Date: 27th August 2025

Ms Sarah Holmes

Lead Panel Member for the Examining Authority
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

By email: southeastanglialink@planninginspectorate.gov.uk

RE: Concerns Over Acceptance of the Sea Link DCO Application (EN020026)

Dear Ms Sarah Holmes,

We are writing on behalf of Kent Wildlife Trust (KWT), alongside the undersigned organisations, to express serious concern about the ongoing progress of the Sea Link Development Consent Order (DCO) application. In light of the significant and wide-ranging errors outlined within the Examining Authority's letters dated 8th July 2025 and 5th August 2025, we are formally requesting the withdrawal of the Sea Link DCO application, to allow National Grid (the Applicant) the necessary time and focus to properly address the outstanding issues, and do so without the pressure of the pre-Examination process, and the inefficient back-and-forth of reviewing incomplete and inaccurate documentation. This places unnecessary burden on the limited time and resources of all consultees.

As the Examining Authority (ExA) are very well aware, the DCO process was introduced by the Planning Act 2008 as a means of determining applications for Nationally Significant Infrastructure Projects (NSIPs) in a manner which is intended to be streamlined and both cost and time efficient. We and the other undersigned organisations are deeply concerned about the conduct of the Applicant to date, in particular their continuing failure to provide sufficient, reliable materials, and undertake appropriate consultations with stakeholders. This has served only to thwart these objectives, as we discuss in more detail below.

Lack of meaningful consultation and route selection transparency

We note that under Section 47 of the Planning Act 2008[1], there is a clear statutory duty for the Applicant to carry out proper and meaningful consultation with the local community. This is reinforced by the Government's Guidance on the pre-application process[2], which specifies that consultation should be based on accurate information that gives consultees a clear view of what is proposed, including any options. Furthermore, Section 4.3.29 of the National Policy Statement for Energy (EN-1)[3], which, by virtue of Section 104 of the Planning Act 2008[4], plays a central role in decision-making, requires that potential alternatives to a project are identified prior to application to the Secretary of State, in order to

[1] Planning Act 2008, c.29, s. 47
[2] Department for Communities and Local Government, Planning Act 2008: guidance on the pre-application process for major infrastructure projects, March 2015. Available at https://assets.publishing.service.gov.uk/media/6630afc53579e7a8f398a9b3/150326_Pre-Application_Guidance.pdf
[3] Department for Energy Security & Net Zero, Overarching National Policy Statement for Energy (EN-1), November 2023, s. 4.3.29. Available at https://assets.publishing.service.gov.uk/media/65bbfbdc709fe1000f637052/overarching-nps-for-energy-en1.pdf
[4] Planning Act (fn 1), s. 104

enable appropriate consultation and to develop of a robust evidence base regarding relevant alternatives. In this case, the Applicant has not met these requirements. As recognised in its own Environmental Impact Assessment (Sections 2.3.10 and 2.4), consultees were invited to comment only on a single, preferred option, rather than being presented with a range of reasonable alternatives. This failure deprived consultees of the opportunity to raise legitimate concerns regarding the Applicant's site and route selection process and their consideration of alternatives, thereby undermining both the spirit and intent of the consultation duty.

This concern over the lack of proper consultation is supported by a recently published letter from Ofgem (31st July 2025)[5], which emphasises the importance of early, transparent, and meaningful engagement with communities and stakeholders during the development of major infrastructure projects, including the design of the project:

"*Stakeholder feedback should be used to inform project development and routing decisions, rather than being treated as a formality*."

However, the experience of the undersigned organisations and many other consultees demonstrates that engagement in the Sea Link project has too often been superficial, with key issues raised by stakeholders, particularly around environmental impacts, routinely overlooked or insufficiently addressed. As above, this includes stakeholders not being involved in the routing process, with the Applicant having already determined the route before meaningful engagement with communities and consultees had begun, effectively sidelining any opportunity to shape the design in response to local concerns.

Failure to meet the Planning Act 2008 application standards

Under Section 55 of the Planning Act 2008, the Planning Inspectorate must be satisfied that an application is not only procedurally complete but also of a satisfactory standard. This includes all the documents required under Section 37, which must be accurate, complete, and clearly presented. The relevant guidance in Advice Note 6 from the Planning Inspectorate reinforces this, stating that documents should be capable of being examined without ambiguity or the need for extensive clarification.

The contents of the ExA's letters suggest this bar has not been met. Among the most serious issues identified are:

- Water Framework Directive (WFD) concerns including lack of consultation with drainage boards;
- Insufficient assessment of Horizontal Directional Drilling (HDD) impacts on ground water and ecology;
- Poor habitat mapping of known Sabellaria spinulosa reefs, a designated feature of Goodwin Sands Marine Conservation Zone (MCZ), as highlighted by Kent and Essex Inshore Fisheries and Conservation Authority (KEIFCA);
- Ongoing factual errors in environmental reporting and impact assessments;
- Insufficient ecological survey information to support the application, including the absence of an In-Principle Monitoring Plan (IPMP) to track impacts on protected species and habitats;
- Factual errors in marine mammal data (e.g. mislabelled importance of grey seals);
- Insufficient land at Suffolk for drainage mitigation;

[5] Ofgem Letter - Importance of stakeholder and community engagement in shaping the optimal energy system

- Lack of comprehensive Flood Risk Assessment;
- Non-compliant traffic impact assessment in Suffolk, which cannot be completed before Autumn 2026;
- Legal inaccuracies, such as citing repealed legislation (e.g., Schedule 15 referencing the Telecommunications Act 1984, repealed by the Digital Economy Act 2017);
- Missing Navigation Installation Plans, despite legal requirements in the DCO;
- Illegible documents (e.g., Document: 6.3.3.5.D Part 3 Kent Chapter 5 Appendix 3.5.D Generic Quantitative Risk Assessment – Kent Part 1 of 2);
- Missing or inconsistent documentation, including the complete absence of a Statement of Reasons (SoR) Appendix A for the Kent Scheme and multiple errata within the SoR such as section 8, human rights and equalities, which has been written in a way that implies the Examination is complete;
- Land acquisition inconsistencies, including permanent rights sought for temporary uses; and
- Two residential caravan sites have been identified within land interests of the Kent Scheme, but not included within any DCO documents, and it is unknown whether the occupants have been contacted to ensure their legal rights are respected.

Crucially, these errors place significant strain on the already limited resources of key consultees, stakeholders and landowners. The effort required to track, cross-reference and respond to an application of this complexity is already substantial. When that effort is made more difficult by serious documentation errors, omissions, and unclear plans, the burden becomes unreasonable, especially on charities, local authorities, and landowners. Whilst the Planning Act 2008 doesn't specify a fixed length for the pre-Examination stage, submitted applications for development consent are generally deemed to be ready for Examination and the pre-Examination period should not normally extend for more than three months. The Sea Link application was accepted in April 2025. Now more than three months later, it is still subject to substantial procedural and evidentiary correction, with key baseline data and assessments missing. The fact that this application now requires a significant amount of corrective work during the pre-Examination stage demonstrates that it was not ready for Examination at the time it was accepted. Continuing under these conditions risks prolonging uncertainty and undermining the confidence of communities, stakeholders, and statutory consultees alike.

Environmental information and survey gaps

Under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, an Environmental Statement (ES) must include sufficient information on the likely significant environmental effects of the project. Since the start of the pre-application stage, we have highlighted on numerous occasions that significant risks are posed by the lack of information surrounding HDD, specifically limitations on its use and risks associated with faults and remediation work during construction. The Applicant's plans are based on the assumption that HDD is possible at both the Suffolk and Kent landfall sites and that it will minimise impacts to internationally protected wildlife sites, despite the Environment Agency identifying that there is uncertainty around feasibility of HDD (and other trenchless methods), particularly in Suffolk which has been identified as a high-risk location for drilling fluid breakout. As the ExA has requested additional assessments of HDD, it is anticipated that these assessments will highlight the risks of leakage of drilling fluid into surrounding habitats, the risk of delivery due to unexpected ground conditions, the impact of noise and vibrations of sensitive species (e.g. marine mammals and birds) and the risk of failure of HDD requiring open cut excavation.

These significant risks could highlight the need for scheme design and route location to be revisited, resulting in material changes to the DCO application.

The EIA Regulations 2017 require that direct and indirect effects of a proposed development on biodiversity are identified, described and assessed in "*an appropriate manner*", with particular attention to protected species and habitats[6]. They further specify that an environmental statement must include the information "*reasonably required*" to assess such effects, taking into account "*current knowledge and methods of assessment*."[7] Settled case law confirms that the purpose of the environmental statement is "*to ensure that planning decisions which may affect the environment are made on the basis of full information*".[8] In this case, several of the outstanding environmental concerns, particularly around ecological surveys, cannot now be resolved within the 2025 survey season, which is coming to a close. Additional surveys for breeding birds, reptiles, amphibians, dormice, bats, beavers, otters, seals and water vole would instead need to be carried out in the 2026 survey window. These survey requirements are not new issues, but instead requirements raised numerous times by consultees during the pre-application stage.

Where an Environmental Statement inadequately addresses the environmental implications of a proposed development, as it is in this case, the local planning authority can, and should, refuse consent on the merits.[9] Moreover, if the new survey data were to change the assessment of impacts (e.g., revealing the need for avoidance measures, significant redesign, or compensation), this could result in material changes to the scheme. This further confirms that the application is not ready for Examination and should not proceed on the basis of incomplete data.

Inadequate and unproven mitigation measures

We are particularly concerned about the overall adequacy and credibility of the proposed mitigation measures within the application. There is little evidence to suggest that proposed mitigation measures have been guided by robust baseline ecological data or adherence to the Mitigation Hierarchy. In many cases, it is unclear whether the proposed measures are fit for purpose or capable of effectively addressing the impacts identified. This raises serious concerns about the effectiveness, enforceability, and long-term viability of the mitigation strategy as a whole. KWT and the undersigned organisations strongly believe that, in order to identify suitable mitigation sites, rather than ones that have been selected arbitrarily or out of expediency, and in order to undertake the outstanding protected species surveys, more time is needed than the current DCO timetable allows. We believe the additional information requested within the ExA's letters cannot be delivered to a suitable standard within the confines of the current DCO process. We therefore strongly urge the Applicant to consider withdrawing the current DCO application, deferring submission until the proposals are genuinely fit for Examination, with all supporting data and missing documents in place.

Consistent concerns across Interested Parties

We also acknowledge the ExA's reference to correspondence received from other Interested Parties, who have raised similar concerns about the environmental impacts, lack of sufficient survey data, and the Applicant's poor engagement. This includes Kent County Council's (KCCs) recently published letter

[6] The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, s. 5(2)(b)
[7] Id. s. 14(3)(b)
[8] R (Blewett) v Derbyshire County Council [2003] EWHC 2775 (Admin), para 41
[9] Id. para 40

(7th August 2025) Principal Areas of Disagreement[10], which outlines extensive unresolved issues with the Sea Link proposals, including ecological survey gaps for all protected species, inadequate drainage and flood risk mitigation, insufficient assessment of marine and benthic habitats and poor Biodiversity Net Gain (BNG) assessment, with no BNG metric or detail on how the Applicant has reached their conclusions. Likewise, there are similar inadequacies within the Suffolk Scheme, as highlighted by RSPB[11], including the adequacy of the initial environmental assessments forming part of the project's Environmental Impact Assessment and Habitat's Regulations Assessment, significant risks to Leiston-Aldeburgh SSSI and Sandlings SPA, which is partially within RSPB's North Warren Nature Reserve, due to the absence of safeguards around trenchless techniques, the exclusion of open cut trenching despite potential future maintenance requirements, risks to disturbance to protected birds from construction activity and insufficient proposals for long-term monitoring and emergency procedures. Taken together, these assessments reinforce what has been a remarkably consistent message from Interested Parties and statutory bodies, that the Sea Link DCO application is fundamentally flawed and unfit for Examination.

Whilst we recognise that the Planning Act 2008 does not confer upon the ExA the power to reject or withdraw an application at this stage, these concerns are substantive and widely shared, and the ExA is empowered to ensure that the Examination proceeds only when the documentation is legally and procedurally sound. There is established precedent - for example the London Resort Company Holdings[12] and Highways England[13] DCOs applications - where applicants have withdrawn their proposals after significant procedural or evidentiary deficiencies were identified during the pre-Examination process. Withdrawal in such circumstances is necessary to protect the integrity of the DCO process and to avoid unnecessary use of public resources, especially when it comes to large-scale projects of national significance.

Call for withdrawal of the application

In our view, allowing this application to proceed to Examination in its current state, or continuing in this pre-Examination limbo, risks undermining the integrity of the DCO process. We are particularly concerned that the application appears to have been accepted despite being incomplete and, in some areas, demonstrably incorrect, contrary to numerous requirements of applicable legislation and guidance. This raises important procedural questions as to whether the application met the legal threshold at the point of acceptance, casting doubt on the lawfulness of the process and exposing a subsequent decision to grant consent to the risk of legal challenge.

For these reasons, we urge the ExA and the Planning Inspectorate to:

- Recommend that the Applicant withdraw the application and resubmit it only once all necessary corrections, surveys, and legal issues have been resolved to avoid unnecessary use of stakeholder and public resources on an application that is demonstrably not fit for purpose in its current form; and

[10] EN020026-000725-KCC - Sea Link Principal Areas of Disagreement.pdf
[11] EN020026-000561-RSPB Relevant Representations Sea Link.pdf
[12] The London Resort Development Consent Order (BC080001), Withdrawal of application letter, March 2022. Available at https://nsip-documents.planninginspectorate.gov.uk/published-documents/BC080001-001359-PINS%20withdrawal%20letter%20280322.pdf
[13] Lower Thames Crossing Development Consent Order (TR010032), Withdrawal of application, November 2020. Available at https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010032/TR010032-000704-201120_TR0032_Letter%20providing%20notice%20of%20withdrawal%20of%20the%20application.pdf

- Provide clarification on how the application was deemed to meet the requirements of Sections 55 and 37 of the Planning Act 2008, despite the errors now documented.

We believe the steps above are necessary to uphold the integrity of the NSIP planning regime and to ensure fairness and transparency for all stakeholders and communities affected by the proposed development. KWT and the undersigned organisations are committed to participating constructively in the planning process, but this can only happen when the process itself is transparent, lawful, and based on complete and accurate information. The Sea Link DCO application, as currently submitted, does not meet that standard.

We welcome a response to this letter at your earliest convenience and would be pleased to meet to discuss these concerns in more detail.

Yours sincerely,

Emma Waller
Planning & Policy Officer, Campaign Lead Rethink Sea Link
Kent Wildlife Trust

Co-signed by:

Save Minster Marshes

Ben Moorhead DL, Chair of CPRE Kent

Sir Roger Gale MP Herne Bay and Sandwich

Suffolk Energy Action Solutions (SEAS)

Sue Sayer MBE, Seal Research Trust

British Divers Marine Life Rescue

Robert Townshend, Chair of the Suffolk Preservation Society

Walberswick Against Lion Link

Saxmundham Against Needless Destruction