

Tritax Symmetry (Hinckley) Limited

HINCKLEY NATIONAL RAIL FREIGHT INTERCHANGE

The Hinckley National Rail Freight Interchange Development Consent Order

Project reference TR050007

Environmental Statement Volume 2: Appendices

Appendix 12.3: Shadow Habitats Regulation Assessment

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Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Regulation 5(2)(a)

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
Regulation 14

This document forms a part of the Environmental Statement for the Hinckley National Rail Freight Interchange project.

Tritax Symmetry (Hinckley) Limited (TSH) has applied to the Secretary of State for Transport for a Development Consent Order (DCO) for the Hinckley National Rail Freight Interchange (HNRFI).

To help inform the determination of the DCO application, TSH has undertaken an environmental impact assessment (EIA) of its proposals. EIA is a process that aims to improve the environmental design of a development proposal, and to provide the decision maker with sufficient information about the environmental effects of the project to make a decision.

The findings of an EIA are described in a written report known as an Environmental Statement (ES). An ES provides environmental information about the scheme, including a description of the development, its predicted environmental effects and the measures proposed to ameliorate any adverse effects.

Further details about the proposed Hinckley National Rail Freight Interchange are available on the project website:

<http://www.hinckleynrfi.co.uk/>

The DCO application and documents relating to the examination of the proposed development can be viewed on the Planning Inspectorate's National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/projects/east-midlands/hinckley-national-rail-freight-interchange/>

Appendix 12.3 ◆ Shadow Habitats Regulation Assessment

EXECUTIVE SUMMARY

- 1.1. This Shadow Habitat Regulations Assessment (sHRA) has been prepared by The Environmental Dimension Partnership Ltd (EDP) on behalf of Tritax Symmetry (Hinckley) Limited (TSH). It considers the implications of the proposed National Rail Freight Interchange on land north-east of Hinckley on Internationally designated sites within the Zone of Influence (Zol) of the Proposed Development.
- 1.2. An SHRA is required in UK law by the Conservation of Habitats and Species Regulations 2017 (as amended) and was considered necessary to assess potential impacts upon nearby designated sites. This sHRA aims to provide relevant technical information to enable competent authorities to discharge their functions under Regulation 63 (assessment of implications for European Sites and European offshore marine sites) of the Conservation of Habitat and Species Regulations 2017 (as amended).
- 1.3. This SHRA report describes the potential for effects on European Sites as a result of the Proposed Development. European Sites are Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) designated under the Conservation of Habitats and Species Regulations 2017 (as amended), but also include sites designated under the Ramsar Convention on Wetlands of International Importance (1971, Ramsar Sites).
- 1.4. This report also sets out the contextual baseline for the DCO Site, identifies the potential internationally designated sites within the Zol and the potential sources of effects upon those sites arising from the Proposed Development. These are then considered within Stage 1 of the HRA process, known as the ‘Screening Stage’. Likely Significant Effects (LSE) are screened in or out based on the context of inherent mitigation, construction methodology, planned habitat enhancements and operational conditions of the Proposed Development. LSE screened in are then considered against proposed mitigation, in order to rule out negative effects upon the integrity of European Sites during Stage 2 of the assessment; ‘Appropriate Assessment’.
- 1.5. This SHRA finds that given the significant distances involved, the nature of the development proposals, and the identified pressures of the relevant internationally designated sites, there is no potential for Likely Significant Effects, either alone or in combination with other plans or projects on the integrity of European Sites.

INTRODUCTION, PURPOSE AND CONTEXT

- 1.6. This Shadow Habitat Regulations Assessment (sHRA) has been prepared by The Environmental Dimension Partnership Ltd (EDP) on behalf of TSH. It considers the implications of the proposed National Rail Freight Interchange on land north-east of Hinckley (hereafter referred to as ‘the DCO Site’) on Internationally designated sites within

the Zone of Influence (Zoi) of the Proposed Development.

- 1.7. EDP is an independent environmental planning consultancy with offices in Cirencester, Cheltenham and Cardiff. The practice provides advice to private and public-sector clients throughout the UK in the fields of landscape, ecology, archaeology, cultural heritage, arboriculture, rights of way and master planning. Details of the practice can be obtained at our website (www.edp-uk.co.uk).

Site Context

- 1.8. A single internationally designated site, Ensor's Pool Special Area of Conservation (SAC), is located within a 15km radius of the DCO Site. The River Mease SAC is located 18.1km from the DCO Site at its closest point, although its catchment area is located within the 15km Zoi and therefore has been considered within this document.

Proposed Development

- 1.9. The DCO Site contains the Main HNRFI Site and also include contiguous areas to the north-west, south and east, respectively to contain the corridor of a proposed link road that would cross the Leicester to Hinckley railway and connect to the B4668/A47 Leicester Road (the 'A47 Link Road'), the proposed works to M69 Junction 2 and a section of the B4669 Hinckley Road towards the village of Sapcote (referred to as the 'Main Order Limits').
- 1.10. The DCO Site also includes additional non-contiguous areas of land at roads and junctions for which highway enhancements and traffic management measures are proposed. The DCO Site also includes some pedestrian level crossings on the Leicester to Hinckley railway that are subject to proposed works and restrictions. These additional works are considered to be ecologically insignificant and have no conceivable route to LSE on European/internationally designated sites. Nevertheless, the DCO Site is assessed as a single unit in terms of LSE.
- 1.11. The precise nature of the Proposed Development is detailed within Chapter 3 of the Environmental Statement (document reference 6.1.3).

Consultation

- 1.12. This sHRA has been produced following feedback from The Planning Inspectorate (PINS), whereby a scoping exercise with regard to statutory sites of European/International importance was requested.
- 1.13. This sHRA is considered sufficient to provide relevant technical information to enable Competent Authority to discharge their functions under Regulations 7 and 63 (requirement to carry out Appropriate Assessment) of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the Proposed Development. In this instance (i.e. a Nationally Significant Infrastructure Project), the Competent Authority is the Secretary of State.
- 1.14. Engagement with Natural England (the appropriate nature conservation body (ANCB)) has

been undertaken throughout the Environmental Impact Assessment (EIA) consultation process. To date, no comments have been received about potential or perceived impacts (or likely significant effects) on European/international designated sites.

Purpose of this Report

- 1.15. Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017 (as amended) states that:

“a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.”

- 1.16. Regulation 63 (2) further states that *“a person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required”*.

- 1.17. Regulation 63 (3) states that *“the competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regards to any representations made by that body within such reasonable time as the authority specifies”*.

- 1.18. Regulation 63 (5) goes on to state that:

“in the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European Site or the European offshore marine site (as the case may be).”

- 1.19. Regulation 63 (6) concludes that:

“in considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.”

- 1.20. This sHRA describes the potential for LSE on European Sites to arise, as a result of the Proposed Development at each relevant stage of the SHRA process. European Sites are SPAs and SACs designated under the Conservation of Habitats and Species 2017 (as amended), but also include sites designated under the Ramsar Convention on Wetlands of International Importance (1971, Ramsar Sites).

1.21. It is noted that s6(3) of the European Union (EU) (Withdrawal) Act 2018 (as amended) requires retained EU law (such as the Conservation of Habitats and Species Regulations 2017 (as amended)) to be interpreted in line with 'retained caselaw' which includes retained EU caselaw.

METHODOLOGY

1.22. This sHRA aims to provide relevant technical information to enable competent authorities to undertake a HRA and discharge their functions under Regulation 63 (assessment of implications for European Sites and European offshore marine sites) of the Conservation of Habitat and Species Regulations 2017 (as amended).

1.23. When undertaking a HRA assessment, the Competent Authority will follow four sequential stages:

- Stage 1: Habitat Screening;
- Stage 2: Appropriate Assessment;
- Stage 3: Alternative Solutions; and
- Stage 4: Interests of Overriding Public Interest.

1.24. Owing to the nature of potential LSE and mitigation proposed, it was not necessary to proceed to stages 2, 3 or 4 within this SHRA.

1.25. Further details pertaining to the methodology and approach taken with regards to Stage 1 is provided below.

Stage 1: Screening

1.26. Each European Site has been considered in the context of the Proposed Development and screened for any LSE. This stage of the report presents the findings of the screening assessment undertaken to identify LSE of the Proposed Development on European Sites. A Screening Matrix is included, which sets out a brief description of the project, details of the European Sites which may be impacted, and an assessment of any likely effects on the European Sites.

1.27. This stage considers the possibility for LSE to occur based on high-level analysis of risks, taking into account the spatial relationship between impact sources and designated sites (and functionally linked habitats and species), the magnitude of changes predicted with regard to atmospheric, coastal/estuarine and freshwater receptor pathways (with reference to the relevant specialist studies), and any physical or other relationships between the DCO Site and each European Site. Stage 1 screening for LSE considers the project alone and in combination with other projects.

- 1.28. If it can be confidently predicted on the basis of objective information that no LSE are identified for all the European Sites considered, then HRA Stages 2 and 3 are not required.
- 1.29. The judgment of People over Wind and Sweetman (12 April 2018) ruled that mitigation measures intended to avoid or reduce the harmful effects of the plan or project on a European Site could not be considered at the Stage 1 Screening Stage and can only be taken into account as part of Stage 2: Appropriate Assessment. Only measures that constitute part of the project design and are not intended to avoid or reduce effects on European Site features, are therefore considered at the Screening Stage.
- 1.30. Evidence gathering and consultation, including the collation of baseline data on pertinent qualifying features within the Proposed Development's ZoI, is an integral part of Stage 1 Screening. Desk and field-based investigations have been undertaken, to provide robust baseline information.
- 1.31. This assessment finds that given the significant distances involved, the nature of the development proposals, and the identified pressures of the relevant internationally designated sites, there is no potential for Likely Significant Effects, either alone or in combination with other plans or projects on the integrity of European Sites.

RELEVANT EUROPEAN SITES

- 1.32. This section presents desk and field-based evidence to allow potential impacts on the internationally designated sites to be screened and assessed. As above, only a single internationally designated site, Ensor's Pool Special Area of Conservation (SAC) is located within a 15km radius of the DCO Site. The River Mease SAC is located 18.1km from the DCO Site at its closest point, although its catchment area is located within the 15km ZoI and therefore has been considered within this document.
- 1.33. The DCO Site location in relation to these designated sites is illustrated at Annex 1 of this assessment.
- 1.34. All other internationally designated statutory designated sites have been scoped out of this assessment, owing to the significant distances involved.

Qualifying Criteria

- 1.35. The qualifying criteria and relative distance of relevant internationally designated sites from the DCO Site boundary are summarised in Table 1.1.

Table 1.1: Summary of Relevant Internationally Designated Site Qualifying Criteria and Distance from the DCO Site.

Internationally Designated Site	Qualifying Features	Distance from DCO Site boundary (approx.)
River Mease SAC	<p>This SAC supports the following Annex I habitats that are present as a qualifying feature, but not a primary reason for selection of the site:</p> <ul style="list-style-type: none"> • 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation. <p>This SAC supports the following Annex II species that are a primary reason for selection:</p> <ul style="list-style-type: none"> • 1149 Spined loach (<i>Cobitis taenia</i>); and • 1163 Bullhead (<i>Cottus gobio</i>). <p>This SAC supports the following Annex II species that are present as a qualifying feature, but not a primary reason for site selection:</p> <ul style="list-style-type: none"> • 1092 White-clawed (or Atlantic stream) crayfish (<i>Austropotamobius pallipes</i>); and • 1355 Otter (<i>Lutra lutra</i>). 	18.1km north-west
Ensor’s Pool SAC	<p>This SAC supports the following Annex II species that are a primary reason for selection:</p> <ul style="list-style-type: none"> • 1092 White-clawed (or Atlantic stream) crayfish (<i>Austropotamobius pallipes</i>) 	11km East

Conservation Objectives

River Mease SAC

1.36. The Conservation Objectives (version 3, 27 November 2018) for the River Mease SAC are

available in the document entitled European Site Conservation Objectives for River Mease Special Area of Conservation Site Code: UK0030258, on the Natural England website. This states that the conservation 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 Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- *The extent and distribution of qualifying natural habitats and habitats of qualifying species;*
- *The structure and function (including typical species) of qualifying natural habitats;*
- *The structure and function of the habitats of qualifying species;*
- *The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;*
- *The populations of qualifying species; and*
- *The distribution of qualifying species within the site.”*

1.37. Natural England has also published *Supplementary Advice on Conserving and Restoring Site Features at River Mease SAC* (latest version 31 May 2016), which includes more detailed targets for maintaining or enhancing the qualifying features.

Ensor’s Pool SAC

1.38. The Conservation Objectives (version 3, 27 November 2018) for Ensor’s Pool SAC are available in the document entitled European Site Conservation Objectives for Ensor’s Pool Special Area of Conservation Site Code: UK0012646, on the Natural England website. This states that the conservation 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 Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- *The extent and distribution of the habitats of qualifying species;*
- *The structure and function of the habitats of qualifying species;*
- *The supporting processes on which the habitats of qualifying species rely;*
- *The populations of qualifying species; and*
- *The distribution of qualifying species within the site.”*

1.39. Natural England has also published *Supplementary Advice on Conserving and Restoring Site Features at Ensor’s Pool SAC* (latest version 7 February 2018), which includes more detailed

targets for maintaining or enhancing the qualifying feature.

Threats/Pressures to Site Integrity

River Mease SAC

1.40. Natural England's Site Improvement Plan¹ (SIP) for River Mease SAC identifies the following threats and pressures to site integrity:

- Water pollution (all features);
- Drainage (qualifying habitat feature only);
- Inappropriate weirs dams and other structures (all features);
- Invasive species (all features);
- Siltation (all features); and
- Water abstraction (all features).

Ensor's Pool SAC

1.41. Natural England's Site Improvement Plan² (SIP) for Ensor's Pool SAC identifies the following threats and pressures to site integrity:

- Changes in species distributions (White-clawed crayfish).

STAGE 1: SCREENING OF LIKELY SIGNIFICANT EFFECTS

1.42. This section considers the potential for LSE on the relevant sites to occur, as a result of the implementation of the Proposed Development. In accordance with best practice, this discussion is focused on the potential of the Proposed Development to impact upon the conservation objectives of the relevant sites. Each of the respective threats/pressures highlighted above are discussed below.

1.43. The screening assessment has also been informed by the evidence provided, or summarised, within the 'River Mease - Advice to Local Planning Authorities - Natural England, January 2022'³. This document constitutes the standing advice in relation to all developments within the River Mease catchment which have the potential to further contribute to the poor water quality as a result of surface and foul water entering the river, its tributaries and the water environment. References to this evidence are made below where appropriate.

¹ <http://publications.naturalengland.org.uk/publication/4808896162037760> [accessed on 23/09/2022]

² <http://publications.naturalengland.org.uk/file/4864434220564480> [accessed on 23/09/2022]

³ <https://www.rivermease.co.uk/wp-content/uploads/2022/01/River-Mease-standing-advice-Jan-2022-Final.pdf>

River Mease SAC

Pollution

- 1.44. The SIP for the River Mease SAC states that elevated levels of phosphate are contributing to eutrophication and the decline in abundance and/or diversity of characteristic plant and freshwater species.
- 1.45. The DCO Site is located over 18km (at its closest point) away from the River Mease SAC. There are also no hydrological connections to the River Mease from the DCO Site.
- 1.46. Standing advice contained within the 'River Mease - Advice to Local Planning Authorities - Natural England, January 2022' is intended for the use by the following local authorities located within the Mease catchment: North West Leicestershire District Council; South Derbyshire District Council; Lichfield District Council; and Hinckley and Bosworth Borough Council.
- 1.47. Whilst the DCO Site falls within the Hinckley and Bosworth Borough Council administrative area it falls outside the River Mease Catchment. This means that there are no hydrological links from the DCO Site to the SAC and the distance from the DCO Site also rules out other forms of pollution affecting the SAC.
- 1.48. As such, an LSE in terms of pollution pathway has therefore been screened out, both alone and in-combination with other projects or plans.

Drainage

- 1.49. Based on similar reasons as above, no LSE are predicted in terms of drainage, both alone and in-combination with other projects or plans.

Inappropriate weirs, dams and other structures

- 1.50. As above, there is no hydrological link between the River Mease SAC and the DCO Site. In any event, the Proposed Development does not include proposals to install weirs, dams or any other such structures. As such, no LSE is predicted in this regard, both alone and in-combination with other projects or plans.

Invasive Species

- 1.51. The SIP identifies himalayan balsam (*Impatiens glandulifera*), japanese knotweed (*Polygonum cuspidatum*) and signal crayfish (*Pacifastacus leniusculus*) as pressures on the River Mease SAC.
- 1.52. As the Proposed Development will not directly impact any of the habitat within the SAC, or its future management, no LSE predicted in this regard. Furthermore, should invasive species be identified within the DCO Site, TSH will have a legal obligation to prevent their spread during construction and operation.

Siltation

- 1.53. The SIP identifies that high levels of siltation smother gravel beds which are the required spawning habitat of bullhead and can also cover areas of fine sand which are used as spawning habitat by spined loach.
- 1.54. The development proposals have no route to increasing siltation within the River Mease SAC. As such, no LSE is predicted in this regard, both alone and in-combination with other projects or plans.

Water Abstraction

- 1.55. The SIP also identifies that:

“Water abstraction changes the naturalised flow pattern from low to high flows and all flow ranges are important for different life stages of the SAC species. There are a number of regulated agricultural related abstractions along the River Mease and a permitted transfer of ground water to the Ashby Canal. However, there are 11 sewage treatment works within the catchment providing a net surplus of water to the system overall. The water balance for the catchment and how this affects the flow pattern and ecology needs to be further understood.”

- 1.56. The DCO Site falls far outside the River Mease catchment and has no route to increasing agricultural related water abstraction. On that basis, there is no route to an LSE, both alone and in-combination with other projects or plans.

Ensor’s Pool SAC

Changes in species distributions

- 1.57. The SIP for Ensor’s Pool outlines that although once a stronghold for white-clawed crayfish, survey work in 2014 found no evidence of this qualifying species being present. Further investigation is needed to determine the causes of this loss.
- 1.58. Ensor’s pool is isolated from river systems and a good example of a ‘refuge site’ on that basis. Given the distances involved, lack of hydrological connectivity, and the nature of the Proposed Development, no LSE is predicted in this regard, both alone and in-combination with other projects or plans.

Summary

- 1.59. Table 1.2 below provides a summary of the Stage 1 Screening Assessment of the Proposed Development in isolation and in combination.

Table 1.2: Summary of Screening Assessment

Site	Interest Features	Potential Impact Pathway - Alone and in Combination	Likely Significant Effect?
River Mease SAC	<ul style="list-style-type: none"> • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation; • Spined loach; • Bullhead; • White-clawed crayfish;and • Otter. 	Water Pollution	No
		Drainage	No
		Inappropriate weirs, dams and other structures	No
		Invasive species	No
		Siltation	No
		Water abstraction	No
Ensor's Pool SAC	<ul style="list-style-type: none"> • White-clawed crayfish 	Changes in species distributions (White-clawed crayfish)	No

1.60. The stage 1 screening assessment finds that given the significant distances involved, the nature of the Proposed Development Proposals, and the identified pressures of the relevant internationally designated sites, there would be no conceivable effect on/no potential effect pathways to any European site and its qualifying features as a result of the Proposed Development, and no adverse impact on the integrity of those sites, either alone or in combination with other plans or projects.

1.61. On that basis, and in line with the Conservation of Habitats and Species Regulations 2017 (as amended) this assessment does not advance to Stage 2 'Appropriate Assessment' and impacts on internationally designated sites are scoped out.

Annex 1 ◆ SCO Site Location in Relation to Relevant
International/European Designated Sites
(edp3267_d179 09 March 2023 DJo/MNe)