



ENGLISH HERITAGE
SOUTH EAST REGION

Mr Peter Earl
East Sussex County Council, Transport &
Environment
County Hall
St. Annes Crescent
LEWES
East Sussex BN7 1UE

Direct Dial: 01483-252032
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Our ref: P00046890

6 July 2007

Dear Mr Earl

**Notifications under Circular 01/2001 & GDPO 1995
BEXHILL TO HASTINGS LINK ROAD (A259 BELLE HILL, BEXHILL ON SEA TO
B2092 QUEENSWAY, ST LEONARDS ON SEA), ROTHER, EAST SUSSEX
Application No RR/2474/CC(EIA)**

Thank you for your letter of 23 May 2007 notifying English Heritage of the above application. We have considered the proposal and offer the following advice.

Summary

English Heritage's comments are intended to address the quality and effectiveness of the Environmental Statement (ES) with regard to the cultural heritage resource.

In our view the planning permission should not be determined until:

- o Further archaeological evaluation has been undertaken (over and above what is proposed in the Environmental Statement);
- o The reports of all archaeological evaluations are disseminated and their implications for the Environmental Statement considered; and
- o Various unresolved issues relating to the evaluation of cultural heritage and mitigation of impacts on it are clarified.

We draw the Council's attention to the failure to fully comply with government guidance on the process of archaeological assessment during the preparation of the Environmental Statement, in particular the Council's intention to defer part of the archaeological field evaluation until after determination of the application for planning permission. Incomplete archaeological evaluation would impair the Council's ability to make an informed and balanced decision and would also undermine its ability to



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DIRECTOR OF TRANSPORT AND

ENVIRONMENT

11 JUL 2007

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make proper provision for the nature and cost of mitigation of adverse impacts on archaeological remains.

English Heritage Advice

Our comments are made in the light of the Secretary of State's decision of July 2003 in relation to the need for a link road, in which it was noted that such a road would have some impact on the environment and requested that East Sussex County Council work closely with statutory environmental bodies in order to minimise environmental impacts. We note the reasons for the selection of the preferred route by the Council and do not object to the decision, which was taken by weighing the relative importance and adverse and beneficial impacts. Our advice, therefore, is intended only to address the effectiveness of the Environmental Impact Assessment, as described in the Environmental Statement.

Significance

Historic buildings

English Heritage concurs with the assessment of significance of historic buildings given in the Environmental Statement, which is summarised below. There are three listed buildings, all listed at grade II, that are likely to suffer significantly adverse impacts from the scheme (see the Impact section, below).

- o Adam's Farmhouse is a C16 timber-framed buildings over 2 storeys, refaced in the C18 with red brick and grey headers on ground floor and tile-hung above. Tiled roof and sash windows with glazing bars. Modern red brick porch.
- o Bynes Farmhouse is a small early C17 timber-framed house over 2 storeys with plaster infilling first floor tile-hung. Half-hipped tile roof.
- o Royal Oak Cottage is early C19 over 2 storeys. Ground floor red brick, with weather-boarding above. Tiled roof and casement windows.

The settings of seven non-designated historic farmsteads will be affected by the scheme - Glovers Farm, Actons Farm, Bynes Farm, Hillcroft Farm, Adams Farm, Upper Wilting Farm, and Lower Wilting Farm, and eight historic structures will be demolished - a brick archway access tunnel beneath the railway (OA 300); a brick road bridge to west of Glover's Farm (OA 301); an arched brick road bridge (OA 302); the concrete footings of a pumping station (OA 305); the concrete footings of a pumping station (OA 306); a cowshed to south of Adam's Farmhouse (OA 424); a brick barn to south-east of Adam's Farmhouse (OA 425); and an agricultural building, possibly a cowshed (OA 426).



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All but two of the non-designated buildings have been assigned a low "baseline sensitivity" or significance i.e. they are sites that are important at a local or parish level.

Archaeological and palaeoenvironmental remains

English Heritage concurs with the assessment of the significance of archaeological remains given in the Environmental Statement, which is summarised below. It is important to note that there are a number of sites that are already known or suspected to exist within the study area but there is also substantial potential for the discovery of hitherto unknown sites.

Of the known sites, a number of hearths and pottery finds dated to the Bronze Age (and possibly the Early Iron Age) have been located on the valley edges and at the interface with the wetland, which suggests that there may have been a Bronze Age farming settlement located on the higher ground overlooking the Combe Haven river, possibly on land between Monkham Wood and Upper Wilting Farm (to the south of the route). Some trackways within the study area may also be of Bronze Age origin.

Iron Age or Romano British settlement and iron extraction and processing sites may exist within the study area (OA 116, 108, 109, 124, 143 A&B, 206, 144)

Evidence for Early Medieval activity is found in the place-names of Lower and Upper Wilting Farms (OA 423 and OA 405), one other archaeological site (OA 140) and the historic farmsteads (OA 401, 402, 404, 405, 406 and 423).

It is likely that many of the historic landscape features, such as open fields, woodland, parkland, meadow and marsh, linked by tracks or paths identified within the Study Area date from the Later Medieval period, or from early in the Post-Medieval period. These include possible cultivation terraces (e.g. OA 202), field boundary banks (e.g. OA 238), woodland boundaries (e.g. OA 211) or trackways (e.g. OA 232). It is possible that some of the designated Ancient Woodland within the Study Area may have been maintained as woodland in the Later Medieval period, but direct archaeological evidence is lacking (OA 126 - 137). There are five identified iron-working sites within the Study Area which may be of Later Medieval origin (OA 119, 103, 104, 141 & 107).

There is also high potential for the discovery of hitherto undiscovered archaeological sites within the study area. The Environmental Statement identified ten landscape zones and assessed their archaeological potential (quoted below). The known archaeological resource, already described, also conforms to this archaeological potential model and it therefore represents a useful way of thinking about the

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characteristics of the archaeological resource and landscape character as a whole in the study area.

Four of the zones comprise low-lying wet valleys, where prehistoric archaeological deposits may be preserved beneath layers of peat and silt and five of the zones comprise the upper slopes and tops of the ridges where settlement and agriculture were most likely focussed. One zone includes the built environment of Bexhill, where the Scheme area has been heavily disturbed by previous impacts. The four 'wet' zones are likely to include significant archaeological deposits relating to prehistoric exploitation of former wetlands, and the five 'dry' zones are likely to include archaeological deposits relating to agriculture, industry and settlement. The zone within Bexhill, where they survive, may include mixed deposits (ES 14.7.2).

Zone C comprises the approximate extent of estuarine silt deposits in the upper Combe Haven Valley, which were laid down during the Mesolithic and Neolithic periods (between c 6-3000 BC) (ES 14.3.82). The potential for Zone C to include significant archaeological deposits of the Neolithic, Bronze Age and Iron Age periods (between c 3000- 200 BC) is uncertain but possibly high. Such deposits are most likely to include primary evidence of activities relating to the exploitation of the wetlands in the valley bottom, and may include preserved organic materials such as wood or leather. Deposits of this nature are likely to be regarded as of potentially national significance (ES 14.3.83). Zone C has an uncertain but probably moderate to high potential to include significant archaeological deposits of the Mesolithic and Roman periods, an uncertain potential for the Early Medieval period, and a high potential to include deposits of the Later-Medieval, Post-Medieval and Modern periods (ES 14.3.84). Zone C also has a very high potential to include significant deposits of palaeoenvironmental evidence, such as preserved pollen or plant macro-fossils, dating from the Neolithic and Iron Age periods (ES 14.3.89).

Zones E, G and I comprise the approximate extent of Holocene peat and/or estuarine silt deposits laid down in the valleys of the Watermill, Powdermill and Decoy Pond Streams. The silt deposits were laid down during the Mesolithic and Neolithic periods (between c 6-3000 BC), and the peat was formed during the Neolithic, Bronze Age and Iron Age periods (between c 3000- 200 BC) (ES 14.3.85). The potential for Zones E, G and I to include significant archaeological deposits of the Mesolithic, Neolithic, Bronze Age and Iron Age is uncertain but possibly high. Such deposits are most likely to include primary evidence of activities relating to the exploitation of the wetlands in the valley bottom, and may include preserved organic materials such as wood or leather. Deposits of this nature are likely to be regarded as of potentially national significance. Zones E, G and I have an uncertain but probably moderate to high potential to include significant archaeological deposits of the Roman period, an uncertain potential for the Early Medieval period, and a high potential to include deposits of the Later-Medieval, Post-Medieval and

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Modern periods. Archaeological evidence within these Zones from the late Iron Age onwards is very likely to be dominated by exploitation of the salt marsh, the rivers and water-meadows (ES 14.3.86). Zones E, G and I have a very high potential to include significant palaeoenvironmental evidence, such as preserved pollen or plant macrofossils, dating from between the Mesolithic and Iron Age periods.

Zones B, D, F, H and J comprise the upper slopes and tops of the ridges surrounding the Combe Haven Valley. The recorded archaeological resource within these Zones is dominated by features, deposits and structures related to settlement, agriculture and industry. Archaeological evidence uncovered at Bynes Farm (OA 109) at Upper Wiltling Farm (OA 143) and, possibly, at Little Henniker Wood (OA 108), suggest that the lower slopes of Zones B, D, F, H and J were favourable locations for two groups of activities: iron extraction and processing; and for activity related to exploitation of the salt marshes or water-meadows (e.g. hunting, fishing, food-processing). The activities related to exploitation of the salt marshes or water-meadows is likely to have been at its most intense at the interzone between the wet and dry zones, i.e. between B, C, D, E, F, G, H, I and J. The upper slopes and the ridge tops are most likely to have been primarily used for settlement, farming and managed woodland (ES 14.3.87). Zones B, D, F, H and J have an uncertain but probably low potential to include significant archaeological deposits of the Mesolithic and Neolithic periods, away from the interface with the 'wet' zones (Zones C, E, G and I). They also have an uncertain but probably high potential to include significant archaeological deposits of the Bronze Age, Iron Age, and Roman periods; an uncertain potential to include significant archaeological deposits of the Early Medieval period; and a moderate to high potential to include significant archaeological deposits of the Later-Medieval and Post-Medieval periods. Most of the visible historic landscape features and buildings identified within these zones are of Later-Medieval and Post-Medieval origin (ES 14.3.88). Zones B, D, F, H and J also have an uncertain but probably moderate potential to include low or moderately significant palaeoenvironmental evidence (ES 14.3.89).

Impact

Works that have potential to impact on the cultural heritage resource are numerous, including: the demolition of structures and clearance works; topsoil stripping in cuttings and at-grade earthworks; excavation of borrow pits and balancing ponds; excavation for structures and services and drainage works; slope stabilisation; construction of the greenway; tree planting and construction of screening walls and bunds; de-watering through drainage alterations; compaction of buried remains; vibration damage to historic buildings and other structures from piling; and adverse visual and aural impacts on the settings of historic buildings.



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Historic buildings

There will be increased traffic noise and visual intrusion in the settings of three grade II listed buildings: Bynes, Adams, Farms and Royal Oak Cottage during the operational period. The settings of seven non-designated historic farmsteads would also be subject to increased levels of noise. Eight other non-designated historic buildings will be demolished.

We note that a Traffic and Transport Report was undertaken to gain an overview of the beneficial and adverse impacts of the scheme on listed buildings and conservation areas and that, on balance, the proposals would constitute an overall beneficial impact, because of the benefit accruing to listed buildings and conservation areas in Bexhill and Hastings, although there are predicted to be localised negative adverse impacts, particularly on the farmsteads and house overlooking Combe Haven.

Archaeological and palaeoenvironmental remains

The archaeological assets that appear to be most at risk of detrimental impacts include:

- o Prehistoric occupation and palaeo-environments (on the lower slopes and in buried peat deposits) in river valleys;
- o Later prehistoric occupation on ridges and slopes;
- o Iron Age/Romano-British extraction/processing sites on the lower & upper slopes and ridges;
- o Possible Saxon settlement & farming in the Upper Wilting area;
- o Later Medieval cultivation terraces, field and woodland boundary banks, trackways, ancient woodland, water meadows and pond bays.
- o Valley sequences of Holocene sedimentation, including alluvial sequences and thick deposits of peat.

Collective landscape impacts

There is also a residual collective impact on the cultural heritage resource, generally comprised of features of varying (and often low) significance. Such features might contribute to the character of all three strands of the cultural heritage resource - historic buildings, archaeological deposits and the historic landscape - however, the collective impact is likely to have the most significant impact on the historic landscape strand (ES 14.5.31). Some historic landscape character assessment was undertaken for the ES and the scheme was assessed as having a moderate

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significant collective impact upon the historic landscape (ES 14.5.32). The principal source of the impact is the visual and noise intrusion (ES 14.5.33). We note that there is a particular impact on the setting of the historic landscape of the Powdermill valley caused by the large balancing pond on this location.

Archaeological evaluation

The design of any further archaeological evaluation should address the general characteristics of archaeological potential in each of the zones, in order to gain an understanding of the likely impacts of the scheme on hitherto undiscovered archaeological remains, as well as to focus the evaluation of important known or suspected archaeological sites, in order to assess the likely impact on these particular sites.

Desk top assessment and some field evaluation has already been undertaken, which have provided a very useful insight into the archaeological resource of the study area. However, there were substantial gaps in the coverage of walkover and geophysical surveys, due to the time of year they were undertaken (during May 2006, when up to 40% of the land was under arable crops). Given the length of time that the project has been in preparation, it is disappointing that these surveys, which are well known to be dependent on access to open ground weren't better programmed or at least revisited. We note that the report of the LiDAR survey wasn't included with, or apparently considered by, the Environmental Statement and we would wish to see a copy of this, so that we can offer further advice, if necessary, prior to determination of planning permission.

Further geoarchaeological field investigation of the four 'wet' zones is also proposed by the Environmental Statement to provide a greater understanding of the character of the valley sequences and assess the likelihood of the presence of waterlogged archaeological remains, such as the remains of wooden structures, as well as palaeoenvironmental material and dating evidence from the Mesolithic period onwards. The ES includes a geoarchaeology method statement, which, subject to available access, would involve 10 boreholes and 8 mechanically excavated trial pits. This is an appropriate approach as far as goes, but the distribution of the test pits and boreholes only covers the actual road line (where it crosses Combe Haven and the side valleys) and does not extend up into the side valleys or along the sides of the route where these areas will be affected by excavations for borrow pits and balancing ponds and other works such as excavation for structures and services and drainage works, construction of the greenway, tree planting and construction of screening walls and bunds, de-watering, and compaction of buried deposits. We understand that a field-walking survey (surface collection) is also planned.



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We have not seen the results of this geoarchaeological or field-walking work at the time of writing but we wish to be consulted about how the results might affect our advice prior to determination.

It is proposed in the Environmental Statement that some evaluation (trial trenching of the "wet" zones) should be deferred until after a decision is made about planning permission (called "stage 2" of the archaeological evaluation in the ES). However, the description of the proposed "stage 2" evaluation trenching is not given, other than in passing in the geoarchaeology method Statement (Appendix 14-H, figures 14.8a-c), which shows a proposed evaluation trench array, but does not describe the parameters by which the array was designed. The ES does say that trenches would be targeted to investigate any known features or anomalies and also located to provide good overall coverage of the scheme area and that the method statement will be agreed with the ESCC Archaeological Officer prior to fieldwork commencing, which is all appropriate, but does create an unknown cost for the Council in the post-determination phase. We would wish to have the opportunity to comment further on the project design for the "stage 2" evaluation work.

The ES goes on to say that if remains do exist in these "wet" zones they would have the potential to be of high significance and to be sensitive to the construction of the scheme depending on the construction methodology adopted (ES 14.4.7). However, as field evaluation of these potential remains is not programmed to take place until after determination of the planning permission application it is doubtful whether the Council will be in a position to adequately understand, at the point of determination of the planning permission, the impact of the scheme on highly significant archaeological remains in the "wet" zones of C, E, G and I and therefore to decide whether any amendment of the scheme would be justified, what would be the least damaging construction methods to adopt and what mitigation measures would be appropriate. Clearly the incomplete archaeological evaluation would adversely affect the Council's ability to make an informed and balanced decision and would also undermine its ability to make proper provision for the nature and cost of mitigation of adverse impacts on archaeological remains.

No further evaluation of historic buildings is required. English Heritage is satisfied that their importance is well enough understood to understand the impacts of the project and to design appropriate mitigation.

Mitigation

The ES says that once the program of archaeological evaluation has been completed, then a detailed program of archaeological mitigation can be formulated (in conjunction with the County Archaeological Officer) and implemented. This may

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include measures such as an archaeological watching-brief on certain areas or operations, targeted excavation of specific areas, or topographic survey/recording of earthworks and historic landscape features. It is anticipated that a combination of evaluation, detailed recording, and preservation in situ would mitigate most of the significant impacts of the Scheme (ES 14.4 11).

This is an appropriate approach, however, in our view it is not possible at this stage to have a high degree of confidence that all or most significant impacts can be mitigated. This is because in the absence of an adequate understanding of the nature and extent of the archaeological resource, due to incomplete archaeological evaluation: it is unclear whether adequate resources for mitigation have been provisioned. Furthermore, it is easy to imagine how technically and politically difficult it would be to have to substantially re-design part of the scheme after determination of the planning permission.

We agree that the mitigation of direct construction impacts (i.e. removal) on the historic structures listed in the ES can be achieved through a programme of recording prior to removal and the details of this would need to be agreed with the Local Planning Authority but would probably take the form of photographic recording to RCHME Level 1 or 2 record (ES 14.4.1).

We also agree that the measures to mitigate potential visual and aural impacts - alignment of scheme; earthworks (i.e. bunding and landscaping); planting; the management of existing vegetation; and barriers - are appropriate, although there remains a residual cumulative impact on historic landscape character. We would also point out that some of this mitigation, particularly earthworks, barriers and planting may itself have impacts on archaeological remains and should be taken into account during the design of archaeological evaluation and mitigation.

Policy

Despite a prolonged lead-in to the application, including several stages of archaeological evaluation, and previous instances of English Heritage advice about the appropriate scope and procedure of archaeological evaluation, the archaeological assessment does not fully comply with government Planning Policy Guidance Note 16 (PPG16) or the Highways Agency's The Design Manual for Road and Bridges (DMRB).

Councils should seek to gain a reasonable understanding of the value of archaeological remains and any detrimental impact on them that may be caused before an application for planning permission is determined so that they may weigh the need for development against the value of archaeological remains and



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subsequently, if permission is granted, require the developer to make adequate provision for the mitigation of the impact.

Where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation. Cases involving archaeological remains of lesser importance will not always be so clear cut and planning authorities will need to weigh the relative importance of archaeology against other factors including the need for the proposed development (PPG16 para 8).

The needs of archaeology and development can be reconciled, and potential conflict very much reduced, if developers discuss their preliminary plans for development with the planning authority at an early stage. Once detailed designs have been prepared and finance lined up, flexibility becomes much more difficult and expensive to achieve(PPG16 para 19).

Where early discussions with local planning authorities or the developer's own research indicate that important archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken(PPG16 para 21).

However, it is proposed that part of the site evaluation (stage 2 - trial trenching) will done after the planning permission is determined, and possibly even after a public enquiry. This is contrary to government guidance (PPG16, above) and contrary to the Highways Agency's Design manual for Roads and Bridges (DMRB, see below), which says that evaluation work be reported in the Stage 3 Report/Environmental Statement , prior to statutory orders or public enquiry.

Stage 3

8.26 The objective at this stage is to undertake sufficient assessment to identify the significant archaeological impacts likely to arise from construction of the preferred route, and to identify the location, type and importance of the archaeological constraints associated with that route.

8.36 In some cases, it may be necessary to consider excavation survey techniques, such as limited trial trenching and test pitting. These techniques may be needed where the location, type and significance of any important archaeological remains and how they might be affected by a preferred route are not known with reasonable certainty, or where more information is desirable to help finalise agreed mitigation measures. The need for these

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methods to be used should be discussed with the appropriate statutory body (DMRB 11.3.2.8).

As we said above, if field evaluation of potential remains is not programmed to take place until after determination of the planning permission application it is doubtful whether the Council will be in a position to adequately understand, at the point of determination of the planning permission, the impact of the scheme on potentially significant archaeological remains and therefore to decide whether any amendment of the scheme would be justified, what would be the least damaging construction methods to adopt and what mitigation measures would be appropriate. Clearly the incomplete archaeological evaluation could adversely affect the Council's ability to make an informed and balanced decision and would also undermine its ability to make proper provision for the nature and cost of mitigation of adverse impacts on archaeological remains.

Position

We would be grateful to receive a copy of the LiDAR survey report and field walking (surface collection) report and to have an opportunity to comment on them prior to determination.

We would be grateful if the Council would clarify whether Stage 1 geo-archaeological evaluation work will also cover side valleys, borrow pits, balancing ponds etc. We have not seen the results of the geoarchaeological work at the time of writing, and would wish to be consulted about how the results might affect our advice prior to determination.

We believe that further walkover and geophysics surveys should be undertaken to cover the gaps in the original surveys and excluded areas, such as the balancing ponds/landscape works, borrow pits, greenway, enabling works, slope stabilisation and structures, and we would wish to be consulted about how the results might affect our advice prior to determination.

We would be grateful to receive clarification of the programme and funding provision for the Stage 2 evaluation and the mitigation.

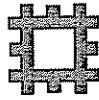
We would be grateful to receive clarification about the parameters used to design the "stage 2" evaluation trial trenching (e.g. what % of the scheme area is the trench array). We would wish to have to opportunity to comment further on the project design for the "stage 2" evaluation work.



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As we have said in previous advice to the Council, deferring the stage 2 arch. evaluation to after determination of planning permission is undesirable and contrary to government guidance. We would be pleased to discuss the nature and scope of evaluation that should take place prior to determination to allay our concerns.

We would draw the Council's attention to the possibility that archaeological remains that require full excavation (and post-excavation work) or preservation-in-situ may be discovered, and so adequate funding, time and design flexibility should be provisioned to achieve this. Clearly, it would be unhelpful to have to substantially re-design the scheme after determination as this could be technically difficult and might undermine the credibility of the determination. We will wish to have the opportunity to comment on the proposed archaeological mitigation works, in due course.

We concur that the mitigation proposed for the impacts on historic structures is appropriate. We also concur that the mitigation proposed to reduce impacts on historic landscape character is appropriate and seeks to meet the Secretary of State's request that environmental impacts are minimised, although we note that they are not entirely mitigated.

Recommendation

English Heritage recommends that, prior to determination of the application, further archaeological evaluation is undertaken (over and above what is proposed in the Environmental Statement); the reports of all archaeological evaluations are disseminated and their implications for the Environmental Statement considered; and various unresolved issues relating to the evaluation of cultural heritage and mitigation of impacts on it are clarified.

We draw the Council's attention to the failure to fully comply with government guidance on the process of archaeological assessment during the preparation of the Environmental Statement, in particular the Council's intention to defer part of the archaeological field evaluation until after determination of the application for planning permission. Incomplete archaeological evaluation would impair the Council's ability to make an informed and balanced decision and would also undermine its ability to make proper provision for the nature and cost of mitigation of adverse impacts on archaeological remains.



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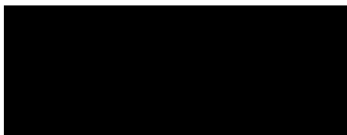
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Next steps

We consider that the implications of this application are potentially so significant that we would welcome the opportunity of advising further on the proposals in the light of more detailed information. Please let me have the necessary additional information in time for us to comment again if necessary before the application is determined.

Please send us a copy of the decision notice in due course. This will help us monitor actions related to changes to historic places.

Yours sincerely



 **Paul Roberts**
Inspector of Ancient Monuments
E-mail: Paul.roberts@english-heritage.org.uk

cc: Casper Johnson, County Archaeologist, East Sussex County Council



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For the attention of Tony Cook

Dear Mr Cook,

DIRECTOR OF TRANSPORT AND ENVIRONMENT
10 JULY 2007

12 JUL 2007

PASSED TO RE

..... Copied to ARMP AD

DATE REPLIED.. RR 1.2.474/10 (EIA)

FILE ON

BEXHILL - HASTINGS LINK ROAD - PLANNING APPLICATION RESPONSE

Thank you for your letter of 23 May 2007 asking for the Highways Agency's views in relation to the Bexhill Hastings Link Road planning application.

As outlined in DfT Circular 02/2007 (*Planning and The Strategic Road Network*) the Highways Agency (HA), on behalf of the Secretary of State for Transport, is responsible for managing and operating a safe and efficient Strategic Road Network - SRN - (i.e. the all purpose Trunk Road and Motorway network) in England. As such the HA is primarily concerned with the impacts of the Link Road on the A259 in Bexhill and on the A21 to the north of Hastings.

As you will know, the HA's Baldslow Junction scheme on the A21 is complementary to your Council's proposed Bexhill Hastings Link Road and, when implemented, is planned to address current problems and the impact of the Link Road on this part of north Hastings. Subject to Ministerial approval, it is likely that a preferred route for the scheme will be announced early in 2008. Entry into the Programme may have to await the outcome of the forthcoming review of regional transport interventions, which should be concluded later in 2008; construction is still planned to commence in 2011. The HA note that the Baldslow Junction scheme has not been included in the forecast year network modelling undertaken for the Link Road assessment and accept this to be an appropriate approach, given the current status of the scheme, i.e. not yet in the programme.

Our review of the Bexhill Hastings Link Road reporting and the planning application submission has necessarily focussed on the consideration of forecast impacts of the Link Road on the SRN and, in particular, the impact on the junctions. Particular attention has been paid to the suitability of the land use assumptions applied in developing the traffic forecasts that underpin the modelling assessment.

Our response does not purport to provide a comprehensive review of the entire scheme appraisal process, the modelling procedures used, or the conclusions in relation to the scheme appraisal and the wider evaluation of scheme impacts. However, overall, we are comfortable with the appropriateness of the general approach undertaken.

In developing our responses to the application the HA have reviewed the following documents

- Bexhill Hastings Link Road – Updated Model – Local Model Validation Review (January 2007)
- Bexhill Hastings Link Road – Updated Model – Traffic Forecasting Report (February 2007)
- Bexhill to Hastings Link Road – Traffic and Transport Report – Final (February 2007)
- the recent traffic and transport report documentation provided with the planning application.

Since supplying our preliminary comments on the various traffic and transport reports in our letter dated 2 May 2007, the HA met with East Sussex County Council and their project consultants (Mott MacDonald) on 28 June 2007 to discuss and clarify matters of concern.

Subsequent to this meeting we have been provided with further comments and information (supplied on 4 July 2007) addressing points previously raised.

As a part of the review our consultants (Parsons Brinckerhoff) have also undertaken a review analysis of the LINSIG files provided for the Queensway Junction, and A259 Belle Hill Junction for 2010 and 2025 forecast years.

Based on the process outlined, the HA is content to provide 'in principle' support for the Bexhill Hasting Link Road proposals subject to a recognition of the following concerns.

1. From the analysis of junction impacts the HA has concerns regarding the forecast levels of queuing identified at the Belle Hill junction on the A259. The LINSIG analysis provided in support of this junction proposal indicates that significant queues are forecast to exist at the junction in both 2010 and 2025, with particular queuing on the western arm approach. By 2025 queuing problems are identified to occur in all the peak hour scenarios modelled. It is noted that the reconfigured junction layout plans do not adequately cater for the volumes of queuing identified.
2. The HA has identified that the modelling of the Link Road proposals also forecasts traffic congestion at junctions on the A259 west of Belle Hill. In particular vehicle delay problems are forecast in both 2010 and 2025, at the Little Common roundabout junction on the A259 and at the junction of the A259 with the B2095 (Lamb Inn).

3. In the context of the above concerns, whilst the information provided by Mott MacDonald identifies that the land use assumptions built into the 'most likely' scenario modelling are consistent with the Link Road 'associated' development and Regional Spatial Strategy (RSS), we note that forecast congestion will mean that there is little scope for the delivery of development above and beyond the identified RSS need. Through their spatial planning remit the HA are keen to ensure new development is in sustainable locations and that demand management measures for traffic are incorporated in development proposals. We see the need to balance housing and employment as important in providing the opportunity to reduce travel, especially by car. We, therefore, note the need to demonstrate how to achieve adequate mitigation of traffic impacts not just in the relation to assessment of the RSS development allocations but also in relation to any further development identified via the Local Development Framework mechanism.

4. In relation to the proposed complementary measures identified with the scheme and associated with the overall package of development we note the requirement for many elements of this package to be delivered via either Section 106 Agreement or LTP funding. Building on our previous discussions we would seek to confirm that East Sussex CC is committed to the future Local Transport Plan funding for delivery of these measures.

The HA remains keen to continue to work with East Sussex CC, Hastings Borough and Rother District in responding to the concerns identified for the successful delivery of the Link Road and future development requirements.

As the Link Road and future development are closely linked we would strongly suggest that a joint transport strategy covering all of Bexhill and Hastings should be developed, with a view to identifying workable and deliverable measures to increase the proportion of travel by sustainable means and manage down travel, particularly by car. A well planned strategy would assist in the delivery of all planned development, address current travel problems and issues and would, as a consequence address the concerns the HA has over increased queuing at the junctions on the A259 resulting from Link Road. The HA suggests that the East Sussex County Council model for the Link Road could be used in the development of this strategy. We are keen to work with you, Rother and Hastings on this, and look forward to seeing progress on this work

Yours Sincerely,

A large black rectangular redaction box covering the signature of Peter Minshull.

Peter Minshull
Network Strategy-South East
Email: Peter.Minshull@highways.gsi.gov.uk

Copies sent to Tony Duce & ARUP.

creating a better place



Peter Earl
Team Leader Development Control
East Sussex County Council
County Hall St. Annes Crescent
Lewes
East Sussex
BN7 1UE

Our ref: SX/2007/101661/01-L01
Your ref: RR/2474/CC

Date: 20 July 2007

DIRECTOR OF TRANSPORT AND ENVIRONMENT

24 JUL 2007

PASSED PE

DATE REPLIED

FILE ON RR/2474/CC

Dear Peter

On Mantergov 24/7/07

BEXHILL TO HASTINGS LINK ROAD: CONSTRUCTION OF A NEW ROAD INCLUDING ENVIRONMENTAL TREATMENT WITH EARTHWORKS, PLANTING FLOOD AND NOISE ATTENUATION, WILDLIFE COMPENSATION AND FACILITIES FOR NON-MOTORISED USERS

A259 - BELLE HILL, BEXHILL ON SEA TO B2092 - QUEENSWAY, ST LEONARDS ON SEA

Thank you for referring the above application which was received on 29 May 2007. We appreciate you agreeing to an extension of time in order for us to make our detailed response and hope this has not caused any major inconvenience. Please quote our reference number on any correspondence.

I can confirm that we **OBJECT** to the proposed road scheme as submitted, on flood risk management and ecological grounds.

Our concerns relating to these issues are detailed below.

1. Submission of an inadequate Flood Risk Assessment (FRA)

We appreciate that a Flood Risk Assessment (FRA) has been submitted with the application. However, this does not give us enough information to fully assess the flood risk management implications of the application and appears to be a summary document, rather than a full FRA.

In our opinion the submitted FRA does not comply with the requirements of PPS25: "Development and Flood Risk" (PPS25, 2006), the companion guide to PPS25 or other guidance such as DEFRA/EA 'Flood Risk Assessment Guidance for New Development' (FD2320/TR2).

Environment Agency
Saxon House Little High Street, Worthing, West Sussex, BN11 1DH.
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk
Cont/d..



ENVIRONMENT AGENCY

Our primary concern is that the following information has not been submitted as part of the planning application or FRA:

- (i) Evidence that the Sequential Test has been applied.
- (ii) Evidence that the Exception Test (if required) has been applied.
- (iii) Flood outlines, prior and post development.
- (iv) Details of the proposed Sustainable Drainage Systems (SuDs).
- (v) Calculations for points iii and iv.
- (vi) The residual risks of flooding.

We are aware that the majority of the required work to meet the above requirements has been previously undertaken however this has not submitted with the current planning application. In order for us to fully assess the scheme this data should have been included within the FRA.

2. Nature Conservation & Ecological Impacts of Proposed Development

This objection is on the basis of the resulting unacceptable ecological impacts and inadequate information within the ES:

- (a) Inadequate consideration of, and mitigation and compensation for, ecological impacts

The Environmental Statement (ES) concludes that the overall impact of the scheme on nature conservation and biodiversity interest would be "slight adverse and therefore not significant" (ES Non-Technical Summary, page 19). However, the ES identifies several significant deficiencies in the identification and mitigation of impacts. It recognises that the route will result in the loss and disruption of ecologically valuable and UK Biodiversity Action Plan habitat including floodplain grassland and fen, ditches and streams, hedgerows with wet ditches, ancient woodland associated with ghylls, plus their various associated wildlife species (Design & Access Statement, section 7.1). We do not consider that adequate mitigation has been proposed.

Unknown Impacts

In several areas the impacts are considered to be unknown and therefore not addressed. For example, the scheme identifies that there would be a risk that increased noise and vehicle emissions *may* have some influence upon habitats. Although noise impacts have been acknowledged, the lack of understanding regarding noise impacts means that they have not been taken into account or mitigated for. It is suggested that there are "potential impacts from the discharge of road drainage, leachates from construction materials and alteration of air quality and the chemical environment near the road" (ES, Chapter 12, Section 12.4.6). There will be significant increases in nitric acid deposition within areas adjacent to the road, including two SSSIs, but there is "some uncertainty as to the effect of this on habitats and species" (ES Non-Technical Summary, page 18). Without being fully understood and investigated, the impacts cannot be mitigated adequately.

Unknown effectiveness of mitigation and some impacts unable to be mitigated

The scheme does not mitigate adequately for disturbance of habitats and acknowledges that there will be an ongoing effect upon wildlife, particularly that the

scheme will “create noise and visual disturbance arising from vehicles and users of the greenway” (ES, Chapter 12, Section 12.4.5) .

The replacement of lost habitats with a 2:1 ratio, as mitigation, “assumes that the whole of the borrow pit in the Powdermill Valley would be sufficiently shallow to enable wet reedbeds and similar habitats to be created” (ES, Chapter 12, Section 12.4.9). Furthermore the ES recognises that there is no reliable information on whether the areas proposed for habitat re-creation would be significantly large to retain significant biodiversity in the long term (ES, Chapter 12, section 12.4.10) and states that “there is some uncertainty over whether the measures proposed would fully compensate or mitigate the impact on the actual and potential biodiversity of the floodplain” (ES, Chapter 12, Section 12.4.12). Thus the actual extent of mitigation and the likely effectiveness of proposed habitat re-creation is unknown. It must be clearly demonstrated that compensatory habitat creation will be on a like-for-like basis, since creation of, for example, open water ponds/lakes cannot be considered as compensation for wet grassland and ditch habitats. Compensatory habitats for those being lost should not be created on existing ecologically valuable habitats. Furthermore, the feasibility of mitigation options must be demonstrated. According to the ES part of the mitigation strategy *may* involve working with landowners to improve water levels and habitats in the valley (ES Non-Technical Summary, page 9). This is not confirmed and therefore cannot be considered as part of the currently proposed mitigation.

The ES confirms that there would be actual and potential indirect impacts on the SSSIs, including impacts from increased noise levels and from visual disturbance, and that “the route would sever the SSSI from floodplain grassland and fen” (ES, Chapter 12, Section 12.4.40). This has not been adequately addressed. Furthermore the scheme does not take into account the medium-term loss in habitats until newly created habitats are established. The length of ditch re-creation, for example, does not appear to be on a 2 for 1 replacement ratio as stated and is therefore inadequate, and the overall impacts are likely to result in a deterioration of the ecological quality of watercourse habitats, contrary to the requirements of the Water Framework Directive.

(b) The impacts of severance of habitats

Habitat severance

The ES recognises that the value of some habitats in the area will be significantly degraded by severance from other complementary areas (Design & Access Statement, section 7.3). It states that the proposed road will “create a barrier between habitats, possibly isolating smaller areas of habitat to the extent that they would be unable to support viable populations of some species of biodiversity significance” and “sever habitat links, particularly the network of hedges, copses and ditches, and specific links for badgers, bats and common dormice” (ES, Chapter 12, Section 12.4.5).

However, the mitigation strategy focuses on mitigation and compensation of impacts on individual species and habitat types. It fails to address the significance of severance of ecologically valuable and priority UK BAP habitats, causing disruption of ecological networks, and habitat isolation and fragmentation. The scheme will result in severance of both existing and newly created wetlands, and watercourses, from the Combe Haven SSSI and other wetland habitats. This will prevent migration

and transfer of species and reduce the suitability of severed areas for wildlife. On this large scale the scheme will alter the ecological function of the whole valley.

With the currently proposed road design the impacts of severance are unable to be mitigated. The watercourse crossings, which have the potential to lessen the impacts of severance by providing wildlife corridors, are inadequate for a road scheme of this size. The clear span crossings are inadequate in size and the impacts of culverts including loss of bankside habitat and disruption of watercourse continuity, have not been addressed. Furthermore the road will restrict the creation of necessary wetland habitats and strengthening of ecological networks in the future.

Species isolation

This has not been adequately considered by the ES, even though it states that the road "may be a barrier to the free movement of wildlife between the land north of the road and the land to the south" (ES, Chapter 12, Section 12.4.9). Of particular concern to us is that although the ES acknowledges that otters have previously been recorded in the vicinity of the scheme, and that it is possible water voles are still present in the valley, impacts of the scheme on these species have not been fully considered. No specific mitigation measures have been proposed, and specifically the restrictive effects of the proposed road on potential future re-colonisation of the valley by these species, has not been addressed.

(c) Failure to address requirements of PPS9 and other planning policy

This is a large scale development and ecological enhancements must be an intrinsic part of the proposal. This is in keeping with PPS1 "Delivering Sustainable Development", PPS9 "Biodiversity and Geological Conservation" and the Draft South East Plan. Policy NRM4 of the Draft South East Plan seeks to avoid a net loss of biodiversity and to actively pursue opportunities to achieve a net gain of biodiversity across the region. PPS1 states that Local Planning Authorities (LPA's) should seek to enhance the environment as part of development proposals. PPS9 describes how planning decisions should maintain, enhance, restore, and add to biodiversity interests, and recognises that development proposals provide opportunities for including beneficial biodiversity features as part of good design. Furthermore, PPS9 recognises the need to protect, strengthen and integrate networks of natural habitats within development. Fragmentation and isolation of habitats should be avoided.

As submitted the proposed road scheme is also contrary to EN17 and EN20 of the East Sussex and Brighton & Hove Structure Plan 1991-2011. The proposal does not provide adequate mitigation and compensation for ecological impacts and it fails to address the planning requirement for provision of ecological enhancements above and beyond that mitigation and compensation. We would expect significant ecological enhancements proposed for a scheme of this scale.

Requirements to overcome above Objections

Flood Risk

We would be in a position to review our objection on flood risk management grounds, once the information highlighted in 1 (i) – (vi) has been submitted to us.

Nature Conservation Grounds

We highlight that our objection relating to nature conservation may be overcome given careful re-consideration to the road scheme design and the specific mitigation and enhancement measures that are proposed.

This will include:-

- Consideration and improvement to the design of the clear span bridges to provide a greater width on either side of the watercourse. This in itself might help to minimise the requirements of mitigation and enhancement for the watercourses.
- Studies to assess and prove the mitigation options are feasible and workable.
- Re-consideration of further mitigation and enhancement options. We understand from meetings and discussions with East Sussex County Council that some of this work has been done already however this has not been submitted alongside the planning application.

In our opinion the Environmental Statement (ES) is inadequate and we have been unable to properly assess the risk of flooding and ecological impacts associated with the proposal. We require that further information is requested under Regulation 19 of the Town & Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999.

Our objection to the proposed development will be maintained until the concerns outlined above are addressed.

Whether or not the application is approved, it will be necessary to re-consult us and further conditions and other information will apply.

Further Information

We note for your information the following additional considerations and licensing requirements that will need to be taken into account for the proposed roading scheme:

Licensing Requirements

Under the terms of the Water Resources Act 1991, our written approval is required for any discharge of sewage or trade effluent into controlled waters, and may be required for any discharge of sewage or trade effluent from buildings or fixed plant into or onto the ground or into waters which are not controlled waters. Controlled waters include rivers, streams, underground waters, reservoirs, estuaries and coastal waters.

Construction Environmental Management Plan (CEMP)

We would also wish to comment on the CEMP prior to works being started. The CEMP should in particular cover the following aspects with regard to water quality:

- Oil and chemical storage
- Sediment runoff during construction disturbance works, especially in and around water bodies. Works in watercourses should consider the diversion of flow to protect the water quality

- Sediment runoff from material stockpiles (these should be positioned away from watercourses), and any runoff may require settling
- Pollution from construction vehicles
- Discharge from dewatering work (discharge consent may be required)
- Discharge from toilet facilities for mobile offices or compounds (discharge consent may be required)

Oil and Chemical Storage

Any facilities for the storage of chemicals or oils shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall be submitted to the Local Planning Authority for approval. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to 110% of the capacity of the largest tank, or 25% of the total combined capacity of the interconnected tanks whichever is the greatest. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Operation

The drainage plans for protection of controlled waters should include pollution control valves to protect the receiving water in the event of a spill on the road.

I reiterate that the objections outlined above are not insurmountable and we would be happy to meet with you to discuss possibilities for overcoming these. Please do not hesitate to contact me directly on the number below if you have any further queries or would like to arrange a meeting.

Yours sincerely



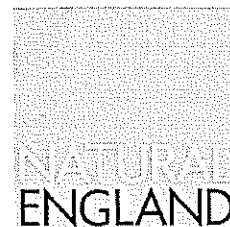
Amy Reid
Senior Planning Officer

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Date: 31 July 2007
Our ref: HW/MAR/ADV/07-08/1
Your ref: RR/2474/CC (EIA)



Peter Earl
Development Control
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Phoenix House
33 North Street
Lewes
East Sussex
BN7 2PH

Dear Mr Earl

T 01273 476595
F 01273 407930

Proposal: Construction of a new road including environmental treatment with earthworks, planting, flood and noise attenuation, wildlife compensation and facilities for non-motorised users.

Location: A259 Belle Hill, Bexhill on Sea to B2092 Queensway, St Leonards on Sea

Thank you for your letter dated 23 May 2007 consulting Natural England on the above application. We apologise for the delay in responding to this and thank you for agreeing to extend the deadline for comments.

Natural England **objects** to the proposal on the following grounds:

- The potential impact to Marline Valley Woods SSSI has not been adequately assessed or mitigated for.
- The potential impact to Combe Haven SSSI has not been adequately assessed or mitigated for.
- The potential impact on protected species has not been adequately assessed or mitigated for.

Our advice is that the Council should request further information to address these issues prior to the grant of planning permission. On receipt of this information, Natural England will review its position.

Our detailed comments explaining Natural England's position with regard to this development are outlined below. Further concerns over the ecological impacts of the proposals are provided in addition to our formal objection and are raised towards the end of this letter.

Impacts on statutorily protected sites

Please note that this letter represents Natural England's formal consultation response under Section 28 of the *Wildlife and Countryside Act 1981* (as amended).

From the information provided in the Environmental Statement (ES) Natural England is of the opinion that the potential impact of this development on the SSSIs of Combe Haven and Marline Valley Woods has not been sufficiently accounted for. Mitigation proposals have failed to provide the required assurance that the SSSIs would not be adversely affected should planning permission be granted. Paragraphs 56-69 of PPS9 *Circular 06/2005* summarise the legislative regime governing Sites of Scientific Interest (SSSI) and PPS9 highlights the high protection that should be afforded to SSSIs through the planning system.

With a major development such as this, sufficient information should be provided to clearly demonstrate that statutorily protected sites have been fully considered. Furthermore, mitigation should be of a sufficiently high standard to protect and *enhance* these nationally important sites in

the long-term. We request that further information and clarification is provided to address our concerns. Upon receipt of this information, we will review our stance on this application. Should the additional information be submitted or there be any modification to the application which may affect the SSSIs, Natural England must be consulted.

Local Planning Authorities should note that under section 28I of the *Wildlife and Countryside Act 1981* (as amended), should the Council be minded to grant permission contrary to Natural England's advice you must ensure that:

- a copy of the decision notice is given to us detailing the date and terms of the permission and how, if at all, you have taken account of our advice; and
- the permission does not permit operations to begin before 21 days after this notification has been given to Natural England.

Marline Valley Woods SSSI

Natural England has the following concerns regarding the potential impact of the proposal on Marline Valley Woods SSSI:

1 Development Boundary

I would draw your attention to page 36 of the Design and Access Statement which clearly shows the southern tip of Marline Valley Woods SSSI within the development boundary. There is no explanation for this in the Environmental Statement (ES). I would also refer you to page 13 of the same document which again shows the road running directly adjacent to the SSSI boundary. This is highly confusing and of serious concern to Natural England. Indeed, the ES states that the 0.4 ha of ancient woodland to be lost to development which, although is contiguous with the SSSI, lies outside the SSSI boundary.

Table 12.4 states that that Marline Valley Woods SSSI lies 0.05 km away from the centreline of the scheme. The above maps however depict the situation on the ground to contradict this. It is unacceptable to Natural England that a scheme of this scale has not clearly addressed fundamental issues such as the location of a SSSI in relation to the development boundary.

Natural England wishes confirmation that the southern tip of the SSSI will not be lost should planning permission be granted. It is also highly confusing that the ancient woodland, a priority BAP habitat, to be lost in this area is not cited in the list of habitats to be lost in section 12.4.3. Compounding this is the fact that section 12.4.45 states: "*The scheme would be close to Marline Valley Wood at its south western tip and would remove an area of probable ancient woodland*". Such statements again highlight the lack of clarity or indeed certainty within the ES. Habitats to be lost must be clearly assessed as any mitigation suggested relies on the quality of the ecological assessment. It follows that mitigation founded on unclear assessment is flawed and cannot be relied upon.

2 Function of ancient woodland habitat contiguous with the SSSI

Natural England notes that consideration has not been given to the function of the area of woodland to be lost as a buffer to the SSSI. We would expect such an assessment to be made for the purposes of drawing up adequate mitigation for the loss of this habitat. This is particularly important given the nature of the development proposals.

3 Runoff during construction and operation

Importantly, the impact of surface water runoff has not been adequately assessed within the ES. Marline Valley Woods SSSI contains a ghyll stream with associated bryophytes, constituting part of the special interest of the SSSI. The potential impact of runoff within the SSSI has not been

recognised. Natural England advises that this is addressed and included within the assessment as a potential impact within Table 12.16. Natural England considers that the construction phase of the proposal could potentially deleteriously impact the SSSI via surface/groundwater pollution entering the ghyll stream. The ES lacks any assessment to account for this. This assessment should include clear working practices to be adopted to protect the SSSI from such an event. Natural England is unaware of any monitoring works which have been carried out to this end.

Furthermore, we note that drains will be included as mitigation for runoff during the operation phase but require clarification of how this has been considered with regard to storm/flooding events. We also note with concern comments made by the Environment Agency with regard to flooding and runoff. Natural England echoes these concerns particularly given the close proximity of the SSSI to the proposed link road. These concerns are also applicable to Combe Haven SSSI (discussed below).

4 *Noise Disturbance*

Natural England also has concerns regarding the impact of noise on breeding birds within the SSSI. This impact is considered to be minor negative particularly with regard to the hawfinch. The report predicts the migration of such birds away from the noise but this assumes the carrying capacity of the SSSI is not at its maximum. This has not been explored within the ES. This concern is also discussed in more detail for Combe Haven SSSI below.

5 *Nitrogen deposition*

The proximity of the SSSI to the road scheme is such that nitrogen deposition is highlighted as a potential minor to moderate effect. This again highlights our concerns with regard to the need to buffer the SSSI from such impacts. The effect of nitrogen deposition has not been adequately assessed in the ES for either SSSI as explained below.

6 *Salt Spray*

The ES dismisses the potential impact of salt spray damage as "this is generally not an issue beyond 10m from the carriageway". If the scheme is indeed running as close to the SSSI as the maps provided suggest, it is Natural England's opinion that the potential impacts of salt spray on the flora within the SSSI should be fully assessed.

Combe Haven SSSI

Natural England notes that Table 12.4 states the minimum distance of Combe Haven SSSI from the development to be 0 km. This again is contradictory as the ES cites the minimum distance of the SSSI from the road scheme as 90m.

Indirect effects to the SSSI

1 *Severance of SSSI from the floodplain habitat*

The ES highlights the fact that the road scheme will sever the SSSI from floodplain grassland and fen as a potential indirect effect on the SSSI. The creation of new wetland habitats is suggested as mitigation for this. Natural England is concerned that the mitigation proposed is both inadequate and poorly assessed. It will fail to mitigate the risk to the SSSI for the following reasons:

Section 12.4.9 provides detail of the proposed mitigation for the creation of new habitat. It however acknowledges that the feasibility of the proposal "Assumes the whole of the borrow pit in the powdermill valley is sufficiently shallow to enable wet reedbeds and similar habitats to be created."

Additionally, "the road would reduce the overall amount of land within the floodplain where there is the potential for development of wetland habitats in the medium long term."

Furthermore, section 12.4.10 detailing further mitigations concludes *"There is no reliable information on whether the areas involved would be sufficiently large to retain significant biodiversity in the long term."*

Section 12.4.12 states *"There is thus some uncertainty over whether the measures proposed would fully compensate or mitigate the impact on the actual and potential biodiversity of the floodplain. In addition there are potential adverse impacts on the SSSI from increased noise levels and visual disturbance."*

The ES then highlights the need to enhance the SSSI by raising water levels. The section details areas to be targeted for enhancement works but acknowledges that this would require the cooperation of a number of landowners to be willing to raise the water levels on their land. No investigation has been carried out to ascertain whether landowners would be agreeable to this, the conclusion being that *"There are a number of practical difficulties to be faced in implementing these proposals and at present they represent only an aspiration by ESCC."*

Natural England is seriously concerned that the feasibility of implementing the mitigation suggested throughout this section has not been tested and may not be achievable. The report clearly states the flaws in these plans. This cannot be presented as mitigation for either the indirect effect of the road scheme on the SSSI, or the direct effect on its surrounding habitat matrix.

2 Species populations

"The scheme could affect the size and sustainability of the species using habitats within the SSSI." (Section 12.4.40)

Mitigation again is not adequate as it refers to the mitigation Natural England has questioned above.

3 Pollution

The ES states, *"The scheme would run roughly parallel to the SSSI boundary for about 1.2km so that a pollution incident could affect a substantial area of the SSSI and road runoff could affect water quality."*

Natural England again would refer to the concerns of the Environment Agency who have raised the inadequacy of the scheme's flood risk assessment in their objection to this development. Further to this the Environment Agency have highlighted several issues regarding runoff during construction and operation, pollution, and working practices which require further investigation. This is a concern to Natural England due to the above risk of pollution to the SSSI. We support the Environment Agency's comments that this issue needs to be fully addressed.

4 Dormice Populations

Dormice are present within the SSSI and constitute part of the interest of the site. Natural England is concerned that the assessments regarding dormice are also unclear and contradictory. For example section 12.6.50 concludes that the effect of the operation stage on dormice will be minor adverse; acknowledging the possible extinction of isolated populations. Table 12.26 however concludes that the significance of the effects of this phase on dormice is minor-beneficial with regard to both habitat change and severance of habitat networks. This is highly confusing and requires clarification. Has the functioning of areas of habitat to be severed been assessed for example with regard to their relative importance to dormouse metapopulations? Natural England will provide specific comments in relation to dormouse populations in the protected species sections below.

5 Noise and visual disturbance

The ES states, "*Noise and visual disturbance could inhibit the return of species like breeding redshank and the scheme could have an impact on migrant birds.*"

Breeding Lapwing, Redshank and Snipe are cited in section 12.4.43 as being potentially affected by the above. The ES states that effects here are compounded by the fact that planting for landscape mitigation will restrict the open grazing marsh required for these species. This section concludes that, as there is no indication that breeding waders would return to the SSSI in significant numbers, no mitigation is proposed. Natural England would remind ESCC of their duties to conserve and *enhance* the SSSI. Contrary to this, the conclusion for this issue is not to provide any mitigation with a resulting negative effect. Natural England advises that this is recognised as an opportunity for enhancement which should be explored.

The mitigation suggested for other bird species breeding within the SSSI that are likely to be affected by noise and visual disturbance is either linked again to the aforementioned potentially unviable habitat recreation, or not proposed (section 12.6.9)

Section 12.4.35 concerns the impact of noise on species and quotes that the impact of noise is exhibited at a generic distance of 250m for open habitats and 160 for woodland. This section also states that susceptible species (such as hawfinch, lapwing, willow warbler and skylark) will displace away from the noise impact but that this relies on the carrying capacity of surrounding habitat to allow such recruitment (as for Marline Valley Woods). The report also states that: "*The area's potential is obviously reduced.*"

Despite this recognised potential impact on the SSSI, accurate surveys have not been undertaken to quantify this and therefore inform the required mitigation. Surveys have not been carried out in either Marline Valley Woods SSSI or Combe Haven SSSI to investigate whether or not the surrounding habitat can accommodate a shift in species away from disturbed areas. Indeed section 12.4.36 deduces that:

"There would nevertheless be a probable ill-defined residual impact which can be partially mitigated through the increased capacity of the area for breeding by some of the species affected."

Again mitigation is both uncertain and unclear.

Section 12.4.37 explores the effect of visual disturbance on birds, in particular waders and waterfowl. It states that the potential impact exists up to 1km away from the scheme and affects a substantial proportion of the SSSI. The report then reveals that the use of these areas by wintering birds *may* be greater than the ES's survey identified. This is due to anecdotal evidence and Sussex Ornithological Society records. It is vital that accurate surveys of the use of these habitats are conducted in order to produce reliable mitigation. Mitigation must be demonstrated to be fit for purpose and able to safeguard habitats and species into the future. The ES has identified uncertainty as to the level of use of areas to be affected by visual disturbance, thus rendering any mitigation suggested unreliable. This is compounded by the fact that the suggested mitigation for recreation of habitats is also inadequate.

6 Location of mitigation

Natural England would advise that mitigation does not take place on habitats required by key species or habitats that are valuable to wildlife. Similarly Natural England would also advise against creating habitat for mitigation which is located alongside the road. This is not like for like mitigation and will instead provide a depauperate habitat when compared to that lost. An example

of this is the suggestion in section 12.4.51 to mitigate for the loss in secondary woodland, scrub and rough grassland on the disused railway with larger areas of these habitats alongside the road. Furthermore, the scheme has not properly acknowledged the short-medium term loss of habitats whilst mitigation reaches maturity. In the case of hedgerow mitigation this is 20 years.

7 Nitrogen deposition

Nitrogen deposition has been recognised as a potentially negative impact on the SSSI:

- o *The potential impact of changes in air quality can be regarded as a potentially minor to moderate adverse impact.* Section 12.6.8

Section 12.6.3 states that the deposition of nitric acid leading to acidification of soils has been assessed as statistically significant. The report then highlights that there is uncertainty as to the potential impact of nitrogen deposition and no mitigation has been proposed for this specific impact. Natural England advises that this is taken into account and that appropriate mitigation is investigated for both Combe Haven and Marline Valley Woods SSSI.

As can be seen from the above Natural England has a suite of concerns with regard to the potential impact that the proposed scheme may have on the SSSIs of Marline Valley Woods and Combe Haven. **We are unable to conclude that the scheme will not have an adverse effect on nationally important wildlife sites and therefore object to the scheme.** We would remind your Authority of the statutory protection afforded to SSSIs through the *Wildlife and Countryside Act 1981* (as amended) and of your duty to conserve and enhance SSSIs. We would also remind your Authority of the provisions given in PPS9 for the protection of SSSIs and ancient woodlands.

Protected species

In accordance with the EIA Regulations (Regulation 3(2)), the impact on protected species needs to be assessed and included in the Environmental Statement before granting of planning permission.

Additionally, paragraph 98 of *ODPM Circular 06/2005*¹ states that '*The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.*' Paragraph 99 also states that '*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.*'

Our specific concerns regarding protected species are covered in the following sections.

1 Dormice

The level of survey effort is insufficient as only three months of dormouse surveying was undertaken in 2005. This is not in accordance with *The Dormouse Conservation Handbook* (English Nature 2006) which states that survey effort should cover the whole season or to at least cover a survey effort of 20 points. Natural England are surprised that the surveys were not continued during 2006 and 2007.

¹ Office of the Deputy Prime Minister Circular 06/2005 *Government circular: Biodiversity and geological conservation- statutory obligations and their impact with the planning system.*

The impact of the severance of habitat on dormouse cannot be assessed until population size assessments have been undertaken. These assessments should include an understanding of the population numbers that will remain on either side of the completed road so that an assessment can be made of the viability of the remaining populations. The mitigation proposed includes enhancement of habitat either side of the road but does not mitigate for this habitat severance. Section 12.7.8 confirms our fears by stating *"It is possible that small populations south of the road would become isolated."* (Section 12.7.8)

It is unlikely that a European Protected Species (EPS) mitigation licence would be issued under these conditions as the scheme would not meet the test that the action authorised "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".

2 *Great Crested Newts*

The surveys were not undertaken in accordance with *The Great Crested Newt Mitigation Guidelines* (English Nature 2001) which states that six visits should be undertaken for population assessment, with half of these being undertaken between mid April to mid May. Only four visits were undertaken in 2006 and on many of the ponds, these surveys did not start until 18th May.

Section 12.3.148 states *"The aim of the second (survey) was to provide precise information for mitigation."*

Precise information for mitigation would require a population size assessment which has not yet been undertaken. This information would also be required for the submission of the EPS licence application.

We support the proposals in Section 12.4.94 to include a newt tunnel to facilitate movement between Ponds 13, 16 and 17.

3 *Reptiles*

Natural England is surprised that only low numbers of reptiles were identified as the wider area is well known to support high populations of common reptiles. Indeed, developments in the Hastings area have historically had problems in finding suitable unused receptor sites for the high numbers of reptiles found on development sites.

Appendix 12-F details the reptile survey that was undertaken in 2005 but includes contradictory information. Section 12-E.2.1 states that the surveys were undertaken during August and September 2005 however Section 12-E.3 details reptiles that were found during other months of the year such as June.

Reptile surveys are very much dependant on weather conditions as reptiles will not use tins and felts to warm up when the temperature is too high. For clarity, and to ensure that the results of the reptile survey were not skewed by unsuitable weather condition, we would request that the exact dates and weather conditions are included in the ES. We would also like confirmation of the refugia density used per hectare of suitable habitat.

Natural England is concerned that no further survey work was undertaken as recommended in Section 12-E.4 of Appendix 12-F to confirm population size. This information is required to inform the mitigation proposals.

Section 12.6.59 states *"(the reptiles) can be cleared by destructive search of the areas of suitable habitat identified in the survey."*

Natural England is not satisfied with this as the HGBI guidelines (Froglife 1998) state that "a destructive search may also kill or injure a small percentage of animals...and the lawfulness of this method requires careful interpretation. Destructive search is likely to be lawful if it can locate otherwise unlocatable individuals after using other methods". Other methods include using refugia to trap out the area of development, the number of days trapping required will depend on the population size.

The location of the reptile receptor sites has not been clarified and seems to imply that the reptiles will be moved either to suitable habitat on site or habitat off site without any habitat enhancements. These enhancements should include habitat management and/or the addition of refugia to ensure that the receptor sites can accommodate reptiles. Selection of suitable receptor sites would generally require a survey to ensure that the area does not already contain a high population of reptiles.

4 Badgers

As the licensing of Badgers is an animal welfare issue rather than a nature conservation issue, we will not comment at this stage as the issuing of a licence for disturbance and destruction of setts is administered by our Wildlife and Licensing Unit.

5 Bats

The results of the bats surveys have identified eight species of bat using the area of the development. It has also been identified that roosts are likely to be present within the building complex at the Nursery School on London Road, Acton's Farm, the kennels, Adam's Farm and potential the trees within Hanging Wood. These roosts have not yet been confirmed due to access restrictions.

Section 12-D.1.73 recommends further survey work but this has not yet been undertaken and mitigation cannot be proposed until the number, location and status of these roosts have been confirmed together with confirmation of the species of bats using them. The roost requirements of bats vary between species, for example pipistrelles are crevice dwellers whilst brown long eared bats need to fly within the roost before emerging to feed so need a larger roost area.

The ES fails to acknowledge the severity of the impact of artificial lighting on bats. A number of sections within the ES state that the lighting of the link road would have a neutral or beneficial effect. Table 12.22 and table 12.26 have assessed this impact as neutral, in addition section 12.6.45 states

*"The impact of lighting is probably not significant", whilst section 12.4.61 states
"Bats are attracted to highway lighting because they feed on the insects that congregate there."*

It is well known that this is not the case for all bats as, whilst pipistrelles, serotines, noctules and Leisler's bats swarm around some lighting to feed on insects, many other bats such as long eared bats and *Myotis* species, such as Natterers and Daubenton's, avoid street lights due to the threat of predation.

Observations have been made of kestrels (diurnal raptors) hunting at night under the artificial light along motorways. Floodlighting will deter bats from using their usual foraging areas. Lighting can be particularly harmful if used along river corridors, near woodland edges and near hedgerows used by bats. Studies have shown that continuous lighting along roads creates barriers which bats cannot cross. For example, Daubenton's bats move their flight paths to avoid street lamps.

The ES has also failed to assess the severity of the impact on bats from severance of foraging and commuting lines. The mitigation proposed is directional fencing where key flight paths cross the route but no studies have been provided as to the effectiveness of this and this fails to take account of the fact that some bats will not cross lit areas due to the threat of predation.

Natural England would like to make it clear that the use of bat boxes to mitigate for a brown long eared bat maternity roost is not acceptable and is not in accordance with the *Bat Mitigation guidelines* (English Nature 2004). Mitigation for a roost of this type would require like for like replacement roost with good linkages to surrounding foraging habitat.

Mitigation for the scheme as a whole

The following highlights Natural England concerns regarding mitigation for the Road scheme.

Neutral Grassland

The ES recognises that approximately 2.3ha of species-rich neutral grassland would be removed. The ES does not propose specific mitigation for this loss and indeed section 12.6.33 states "*It would be difficult to establish the right ground conditions but if it can be achieved there would be minor positive impact...*" Again this highlights the uncertainty of the proposed mitigation within the scheme area as a whole.

Ditches

There does not appear to be a 2 for 1 ratio for ditch re-creation.

There is uncertainty as to the reliability of measures to protect waterbodies from pollution as raised by the Environment Agency.

Aquatic Invertebrates populations will be severed by the scheme and no mitigation is proposed.

Woodland

As recognised within the ES that ancient woodland is irreplaceable. Active management of targeted woodland is suggested as mitigation for loss of ancient woodland. Natural England wishes clarification on the level of active management that is required within the small woodlands suggested, and how this would benefit the habitats and species within.

Hedgerows

Mitigation for the substantial number of hedgerows which will be severed by the development proposals will take 20 years to establish as a functioning habitat. The severance of these hedgerows has a knock-on effect to the functioning of the landscape as a whole. This includes the prevention of species movement effecting population dynamics throughout the area. It also leads to the fragmentation and isolation of habitats which are currently linked. Such landscape scale effects have not been acknowledged in the ES and therefore have not been mitigated for. Natural England would remind the Council of PPS9 and policy regarding the protection of networks of valuable habitat.

Wet grassland and fen

Natural England has raised concerns over the validity of proposed mitigation for the loss of these habitats and their severance from floodplain habitats.

Natural England would expect a development of this nature and scale to demonstrate a degree of innovation in the mitigation proposed, coupled with a commitment to enhance biodiversity. Current policy advises that such practice is demonstrated and Natural England is of the opinion that the proposals are devoid of such measures. We are disappointed that opportunities for enhancement have not been explored. Further to a more satisfactory scheme being implemented we also would wish to see for example a commuted sum being made available to be used for biodiversity enhancement projects within the wider area. The ES mitigation strategy has failed to realise such potential.

Conclusion

Natural England is of the opinion that the application as submitted has failed to adequately assess and mitigate for impact on protected species and for potential adverse effects on both Marline Valley SSSI and Combe Haven SSSI. Mitigation is lacking in sound assessment and in some areas may not be achievable. This is unacceptable to Natural England and we therefore advise that the Council refuse planning permission for this development.

We would be happy to comment further should the need arise but if in the meantime you have any queries, please do not hesitate to contact Marian Ashdown or Rebecca Pearson at the above address, or by email to marian.ashdown@naturalengland.org.uk or rebecca.pearson@naturalengland.org.uk

Yours sincerely

A black rectangular redaction box covering the signature of Chris McMullon.

On behalf of Chris McMullon
Government Team Leader