



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed Gate Burton Energy Park

An Examining Authority report prepared with the
support of the Environmental Services Team

Planning Inspectorate Reference: EN010131

25 October 2023

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1 INTRODUCTION

1.1 Background

- 1.1.1 Gate Burton Energy Park Limited (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed Gate Burton Energy Park (the application). The Secretary of State (SoS) has appointed an Examining Authority (ExA) to conduct an Examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant SoS is the competent authority for the purposes of the Habitats Regulations¹ for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 This Report on the Implications for European sites (RIES) documents and signposts the information in relation to potential effects to European Sites² that was provided within the DCO application and submitted throughout the Examination by the Applicant and Interested Parties (IPs), up to Deadline 4 (D4) of the Examination (03 October 2023). It is not a standalone document and should be read in conjunction with the Examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:
<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010131/documents>
- 1.1.4 This RIES is issued to ensure that IPs including the Appropriate Nature Conservation Body (ANCB) - Natural England (NE) - is consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations.
- 1.1.5 It also aims to identify and close any gaps in the ExA's understanding of IPs' positions on Habitats Regulations matters, in relation to all European

¹ The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

² For the purposes of this RIES, in line with the Habitats Regulations and relevant Government policy, the term "European sites" includes Special Areas of Conservation (SAC), candidate SACs, proposed SACs, Special Protection Areas (SPA), potential SPAs, Sites of Community Importance, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites. For ease of reading, this RIES also collectively uses the term "European site" for 'European sites' defined in the Habitats Regulations 2017 and 'European Marine Sites' defined in the Conservation of Offshore Marine Habitats and Species Regulations 2017, unless otherwise stated. "UK National Site Network" refers to SACs and SPAs belonging to the United Kingdom already designated under the Directives and any further sites designated under the Habitats Regulations.

sites and qualifying features as far as possible, in order to support a robust and thorough recommendation to the Secretary of State.

- 1.1.6 Following consultation, the responses will be considered by the ExA in making their recommendation to the Secretary of State and made available to the Secretary of State along with this report. The RIES will not be revised following consultation.

1.2 Documents used to inform this RIES

- 1.2.1 The Applicant's Habitats Regulations Assessment (HRA) Report (the HRA Report) and documents used to inform this RIES comprised the following document(s):

- Habitat Regulation Assessment [[APP-223](#)]
- Environment Agency Responses to the Examining Authority's Further Written Questions [[REP4-063](#)]
- Statement of Common Ground between the Applicant and Natural England V2 [[REP1-009](#)]

1.3 RIES questions

- 1.3.1 This RIES contains questions predominantly targeted at the Applicant and ANCBs, which are drafted in *[blue, underlined italic text](#)* and are provided in Table 1.1 in section 2 of this RIES.

- 1.3.2 The responses to the questions posed within the RIES and comments received on it will be of great value to the ExA in understanding IPs' positions on Habitats Regulations matters. However, it is stressed that responses to other matters discussed in the RIES are equally welcomed.

- 1.3.3 In responding to the questions in Table 1.1, please refer to the ID number in the first column.

- 1.3.4 Comments on the RIES and responses to the questions posed in Table 1.1 below are timetabled for D5 (20 November 2023).

1.4 HRA Matters Considered During the Examination

- 1.4.1 The Examination to date has focussed on the following matters:

- Impacts from Electro-Magnetic Fields (EMF) on features of the Humber Estuary Special Area of Conservation (SAC) during operation.

2 LIKELY SIGNIFICANT EFFECTS

2.1 European sites considered

Introduction

- 2.1.1 The Proposed Development is not connected with or necessary to the management of any European site for nature conservation.
- 2.1.2 The Applicant has submitted a HRA Report which is identified by the Applicant as a 'pre-screening assessment' based on the general European Commission guidance on HRA, 'Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive' (2001). This 'pre-screening assessment' is to determine whether there are impact pathways between the Proposed Development and any sites within the UK National Site Network.
- 2.1.3 Based on the Zone of Influence (ZoI) of aspects assessed in the Environmental Statement (ES) during construction and operation, a distance of 10km is applied in the HRA to identify European sites within the ZoI and subsequently with potential to be impacted by the Proposed Development. A further search area of 30km was used to identify any European sites likely to be impacted by the Proposed Development for which bats are a feature.

Sites within the UK National Site Network (NSN)

- 2.1.4 The Applicant's HRA Report [[APP-223](#)] identified no European site(s) within the UK National Site Network within the ZoI and therefore none for inclusion within the assessment. NE agreed with these conclusions at D1 [[REP1-009](#)].
- 2.1.5 At D4, the EA [[REP4-063](#)] identified that features of the Humber Estuary SAC had potential to be impacted by the Proposed Development where the 400kV cables are proposed to cross the River Trent as part of the Proposed Development. This is because the River Trent connects to the Humber Estuary SAC upstream and fish features of the SAC spawn and migrate in the River Trent.

2.2 The Applicant's assessment

- 2.2.1 The Applicant's HRA Report did not identify any European sites within the ZoI and concluded that there was no potential for likely significant effects in section 4.

2.3 Examination matters

- 2.3.1 Impacts from EMF are referenced within the application documents at ES Chapter 14, paragraph 14.8.2 [APP-023] which states that the only cable with potential to cause EMF effects to human receptors, in line with the 'DECC Power Lines: Demonstrating compliance with EMF public exposure guidelines, A Voluntary Code of Practice, 2012' guidance, is the 400kV cable. The cable is proposed to cross the River Trent via Horizontal Directional Drilling (HDD). It is noted that this reference relates to potential for EMF to impact human receptors only, and consideration of the potential for EMF to affect ecological receptors during operation is not addressed in ES Chapter 8, Table 8-12 (page 100) [APP-017] or the HRA [APP-223].
- 2.3.2 Concerns were raised by IPs at D1 [REP1-089] that potential impact pathways to ecological receptors from EMF existed and had not been considered/assessed in the ES or HRA.
- 2.3.3 Following these concerns, the ExA questioned at D1 [PD-006] why the Applicant concluded there would be no adverse effects from EMF and how any associated mitigation would be secured in the draft Development Consent Order (dDCO). The ExA also asked whether the local authorities and EA were satisfied that EMF impacts had been scoped out of assessment. The EA responded at D3 [REP3-045] that it would provide comment on the matter at D4. The ExA further requested the EA to respond at D4 in its second written questions [PD-009].
- 2.3.4 At D4 the EA [REP4-063] responded that impacts from EMF on ecology is an emerging issue and is not assessed in the application. It identifies that Sea Lamprey (*Petromyzon marinus*) and River Lamprey (*Latin lampetra*), as features of the Humber Estuary SAC, utilise the River Trent for migration and spawning and may be subject to adverse impacts. This is also confirmed in ES Appendix Chapter 8-E [APP-129] in paragraph 5.1.2.
- 2.3.5 The EA requests in its response, that the Applicant undertakes a risk assessment to determine if there is possibility for EMF to impact fish species in the River Trent where the cable crosses, both cumulatively with other schemes, and from the project alone.
- 2.3.6 The Applicant responded [REP4-081] to IPs concerns stating that the design and depth of the buried 400kV cable will minimise potential EMF impacts on receptors. It also identifies that the area affected is very small and that fish would transit through this area quickly minimising potential impacts.
- 2.3.7 In the Applicant's Statement of Common Ground (SOCG) [REP3-004] with the Canal and Rivers Trust at D3, the Applicant agreed to secure a minimum HDD depth of 5m from the lowest surveyed part of the riverbed, for cables crossing the River Trent. This is secured through the updated Outline Design Principles submitted at D4 [REP4-004].

Table 1.1: Issues raised in the Examination to date by the ExA and IPs in relation to the Applicant's pre-screening assessment

ID	Potential impact pathway	Details of issue	ExA observation/ question
HUMBER ESTUARY SAC			
1.1	<p>Operation – Sea Lamprey</p> <p>Operation – River Lamprey</p>	<p>The Applicant undertook a HRA assessment [APP-223] and section 4 concluded there were no European sites located within the ZoI of the Proposed Development. No impact pathways were identified. NE agreed with this conclusion at D1 [REP1-009].</p> <p>Following concerns raised by IPs [REP1-089] that the application does not assess impacts from EMF on ecological receptors during operation. The Applicant [REP4-081] reasoned that impacts from EMF to ecological receptors would not occur due to the design and depth of the buried 400kV cable minimising potential impacts. 5m is the secured minimum burial depth of the cables from lowest surveyed part of the riverbed [REP3-004; REP4-004].</p> <p>The EA [REP4-063] identified that there is potential for impacts from EMF on River Lamprey and Sea Lamprey during operation, particularly during migration and spawning. These species are features of the Humber Estuary SAC and are present in the River Trent where the 400kV cable is proposed to cross the River.</p> <p>The EA requests that the Applicant provides a risk assessment determining whether there is potential for impact from EMF to fish species and subsequently, the features of the Humber Estuary SAC.</p>	<p><u>Question to NE and EA: Can NE and EA comment on whether it considers there is potential for a likely significant effect alone and cumulatively on features of the Humber Estuary SAC from EMF during operation considering the current mitigation secured eg cable design and depth?</u></p> <p><u>Question to the Applicant: Can the Applicant update the HRA to include a screening of impacts to fish features of the Humber Estuary SAC from EMF during operation from the Proposed Development alone and in-combination with other schemes.</u></p>

	NE have made no further comments on the matter.	
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3 CONCLUDING REMARKS

- 3.0.1 This RIES is based on information submitted throughout the Examination by the Applicants and IPs, up to D4 (03 October 2023), in relation to potential effects on European sites. It should be read in conjunction with the Examination documents referred to throughout.
- 3.0.2 The RIES has identified gaps in the ExA's understanding of IPs' positions on Habitats Regulations and comments on the RIES will be of great value to the ExA in order to support a robust and thorough recommendation to the Secretary of State. In particular, the ExA seeks:
- Confirmation as to whether there is potential for a likely significant effects on features of the Humber Estuary SAC from EMF during operation.
 - Responses to the questions identified in Table 1.1 of this RIES.
- 3.0.3 Comments on the RIES and responses to the questions in Table 1.1 of the RIES must be submitted for D5 (20 November 2023).