

Date: 03 August 2018  
 Our ref: Tilbury 2 Deadline 6 Response  
 Your ref: TR030003



Tilbury2 Project Team,  
 The Planning Inspectorate,  
 Temple Quay House,  
 2 The Square,  
 Bristol, BS1 6PN  
**By email only:** [tilbury2@pins.gsi.gov.uk](mailto:tilbury2@pins.gsi.gov.uk)

Customer Services  
 Hornbeam House  
 Crewe Business Park  
 Electra Way  
 Crewe  
 Cheshire  
 CW1 6GJ

T 0300 060 3900

Dear Sir/Madam,

**NSIP Reference Name / Code: Tilbury2**  
**User Code: TR030003**

Thank you for your consultation on the above dated the 13<sup>th</sup> of July 2018.

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.

**Report on the Implications for European Sites: Proposed Port Terminal at Former Tilbury Power Station (Tilbury2)**

Natural England thanks you for the preparation of a Report on the Implications for European Sites ('RIES') which in general captures our concerns well. We remain in contact with the applicant and will seek to conclude a Statement of Common Ground with them before Deadline 7 although we anticipate there are likely to be some outstanding areas of disagreement.

Paragraph 5.2 asks the applicant *"to confirm the extent to which it has considered stages of the HRA assessment process beyond those addressed within the HRA Stage 2 Report, i.e. alternative solutions (Stage 3), and imperative reasons of overriding public interest (Stage 4)."* Note that Natural England advises that there should not be a need to proceed to Stage 3 or 4 as we are not pursuing what we consider to be an insurmountable objection with regards to impacts on European Sites. We consider that the Stage 2 assessment should identify appropriate works, timings and mitigation options to ensure that there are no Adverse Effects on Integrity ('AEOI') particularly during the construction period. Our comments here relate to impacts upon European Sites only without prejudice to comments on other environmental impacts.

Subsequent to the request in paragraphs 2.12 and 2.13 Natural England has the following comments on the matrices contained in the RIES:

<b>Stage 1 (Screening of Likely Significant Effects)</b>		
<b>Effect</b>	<b>Screening opinion (in/out) from the RIES screening matrices</b>	<b>Natural England's Opinion (Agree/Disagree)</b>
Disturbance within the Special Protection Area ('SPA') (Construction Phase)		
Lighting, human movement and activity	Out	Agree
Noise	Out	Agree
Shipping	Out	Agree
(Operational Phase)		

Lighting	Out	Agree
Noise	Out	Agree
Shipping	Out	Agree
Disturbance of SPA birds outside the designated area (Construction Phase)		
Avocet, ringed plover, grey plover, black-tailed godwit and redshank	In	Agree
Hen Harrier	Out	Agree
Knot	Out	Agree
(Operational Phase)		
Impacts from shipping on qualifying birds	Out	Agree
Habitat Damage within SPA		
Sediment circulation or deposition patterns:	In	Agree
Water and/or sediment quality:	In	Agree
Air quality:	In	Agree
Invasive Non-native Species (INNS)	In	Agree
Loss or damage to functionally linked habitats and populations	In	Agree
Loss or damage to Criterion 2 plant/invertebrate species		
Lighting	In	Agree
Noise	Out	Agree
Air Quality: Dust	Out	Agree
Air Quality: Atmospheric pollutants and deposition	In	Agree
Water and sediment quality and sediment circulation and deposition patterns	In	Agree
Habitat loss	In	Agree
INNS	In	Agree
In-combination effects		
Tilbury2 and other plans and projects	In	Agree
Decommissioning	In	Agree
<b>Adverse Effect on Integrity</b>		
<b>Effect</b>	<b>AEOI from the RIES matrices</b>	<b>Natural England's Position</b>
Disturbance (outside SPA/Ramsar site)		
Noise	(?)	We advise that on the basis of the information provided in the documents available to us <b>an AEOI cannot be</b>

		<b>ruled out at this point.</b> Our position is accurately represented in the supporting text.
Lighting, human activity and shipping	(?)	Whilst Natural England has not specifically advised on this previously we agree with the applicant's position that they will not result in an AEOI.
Damage to habitats and species (within and outside the SPA/Ramsar site)		
Sediment circulation or deposition patterns	No	<p>On the basis of the information presented <b>Natural England does not currently agree that an AEOI can be ruled out.</b></p> <p>The models are best predictions and should be ground truthed. Noting the issues set out below we consider that it is appropriate to similarly consider sediment circulation and deposition patterns for completeness.</p>
Water and/or sediment quality	No	<p>On the basis of the information presented <b>Natural England does not currently agree that an AEOI can be ruled out.</b></p> <p>Dredging operations are likely to significantly impact on the functionally-linked intertidal habitats that support birds of the SPA and Ramsar site assemblage if undertaken without additional mitigation. Appropriate design and methodology (noting detail is yet to be defined, agreed and permitted) will require careful programme timing to avoid increasing the presence of contaminated sediments to invertebrate prey and birds foraging during the Autumn – end March period (includes ringed plover autumn passage).</p> <p>Without more information about the required dredging methodology and reliant on a precautionary position we can advise that any initial dredging should not be undertaken during the ten month period of July – April to allow for sediment to settle and be allowed to disperse, before overwintering and Autumn passage visit the area in significant numbers. A suitable sediment monitoring programme will be necessary to ground truth the sediment movement, accretion and contamination levels to SPA supporting habitats arising from this initial dredging to inform any maintenance dredging programme going forward. This is best provided by way of interim reports with monitoring data and assessment for regulator's approval in consultation with Natural England.</p> <p>The monitoring report &amp; assessment will also identify the scale and type of any additional mitigation and impact-offsetting that will be necessary to meet a robustly timetabled delivery programme. Monitoring will be necessary to ensure compliance with an approved best-practice methodology; validate the predictions from modelling; assess the scale &amp; extent of any</p>

		additional mitigation that may be required by the applicants (to deliver via a robust permission-linked mechanism) that is related to unforeseen impacts on the functionally-linked and SPA habitats.
Air quality: within the SPA/Ramsar site (alone)	No	Agree
Outside the SPA/Ramsar site (alone)	No	Agree
INNS	No	Agree
Habitat loss (of SPA functionally linked land.)	No	Natural England notes that losses of functionally linked habitat are likely to be relatively small and distant from the SPA. Nevertheless a potential in combination effect remains.
Loss or damage to Criterion 2 plant/invertebrate species	No	Natural England considers that a potential for impact on RAMSAR listed species outside of the designated area remains and advises that losses have the potential to be impacted in combination. Losses of notable invertebrate species and nationally scarce plant species such as <i>Inula Crithmoides</i> should be avoided.  See also our responses to 4.15 and 4.22 below.
Lighting (outside the Ramsar site)	No	Agree
In-combination effects		
In-combination disturbance effects during operation from increased shipping movements:	?	We agree with the applicant's position that an AEOI as a result of in combination increase in shipping can be ruled out.
In-combination effects from displacement of birds from intertidal habitats	?	We advise that on the basis of the information provided in the documents available to us <b>an AEOI cannot be ruled out at this point</b> . Our position is accurately represented in the supporting text.
In-combination changes to air quality:	?	Natural England advises that in combination changes to air quality need be considered in light of the Wealden Judgement for procedural reasons only.
In-combination effects on estuarine processes (including sediment circulation) that support intertidal habitats and related designations, and on water and sediment quality within designated areas or associated with functionally linked habitats	?	We advise that on the basis of the information provided in the documents available to us <b>an AEOI cannot be ruled out at this point</b> . Our position is accurately represented in the supporting text. See also our comments above relating to an impact alone.

In-combination effects from INNS:	?	We agree with the applicant's position that an AEOI as a result of in combination increase in Invasive Non-native Species can be ruled out.
In-combination loss of functionally linked habitat	?	We advise that on the basis of the information provided in the documents available to us <b>an AEOI cannot be ruled out at this point</b> . Our position is accurately represented in the supporting text. See also our comments above relating to an impact alone.

Note, that where a conclusion relies upon mitigation measures that are included within Environmental Mitigation and Construction Plan ('EMCP') it is important that those measures are secured, ideally through a version of said plan that can be certified by the Secretary of State.

Paragraph 4.8 – Natural England confirms that our position results from our disagreement over the value of functionally linked land and the zones of influence of noise disturbance. We agree with the principle that monitoring can be useful as an added precaution where no adverse impact is anticipated however, in line with the ruling by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (2018) we advise that the appropriate forms of mitigation and ground truthing needs to be informed by the Stage 2 assessment.

Paragraph 4.15 – regarding coastal saltmarsh and intertidal mudflats, Natural England concurs with the Environment Agencies view and advises that the EMCP must be secured, ideally with a version that can be certified by the Secretary of State. See also our comments above relating to the screening matrices.

Paragraph 4.22 – regarding coastal grazing marsh, Natural England concurs with the Environment Agencies view and advises that the EMCP must be secured, ideally with a version that can be certified by the Secretary of State. See also our comments above relating to the screening matrices.

Paragraph 4.26 – Natural England confirms that an AEOI can be ruled out alone. See also our comments relating to the screening matrices above.

Paragraph 4.51 – Natural England considers that historical data is available for adjacent sites. We are also aware that a significant amount of survey work has already been carried out for the Tilbury Energy Centre and that potential impacts and options have been considered and discussed. Note that comments apply generally to both in combination impacts on the SPA and our concerns relating to cumulative impacts on terrestrial invertebrates.

**Natural England**  
**3<sup>rd</sup> August 2018**