine and Coastal Studies (ecological advisers to the Applicant) advises that the lugworm *Arenicola marina* is often poorly sampled in core sample surveys and suggests that this is due to the JNCC Marine Monitoring Handbook stipulating a core depth of 15cm whereas lugworm burrows are 20-40 deep.
13. During the survey 4 transects covering the whole Bay were taken. No lugworm casts were noted and accordingly no count was presented. 3 samples were taken at each survey location totalling 48 samples for the survey. Invertebrate sampling at high shore, medium shore, low shore and sub tidal locations was undertaken during the survey. Season-to-season there is a fluctuation in lugworm numbers and their locations in the Pegwell Bay which may explain why they were not identified during the survey.
14. The presence of lugworm does not necessarily affect the biotope classifications on the shore. The biotopes are a 'best fit' to the invertebrate community as a whole rather than based on the presence of individual species. The representation notes that lugworm is ubiquitous on the beach and if so it could not distinguish between biotopes.
15. Installation of the cables will not be until 2016. To ascertain robust baseline data to inform future monitoring, the Applicant proposes detailed invertebrate surveys to be carried out prior to the commencement of works in accordance with a method to be agreed with NE, EA and Kent County Council Ecological Advisory Service and KWT.
16. This can be controlled by a condition imposed on any grant of planning permission.

17. Thanet Offshore Wind Farm (TOWF) has been operational since 2010. The Applicant is not aware that there have been any observations reported by the site managers, landowners or statutory nature conservation adviser of adverse effects on the designated site. The Applicant is not aware of any action being taken or deemed necessary to remedy any deficiency resulting from the installation of the TOWF cables adversely affecting the integrity of the designated site.

Representation

18. NE notes that lighting in relation to ecology is referenced at paragraph 8.206 of the ES and that it is not only the effects of light pollution on bats which will need to be addressed as it is also likely that the invertebrate species that form part of the interest feature of the SSSI which is adjacent to the Converter Station, will be light sensitive. A lighting strategy to prevent the invertebrates from being drawn from the site should be implemented.

Applicant's Response

19. The need for a lighting strategy can be controlled by a condition imposed on any grant of planning permission.

Drainage

Representation

20. The Internal Drainage Board notes that the Applicant should be urged to develop a drainage plan which mimics that of the pre-development site as much as practicably possible. In particular any discharges to the northern ordinary watercourses which drain into Minster Stream must be properly attenuated (to Greenfield rates).

Applicant's Response

21. The Applicant concurs with this approach and has described such a proposal in its application. It is felt that this can be controlled by a condition imposed on any grant of planning permission.

Representation

22. The Internal Drainage Board is strongly opposed to any land raising within the functional floodplain. All potential effects on the floodplain, including details of any land-raising and appropriate compensatory storage and overflow-routes should be discussed and agreed with the Environment Agency.

Applicant's Response

23. The EA representation in its letter dated 13th May 2013 confirms that it is satisfied with the Applicant's proposals with regard to flood risk.

Representation

24. Kent County Council Ecological Advisory Service advises that there is a need to consider the impact any pollution of silt run off would have on the water courses and protected or notable species. The Environmental Statement (ES) has highlighted that there is potential for the works to result in the water courses becoming polluted or receive silt run off. The same representation also notes that details of the precautionary mitigation have been proposed to minimise the potential of this happening but anticipated that the ES would consider this impact in Table 8.5: Construction Impact.

Applicant's Response

25. This point is addressed in respect of the River Stour in Table 8.5. The Applicant confirms the precautionary mitigation measures will apply to all watercourses which feed into the River Stour and this can be confirmed in a condition imposed on any grant of planning permission.

Reptiles and Amphibians

Representation

26. KWT, NT and RSPB note that natterjack toad, common lizard, grass snake and slow worm are present within the Stonelees Nature Reserve. KWT, NT and RSPB are concerned that evidence of surveys is either absent or does not meet best practice. KWT, NT and RSPB are also concerned that possible impacts such as siltation, contamination, disturbance and direct harm have not been considered in the ES and that mitigation measures are inappropriate or absent.

Applicant's Response

27. Amphibian surveys have been undertaken in the recent past for a number of schemes including Thanet Offshore Wind Farm (onshore works) and East Kent Link Road Phase II. The status of amphibians in the area is well known.
28. Survey data was provided by KWT for the natterjack toad assessments and was marked as 'Confidential' with a request that it was not disclosed. KWT has kindly agreed that the confidential reports can be made available to the planning authorities and the ecological consultees only on a confidential basis. This information should demonstrate that the conclusions drawn with regard to natterjack toads are appropriately informed.
29. Reptile surveys were undertaken taking into account the level of human disturbance and risk posed by members of the public removing animals from site. This approach has been accepted by Kent County Council (KCC) ecologist based on the level of human disturbance along the cable route (Representation from Helen Forster 18/04/13).
30. Standard guidance from JNCC (Common Standards Monitoring Guidance for Reptiles and Amphibians), Natural England (Standard Advice Species Sheet: Reptiles), and Froglife Advice Sheet 9 state that it is not always appropriate to use tiles when surveying reptiles, in particular in areas regularly used by the public and where the presence of reptiles may be brought to the attention of passers-by. Tiles were not used for reptile surveys within Pegwell Bay Country Park due to the publicly accessible nature of the site.
31. It is anticipated that standard conditions would be applied to any grant of planning permission controlling the risks of contamination and siltation. These are important matters but are controlled by conditions and by working methods which are tried and tested and demonstrated to be effective. These represent 'embedded mitigation' which will avoid the risks identified in the representation.

32. There is no reason to presume that standard mitigation techniques will not successfully mitigate the risk of adverse effects on natterjack toads and reptiles. These techniques are set out at paragraph 8.246 to 8.250 of the ES and comprise a combination of the timing of works to avoid disturbance to potential hibernation features during the winter months (November to February inclusive), habitat management and controls to reduce disturbance effects and translocation. Arisings from the trench excavation can also be used to create suitable amphibian refugia.
33. Such mitigation would require licences which would not be issued unless appropriate survey information and method statements are supplied. The further survey work would be undertaken at an appropriate stage in the Project if planning permission is granted prior to the commencement of works. This further survey work can be secured by a condition imposed on any grant of planning permission, although disturbance of natterjack toads without a licence would be unlawful in any event.
34. Further details of the approach to natterjack toads is given in the separate report “Nemo Link: Effect on Integrity of European Nature Conservation Interests – Applicant’s Submission” (TEP Document Reference: 2700.142).

Representation

35. KWT’s, National Trust’s and RSPB’s representation advises that strimming is not appropriate mitigation for reptiles in any development unless the population or area to be disturbed is extremely small. This is due to the harm that could be caused by mowing machinery. In this case no survey has been undertaken and there is uncertainty regarding the carrying capacity of the surrounding habitat to accommodate the displaced population.
36. The representation sets out that reliance on a natterjack toad licence is not sufficient to safeguard the population and that a full translocation exercise should be undertaken along the route with habitat equivalent to that lost being enhanced and managed within the surrounding area. This may require separate mitigation areas for reptiles and natterjack toads. KWT objects to the proposed mitigation as its view is that the protected species present on site will be impacted.
37. KWT, NT and RSPB express concern that there is a risk that if the silt outflow from the trench is not reduced so as to be neutral, excess silt will flow into the natterjack ponds and wetland habitats used by the species. They consider that this could degrade the ponds and saltmarsh leading to carrying capacity being reduced and possible direct impact on the natterjack toad survival.

Applicant’s Response

38. Mowing machinery would not be used. Strimming would be undertaken in a phased manner to ensure that reptiles move out of the working area passively. The works are temporary and reptiles would be moved only for the duration of works. Strimming would be preceded by inspections by a suitably qualified ecologist. Any suitable refuge or basking feature would be removed and replaced within suitable areas outside of the works.
39. Within the application boundary, suitable terrestrial natterjack toad habitats are rare and highly localised. It is unlikely that a full translocation exercise for natterjack toads would be appropriate to meet the requirements for a licence.

40. The purpose of the natterjack toad licence is to ensure that the population is safeguarded and that favourable conservation status is maintained. The controls exercised by the licence will be sufficient to ensure that measures taken are appropriate although a condition imposed on any grant of planning permission could address this issue.
41. Management of run-off including silt outflow would be used throughout the works. Where sensitive habitats, natterjack toads, and other protected species may be at risk through siltation, method statements would be produced in consultation with Natural England and KWT to ensure that risks (including those from silt) are managed appropriately. The natterjack toad licence application would need to include such measures.
42. It is a requirement under law that water is not discharged from works without a licence and these measures would also be in the construction method controlled by planning condition.

Site Selection

Representation

43. KWT, NT and RSPB question the selection of the proposed landfall at Pegwell Bay and the connection to the Richborough Power Station as it is their view that it is not the least environmentally damaging route.
44. The route identified within the application is Petrol Station South. KWT states that it has informed National Grid throughout the pre-application process that the route should follow as closely as possible the route disturbed by the Thanet Offshore Wind Farm (TOWF) cable, Petrol Station North. This route was selected as it contained saltmarsh and mudflat habitat that was degraded. KWT believes that the route could have abutted the corridor leaving room for maintenance of both cables. The route selected will pass through undisturbed saltmarsh habitat which is acknowledged to be of high quality within the Phase 1 Habitat Survey.
45. The ES states that the Petrol Station South route contains poorer quality saltmarsh than that south of the Stour. However no survey information is submitted to substantiate that view.
46. KWT, NT and RSPB state that the cable could be laid within the road verge adjacent to the golf course, within the road or by circumnavigation of the golf course. Selection of one of these routes would ensure no impact on Stonelees and the adjacent saltmarsh, both of which are designated under European law, and would alleviate the risk of contaminants being disturbed due to trenching within the southern area of the Country Park.

Applicant's Response

47. Options and alternatives are presented in Chapter 3 of the ES and the Applicant remains of the view that its analysis and reasoning is robust.
48. Paragraph 3.27 of the ES considers 'Landfall Options near Richborough' and 3.29 to 3.33 'Onshore Underground Cable Route Options'.

49. The route has been designed to be as close to the TOWF cable route as technically possible. It is not possible to route the corridor any closer to the TOWF cables route due to the required minimum distance between the cables. The bending radius of the cable and constraints around the petrol station and the road requires that the cables deviate from the TOWF cables as they approach the west of the saltmarsh.
50. No surveys were undertaken south of the River Stour as this option was ruled out early on in the options study. Comparison to routes ruled out on other grounds would not provide useful information.
51. At the time of survey there was evidence of disturbance from members of the public walking through the area of the proposed Nemo Link cables route leaving desire lines to access the mudflats. Desire lines are still evident although the disturbance does not appear to be adversely affecting habitat greatly at present.
52. The cables need to fall to land before an onshore route can be followed. If (which is not accepted by the Applicant), the verge or golf course was able to be used as an onshore route, the cables would still fall to land in the place presently proposed and have the same effects on the inter-tidal area.
53. Existing utilities including the TOWF prevent the cable being laid in the road (there is no verge in places). There are planning permissions and other applications proposed that would result in ground level changes on and around the golf courses meaning it would not be possible to route the cables through this area.
54. The onshore cables route has been proposed after substantial pre-application discussions and 'without prejudice' observations from Kent Wildlife Trust.

Saltmarsh

Representation

55. KWT, NT and RSPB state that the NVC survey submitted as part of the application does not provide sufficient detail to ensure that the proposed monitoring picks up changes within the identified floral communities. A complete survey, equivalent to a Phase II survey should be undertaken ideally throughout the saltmarsh habitat present north of the River Stour. A complete species list of flora present is required.

Applicant's Response

56. There appears to be some confusion in the representation regarding the status of NVC surveys and 'Phase II' surveys. NVC survey was undertaken following 'National Vegetation Classification Users Handbook, Rodwell', JNCC (2006) by an experienced botanist with over 5 years' experience, BSc, MCIEEM and holding Botanical Society of the British Isles (BSBI) Level 5 Field Identification Skills Certificate.
57. JNCC website (accessed 17/05/13) states: '*Importantly, the NVC acts as the main terrestrial habitat classification for:...detailed (Phase 2) ecological site survey and assessments – it is used widely by the UK conservation agencies and many other organisations to produce inventories and maps of plant communities...on designated or threatened sites.*' <http://jncc.defra.gov.uk/page-4263>
58. NVC survey is a standard method for undertaking Phase 2 Survey which is used to assess in closer detail important habitat types, in this case the saltmarsh habitats. The survey was appropriate and the results are robust.

59. Survey of the whole saltmarsh, north of the Stour, is unnecessary as there are no proposals to undertake works outside of the application boundary.

Representation

60. KWT, NT and RSPB state that it is acknowledged that there will be at least a temporary impact due to sediment mixing within the mudflats, loss of invertebrate species and loss of saltmarsh habitat. These organisations state that no evidence is provided to support the supposition that invertebrate and flora re-colonisation will occur, other than anecdotal evidence from the TOWF Project. They refer to concerns regarding the effects on saltmarsh
61. NE has also stated that it advises that the planning authorities need to undertake appropriate assessment under the Conservation of Habitats and Species Regulations 2010. It has requested additional detail of the proposed installation method of the cable across the saltmarsh and mudflats, including details of any proposed mitigation. NE advises that if the exact method is not yet known then a 'reasonable worst case scenario' should be detailed and the impacts assessed. This information needs to include detail such as access routes to the site, type of machinery to be used on the intertidal areas, how many such vehicles will be on the intertidal areas at any one time and for how long it is anticipated they will be on the site for. NE advises that this detail should be provided in order for the impacts of the supporting habitats of the SPA and Ramsar to be assessed.

Applicant's Response

62. The Applicant has liaised with KWT and Natural England regarding monitoring of the TOWF cables swathe recolonisation. Each has stated satisfaction with natural recolonisation. The separate report "Effect on Integrity of European Nature Conservation Interests – Applicant's Submission" includes an appraisal of saltmarsh and information on the reasonable worst-case method of cable installation requested by NE. The report demonstrates a review of relevant literature, case studies and predicted effects of the Project. The Applicant believes this detail should address the similar issues raised by KWT, NT and RSPB.

Representation

63. The EA welcomes the five year vegetation and invertebrate monitoring programme proposed. However this will only be of value if the baseline surveys are comprehensive. The Agency has concerns regarding the method used and results obtained from the invertebrate and NVC surveys and believes that a complete baseline is required.

Applicant's Response

64. Pre-commencement and post-completion surveys will be undertaken which will be used to inform future monitoring. These can be secured by conditions which can be imposed on any grant of planning permission.
65. It was noted by the EA that there is an inconsistency in the ES with regards to monitoring surveys for three or five years. The Applicant confirms that the proposed monitoring surveys would be carried out for five years following completion of the works.

Representation

66. KWT, NT and RSPB refer to the acknowledgement that there will be an impact on the mudflat habitats due to sediment mixing. KWT, NT and RSPB state that the long term impacts of wide scale compaction found to occur within previous studies of cables installation within saltmarsh combined with the lack of supporting evidence regarding the regeneration of saltmarsh habitat shows that compensation should be required for likely impacts. KWT, NT and RSPB consider that the precautionary principle is relevant and recommend that compensation proposals be provided at application stage, with monitoring used to inform whether further compensation is required once impacts are known. Due to the lack of appropriate compensation, the organisations are of the view that the habitats within the site could suffer significant impacts and therefore object to the proposed project.
67. KWT, NT and RSPB consider that there is a lack of either assessment of impacts in relation to these issues and/or adequate avoidance, mitigation and compensation measures to ensure no impact on the designated habitats.

Applicant's Response

68. The Applicant's assessment is that it is unlikely that there will be residual effects on the designations of Pegwell Bay. The research used by KWT, NT and RSPB has been gratefully received from KWT by the Applicant. A review of the literature provided has been included in the separate report "Effect on Integrity of European Nature Conservation Interests – Applicant's Submission" - TEP Document Reference: 2700.142).
69. The Applicant considers that the pre-commencement and post-completion surveys, habitat restoration measures and monitoring surveys are sufficient to ensure that there will be no significant residual effects of the Project on habitats.

Habitats

Representation

70. KWT, NT and RSPB are concerned that no long term management and monitoring is proposed for newly created calcareous habitat within the Country Park.

Applicant's Response

71. The areas of calcareous grassland that will be created along the cables route in the proposed application are relatively small (0.7ha) and contiguous with existing areas which have been created in exactly the same way and have previously been managed by KWT on behalf of Kent County Council. The Applicant understands from pre-application consultation that there is very high confidence that the newly created calcareous habitat will be successful.
72. A condition could be attached to any grant of planning permission to secure monitoring of new calcareous grassland if that was considered necessary.

Representation

73. KWT, NT and RSPB state that silt egress into the Minster Stream could cause impact on this waterbody and the connected Stour Estuary. As the Stour Estuary is an important migratory route for eels and salmon, pollution due to silt could have an impact on these species.

Applicant's Response

74. Horizontal directional drilling (HDD) will be used for the cables to pass beneath Minster Stream. There is no pathway between the drilling points and Minster Stream through which siltation could occur.

Representation

75. KWT, NT and RSPB state that information provided to inform an assessment of in-combination impacts does not consider all factors or projects that could increase impacts. It is their view that the impacts of the TOWF should be assessed for in-combination impacts. They state that as TOWF used similar processes to the Nemo Interconnector, it is likely that compaction was also experienced as a result of the Wind Farm cables route and that installation of the Wind Farm cable is also likely to have led to sediment mixing and possible loss of faunal diversity.

Applicant's Response

76. TOWF has been operational since 2010 and is part of the baseline environment. Nemo Link is not aware that there have been any observations reported by the site managers, landowners or statutory nature conservation adviser of adverse effects on the designated site. Nemo Link is not aware of any action being taken or deemed necessary to remedy any deficiency resulting from the installation of the TOWF cables adversely affecting the integrity of the designated site.

Birds

Representation

77. KWT, NT and RSPB express concern that work within the intertidal habitats between June and August will reduce disturbance to the wintering bird population. Avoidance will not however remove the risk of disturbance entirely as 'wintering' birds return any time from May onwards. They would be concerned if works were to be delayed until the winter as suggested within the ES. KWT has subsequently accepted that conditions attached to any grant of planning permission may be able to adequately address concerns regarding breeding oystercatchers and redshank.
78. NE suggests that conditions should be imposed on any grant of planning permission to the effect that works in the inter-tidal area are constrained to the period mid-July to the end of September.
79. NE also states that there is a need to confirm avoidance of disturbance to over-wintering birds in the SSSI and in the SPA in the appropriate assessment. It advises that this will require no working within the intertidal habitats during the wintering months of October to March. NE therefore advises that an appropriately worded condition should be attached to any planning consent granted to reflect this works timing restriction as presented in Annex 1 of its representation date June 10th 2013.

Applicant's Response

80. The Applicant accepts the conditions proposed by NE.
81. Cabling works within the mudflats and saltmarsh can be limited to very few days subject to preparations being made in advance and weather conditions being suitable.

82. The timing of the works can be addressed by an appropriate condition imposed on any grant of planning permission. NE supports the conditions which are presented in the ES Appendix 8.7.

83. The Effect on Integrity of European Nature Conservation Interests – Applicant’s Submission has been produced and states that work within the saltmarsh and mudflats will not be carried out between October and March as well as detailing how the cable installation works can be achieved within a 6 week period, between mid-July and the end of August.

Representation

84. KWT, NT and RSPB consider that there may be a risk to roosting birds and high tide roosts as a result of the development. To ensure no impact on the roosts within Pegwell Bay they suggest that they would usually require works to cease 2-2.5 hours either side of high tide. They understand that due to construction techniques this is not possible, therefore any impacts on the high tide roosts should be assessed and compensation should be secured for disturbance caused.

Applicant’s Response

85. There are a number of high tide roosts associated with the Pegwell Bay some of which will not be affected by the proposed works, such as the roost at Shell Ness (Oystercatcher). Many of the other birds associated with the Pegwell Bay roost on saltmarsh and coastal grassland adjacent the River Stour which will also be unaffected by the works (Curlew, Redshank, Golden Plover).

86. Turnstone is fairly tolerant to disturbance and can easily be approached without being alarmed and stopping feeding. Much of the high tide roosting area associated with the former Ferry Terminal is sufficient distance from the works area for disturbance to be avoided.

87. The timing of the works between the breeding and winter seasons; coupled with the short duration of the works and associated disturbance mean that this would not be a significant impact. It is not possible to compensate for disturbance effects.

Representation

88. KWT, NT and RSPB note that there appears to be an impact on birds feeding at low tide within the construction period. They acknowledge that this disturbance is unavoidable but feel that compensation should be secured for any disturbance caused to SSSI species in particular.

Applicant’s Response

89. The disturbance effects within the Pegwell Bay will be on a very small area relative to the extent of low tide habitat. Disturbance effects have been further mitigated as the works are proposed for the least sensitive time of year. There are no recognised methods for compensating disturbance and mitigation is the appropriate response.

Representation

90. KWT, NT and RSPB would have no objections to the proposed avoidance measures in relation to redshank and other breeding birds, provided there is a full survey to identify breeding sites before construction commences.

Applicant’s Response

91. This may be subject to a condition requiring surveys to a method approved by the planning authority in consultation with NE, KWT and RSPB which could be imposed on any grant of planning permission.

Water Vole

Representation

92. KWT, NT and RSPB state that, to ensure protection of water voles, a survey should be undertaken to assess presence and population size. They are also concerned that due to the lack of assessment of contamination disturbance within the Country Park and the minor adverse effects predicted in relation to siltation, the ditches and watercourse known to contain water vole could be impacted. Investigation is required to assess these risks.
93. Due to the lack of complete water vole surveys and other investigations to inform mitigation measures the organisations suggest a holding objection until such time as these surveys have been completed.

Applicant's Response

94. Water vole surveys were undertaken during a dry year and habitats in the country park identified as unsuitable for water voles may support populations of these species. There is no serious concern that standard mitigation techniques would not be successful. It would be most appropriate to undertake a pre-construction survey to inform the mitigation directly before commencement of works.
95. No disturbance of contaminated areas would be caused as the cables will remain above the landfill areas.
96. Potential siltation will be controlled through standard methods (as above). The condition of the ditches will change between now and 2016. The Applicant proposes to carry out surveys for Water Vole prior to the commencement of works. The survey would reflect contemporary site characteristics and inform any necessary mitigation. This can be secured by a condition attached to any grant of planning permission.

Sea Trout

Representation

97. The EA states that the Stour estuary is an important migratory route for eels and salmon. In addition, the Stour is known to have a healthy population of Sea Trout, *Salmo trutta trutta*, a BAP Species, which could also be affected by adverse impacts on dissolved oxygen content of the water and its quality.

Applicant's Response

98. There are no anticipated material effects on dissolved oxygen content or water quality of the River Stour which would arise from the works.

Seals

Representation

99. Kent County Council notes that its response to the Scoping Report in September 2012 stated that seals had been recorded within Pegwell Bay and recommended that an assessment was included within the ES assessing the impact the works would have on seals. However it notes that insufficient information has been provided detailing why the proposed development would have no impact on the seals.

Applicant's Response

100. There are records of seals present on the sandbanks of the River Stour in the far south west corner of Pegwell Bay which will not be affected by the works. This area and any seals present are very remote from the works and there is no mechanism for adverse effects to arise.
101. Seals using Pegwell Bay are very mobile and the anticipated response of any seal encountering the installation activities is to avoid the area of the works. It is not clear how any effects on seals would arise from the proposed works and the Applicant believes that the assessment that there would not be adverse effects is robust.

Landfill

Representation

102. KWT,NT and RSPB are concerned that trenching is proposed for the southern area of the Country Park. Contaminants are likely to be present throughout the park as it is all former landfill. No detailed contamination surveys have been undertaken to inform the route and the proposed conditions defer contamination investigation until planning permission is granted.
103. It is their view that contamination surveys should be undertaken before planning permission is granted to ensure that contaminants are not released into the sensitive habitats or impact on the invertebrate community within the Ramsar site of the SPA bird's food resource.
104. NE also raised concern regarding the exact location and extent of the landfill within the Pegwell Bay Country Park and there appears to be some discrepancies within the ES; any disturbance of the landfill could result in pollution into the designated site. NE requests clarification from records as to the area of landfill. Both the EA (in an email to TDC 30/05/13) and NE express a preference for the cables to be surface laid and overburdened with chalk where they cross the former landfill to allow for any inaccuracy in these records of where the landfill is located and reduce the risk to disturbing the contamination.

Applicant's Response

105. The proposed method of installation is based on information supplied by KWT and its report of its previous capping of this area with chalk. The method of installation was suggested in pre-application discussion with KWT.
106. The project has not been able to obtain verified records of where chalk has already been laid over the landfill surface and the Applicant presumes that ground investigations would be undertaken prior to any works to ensure that the trenching does not disturb contaminants.
107. On a suggestion from the EA, the Applicant has revised the initial installation of cables through the Pegwell Bay Country Park to the boundary with Stonelees Nature Reserve and will be installing cables on the surface of the land in the Country Park and overburdening with chalk. To ensure that the levels comply with Disability Discrimination Act (DDA) regulations for paths there will need to be a minor change to the original redline boundary. A full assessment of the effects of the changes to the redline boundary are presented in a letter to TDC accompanying this technical note (TEP Document Ref: 2700.131).

108. The EA has indicated its general accord with the suggested approach which can be secured by appropriate conditions if planning permission is granted.

Wider Assessment

Representation

109. NE notes that the proposals involve additional elements (i.e. offshore cables) and will also require a connection to the national electricity transmission system. NE notes that the cumulative and in-combination impacts of these additional elements and the grid connection should be assessed as part of the Nemo Link proposals. To enable NE to advise on the significance of these cumulative and in-combination effects, NE has requested that additional information be provided about the impacts (including mitigation) of the Applicant's proposals.

Applicant's Response

110. The cumulative and in-combination effects of the Applicant's proposals with the offshore elements and the related grid connection are assessed in chapters 16 and 17 of the ES. The Applicant is now liaising with NE regarding the additional information requested regarding the current proposals and will be providing this information shortly. Once this additional information has been provided, NE will be in a position to advise on the cumulative impacts of the current proposals with the grid connection and the offshore elements.

Representation

111. KWT, NT and RSPB are concerned regarding the lack of assessment undertaken of the overall impacts of the whole project, including the onward connections required to ensure energy exchange within the national grid. They consider that little information is given regarding the proposed route of further connections and believe that no decision should be made regarding this application until an in-combination assessment has been undertaken on the proposal and the grid connection. They consider that the alternative sites should be considered again in the light of this assessment with the least environmentally damaging overall route selected.
112. KCC seeks clarification of the implications of a new 400kV connection and a review of alternative sites.
113. CCC supported by Sir Roger Gale MP, objects to the proposal as it believes that confirming the location of the interconnector will prejudice the proper consideration of high-level options for the onward connection to the national grid and the application is premature without full assessment of the impacts of the overall proposal on the wider locality.
114. CCC requests that any decision on the location of the new interconnector is made in parallel to decisions made on the onward connection to the national grid.

Applicant's Response

115. There are a number of reasons why it is not appropriate for the planning decisions for the interconnector and the related grid connection to be made in parallel. In particular, the interconnector and the grid connection proposals are being developed by separate legal entities, are subject to separate statutory authorisation and regulatory frameworks, and are subject to different development timescales.

116. The planning decision for the interconnector will be entirely without prejudice to any application that is subsequently made in respect of the grid connection. If the eventual form of the grid connection requires express consent, for example as a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008, that application will be determined on its own merits and will require a full consideration of the impacts of that project, including the wider cumulative effects that may occur in combination with the interconnector. The application would be subject to formal procedures including consultation and a Habitats Regulations Assessment to determine the potential impacts on European designated sites. In making its decision, the determining authority would take account of relevant policy including National Policy Statements (NPSs) and representations received.
117. Chapter 16 of the ES sets out the potential in-combination effects of the wider Nemo Link project comprising the converter station and the subsea cables. Chapter 17 of the Environmental Statement clearly sets out potential grid connections and the anticipated effects that would arise in combination with the Nemo Link proposal. The application sets out potential in-combination effects in Chapter 17 of the Environmental Statement.
118. The Applicant notes that cable installation (the most potentially disturbing activity in respect of birds) would take place outside the winter season. Thus the only possible effect on wintering birds could arise from slow saltmarsh recovery, leading to a local reduction on invertebrate prey biomass in the cable installation corridor. It is not in question that recovery would take place, it is the pace of recovery that is an issue. The information provided for appropriate assessment demonstrates that there would not be adverse effects on the integrity of the SPA from in-combination effects.
119. The assessment of alternatives presented in Chapter 3 of the ES is robust. There is no test that requires '*the least environmentally damaging overall route*' to be used and there is no guidance on how that would be assessed.

Representation

120. KWT, NT and RSPB state that detailed mitigation strategies have not been produced for the proposed development. The organisations acknowledge that the mitigation has been included in the ES but if planning permission is granted KWT, NT and RSPB would expect a detailed mitigation strategy to be produced for comment prior to any works starting.

Applicant's Response

121. The application in respect of the converter station and substation is in outline with reserved matters to be submitted. The detailed mitigation strategies would be bespoke to methods and timing of works and produced to discharge conditions which could be attached if planning permission is granted.

Heritage

Representation

122. TDC's Conservation Officer states that there will be a requirement to remove redundant pylons and have an overall uniformity in terms of design. There will be a perceived increase in visual clutter should this not be achieved.

Applicant's Response

123. This is an observation that may be relevant to an application that may be made in the future for an overhead line and is not relevant to the Nemo Link application.

Representation

124. TDC Conservation Officer identified that there is the potential for harm to buried and undesignated archaeological remains, therefore it must be underlined the need for archaeological provision in terms of a watching brief.

Applicant's Response

125. The Applicant agrees with this representation and, as stated in paragraph 9.64 of the ES, a watching brief will be maintained during the cable installation to ensure that any previously unrecorded archaeological remains are identified and recorded during groundworks.
126. A watching brief with regard to Pleistocene and Palaeolithic remains will be undertaken during any deep excavations (i.e. excavations beyond the modern overburden) related to the scheme. Both phases of the watching brief would be undertaken in line with a Written Scheme of Investigation agreed with KCC in advance of the fieldwork, and followed by a programme of analysis and reporting also to be agreed with and delivered with KCC (ES paragraph 9.65).

Landscape and Visual Effects

Representation

127. TDC's Conservation Officer noted although the principle of use of the site for energy-related development is established, it must be highlighted that the proposal has a missed opportunity in terms of enhancement of the view; something which would support the District's Landscape Strategy by creating interest or the possibility of a new vista.

Applicant's Response

128. The layout of the proposed converter station and substation is based on the most efficient use of space which allows safe operation, maintenance and repair or replacement of the equipment during the anticipated operational life. Landscaping will be implemented around the perimeter of the converter station and substation to help integrate the proposed development site into the landscape setting. Landscaping will largely consist of tree planting at the eastern boundary with existing shrub and poplar trees at the northern boundary being retained and enhanced.

Representation

129. TDC's Conservation Officer states that the substation proposed is unfortunate in terms of design materials and detailing. There appears to be no attempt at the aesthetic or innovation; a well-designed contemporary industrial scheme has the opportunity to support local distinctiveness, form, texture and pallet of materials (Nord Architects London Olympic sub-station) or it has the possibility of re-introducing a historic view (Ottens projects in Rotterdam). It seems a pity that the proposal relates to yet another bland shed, which due to its scale, mass and cumulative effect when read with existing warehouses will dominate and detract; adversely impacting on the prevailing landscape characteristics and the view from Pegwell Conservation Area.
130. It is noted there is no detail regarding additional lighting which also has the potential to impact negatively or positively in terms of the view.



Applicant's Response

131. The proposed converter station and substation has been designed for maximum safety, efficiency, and operation. The converter station and substation have been designed to consider the existing surroundings, including the Thanet Offshore Wind Farm substation and the United Kingdom Power Networks (UKPN) substation immediately south of the proposed site. The converter station and substation will also be in a similar style to the buildings that are proposed as part of the Richborough Energy Park.

132. External lighting will be installed within the fenced compound containing the converter station and the substation. This will only operate when access to the site is required, during maintenance activities or emergencies outside daylight hours. Lighting will be controlled to avoid the unnecessary illumination of areas beyond the development.

30th July 2013

