



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed A46 Newark Bypass

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

Planning Inspectorate Reference: TR010065

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1 INTRODUCTION

1.1 Background

- 1.1.1 National Highways (the applicant) has applied for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed A46 Newark Bypass ('the proposed development'). On behalf of the Secretary of State for Housing Communities and Local Government, an Examining Authority (ExA) has been appointed to conduct an examination of the application. The ExA will report its findings and conclusions and make a recommendation to the relevant Secretary of State (SoS) as to the decision to be made on the application.
- 1.1.2 For applications submitted under the PA2008 regime, the relevant SoS is the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 ('The Habitats Regulations'). 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 on European sites that was provided within the DCO application and submitted during the examination by the applicant and interested parties (IPs), up to deadline 4 (DL4) of the examination (13 December 2024). 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/TR010065-000343>
- 1.1.4 For the purpose 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. The '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.
- 1.1.5 This RIES is issued to ensure that IPs including the Appropriate Nature Conservation Body (ANCB) - Natural England (NE) - are 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.

- 1.1.6 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 sites and qualifying features as far as possible, in order to support a robust and thorough recommendation to the Secretary of State.
- 1.1.7 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) comprised the following documents:
- Habitats Regulations Assessment [APP-185], updated at DL3 [REP3-024].
- 1.2.2 The HRA Report concluded that adverse effects on the integrity of all European sites could be excluded.
- 1.2.3 In addition to the HRA Report, the RIES refers to representations submitted to the examination by IPs, issue specific hearing (ISH) documents, statements of common ground (SoCG) and other examination documents as relevant. All documents can be found in the Examination Library.

1.3 RIES questions

- 1.3.1 This RIES contains questions predominantly targeted at the applicant, ANCB and IPs, which are drafted in blue, underlined italic text. The RIES questions have been numbered QR1 to QR9.
- 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. It is stressed that responses to other matters discussed in the RIES are equally welcomed.
- 1.3.3 In responding to the questions in the tables, please refer to the ID number in the first column.
- 1.3.4 Comments on the RIES are timetabled for DL5 (4 February 2025).

1.4 HRA Matters Considered During the Examination

- 1.4.1 The examination to date has focussed on the following matters:
- The applicant's approach to the assessment of in-combination effects at the screening stage.
 - The applicant's conclusions on in-combination effects at the screening stage.
 - The adequacy of mitigation in relation to construction impacts on lamprey from light spill.

- The adequacy of mitigation in relation to impacts on lamprey from entrapment/ isolation during flooding.

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 for nature conservation of any European site.
- 2.1.2 The applicant submitted a HRA Report [APP-185], which identifies the sites within the UK National Site Network that could be affected by the proposed development.
- 2.1.3 Section 4.1 of the HRA Report [APP-185] defined the scope of the HRA and explains that European sites were identified with hydrological connectivity (functionally linked land) to the site (via the River Trent).

Sites within the UK National Site Network (NSN)

- 2.1.4 The applicant's HRA Report [APP-185] identified two European sites within the UK National Site Network for inclusion within the assessment. These are listed in section 4.1 of the HRA Report [APP-185] and are identified in table 2.1 below.

Table 2.1: European sites in the UK NSN identified in the applicant's HRA Report [APP-185]

Name of European site	Distance from proposed development (km)
Humber Estuary Special Area of Conservation (SAC)	53 km directly between the proposed development and the European site (75 kilometres downstream via the channel of the River Trent).
Humber Estuary Ramsar site	53 km directly between the proposed development and the European site (75 kilometres downstream via the channel of the River Trent).

- 2.1.5 The locations of these sites relative to the proposed development are depicted on the figure within appendix C of the HRA Report [APP-185].
- 2.1.6 The applicant's updated HRA Report [REP3-024] did not identify any additional European sites within the UK National Site Network for inclusion within the assessment.

2.1.7 No additional UK European sites have been identified by IPs for inclusion within the assessment in the examination to date.

2.2 Potential impact pathways

2.2.1 Section 4 of the HRA Report [APP-185] detailed the potential impacts from the proposed development, along with the potential geographical extent of effects. Table 4-2 of the HRA Report [APP-185] lists the relevant sites and qualifying features and the impact pathways which could affect them.

Table 2.2 Pathways for LSE assessed by the applicant

Humber Estuary SAC/ Ramsar site	LSE pathway
<p>Humber Estuary SAC</p> <ul style="list-style-type: none"> • sea lamprey <i>Petromyzon marinus</i> • river lamprey <i>Lampetra fluviatilis</i> <p>Humber Estuary Ramsar site Criterion 8</p> <ul style="list-style-type: none"> • river lamprey • sea lamprey 	<ul style="list-style-type: none"> • reduction of habitat area • disturbance to key species • habitat or species fragmentation • reduction in species density • changes in key indicators of conservation value (eg water quality) • climate change

2.2.2 The HRA Report [APP-185] assessed the potential impacts during construction and operation and maintenance; it did not assess impacts during the decommissioning phase. Paragraph 3.2.6 of the HRA Report [APP-185] explains that it is highly unlikely that the proposed development would be decommissioned after its design life as it will form an integral part of the local and strategic road networks and therefore effects associated with decommissioning have been scoped out of the assessment.

2.2.3 No additional impact pathways or qualifying features have been identified by IPs for inclusion within the assessment in the examination to date.

2.3 In-combination effects

2.3.1 Section 3.4 of the HRA Report [APP-185] detailed the applicant's approach to assessing in-combination effects. The projects included in the in-combination assessment are detailed in table 4-2 of the HRA Report [APP-185] and their locations are depicted on figures 15.2 to 15.9 of the ES [AS-078 to AS-085].

2.3.2 No additional plans or projects have been highlighted by IPs in the examination to date. However, in their relevant representation, NE (NE6 [RR-

044]) noted that it is unclear whether the in-combination assessment has considered projects that are not Nationally Significant Infrastructure Projects (NSIPs). Non-NSIPs are listed in table 4-2 of the HRA Report [APP-185]; however, the HRA Report states that “*non-NSIPs have not been detailed within the below table as the potential for in-combination effects is considered unlikely*”. NE [RR-044] requested that the applicant clarify whether non-NSIPs were included in the in-combination assessment.

2.3.3 The applicant confirmed that non-NSIPs were included in the in-combination assessment and that the sentence referenced in paragraph 2.3.2 of this RIES was included in error [REP1-009]. This sentence has been removed from the updated HRA Report [REP3-024]. However, the SoCG [REP4-024] states that NE have requested that rather than deleting this sentence it should be amended to clarify that both NSIPs and non-NSIPs were included in the assessment. The applicant [REP4-024] confirmed that the HRA Report will be updated further to address this wording but it will not affect the conclusions of the HRA.

2.3.4 The HRA Report [REP3-024] was also updated to include additional non-NSIPs in the in-combination assessment [REP3-024]. NE have not provided any comments on the additional projects included in the assessment.

[QR1 - NE are requested to confirm that they are in agreement with the non-NSIPs that have been included in the in-combination effects assessment within the updated HRA Report \[REP3-024\]?](#)

2.4 The applicant's assessment

2.4.1 The applicant's conclusions in respect of screening and effects on integrity are presented in sections 4 and 5 of the HRA Report [APP-185], respectively. They are summarised in the applicant's screening matrices in appendix A [APP-185].

Sites for which the applicant concluded LSE on some or all qualifying features

- 2.4.2 The applicant concluded that the proposed development would be likely to give rise to significant effects, either alone or in combination with other projects or plans, on one or more of the qualifying features of:
- Humber Estuary SAC
 - Humber Estuary Ramsar site
- 2.4.3 The qualifying features and LSE pathways screened in by the applicant are detailed in section 4 of the HRA Report [APP-185]. They are summarised in the applicant's screening matrices in appendix A of the HRA Report [APP-185].

2.5 Pre-examination and examination matters

- 2.5.1 Matters raised in relevant representations and the examination to date, or those for which the ExA seeks clarity, in relation to the applicant's screening assessment are summarised in table 2.3 below.
- 2.5.2 NE (NE9 [RR-044]) confirmed at the start of the examination its agreement with the conclusion of no likely significant effects regarding reduction in habitat area, changes to key elements of the site, and fragmentation, disruption and disturbance of the Humber Estuary SAC or the Ramsar site during construction and operation of the proposed development. No further information was sought in regard to the conclusions of these impact pathways [RR-044 and REP2-045].

Table 2.3: Issues raised in the examination to date by the ExA and IPs in relation to the applicant's screening of LSEs (alone and in-combination)

ID	Potential impact pathway	Details of issue	ExA observation/ question
Humber Estuary SAC and Humber Estuary Ramsar site			
2.1	Construction Construction silt management measures	<p>NE (NE1 [RR-044]) requested that further details on temporary drainage and silt management techniques needed to be provided to assess the likely impact of construction works on the Humber Estuary SAC and Ramsar site and their qualifying features. NE [RR-044] also advised that the Environment Agency's (EA) Pollution Prevention Guidelines (PPG) should be adhered to.</p> <p>The applicant [REP1-009] set out that the Drainage Strategy Report [APP-179] covers the permanent works design and does not include temporary works. The applicant [REP1-009] explained that references made in the ES [APP-052] and the First Iteration Environmental Management Plan (EMP) [APP-184], which stated that temporary drainage and silt management techniques were included in the Drainage Strategy Report, were an error.</p> <p>The applicant [REP1-009] highlighted that measures to protect the water environment during construction (eg silt curtains, cut-off ditches, silt traps etc) are outlined in the First Iteration EMP [APP-184] and would be detailed in the Pollution Prevention Plan and the Erosion and Sediment Management Plan as part of the Second Iteration EMP.</p> <p>The applicant [REP1-009] confirmed that these construction management measures comprise “<i>embedded mitigation</i>” that has</p>	<p><u>QR2 – The applicant is requested to confirm that the measures proposed to protect the water environment during construction are not specifically intended to avoid or reduce significant adverse effects of the proposed development on the European sites. The applicant should signpost to relevant information within the HRA Report and supporting documents.</u></p> <p><u>NE are requested to confirm that they are content that the measures proposed by the applicant are not necessary to avoid or reduce adverse significant effects of the proposed development on the European sites and are satisfied that potential construction impacts on the water environment are not</u></p>

		<p>been used to inform the assessment of the likely impact of construction works on the European sites and concludes that no likely significant effect would occur as a result of construction silt or water quality impacts. The applicant [REP1-009] also confirmed adherence to relevant guidance including the EA's PPG.</p> <p>NE [REP2-045] agreed that with the implementation of these plans it is considered likely to avoid an impact upon the qualifying features of the Humber Estuary SAC and Ramsar site. Requirement 3 of the Draft DCO [REP1-001] was updated to add NE as a consultee on the Second Iteration EMP.</p> <p>In light of these updates, NE now considers this matter resolved [REP2-045].</p>	<p><u>required to be considered in the applicant's assessment of effects on integrity.</u></p>
2.2	<p>Construction and operation Loss of lamprey individuals</p>	<p>NE (NE2 [RR-044]) queried whether a statement in the HRA Report [APP-185] referring to "<i>the loss of lamprey individuals</i>" was included in error.</p> <p>The applicant [REP1-009] confirmed that the loss of lamprey individuals is not an additional pathway and has already been considered in stage 1 of the HRA in relation to the low risk of lamprey entrapment in the Farndon Flood Compensation Areas (FCAs) prior to mitigation.</p> <p>Following the clarification provided by the applicant, NE consider this matter resolved [REP2-045].</p>	<p>N/A – matter resolved.</p>
2.3	<p>Construction and operation Loss of lamprey individuals</p>	<p>NE (NE2 [RR-044]) noted that electro-fishing was proposed in the First Iteration EMP to mitigate potential direct impacts on fish during sheet piling at Windmill Viaduct and works to Slough Dyke. NE [RR-044] advised that if there is any possibility of direct harm or loss of lamprey individuals, this should be clearly set out within the HRA Report, along with associated prevention measures.</p>	<p>N/A – matter resolved.</p>

		<p>The applicant [REP1-009] confirmed that only works with the potential to have an impact on the qualifying features of the Humber Estuary SAC and Ramsar (eg river and sea lamprey) have been assessed and reported in the HRA Report [APP-185].</p> <p>The applicant [REP1-009] explained that the impact of sheet piling on lamprey at Windmill Viaduct was scoped out at stage 1 of the HRA with no LSE concluded and further explained that electro-fishing is mitigation for other non-designated fish species with potential to be adversely impacted by piling.</p> <p>The applicant [REP1-009] noted that the Slough Dyke is considered unsuitable for river and sea lamprey and any works are unlikely to impact qualifying features of the Humber Estuary SAC and Ramsar site.</p> <p>In light of these updates, NE consider this matter resolved [REP2-045].</p>	
<p>2.4</p>	<p>Construction Impact of construction piling on lamprey</p>	<p>NE (NE3 [RR-044]) advised that it is unclear whether a detailed appraisal has been undertaken to conclude a 'de-minimis' level impact on resting and larval lamprey due to daytime piling works. NE [RR-044] requested that further explanation is provided to rule out potential adverse impacts on resting and larval lamprey.</p> <p>The applicant [REP1-009] confirmed that a worst-case scenario was assessed in the HRA Report [APP-185]. The applicant [REP1-009] also provided information to explain how the lamprey physiology and habitat features used by each life stage of lamprey led to the conclusion of a 'de-minimis' level impact. For example, the applicant [REP1-009] clarified that lamprey are a low hearing sensitivity fish with greater resilience to underwater sound and vibration, and the risk of more significant responses, such as startle</p>	<p>N/A</p>

		<p>reactions is low, in part due to the vibration disturbance pathway needing to pass through earth then water.</p> <p>The applicant [REP3-024] updated the HRA Report to include this further justification.</p> <p>The SoCG [REP4-024] submitted at DL4 between the applicant and NE, indicated that NE have no material concerns with the information provided in the updated HRA.</p>	
2.5	<p>Operation Operational lighting</p>	<p>NE (NE4 [RR-044]) noted that the HRA does not make reference to operational light spill and its potential effects on migrating lamprey. NE requested that the applicant assess operational lighting within the HRA.</p> <p>The applicant [REP1-009] explained that there is no existing lighting over Nether Lock Viaduct and Windmill Viaduct and that the proposed development would not introduce any new lighting in closer proximity to the River Trent than is currently present.</p> <p>Following the information provided by the applicant, NE consider this matter resolved [REP2-045].</p>	N/A – matter resolved.
2.6	<p>Construction and operation In-combination assessment location criteria</p>	<p>NE (NE5 [RR-044]) noted that the in-combination assessment listed projects by distance from the European sites. NE [RR-044] highlighted to the applicant that the distance from the proposed development is also an important factor for consideration in the in-combination assessment.</p> <p>The applicant [REP1-009] agreed that distance from the proposed development is important and confirmed that both NSIPs and non-NSIPs within 2km of the River Trent have been included in the in-combination assessment, as well as those within 2km of the Humber Estuary SAC and Ramsar site.</p> <p>The applicant [REP1-009] also acknowledged that the heading of the second table within the HRA Report [APP-185] (starting on</p>	<p><u>QR3 – In the SoCG [REP4-024], NE requested that the applicant provide a number of non-material updates to the HRA Report. The applicant is requested to signpost to where these updates have been made in the HRA Report, provide an updated HRA Report to address these or robust commentary on why such</u></p>

		<p>page 42) is misleading as it refers to non-NSIPs located within 2km of the Humber Estuary SAC/ Ramsar site. This was amended in the updated HRA Report [REP3-024] to read “<i>non-NSIPs and impact pathways relevant to the in-combination assessment</i>”.</p> <p>The SoCG [REP4-024] submitted at DL4 between the applicant and NE, stated that NE have no material concerns with the information provided in the updated HRA. However, the SoCG [REP4-024] set out that NE provided a number of non-material comments and requested that the applicant clarify the spatial extent and screening criteria used for the in-combination assessment and that the NSIP table should include a column to set out the distance from the proposed development, as per the non-NSIP table.</p>	<p><u>amendments have not been made?</u></p>
2.7	<p>Construction and operation In-combination assessment detail</p>	<p>NE (NE6 [RR-044]) state that the in-combination assessment lacks sufficient detail to rule out the possibility of significant in-combination effects. The applicant [REP1-009] acknowledged that further clarity is required regarding the in-combination assessment and how the conclusions have been reached. Additional information was provided by the applicant in the updated HRA [REP3-024].</p> <p>The SoCG [REP4-024], submitted at DL4 between the applicant and NE, set out that NE are in agreement with the information provided in the updated HRA Report [REP3-024].</p>	<p>N/A</p>

2.6 Summary of examination outcomes in relation to screening

- 2.6.1 The ExA's understanding of the applicant's and NE's current positions in relation to LSEs is set out above.

3 ADVERSE EFFECTS ON INTEGRITY

3.1 Conservation Objectives

- 3.1.1 The conservation objectives for all of the European sites for which an LSE was identified by the applicant at the point of the DCO application were included within the HRA Report [APP-185].
- 3.1.2 No relevant conservation objectives are provided for the Humber Estuary Ramsar site in the HRA Report [APP-185]. However, the conservation objectives for the Humber Estuary SAC and Humber Estuary Special Protection Area (SPA) are provided in the HRA Report [APP-185] to support the conservation management of the Humber Estuary Ramsar site.
- 3.1.3 The conservation objectives for the Humber Estuary SPA do not refer to condition (favourable or unfavourable), but state that the objectives are to “ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive”.
- 3.1.4 The conservation objectives for the Humber Estuary SAC refer to ensuring that the integrity of the site is maintained or restored as appropriate and ensuring that the site contributes to achieving the ‘favourable’ conservation status.

3.2 The applicant’s assessment

- 3.2.1 The European sites and qualifying features for which LSE were identified were further assessed by the applicant to determine if they could be subject to adverse effects on integrity (AEoI) from the proposed development, either alone or in combination. The outcomes of the applicant’s assessment of effects on integrity are summarised in section 5 of the HRA Report [APP-185].

Mitigation measures

- 3.2.2 The applicant’s HRA Report [APP-185] identified mitigation measures in sections 5.2 and 5.3. These were taken into account in the applicant’s assessment of effects on integrity.

Sites for which the applicant concluded no AEoI

- 3.2.3 The applicant concluded that the proposed development would not adversely affect the integrity of any of the European sites and features assessed, either alone or in combination with other projects or plans.

3.3 Pre-examination and examination matters

- 3.3.1 Matters raised in the relevant representations and examination to date, or for which the ExA seeks clarity, in relation to AEoI are summarised in table 3.1 below.

Table 3.1: Issues raised in the examination to date by the ExA and IPs in relation to the applicant's assessment of effects on integrity (alone and in-combination)

ID	Potential impact pathway	Details of issue	ExA observation/ question
Humber Estuary SAC and Ramsar site			
3.1	<p>Construction Prevention of light spill impact on migrating lamprey</p>	<p>NE (NE7 [RR-044]) advised that prevention of light spill impacts on migrating lamprey should follow the mitigation hierarchy and the applicant should explore whether the bridge beam installation works could be programmed to avoid lamprey migration season and/ or nighttime works.</p> <p>The applicant [REP1-009] explained that bridge beam installation works would endeavour to avoid the lamprey migration season; however, the works are weather-dependent (ie they cannot be undertaken in high winds) and in some locations would be constrained by possession availability on the East Coast Mainline.</p> <p>The applicant updated the HRA Report [REP3-024] to provide further clarification that the mitigation hierarchy has been applied.</p> <p>The SoCG [REP4-024] between the applicant and NE indicated that this matter has been agreed. However, it is noted that NE have not provided any further comments on this matter since [REP2-045].</p>	<p><u>QR4 – NE are requested to provide any further comments in relation to this matter and/ or state agreement of the applicant's conclusions of no adverse effects on integrity (AEoI).</u></p>

<p>3.2</p>	<p>Construction Prevention of light spill impact on migrating lamprey</p>	<p>If programming bridge beam installation works to avoid the lamprey migration season is not possible, NE (NE7 [RR-044]) requested that the applicant provide a construction lighting strategy, containing further details of light spill mitigation measures and using language that promotes a stronger commitment to their implementation.</p> <p>The applicant [REP1-009] noted that the Register of Environmental Actions and Commitments (REAC) contained within the First Iteration EMP [APP-184] includes measures to prevent light spill during construction. The applicant [REP1-009] explained that the use of imprecise language was in relation to mitigation measures to avoid direct illumination of the River Trent when a crane slews and the accompanying lighting on the boom casts across the water before coming to rest on the beam lift. The applicant [REP1-009] advised that this would likely only ever be for short periods of time (four 30-minute intervals during a night shift) and only a section of the width of the watercourse would be illuminated at any one time.</p> <p>The applicant updated the REAC within the First Iteration EMP [REP3-022] to include the wording suggested by NE [REP2-045] to support a stronger commitment to mitigation.</p> <p>The SoCG [REP4-024] between the applicant and NE indicated that this matter has been agreed. However, it is noted that NE have not provided any further comments on this matter since [REP2-045].</p>	<p><u>QR5 – NE are requested to provide any further comments in relation to this matter and/or state agreement of the applicant’s conclusions of no adverse effects on integrity AEOI.</u></p>
<p>3.3</p>	<p>Construction and</p>	<p>NE (NE7 and NE8 [RR-044]) advised that the terminology used within paragraphs 5.2.4 and 5.3.7 of the HRA Report [APP-185] are incorrect and section 5 of the HRA Report [APP-185]</p>	<p><u>QR6 – NE are requested to provide any further comments in relation to this matter and/ or</u></p>

	<p>Operation Terminology</p>	<p>should be reviewed to ensure impacts are considered with regard to site integrity.</p> <p>The applicant [REP1-009] confirmed that this was an error and has amended the terminology in the updated HRA Report [REP3-024].</p>	<p><u>state agreement of the amended terminology used in the updated HRA Report [REP3-024].</u></p>
<p>3.4</p>	<p>Operation Mitigation to prevent entrapment/ isolation of lamprey during flooding</p>	<p>NE (NE8 [RR-044]) noted that the number, location and design of fish escape passages (to prevent entrapment/ isolation of lamprey during flooding of the Farndon FCAs) are to be finalised during the detailed design. NE [RR-044] requested that agreement be sought with the EA regarding the number, location and design of fish escape passages.</p> <p>The applicant [REP1-009] stated that they have refined the fish escape passage design and have produced a technical note outlining the fish escape passage options considered and justification for the option selected. The Technical Note was shared with NE and the EA on 15 October 2024 [REP2-045] and has been provided in appendix G of the updated HRA Report [REP3-024].</p> <p>During refinement of the fish escape passage design, the applicant [REP1-009 and REP3-024] noted that the previous design submitted as part of the DCO application is no longer viable as it would lead to uncontrolled influx and discharge of flood water from the Farndon West FCA and would not mitigate the entrapment of fish species in the Farndon East FCA.</p> <p>The applicant [REP1-009 and REP3-024] considered four alternative options to mitigate for the risk of fish entrapment within the Farndon FCAs. These are described in appendix G of the updated HRA Report [REP3-024]. A preferred option was selected by the applicant [REP1-009] [REP3-024] and</p>	<p><u>QR7 – The ExA note the comments from the EA in relation to the dimensions of the fish escape passage option presented in the Technical Note. The ExA therefore request the following:</u></p> <p><u>The applicant is requested to confirm that the dimensions of the proposed fish escape passage option have been taken into account in the assessment of effects on lamprey within the HRA Report and signpost to this information.</u></p> <p><u>The applicant is also requested to provide a response to the comments made by the EA [REP3-044 and REP4-044].</u></p>

		<p>comprises the provision of two fish escape passages from the north of each FCA, as overspill channels, into Old Trent Dyke. The EA [REP3-044] and NE [REP2-045] confirmed that they were consulted on the preferred fish passage option selected prior to the submission of the information into the examination at DL1 [REP1-009]. The applicant's response to comments received from the EA and NE are provided in appendix H and I of the updated HRA Report [REP3-024], respectively.</p> <p>In appendix I of the updated HRA Report [REP3-024], the applicant noted that the dimensions of the fish escape passage selected (0.5 m width and 0.3 m depth) were recommended by the EA following consultation on criteria to incorporate into the design of the Farndon FCAs. The EA [REP3-044 and REP4-044] advised that the dimensions were recommended for use in fish passage channels direct to the River Trent over a short distance. The EA argued that the new fish escape passage design (option 4 presented in appendix G of the updated HRA Report [REP3-024]) is over a much greater distance including long stretches of naturalised channel. The EA [REP4-044] advised that the detailed design of the extended channel length presented in the Technical Note should be reassessed.</p> <p>The SoCG [REP4-024] between NE and the applicant states that NE are content with the design, monitoring and maintenance of the overspill channels in the Farndon FCAs to maintain their function as fish escape passages. However, it is noted that NE have not provided any further comments on this matter since DL2 [REP2-045].</p>	<p><u>The EA is requested to confirm their position that this matter remains unresolved and set out how the dimensions of the fish escape passage selected could result in adverse effects on integrity (AEol).</u></p> <p><u>NE is requested to provide a view on the concern expressed by the EA and set out whether your position has changed as a result of the fish escape passage option selected.</u></p> <p><u>Where possible, discussion between parties, to agree matters and provide a joint response is encouraged.</u></p>
3.5	Operation	<p>The EA [REP3-044] requested that the applicant provide details on maintenance of the Farndon FCAs fish escape passages.</p>	<p><u>QR8 – Are the EA satisfied with the maintenance measures</u></p>

	Mitigation to prevent entrapment/ isolation of lamprey during flooding	The applicant explained [REP4-019] that ongoing monitoring and maintenance of fish escape passages will form part of the Landscape and Environmental Management Plan (LEMP) for the Farndon FCAs. The applicant [REP4-019] referred to specific commitments proposed within the First iteration EMP to ensure the ongoing maintenance of the FCAs for the lifetime of the proposed development and how these are secured in the draft DCO. However, the applicant [REP4-019] noted that the maintenance details would be defined at the next stage of design.	<u>secured for the Farndon FCAs fish escape passages? If not, please provide reasoning.</u>
3.6	Operation Fish escape passage design	<p>Paragraph 5.2.3 of the HRA Report [APP-185], states that the EA’s recommendations regarding the fish escape passage design would be incorporated “<i>where possible</i>”. NE (NE8 [RR-077]) advised that the use of imprecise language introduces uncertainty around the implementation of these mitigation measures and should be amended.</p> <p>The applicant [REP1-009] explained that the wording in the HRA Report would be updated to strengthen the commitment to deliver the mitigation.</p> <p>The applicant amended the wording within the updated HRA Report [REP3-024].</p>	<u>QR9 – NE are requested to provide any further comments in relation to this matter and/ or state agreement of the amended wording used in the updated HRA Report [REP3-024].</u>

4 CONCLUDING REMARKS

- 4.1.1 This RIES is based on information submitted throughout the examination by the applicant and IPs, up to DL4 (13 December 2024), in relation to potential effects on European sites. It should be read in conjunction with the examination documents referred to throughout.
- 4.1.2 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:
- Responses to the questions identified in sections 1 to 5 of this RIES (in particular tables 2.2 and 3.1).
 - Confirmation whether the ExA's understanding of screening and adverse effects conclusions at point of RIES publication (table (A.1) in annex 1) is correct.
- 4.1.3 Comments on the RIES must be submitted for DL5 (4 February 2025).

ANNEX 1 EXA'S UNDERSTANDING OF POSITION AT POINT OF RIES PUBLICATION

4.1.4 The tables in this annex summarise the ExA's understanding of the applicant's screening exercise and assessment of effects on integrity, and agreement with the relevant ANCB at time of publication of this RIES.

Key to tables:

C = Construction

O = Operation

D = Decommissioning

IC = In-combination

✓ = LSE or AEol cannot be excluded

X = LSE or AEol can be excluded

Y = Yes

N = No

? = Unclear

n/a = not applicable

Table A1.1: Humber Estuary SAC (HRA [REP3-024] appendix A, table A-1)

Note that the conclusions recorded in the table below apply to impacts from the proposed development alone and in combination, unless otherwise stated.

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
Habitats: <ul style="list-style-type: none"> • estuaries • mudflats and sandflats not covered by seawater at low tide • sandbanks which are slightly covered by sea water all the time • coastal lagoons 	Reduction in habitat	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Disturbance to key species	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
<ul style="list-style-type: none"> • <i>Salicornia</i> and other annuals colonizing mud and sand • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) • embryonic shifting dunes • shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) • fixed coastal dunes with herbaceous vegetation (grey dunes) feature 	Habitat or species fragmentation	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Reduction in species density	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Changes in key indicators of conservation value (eg water quality)	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
<ul style="list-style-type: none"> dunes with <i>Hippopha rhamnoides</i> Species: <ul style="list-style-type: none"> grey seal 	Climate change	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
Species: <ul style="list-style-type: none"> sea lamprey river lamprey 	Reduction in habitat	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]
	Disturbance to key species	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]

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Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
	Habitat or species fragmentation	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]
	Reduction in species density	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]
	Changes in key indicators of conservation value (eg water quality)	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]

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Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
	Climate change	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]

Table A1.2: Humber Estuary Ramsar SAC (HRA [REP3-024] appendix A, table A-2)

Note that the conclusions recorded in the table below apply to impacts from the proposed development alone and in combination, unless otherwise stated.

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
<ul style="list-style-type: none"> • Criterion 1: near natural estuary • Criterion 3: grey seal • Criterion 5: non-breeding waterfowl • Criterion 6: internationally important populations of red knot (breeding and non-breeding), common 	Reduction in habitat	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Disturbance to key species	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
shelduck (non-breeding), dunlin breeding and non-breeding, black-tailed godwit, redshank (non-breeding), and bar-tailed godwit (breeding)	Habitat or species fragmentation	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Reduction in species density	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
	Changes in key indicators of conservation value (eg water quality)	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
	Climate change	C, O and IC	X	Y [RR-077]	n/a	Y [RR-077]
Criterion 8 – river lamprey and sea lamprey	Reduction in habitat	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]
	Disturbance to key species	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]

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Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
	Habitat or species fragmentation	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]
	Reduction in species density	C and IC	✓	Y [REP4-024]	X	Y [REP4-024]
		O	X	Y [RR-077]	n/a	Y [RR-077]
	Changes in key indicators of conservation value (eg water quality)	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]

Feature	Potential impact	Stage of proposed development (construction (C), operation (O) or in-combination (IC))	LSE?		AEoI?	
			Applicant's conclusion	Agreement with NE?	Applicant's conclusion	Agreement with NE?
	Climate change	C and O	X	Y [RR-077]	n/a	Y [RR-077]
		IC	✓	Y [REP4-024]	X	Y [REP4-024]