

Date: 26 September 2018
Our ref: 256862 / 256859
Your ref: MLA/2015/00334/4



Marine Management Organisation
Lancaster House
Hampshire Court
Newcastle Upon Tyne
NE4 7YH

VIA WEBSITE ONLY

Dear Sarah,

Consultation: MLA/2015/00334/4. Licence Variation 4 & LSE / AA update. Able Seaton Port berths, Holding Basin and Channel

Location: Able Seaton Port, Tees Estuary

Thank you for consulting Natural England on the licence variation and Appropriate Assessment (AA) for MLA/2015/00334/4, received by Natural England on the 29th August 2018. The following constitutes as NE's formal response for both consultations.

We can confirm that the proposed works are located within the Teesmouth and Cleveland Coast pSPA, Ramsar Site and SSSI.

Licence Variation

Natural England has no objection to the proposed licence variation or relaxation of dredging restrictions within the TERRC basin only. It is the view of Natural England that the proposed variation will not impact the integrity of the Teesmouth pSPA, Ramsar Site and SSSI.

Assessment of likely significant effect

Natural England's advice is that this proposed development may contain (or require) measures intended to avoid or reduce the likely harmful effects on a European Site, which cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment (noting the recent People Over Wind Ruling by the Court of Justice of the European Union).

For this reason, we advise that on the basis of the information supplied that the application may have a likely significant effect on these sites. The application requires an appropriate assessment in accordance with the Conservation of Habitats & Species Regulations 2017.

Appropriate assessment

We note that the MMO, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal in accordance with Regulation 63 of the Regulations.

Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could

potentially occur as a result of the proposal, Natural England requests clarification on the following points:

Loss of intertidal mudflat (SPA supporting habitat)

Natural England notes that the LSE / AA document states that the dredging footprint overlaps with the intertidal mudflat SPA supporting habitat, and that the project 'will remove this feature'. However, this has not been considered at AA stage.

Natural England requests clarification on this point. What extent of intertidal mudflat loss is expected? If the proposal will reduce the extent of intertidal mudflats, the loss of SPA intertidal feeding resource must be considered within the appropriate assessment.

Smothering impacts

Natural England notes that the impact of the project from smothering has not been considered within the final AA, despite being screened into the LSE stage. Whilst on this occasion, NE does not believe that smothering will affect the sites integrity, we would welcome its future consideration at AA stage.

General comments

Natural England welcomes the consideration of the Teesmouth and Cleveland Coast potential Special Protection Area (pSPA) and its interest features. The proposed extension is currently being consulted upon, and should be treated as material consideration.

Natural England advises that options for the beneficial use of the dredged material should be explored, before disposal at sea is considered. The use of dredged silts and clay can be used to protect and enhance the natural environment¹, and Natural England would strongly welcome uses of the dredged material from this location. We would be happy to speak to the applicant regarding this.

For any queries relating to the content of this letter please come back to Natural England for further information.

Yours sincerely,

Josh Parker

Marine Lead Adviser
Northumbria Area Team
Natural England

¹ <https://www.rspb.org.uk/globalassets/downloads/documents/conservation-projects/seabuds-report.pdf>