



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed Silvertown Tunnel

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

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Silvertown Tunnel

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1. INTRODUCTION

Background

- 1.1 Transport for London (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (as amended) for the proposed Silvertown Tunnel (the application). The Secretary of State 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.
- 1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive¹ and the Habitats Regulations² for applications submitted under the Planning Act 2008 regime (as amended). 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.
- 1.3 This report compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the Examination by both the Applicant and Interested Parties (IPs), up to Deadline 4 of the Examination (6 March 2017) in relation to potential effects to European Sites³. 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:

<http://infrastructure.planninginspectorate.gov.uk/document/TR010021-000457>
- 1.4 This report is issued to ensure that IPs including the statutory nature conservation body (Natural England) are consulted formally on Habitats

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

² The Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations).

³ The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see PINS Advice Note ten.

Whilst the Thames Estuary recommended Marine Conservation Zones (rMCZ) has been the subject of discussion during the Examination, this is not a European Site and therefore is not considered within this RIES.

Regulations matters⁴. This process may be relied on by the Secretary of State for the purposes of Regulation 61(3) of the Habitats Regulations. 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 Report on Implications for European Sites (RIES) is not revised following consultation.

- 1.5 The Applicant has not identified any potential impacts on European sites in other EEA States⁵. Only UK European sites are addressed in this report.

Documents used to inform this RIES

- 1.6 The Applicant provided a Habitats Regulations Assessment (HRA) report entitled 'Environmental Statement Appendix 9.G (6.3.9.7) Habitat Regulation Assessment (HRA)' (dated April 2016) [APP-064] with the DCO application. In accordance with Planning Inspectorate Advice note ten⁶, the HRA Report included screening matrices.
- 1.7 In response to the ExA's FWQ question HRA5 [PD-006], the Applicant provided an updated HRA Report at Deadline 1 [REP1-115] which contained updated screening matrices. These updated matrices are considered to provide sufficient information on the HRA process undertaken by the Applicant.
- 1.8 Other documents used to inform this RIES are:

Procedural Decisions

- Examining Authorities first written questions (FWQ) [PD-006]

Relevant Representations

- Environment Agency [RR-299]

Deadline 1

- Natural England [REP1-063]
- Environment Agency Written Representation [REP1-060]
- Environment Agency Response to FWQ [REP1-061]
- Applicant's revised Water Framework Directive Compliance Assessment [REP1-117]

⁴ In view of their interests, the Environment Agency and the Marine Management Organisation are also specifically amongst the consultees.

⁵ European Economic Area (EEA) States.

⁶ Habitat Regulations Assessment relevant to nationally significant infrastructure projects available at <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

- Applicant's response to ExA's FWQs: 8.10 Principal Issue: Habitats Regulation Assessment [REP1-168]

Deadline 4

- Natural England's draft, updated Statement of Common Ground (SoCG) [REP4-063]

Structure of this RIES

1.9 The remainder of this report is as follows:

- **Section 2** identifies the European sites that have been considered within the DCO application and during the examination period, up to Deadline 4 (6 March 2017).
- **Section 3** provides a summary of the Applicant's assessment of likely significant effects, either alone or in-combination with other projects and plans. It also identifies where interested parties and the ExA have queried the Applicant's approach.

2. EUROPEAN SITES CONSIDERED

- 2.1 The Silvertown Tunnel project is not connected with, or necessary to, the management for nature conservation of any of the European sites considered within the Applicant's assessment.
- 2.2 The Applicant's updated HRA Report [REP1-115] identified nine European sites within 30km of the proposed development. Paragraph 6.1.1 states that this is a radius taken from the Design Manual for Roads and Bridges (DMRB) in order to assess potential impacts on bats and also to ensure that potential functionally linked land for qualifying wintering bird species was considered.
- 2.3 The relevant European sites (and features) identified, for which the UK is responsible, were considered to be those identified in Table 2.1:

Table 2.1: Sites identified in the Applicant's HRA Report

Name of European Site	Approximate distance from the site	Features
Lee Valley Special Protection Area (SPA)	8km north	<i>Botaurus stellaris</i> ; Great bittern (Non-breeding)
		<i>Anas strepera</i> ; Gadwall (Non-breeding)
		<i>Anas clypeata</i> ; Northern shoveler (Non-breeding)
Lee Valley Ramsar site	8km north	Ramsar criterion 2: The site supports the nationally scarce plant species whorled water-milfoil <i>Myriophyllum verticillatum</i> and the rare or vulnerable invertebrate <i>Micronecta minutissima</i> (a water-boatman)
		Ramsar criterion 6: Internationally important populations of two wintering or passage bird species
Thames Estuary and Marshes SPA	30km east	<i>Calidris alpina alpina</i> ; Dunlin
		<i>Calidris canutus</i> ; Knot
		<i>Charadrius hiaticula</i> ; Ringed plover
		<i>Circus cyaneus</i> ; Hen harrier
		<i>Limosa limosa islandica</i> ; Black-tailed godwit
		<i>Pluvialis squatarola</i> ; Grey plover

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Name of European Site	Approximate distance from the site	Features
		<i>Recurvirostra avosetta</i> ; Avocet
Thames Estuary and Marshes Ramsar site	30km east	<p>Ramsar criterion 2: The site supports one endangered plant species and at least 14 nationally scarce plants of wetland habitats. The site also supports more than 20 British Red Data Book invertebrates</p> <p>Ramsar criterion 5: Internationally important assemblages of wintering waterfowl</p> <p>Ramsar criterion 6: Internationally important populations of six wintering or passage bird species</p>
Epping Forest Special Area of Conservation (SAC)	7km north	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i>; Wet heathland with cross-leaved heath</p> <p>European dry heaths</p> <p>Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrublayer (<i>Quercion robur-petraeae</i> or <i>Ilici-Fagenion</i>); Beech forests on acid soils</p> <p><i>Lucanus cervus</i>; Stag beetle</p>
Wimbledon Common SAC	Over 20km west	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>European dry heaths</p> <p><i>Lucanus cervus</i>; Stag beetle</p>
Richmond Park SAC	Over 21km west	<i>Lucanus cervus</i> ; Stag beetle
Wormley-Hoddenspark Woods SAC	Over 27km west	Sub-Atlantic and medio-European oak or oak-hornbeam forests of the <i>Carpinion betuli</i>
North Downs Woodlands SAC	30km south-west	<p>Asperulo-Fagetum beech forests</p> <p><i>Taxus baccata</i> woods of the British Isles</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous</p>

Name of European Site	Approximate distance from the site	Features
		substrates (Festuco-Brometalia) (*important orchid sites)

2.4 No other UK European sites or European site features that could be affected by the project were identified in any of Natural England's representations.

3. LIKELY SIGNIFICANT EFFECTS

The Applicant's assessment

- 3.1 The European sites considered by the Applicant are detailed in Table 2.1 of this RIES. Of these sites, the final four (Wimbledon Common SAC, Richmond Park SAC, Wormley-Hoddesdonpark Woods SAC and North Downs Woodlands SAC) were scoped out of the Applicant's assessment on the basis that they were too distant from the proposed development and its impacts for any likely significant effect to occur; as they had no hydrological connection to the proposed development; and as they had no sufficiently mobile qualifying features.
- 3.2 Further consideration was therefore given to the remaining sites:
- Lee Valley SPA;
 - Lee Valley Ramsar site;
 - Thames Estuary and Marshes SPA;
 - Thames Estuary and Marshes Ramsar site; and
 - Epping Forest SAC.

Potential Impacts

- 3.3 The Applicant's updated HRA Report [REP1-115] considered the following potential impacts on the European sites identified in paragraph 3.2 of this RIES:
- changes to air quality;
 - changes to water regime/quality; and
 - functional habitat loss/damage and/or disturbance.

In-combination assessment

- 3.4 The Applicant addressed potential in-combination effects within section 7.5 of their HRA report. The following proposed plans/projects located within or adjacent to the proposed development were considered:
- Newham Strategic Site S8;
 - Greenwich Masterplan 2015, including:
 - parking;
 - film studio;
 - transport interchange;
 - dwelling houses/serviced apartments x4;

- design district comprising A, B, C and D classes;
 - shops/food/financial services; and
 - parking/design district comprising A, B, C and D classes.
- Greenwich Peninsula West Masterplan.
- 3.5 Paragraph 7.5.2 of the updated HRA Report confirms that *"Any developments not adjacent to the Scheme, including the Thames Tideway Tunnel (TTT), which runs under the Thames, but not in the vicinity of the Scheme, have been scoped out, as impacts on terrestrial ecological features or hydrologically related features are unlikely within the distances involved and indeed TTT have their own No Significant Effects Report for Natura 2000 sites"*⁷.
- 3.6 The most recent version of the SoCG between the Applicant and Natural England (revision 1.4 submitted at deadline 4 [REP4-063]) confirms agreement with the list of projects to be considered for the in-combination assessment.

Applicant's conclusion

- 3.7 The Applicant's HRA Report concluded that the project would have no likely significant effect, either alone or in-combination with other projects or plans, on the qualifying features of any European site.

Examination

- 3.8 No additional European sites and features were identified by interested parties during the Examination.
- 3.9 The Applicant's overall conclusion of no likely significant effect in relation to these sites and their features was not disputed by any interested parties during the Examination. However, the following matters were considered during the Examination, up to deadline 4.

Thames Estuary and Marshes SPA and Ramsar site

- 3.10 The HRA Report ruled out a likely significant effect on the Thames Estuary and Marshes SPA and Ramsar site on the basis that it is *"sufficiently far removed at 30km east of the Scheme not to be within the zone of influence of water quality effects"* (paragraph 7.3.3).
- 3.11 The ExA noted concerns in the Environment Agency's relevant representation [RR-299] that the Applicant had not satisfactorily demonstrated Water Framework Directive (WFD) Compliance, specifically in relation to mobilisation of contaminants. The Environment Agency's

⁷ European Sites created under the EC Birds Directive and Habitats Directive form part of a larger European network called 'Natura 2000'.

representation did not directly attribute these concerns to European sites; however, it prompted the ExA to question whether the proposed development could result in the mobilisation of contaminants which could open up impact pathways to the Thames Estuary and Marshes SPA and Ramsar site (FWQ HRA3 [PD-006]).

- 3.12 The Applicant [REP1-168] reiterated the conclusions of the assessment of effects on water quality from the mobilisation of contaminants during construction which was presented in Chapter 16 - Water Quality and Flood Risk and Chapter 10 - Marine Ecology of the ES [APP-031]. It reaffirmed that the Thames Estuary and Marshes SPA and Ramsar site is sufficiently far removed at 30km east of the proposed development not to be within the zone of influence of water quality effects and that there is no functionally linked wetland within the zone of influence of the proposed development. This position was agreed with Natural England [REP1-063 and REP3-009].
- 3.13 The Applicant provided an updated WFD compliance assessment [REP1-117] which the Environment Agency confirmed [REP1-060] addressed their WFD concerns. As a result, the Environment Agency stated [REP1-061] that it would expect potential water quality impacts on the Thames Estuary and Marshes SPA and Ramsar site to be low.

In-combination assessment

- 3.14 The conclusions of the in-combination assessment (section 7.5 of the HRA Report) were drawn on the basis that the Greenwich and Newham local plans have had their own HRA screening assessment that concluded no significant effect and on the basis that policies in the Core Strategies are to enhance biodiversity.
- 3.15 The ExA noted that no specific assessment work had been undertaken to consider whether in-combination impacts from the proposed development and projects detailed within the local plans could potentially be significant. Natural England did not submit a relevant representation. Therefore, the ExA queried whether Natural England agreed with the approach [HRA2 of FWQ PD-006].
- 3.16 At Deadline 1, Natural England [REP1-063] stated that *"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...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."*

- 3.17 Both Natural England and the Applicant [REP1-168] responded that the approach was under discussion.
- 3.18 At Deadline 2, the Applicant [REP2-034] provided details of the potential in-combination effects that were identified, but not considered to be significant, in the Greenwich Local Plan HRA. These were:
- increased visitor/adjacent recreational pressure resulting in disturbance to bird populations and supporting habitat; and
 - potential for pollution effects downstream.
- 3.19 The Applicant further explained that these effects were screened out of the HRA on the basis that daily traffic demand is anticipated to reduce and given the distance to the nearest European site. As such, the Applicant concluded no potential for in-combination effects.
- 3.20 The Statement of Common Ground with Natural England [REP4-063] confirms that *"it is agreed that the Scheme is not likely to give rise to significant effects upon any N2k [Natura 2000] sites or their qualifying features, either alone or in combination with other known plans and projects. It is therefore not necessary to carry out an 'Appropriate Assessment' / Stage 2 HRA."*

Summary of HRA Screening outcomes during the Examination

- 3.21 A total of nine European sites were screened by the Applicant prior to the Examination (see Table 2.1 of this report). Of these sites, the Applicant concluded that there would be no likely significant effect on all of these European sites and their qualifying feature. This conclusion has been agreed with Natural England.