

A585 Windy Harbour to Skippool Improvement Scheme

TR010035

7.29 Comments on the Report on the Implications for European Sites (RIES)

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The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009

**A585 Windy Harbour to Skippool
Improvement Scheme**
Development Consent Order 201[]

**COMMENTS ON THE REPORT ON THE IMPLICATIONS FOR EUROPEAN
SITES (RIES)**

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ABBREVIATIONS

Abbreviations contained within this document are listed below with an indication of their meaning in the context of the A585 Windy Harbour to Skippool Improvement Scheme 'the Scheme'.

Abbreviation	Meaning
AEoI	Adverse Effects on Site Integrity
DCO	Development Consent Order
HRA	Habitats Regulations Assessment
NE	Natural England
OCEMP	Outline Construction Environmental Management Plan
SoCG	Statement of Common Ground
SPA	Special Protection Area
REAC	Record of Environmental Actions and Commitments
RIES	Report on the Implications for European Sites

1 COMMENTS ON THE REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES (RIES)

- 1.1.1 The purpose of this document is to set out the Applicant's responses to the RIES drafted by the Planning Inspectorate.
- 1.1.2 The Applicant's responses are outlined in Table 1-1. Please note the RIES has not been replicated in its entirety in this document. Only points within the RIES where there are outstanding matters or points that need a response are provided in Table 1-1.

Table 1-1: Comments on the Report on the Implications for European Sites (RIES)

Text Taken from the RIES	The Applicant's Response
<p>No Adverse Effects on Site Integrity (AEol)</p> <p>The Applicant considered the potential for AEol from the Proposed Development alone within Section 7 of the Habitats Regulations Assessment (HRA) Report [REP2-027]. Section 7.5 of the HRA Report considered the potential for AEol in-combination with the plans and projects considered in the in-combination assessment set out in Table 13 [REP2-027].</p> <p>The Applicant concluded that the Proposed Development would not have an AEol on any of the European sites and qualifying features considered in the HRA Report [REP2-027].</p> <p>Matters relating to the identification of AEol of European sites and qualifying features which were discussed during the Examination are detailed below. Where conclusions around AEol have been disputed by IPs during the Examination, the Applicant's Stage 2 integrity matrices [Appendix 4, REP2-027] have been updated for the relevant sites and features (see Annex 2 of this report).</p>	<p>Noted. No further response required.</p>
<p>Noise disturbance and Bird Mitigation Strategy</p> <p>Chapter 7 of the HRA Report [REP2-27] presents the assessment of noise disturbance to birds (paragraphs 7.4.2-7.4.34). The methodology is agreed with Natural England (NE) in their Statement of Common Ground (SoCG) [REP2-048], including agreement on a distance of 300m for considering potential disturbance/displacement associated with the Proposed Development.</p>	<p>Noted. No further response required.</p>
<p>There is one issue relating to the assessment of noise disturbance where agreement with NE remains outstanding, in relation to a bird mitigation area proposed by the Applicant as mitigation for noise impacts during the construction period (as described in Table 20 of the HRA Report [REP2-027]). It is proposed that the bird mitigation area is subject to a 'Bird Mitigation Strategy', which the Applicant states is required to avoid an AEol of the Morecambe Bay and Duddon Estuary Special Protection Area (SPA) and Morecambe Bay Ramsar site [REP2-027]. The proposed Bird Mitigation Strategy was included as Appendix B to the draft Outline Construction Environmental Management Plan (OCEMP) submitted with the Development Consent Order application [APP-082].</p>	<p>Noted. No further response required.</p>
<p>NE's concerns (as set out in their Written Representation [REP2-071]) related to the Applicant obtaining the shooting rights around the bird mitigation area for the duration of the construction period [REP2-071].</p>	<p>Cessation of shooting rights adjacent to the Bird Mitigation Area will be obtained for the duration of the construction phase as outlined in Section 2.4 of Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4).</p>
<p>NE stated [REP2-071] that the Bird Mitigation Strategy (as provided with the DCO application [APP-082]) should be amended to clarify that, in order for the mitigation site to be effective, all the shooting rights from the surrounding fields and the foreshore will be removed for the duration of the construction works to ensure that there is no AEol of the Morecambe Bay & Duddon Estuary SPA and Morecambe Bay Ramsar site.</p>	<p>Cessation of shooting rights adjacent to the Bird Mitigation Area will be obtained for the duration of the construction phase as outlined in Section 2.4 of Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4).</p>
<p>NE noted that they were yet to see the final version of the Bird Mitigation Strategy [REP2-071]. Therefore, NE stated that it was not yet satisfied that it can be excluded beyond reasonable scientific doubt that the Proposed Development would not have an AEol of Morecambe Bay & Duddon Estuary SPA and Morecambe Bay Ramsar site [paragraph 2.3.2, REP2-071].</p>	<p>Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4) was submitted to Natural England and will be submitted formally at Deadline 7.</p>
<p>A draft SoCG with NE was submitted at Deadline 2 [REP2-048], which confirmed that all matters are agreed, apart from the detail of the Bird Mitigation Strategy and the conclusion of no AEol of the Morecambe Bay and Duddon Estuary SPA / Morecambe Bay Ramsar site, as outlined above. The SoCG stated that the Applicant is currently in consultation with the Duchy of Lancaster to suspend the Fylde Wildfowling sporting rights (shooting rights) over the land north of the bird mitigation area, which covers the River Wyre, during construction. Subject to the shooting rights being finalised, NE has agreed to this matter in principle, but needs to see and agree the final version of the Bird Mitigation Strategy before this can be fully resolved [REP2-048].</p>	<p>As above. The Duchy have agreed to the cessation of shooting rights during the construction period. The Fylde Wildfowling have agreed in principle not to shoot during the construction period and this is being documented.</p>
<p>The Applicant's Deadline 3 representation [REP3-011] noted NE's outstanding comments on noise</p>	<p>Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document</p>

Text Taken from the RIES	The Applicant's Response
disturbance, and stated that an updated Bird Mitigation Strategy would be provided following further discussions with the Duchy of Lancaster and the landowner/tenant.	reference TR010035/APP/7.2 – Rev 4) was submitted to Natural England and will be submitted formally at Deadline 7. Cessation of shooting rights adjacent to the Bird Mitigation Area will be obtained for the duration of the construction phase as outlined in Section 2.4 of Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4). The Duchy have agreed to the cessation of shooting rights during the construction period. The Fylde Wildfowlers have agreed in principle not to shoot during the construction period and this is being documented.
A revised version of the Bird Mitigation Strategy was subsequently included as Appendix B to the second revision of the OCEMP [REP4-008]. In relation to shooting rights, the revised Bird Mitigation Strategy [REP4-008] states that no shooting would be permitted on land owned by the Applicant during the construction phase, including the mitigation area, and land surrounding the mitigation area. The revised Bird Mitigation Strategy does not make a reference to shooting rights on the foreshore.	Cessation of shooting rights adjacent to the Bird Mitigation Area will be suspended for the duration of the construction phase including the fields and foreshore as outlined in Section 2.4 of Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4). The revised Bird Mitigation Strategy will be submitted formally at Deadline 7.
At Deadline 5, NE's representation [REP5-027] states that they had reviewed the second revision of the OCEMP and Bird Mitigation Strategy [REP4-008] and that previous comments made by NE had not been actioned by the Applicant. NE confirmed that they would make additional comments on the updated version of OCEMP and Bird Mitigation Strategy.	Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4) was submitted to Natural England and will be submitted formally at Deadline 7.
An updated version of the Bird Mitigation Strategy was included as Appendix B to the third revision of the OCEMP at Deadline 6 [REP6-014], which confirms further details of the management of the bird mitigation area. NE's response to the third revision [REP6-022], includes concerns that the mitigation measures are not adequately secured, and that the DCO should include a specific requirement implementation of mitigation, monitoring and adaptive management measures contained in the approved CEMP.	Revision 2 of the Bird Mitigation Strategy (Appendix B of the OCEMP (document reference TR010035/APP/7.2 – Rev 4) and Revision 5 of the Record of Environmental Actions and Commitments (REAC) (document reference TR010035/APP/7.3 – Rev 5) were submitted to Natural England. The REAC includes a mechanism for implementation of mitigation, monitoring and adaptive management measures agreed with Natural England. These documents will be submitted formally at Deadline 7.
To date, the Applicant's conclusions in relation to effects on integrity of the Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site have not been disputed by any IPs other than NE.	Noted.

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