

Date: 13 November 2023
Our ref: Case: 14435
Your ref: TR030007



National Infrastructure Planning
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Dear Sir/Madam,

Immingham Eastern Ro-Ro Terminal

The following constitutes Natural England's formal statutory response for Examination Deadline 6.

1. Natural England Deadline 6 Submissions

Natural England has reviewed the documents submitted by the Applicant at Deadline 5. We would like to highlight to the Examining Authority, that only new documents (version 1) or revised versions of outline documents/plans where amendments have been formally made will be responded to by Natural England at each relevant Deadline. Where possible, comments on documents are provided in our Key Issues Log to note where concerns have been addressed, rather than provided in a separate Annex for each document. As such, the documents submitted by Natural England at Deadline 6 are as follows:

- TR030007 Natural England's Risk & Issues Log Deadline 6
- TR030007 IERRT Appendix 1 - Comments on the HRA related to SPA / Ramsar birds (November 2023) – Appended here

The documents reviewed by Natural England to inform these submissions are as follows:

- REP5-016 Deadline 5 Submission – 7.9 Draft Statement of Common Ground between Associated British Ports and Natural England.
- REP5-020 Deadline 5 Submission – Habitats Regulations Assessment (Clean)
- REP5-021 Deadline 5 Submission – Habitat Regulations Assessment (Tracked)
- IERRT Written Representation Signposting Document – Sent directly to NE on 06 October 2023

2. Statements of Common Ground

As requested, Natural England has been working with the Applicant to update Statements of Common Ground (SoCG) for all key issues initially highlighted in [RR-015] (includes amendments [AS-011], [AS-015] and [AS-016]), and any subsequent updates in [REP2-019].

We anticipate that the Applicant will submit the final SoCG as part of their Deadline 6 submission.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours faithfully,

Laura Tyndall
Yorkshire and North Lincolnshire Area Team
E-mail: [REDACTED]@naturalengland.org.uk

IERRT Appendix 1: Comments on the HRA related to SPA / Ramsar birds (November 2023)

Natural England wishes to make the following observations:

Key issue 6: Potential changes in waterbird foraging and roosting due to operation (presence of infrastructure) from section 4.3.29.

- 1) NE welcomes further information on this point including Figs 3 and 4 showing the numbers and locations of foraging and roosting birds in the existing enclosed spaces within sector B. This provides some reassurance that birds may well continue to use the area around the new jetty even though it will be more enclosed and potentially has greater disturbance from people than before construction. We recommend that post construction monitoring is conducted to identify whether similar numbers of birds continue to use sector B once the jetty is in place. This monitoring will provide evidence for future port projects.

Key issue 7: Potential noise and visual disturbance during construction on qualifying SPA/ Ramsar bird species in section 4.10.

- 1) Appendix E includes Fig E.1 which shows noise modelling for piling on the outer pier, but does not include Fig 2 which shows noise modelling on the inner pier and approach jetty (this information is required for a thorough assessment). It is suggested that Fig 1 and Fig 2 of the predicted airborne noise (LAmax) during piling indicate that beyond 200m from the noise source noise levels will be below 70 dB and that this is considered to define the area that will result in the majority of bird disturbance. Natural England acknowledges that 200m is an acceptable disturbance distance for most construction activities within a port environment where birds will show some habituation to human activity. However, Natural England advise that a precautionary approach is taken to noise disturbance distances for piling. We recognise that birds are highly likely to be disturbed where noise levels exceed 70 dB LAmax. However there may also be effects on birds between 55 and 70 dB, whilst we recognise that this noise level impacts on a large area of mudflat, we consider that 200m does not represent a precautionary approach and advise that the noise disturbance zone should be larger, such as 300m from noise source.
- 2) With respect to the proposed mitigation measures for impacts of noise on non-breeding birds: *Construction activity (including piling) not allowed within 200m of exposed mudflat (2 hours either side of high water when the works should be approximately 200m from mudflats)*. This applies to the approach jetty and inner pier only. With reference to Fig 2 it is unclear how this will be applied when working on the upper shore especially work on the approach jetty. Clarity is needed about the area of mudflat covered by the tide in different tidal states. Please provide more information on tide levels in the port and whether the mudflats will be covered with sufficient depth of water which will deter use by the majority of SPA waterbirds at all high tides.
- 3) **Mitigation:** No restrictions are being proposed for work on outer pier, but this would need to be reviewed should the disturbance distance be increased.
- 4) **Mitigation:** A precautionary approach should be taken to setting the timing of works to ensure that there is sufficient distance between the piling site and exposed mudflats (being used by SPA birds) when piling starts. The current wording in the HRA '*should be approximately 200m from exposed mudflat*', does not provide sufficient certainty that mitigation will be effective.

It may be possible to add markers on the mudflat to improve certainty about distances. Natural England also recommends the use of a suitably qualified Ecological Clerk of Works during the construction period. An Ecological Clerk of Works will be able to guide the works, ensure that agreed mitigation measures are adhered to and therefore avoid disturbance to very large flocks of SPA birds.

- 5) Mitigation: NE advise that programming of the marine construction works should be considered so that the most disturbing works (approach jetty and inner pier) are carried out in the summer and early autumn, with works that are less disturbing to the SPA birds taking place during the coldest months (December to February inclusive). This measure is needed to ensure that black tailed godwit, which are at the northern edge of their wintering range on the Humber, can continue to feed across both tides each day during the coldest months, to maintain body condition. We recognise that black tailed godwits do occur on passage and in small numbers over winter on coasts further north, but not in high numbers over the whole winter (references have been provided in previous responses).

- 6) In combination assessments (within the project). The assessment should also consider whether terrestrial construction noise as a result of this proposal will act in combination with the marine construction noise and lead to increased levels of disturbance to SPA birds. In addition, there should be clarity about whether there will be piling at more than one location each day and if this is the case what effect this will have on bird disturbance.

Section 5: Conclusion of Appropriate Assessment

We welcome inclusion of table 40. In the final version of the HRA we advise that the table should be expanded to provide details of the mitigation measures eg not just 'cold weather restriction'. The table should indicate whether the measure will completely avoid the effect or reduce it to an acceptable level and the level of certainty that this will occur.

It would also be useful to include the 'Schedule of seasonal restrictions on construction activity' (previously provided in a Signposting Document on bird disturbance mitigation). We have discussed with ABP that this table could be expanded to include differentiation of measures that apply to piling versus all construction activities. Also, better differentiation between mitigation measures required for Habitats Regulations compliance and what are mitigation measures for species which are not European site features (such as some migratory fish species) would be very useful. We would welcome further discussions about the balance of mitigation measures between summer and winter and whether this balance is appropriate given the level of risk to different European site features.