

Date: 15 November 2016
Our ref: 199091
Your ref: TR010021



The Planning Inspectorate
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BY EMAIL ONLY

Dear Sir/Madam,

NSIP Reference Name / Code: Silvertown Tunnel Development Consent Order (DCO) Examination (TR010021)

User Code: SILV-SP008

Thank you for your consultation on the above dated 18 October 2016 which was received by Natural England on 20 October 2016.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Written Representation

PART I: Summary of Natural England's advice. We are satisfied with the majority of matters covered by the DCO with just a few minor areas still under discussion however these aren't issues of serious concern.

PART II: Annexes including Natural England's answers to the ExA's first written questions

Content

Part 1 – Introduction

Part 2 – Conservation Interests

PART 1 INTRODUCTION

1.1. Purpose and structure of these representations

- 1.1.1. These Written Representations are submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 ('ExPR') in relation to an application under the Planning Act 2008 for a Development Consent Order ('DCO') for the Silvertown Tunnel and associated development ('the Project') submitted by Transport for London ('the Applicant') to the Secretary of State.
- 1.1.2. This document comprises an updated statement of Natural England's views, as they have developed in view of the common ground discussions that have taken place with the Applicant to date. These are structured as follows:
 - a. Section 2 describes the conservation designations that may be affected by the Project and need to be considered.
 - b. Section 3 comprises Natural England's submissions in respect of the issues that concern it.
 - c. Section 4 is a dedicated section answering the Examining Authority's written questions which were asked on 18 October 2016.
 - d. Section 5 provides a summary of Natural England's case.

2. CONSERVATION DESIGNATIONS, FEATURES AND INTERESTS THAT COULD BE AFFECTED BY THE PROPOSED PROJECT

The following is a brief summary of the interest features of the relevant designated areas of concern in this matter.

2.1. International conservation designations

Lee Valley Ramsar
Epping Forest SAC
Lee Valley SPA

2.2. National conservation designations

Epping Forest SSSI
Walthamstow Marshes SSSI
Walthamstow Reservoirs SSSI

2.3. European Protected Species

No European protected species licences are going to be required for this project going forward. This has been agreed within the Statement of Common Ground with Transport for London.

2.4. Nationally Protected Species

Black Redstarts

The invertebrate survey produced a rich assemblage of species including two cited as red data book species. The following species found are included in the London BAP priority species:

Cinnabar Moth (*Tyria jacobaeae*)
Toadflax Brocade Moth (*Calophasia lunula*)
Variegated ladybird (*Hippodamia variegata*)
Yellow-faced Bee (*Hylaeus signatus*)
A solitary Bee (*Lasioglossum malachurum*)
Hoverfly (*Volucella zonaria*).

3. NATURAL ENGLAND'S CONCERNS AND ADVICE

3.1. The principal issue

3.1.1. Natural England identifies the following main issues:

- a. Black Redstarts
- b. Rare invertebrates and invertebrate assemblage

These issues will be discussed in corresponding sections below along with any updates on the progress or resolution of issue.

3.2. Impacts on bird species

A - Black Redstarts

3.2.1. The Code of Construction Practise contains measures which Natural England welcomes to ensure that surveys will be carried out prior to works beginning and also during clearance works on site. This will ensure that the mitigation measures can be implemented as soon as possible should there be any sighting of Black Redstarts on site using habitat in the project area. There is agreement with Transport for London in the Statement of Common Ground regarding this mitigation.

3.2.2. Natural England is satisfied that Black Redstarts are considered and mitigated for satisfactorily within the Code of Construction Practise and will be within the proposed Ecology Management Plan, to be drawn up in liaison with Natural England in due course.

B - Rare invertebrates and invertebrate assemblage

3.2.3. Natural England is satisfied that Black Redstarts are considered and mitigated for satisfactorily within the Code of Construction Practise and will be within the proposed Ecology Management Plan, to be drawn up in liaison with Natural England in due course.

3.2.4. Conclusions

3.2.5. Natural England welcomes the commitment to ensuring that survey work is carried out both prior to clearance works beginning and during works on site for Black Redstarts. This will ensure that any birds noted on site using habitats can be afforded the protection which would allow them to use the site as long as they required and move on.

3.2.6. Natural England is still in discussions with TfL and the Marine Management Organisation (MMO) regarding the proposed jetty in the Thames and the potential impacts of this on the Thames Estuary recommended Marine Conservation Zone (rMCZ). The current situation is summarised within the copy of our response to the First Written Questions at the end of this letter.

3.3. The questions received

3.3.1. In its Rule 8 letter dated 18th October 2016, the Examining Authority asked Natural England a number of questions. These are set out, along with the answers, in annex 1. The table cross-refers to passages in these Written Representations and their Annexes.

SECTION 4 - FIRST WRITTEN QUESTIONS – NATURAL ENGLAND’S ANSWERS

4. First Written Questions

Natural England would have the following comment to make in relation to the specific questions, as numbered below, as issued by the Examining Authority.

- **TE1** – It is considered that the matters arising within TE1 are agreed with Transport for London (TfL) at this point in time.
- **TE6** – Natural England is satisfied that there won't be any impacts upon any of the local Site of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs) or other locally designated sites. We are agreed with TfL on this matter.
- **TE7** – We would agree that provided the Japanese Knotweed is removed in accordance with the Environmental Protection Act 1990 then the specific mitigation is sufficient. We are in agreement with TfL.
- **TE8** – Provided that the amended period for the bird breeding season (February to August inclusive) is incorporated into the Code of Construction Practise (CoCP), which TfL has agreed to do, then Natural England is in agreement on the matter.
- **TE9** – Based on current discussions NE would recommend that in paragraph 7.1.7 of the CoCP that the following wording is included: "Specific measures will be taken to ensure continual suitable open mosaic habitat is provided for the invertebrate assemblage prior to and during construction". This specific matter is still under discussion with TfL.
- **TE11** – In regard to dust suppression Natural England is satisfied that the mitigation put forward within the CoCP is sufficient to minimise impacts upon the nearby East India Dock Basin Site of Importance for Nature Conservation (SINC) arising from dust. This matter is agreed with TfL.
- **TE12** – The survey work prior to works beginning and the mitigation for Black Redstarts as proposed within the CoCP is acceptable to Natural England and the amendment of the breeding season as suggested is welcomed. We are in agreement with TfL.
- **TE13** – Here there is agreement with regard to there being no requirement for any terrestrial wildlife licenses as part of this project. There is further clarification required for marine licences and this matter is still under discussion with TfL.
- **ME1** – There is agreement here regarding the current lack of survey work however further desk based assessment in liaison with Ian Humphreyes at the Environment Agency (EA) is ongoing to ensure no adverse impact upon identified species from the installation and subsequent decommissioning of the jetty. We are agreed with TfL on this matter.
- **ME2** – The Thames Estuary rMCZ is to go out to consultation early spring 2017 which is when it would become a material consideration. TfL have agreed with NE that the rMCZ will be equally weighted throughout the planning examination. The Government is committed to a 3rd tranche of MCZs which includes this rMCZ. This matter overall is still under discussion with TfL and as such is not fully agreed as yet.

- **ME7** – We would wish to see the Deemed Marine License (DML) in due course to ensure that the correct mitigation is included, this will be done through consultation with the Marine Management Organisation (MMO). As such this matter is still under discussion and not agreed at this time.
- **HRA1** – The list of in combination plans and projects has been agreed with Natural England and is appropriate for the size and scale of this project. Matter is agreed with TfL.
- **HRA2** – The use of the two local authority Local Plan HRA screening assessments as evidence can be accepted but shouldn't be solely relied upon by TfL as the Silvertown Tunnel isn't directly referenced within either in-combination assessment. Natural England is still of the opinion that overall the project screening assessment does still have enough evidence to point to no Likely Significant Effect (LSE) and as such no full assessment is required.
The distances to the nearest Natura 2000 sites are great enough that there is not likely to be a significant impact upon any of the screened sites. The early stage of the Silvertown Tunnel project (or it's non-existence) when the HRA screenings were carried out means that it couldn't reasonably have been considered in combination at the time and is not considered to have an impact on its own. This matter is still under discussion with TfL so isn't fully agreed at this time.
- **HRA3** – Natural England is of the opinion that the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site wouldn't be impacted by the mobilisation of contaminants due to the distance downstream from the site. An added paragraph has been requested within the Environmental Statement (ES) regarding the rMCZ and the mobilisation of contaminants and the potential effects upon migrating smelt. This matter is still under discussion with TfL so isn't as yet fully agreed due to lack of information regarding destination of tunnelled materials (other than the confirmation that they won't be deposited at sea).
- **HRA4** – Considering the possible impacts upon Epping Forest Special Area of Conservation (SAC) Natural England is of the opinion that there won't be an impact upon the site from this project due to the distance involved; where the Highways England Design Manual for Roads and Bridges volume 11 screening criteria come into play and screen this out as having an impact. The use of barges to remove tunnelled materials by river will also alleviate air quality impacts of using heavy good vehicles to remove material by road out through London.

This concludes Natural England's comments to the Planning Inspectorate regarding the First Written Questions as issued on the 18th October 2016.

5. SUMMARY OF NATURAL ENGLAND'S CASE

- 5.1. With regard to the submitted materials for the Silvertown Tunnel by Transport for London Natural England is satisfied that the project as it stands is not going to cause harm to any designated sites or species either locally or more widely beyond the order limits provided that all mitigation as stipulated in the submitted documents is adhered to.
- 5.2. Having liaised with Transport for London throughout the various aspects of this NSIP, including commenting on the Preliminary Environmental Information Report and Habitats Regulations Assessment Natural England has been involved where required by Transport for London and has agreed a vast majority of terms within the Statement of Common Ground.
- 5.3. There are still a small number of items which are under discussion with Transport for London (as outlined within the Statement of Common Ground) however these are not major issues and it is hoped they will be resolved in the near future. The main issues relate to the temporary jetty to be constructed in the Thames and the works needed for this, both to install and then remove the structure.
- 5.4. There are also some further details to be determined with regard to suitable habitat being provided for red data book invertebrates on site as well as the further information required relating to the Deemed Marine License.
- 5.5. In conclusion then at this stage there are still a few minor items to discuss and get details on from Transport for London however otherwise the project information as submitted is acceptable to Natural England at this point.

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 us.

For any queries relating to the specific advice in this letter only please contact Piotr Behnke on 0208 026 3893. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely,

Piotr Behnke
Sustainable Development
Thames Team