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Mr Ken Guest
DCO Manager – Richborough
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National Grid

Your Ref:

Our Ref: EN020017

By email

Date: 03 December 2015

Planning Inspectorate comments on the draft Richborough Connection Project No Significant Effects Report (Habitat Regulations Assessment Screening)

Dear Ken

National Grid (the applicant) requested comments from the Planning Inspectorate on a draft No Significant Effects Report (NSER), submitted in November 2015. The Planning Inspectorate welcomes the opportunity to comment on draft documents as this enables us to provide advice about any omissions or procedural risks for the acceptance or examination stages. This advice forms parts of our pre-application service, details of which are available in the Planning Inspectorate's pre-application prospectus which outlines the structured and facilitative approach to support the Planning Inspectorate can offer during the pre-application stage.

Please see below the Planning Inspectorate's comments on the applicant's draft NSER. Please note that the comments provided are without prejudice to any decisions taken by the Secretary of State during acceptance or the Examining Authority during examination, if the proposed development is accepted for examination. These comments are not intended to be a detailed review of the draft NSER and its findings, but are a high level review intended to provide helpful comments/observations as appropriate.

Documents Reviewed:

- Volume 5. Document 5.5 No Significant Effects Report (Habitat Regulations Assessment Screening) draft Nov 2015
- Appendices A to H draft Nov 2015

Scope of the assessment

1. With reference to the draft NSER and Appendix B, the Planning Inspectorate welcomes that the applicant and consultees have worked together to agree the scope of the assessment and the methodologies used, and notes that in response to comments from NE in 2014 that the features of Stodmarsh SAC and Ramsar site were added to the scope by the applicant. The content of Appendix B is helpful, but for complete clarity should be accompanied in the final application by all original correspondence, meeting notes, and any other records of consultee comments.

Screening Process –Identifying Potential Effects

2. The Planning Inspectorate notes from Appendix B that the results of the screening assessment have been discussed and agreed with NE. Again, the original meeting note/any comments received from NE should be included with the final application for clarity.
3. With reference to Appendix A and Table 3.2 in the draft NSER, there are a number of entries which read 'n/a' which do not seem appropriate. For example, in Matrix A the Planning Inspectorate would suggest that in theory Turnstone could be subject to collision risk. If this effect is unlikely to occur then the entry should be an X for 'LSE can be excluded' with the evidence supplied as to how this has been determined (such as the species not having been recorded within the study area). For clarity, in the matrices, 'n/a' is intended for use when no pathway exists for an effect (for example, humid dune slacks cannot be subject to collision risk). Ultimately the information needs to be adequate for the Competent Authority (the Secretary of State) to understand the potential effects which could arise from the project, and then whether they are likely to be significant in terms of their consequences for the designated feature.
4. With reference to Paragraph 3.2.8 of the draft NSER and to Appendix G, it is not clear why a Zone of Influence (ZoI) of 10km has been chosen. This does not appear anywhere in Appendix G, which instead describes various ecological ZoIs depending on receptor, none of which are 10km. If this is justified in the Environmental Statement, the same information should be presented as relevant in the final NSER. It would be helpful to make reference to any specific consultee responses regarding the ZoI.
5. With reference to Table 3.2 it is not entirely clear why The Swale and Tankerton Slopes SAC have been screened out, the justification given is that they are considered to be outside of the ZoI. The ZoI is given as 10km in Paragraph 3.2.8 of the NSER, and these designations lie within this distance

from the proposed order limits. In the case of The Swale, the NSER refers to Appendix H for more information; however this appendix does not clarify this point. The Planning Inspectorate notes and welcomes the statement that the 'screening out' of these sites has been agreed with NE, but the applicant should clarify the rationale behind the chosen ZoI.

6. The screening results reported in Table 3.2 in the draft NSER do not always concur with those presented in Appendix A, for example effect on Red Data Book invertebrates (Thanet Coast & Sandwich Bay Ramsar) and hen harrier (Stodmarsh SPA). The Planning Inspectorate recommends that this is checked and clarified.
7. The features are not listed for any of the SACs included in Table 3.2, which is inconsistent with the way the other designations are treated in this table and in which features are reported in Appendix A. For clarity all features of all sites included in the scope should be listed with the potential effects which could occur clearly shown.
8. Paragraph 3.8.2 of the NSER summarises the 'sites scoped in for consideration'. The list of sites and features which follows is confusing as it doesn't agree with the information shown in Table 3.2 or the results presented in Appendix A. From the way the information is presented, it has been understood by the Planning Inspectorate that some sites/ features were 'screened out' at a high level and some were subject to more consideration before a conclusion of 'no LSE' was reached. The inconsistency appears to be around the way in which the high level and more in-depth screening exercises have been reported and the Planning Inspectorate recommends this is checked and clarified. The Planning Inspectorate highlights that the terms 'scoping' and 'screening' have no specific meaning under the Habitat Regulations, and acknowledges that there is no set methodology or terminology that should be used to report the consideration of LSE. With this in mind, the way the exercise is reported is entirely up to the applicant, but for clarity the Planning Inspectorate asks that the reporting is consistent throughout all documents with a clear outcome presented and a clear explanation of how this was reached.

In-combination assessment

9. The Planning Inspectorate notes the references in Appendix C to the numbers used for identification of other proposed development sites on Figure 3.2 in the NSER, however considers that it would be helpful to number the list of proposals given in Paragraph 3.7.3 in the NSER to match these Appendix and the Figure.
10. With respect to the screening for likely significant effects in-combination with

other proposals, Paragraph 3.7.4 of the NSER states that none are considered likely and refers to Appendix C for details. Appendix C provides an overview of each proposal and its planning status, but does not provide any more detail on how these proposals could/ could not combine with the Richborough Connection project in terms of the potential effects produced and receptors considered. In order to demonstrate that in-combination effects have been robustly considered, the specific effects of each proposal should be compared with those anticipated to result from the Richborough Connection project and an assessment made of whether they are likely to combine to become significant.

Presentation of information

11. The Planning Inspectorate welcomes the inclusion of Table 3.2 in the draft NSER as a useful aid to understanding the screening assessment, but notes a few items within the table that require clarification.
 - a. It is not always clear due to inconsistent formatting in the table which specific effect(s) have been screened out.
 - b. It would aid interpretation of the information significantly if the potential impacts shown in Table 3.2 could be easily matched to the potential impacts/effects in Appendix A by describing them in the same way in both.
 - c. In addition, listing the designated sites in the same order in both Table 3.2 and Appendix A would add clarity.
12. Matrix C, H, I, and J (Appendix A) appear to show high level 'scoping' results rather than the screening results shown by the other matrices. Provided it can be understood from the final NSER that the sites they relate to have been scoped out, the applicant should consider omitting these to ensure a consistent approach to reporting.
13. With reference to the matrices (Appendix A), the Planning Inspectorate would like to raise the following:
 - a. We suggest that the terms 'Effect 1, Effect 2' etc. are avoided as these require the reader to continually refer back to the table at the front end of the Appendix in order to interpret the matrices. These terms could be replaced in the front end table and throughout the matrices with a shortened description of the effect in question, e.g. 'habitat loss,' in order to allow ease of interpretation.
 - b. Please see 11.b and c. above with respect to Table 3.2.
14. While the Planning Inspectorate welcomes the use of accurate references within the 'Evidence supporting conclusions' footnotes in Appendix A, these

footnotes should be expanded to contain a brief summary of the evidence to enable ease of interpretation, perhaps similar to the content of the 'screening rationale' column of Table 3.2 in the NSER. It will remain important to include the detailed justifications within the final version of the NSER however the Planning Inspectorate would encourage the avoidance of repetition where possible.

General Comments

15. Reference is made in the NSER to embedded mitigation measures, further detailed in Appendix H, which have informed the assessment of likely significant effects. These measures should be detailed within the CEMP and secured by appropriate requirements in the DCO or DML.

I hope you find these comments useful. Please do not hesitate to contact me should you have any queries.

Yours sincerely

Gail Boyle

Gail Boyle
Senior EIA and Land Rights Advisor

cc Emer McDonnell
Kathryn Dunne

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.