

Gate Burton Energy Park

Preliminary Environmental Information Report
Volume 3, Appendix 8-E: Habitats Regulations
Assessment: No Significant Effects Report

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Gate Burton Energy Park Limited

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1. Introduction

1.1 Overview

- 1.1.1 This Habitat Regulations Assessment – No Significant Effects Report (NSER) has been prepared on behalf of Gate Burton Energy Park Limited (the ‘Applicant’).
- 1.1.2 The Applicant is seeking development consent for the construction, operation, maintenance and decommissioning of a new solar farm (hereafter referred to as the Scheme), comprising the installation of solar photovoltaic (PV) panels, on-site battery storage (referred to as the Battery Energy Storage System (BESS)). Please refer to **PEI Report Volume 1, Chapter 2: The Scheme** of the Preliminary Environmental Information (PEI) Report for full details of the proposal.
- 1.1.3 A Development Consent Order (DCO) is required for the Scheme as it falls within the definition and thresholds for a Nationally Significant Infrastructure Project (a NSIP) under Sections 14(1)(a) and 15(2) of the Planning Act 2008.
- 1.1.4 The scope and extent of this report have been determined by a combination of the scoping opinions collated by the Planning Inspectorate (PINS) on behalf of the Secretary of State (SoS), ongoing engagement with consultees including Natural England, and professional judgement. Regard has also been given to the Planning Inspectorate’s (PINS) Advice Note Ten: Habitats Regulations Assessment relevant to nationally significant infrastructure projects, Version 8 (November 2017).

1.2 Site Description

- 1.2.1 The DCO Site comprises an area of 1,436 ha which straddles the boundary between the counties of Nottinghamshire and Lincolnshire, within the districts of Bassetlaw and West Lindsey.
- 1.2.2 The Solar and Energy Storage Park Site covers an approximate area of 700ha and is dominated by arable fields with game crop strips and a few Miscanthus fields in the east of the Solar and Energy Storage Park Site. There are numerous mature trees and hedges within the Site, with woodlands and small wooded copses. The Solar and Energy Storage Park Site is surrounded by mainly arable and improved grassland livestock fields.
- 1.2.3 The Grid Connection Route covers an area of approximately 700ha and is dominated by arable fields. There are hedgerows and watercourses within the Grid Connection Route and the River Trent is crossed by the Grid Connection Route. The Ordnance Survey (OS) central grid reference for the DCO Site is SK 84904 83646.

1.3 Description of the Scheme

- 1.3.1 Gate Burton Energy Park is a proposed new solar farm and battery storage project which will generate renewable energy for exporting to the National Grid. The Scheme is anticipated to have a generation capacity in the region of 500 megawatts, comparable to providing over 160,000 homes with clean energy power. The Scheme is the subject of a Development Consent Order (DCO) Application and will be located within the Site (also referred to as the DCO Site).
- 1.3.2 The Scheme will comprise the following infrastructure:
- The Solar and Energy Storage Site, which includes:
 - Solar photovoltaic (PV) array works area (including panels and mounting structures to form the PV tables); inverters, transformers, and switchgear, which form the Power Conversion Stations; and medium voltage distribution cables, secondary access tracks, and ancillary works;
 - Battery energy storage system (BESS) compound(s);
 - On-site substations (for transformers, switchgear and metering equipment);
 - Landscape works area; and
 - The Grid Connection Route, which will be an approximately 6km buried cable (with a working width of 30m to 40 m) to connect the Solar and Energy Park Site with the National Grid at the Cottam Substation; and
 - An off-site electrical compound comprising of a substation and control building.
- 1.3.3 The Solar and Energy Storage Site will be fenced and protected via security measures such as CCTV and emergency lighting. Internal access tracks, habitat management and drainage will also be included.

1.4 Legislative Context

- 1.4.1 As part of the assessment of a proposed scheme it is necessary to consider whether the scheme is likely to have a significant effect on areas that have been internationally designated for nature conservation purposes (*i.e.* 'European Sites'). European sites are protected under the Conservation of Habitats and Species Regulations 2017 (as amended; relevant to England and Wales) (Ref 5-1) ("the Habitats Regulations"). The UK left the EU on 31 January 2020 under the terms set out in the European Union (Withdrawal Agreement) Act 2020 (the Withdrawal Act). However, the most recent amendments to the Habitats Regulations, the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Ref 5-2), make it clear that the need for Habitat Regulations Assessment (HRA) continues to apply. Whilst those 2019 Regulations make changes to the Habitats regime and terminology; much of the impact of those changes does not yet have a practical effect, particularly the introduction of the term 'national site network', given the short passage of time since the end of the transition period. As such,

this document continues to use the term 'European sites' to refer to all sites designated for the purposes of the Habitat Regulations which are potentially affected by the Scheme.

- 1.4.2 This first stage (Stage 1) is the assessment that has been conducted and reported in this document. Although Ramsar sites are not part of the network of designated sites, Paragraph 181 of the National Planning Policy Framework (NPPF) in England extends Ramsar sites the same level of protection as Special Protection Areas (SPAs) and Special Conservation Areas (SACs). As such, any reference to the European Sites below should be considered to also include Ramsar sites (Ref 5-3).
- 1.4.3 Should it be found that significant effects are likely, an Appropriate Assessment should then be undertaken in order to further assess those effects. Consent may only be given for the proposed scheme if, following assessment, it is established that it will not adversely affect the integrity of a given designated site.
- 1.4.4 If adverse effects are identified, alternatives should be considered to avoid those effects. However, where no alternative solution exists and so an adverse effect remains, a further assessment should be made of whether the scheme is required for imperative reasons of overriding public interest (IROPI). If the scheme meets that IROPI test, compensatory measures will be required in order to ensure the overall coherence of the national site network is protected.
- 1.4.5 Over the years, the phrase HRA has come to describe the overall process set out in the 2017 Regulations, from the screening for Likely Significant Effects through to identification of IROPI. This has arisen in order to distinguish the overall process from the individual stage of Appropriate Assessment. Throughout this Report the term HRA is used for the overall process and restricts the use of Appropriate Assessment to the specific stage of that name.
- 1.4.6 The legislative basis for Appropriate Assessment is the Conservation of Habitats and Species Regulation 2017 (as amended). Regulation 63(1) of the 2017 Regulations states that: "*A competent authority, before deciding to ... give any consent, permission or other authorisation for, a plan or project which, ... 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) ... must make an appropriate assessment of the implications for the plan or project in view of that site's conservation objectives. Regulation 63(5) states: In the light of the conclusions of the assessment, ... 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*". In the case of the Scheme, the competent authority is the Secretary of State for Business, Energy and Industrial Strategy.

2. Methods

2.1 Approach

- 2.1.1 The HRA has been undertaken with reference to the general EC guidance on HRA (Ref 5-4), general guidance on HRA published by the UK government in July 2019 (Ref 5-5) and Planning Inspectorate (PINS) Advice Note 10 (Ref 5-6).
- 2.1.2 The UK left the EU on 31 January 2020 under the terms set out in the European Union (Withdrawal Agreement) Act 2020 (the Withdrawal Act). The Withdrawal Act retains the body of existing EU-derived law within our domestic law. As such this assessment of Likely Significant Effects (LSEs) takes account of relevant EU case law (for instance, the Holohan Ref 5-7) and People over Wind cases (Ref 5-8), discussed below).
- 2.1.3 Figure 2-1 below outlines the stages of HRA according to PINS Advice Note 10. Note that whilst Figure 2-1 shows all the stages of the HRA process, this document only discusses Stage 1 (screening) in further detail (see below).
- 2.1.4 Whilst the HRA decisions must be taken by the competent authority (the Planning Inspectorate as Examining Authority), the information needed to undertake the necessary assessments must be provided by the Applicant. The information needed for the competent authority to establish whether there are any LSEs from the Proposed Development is therefore provided in this Report.

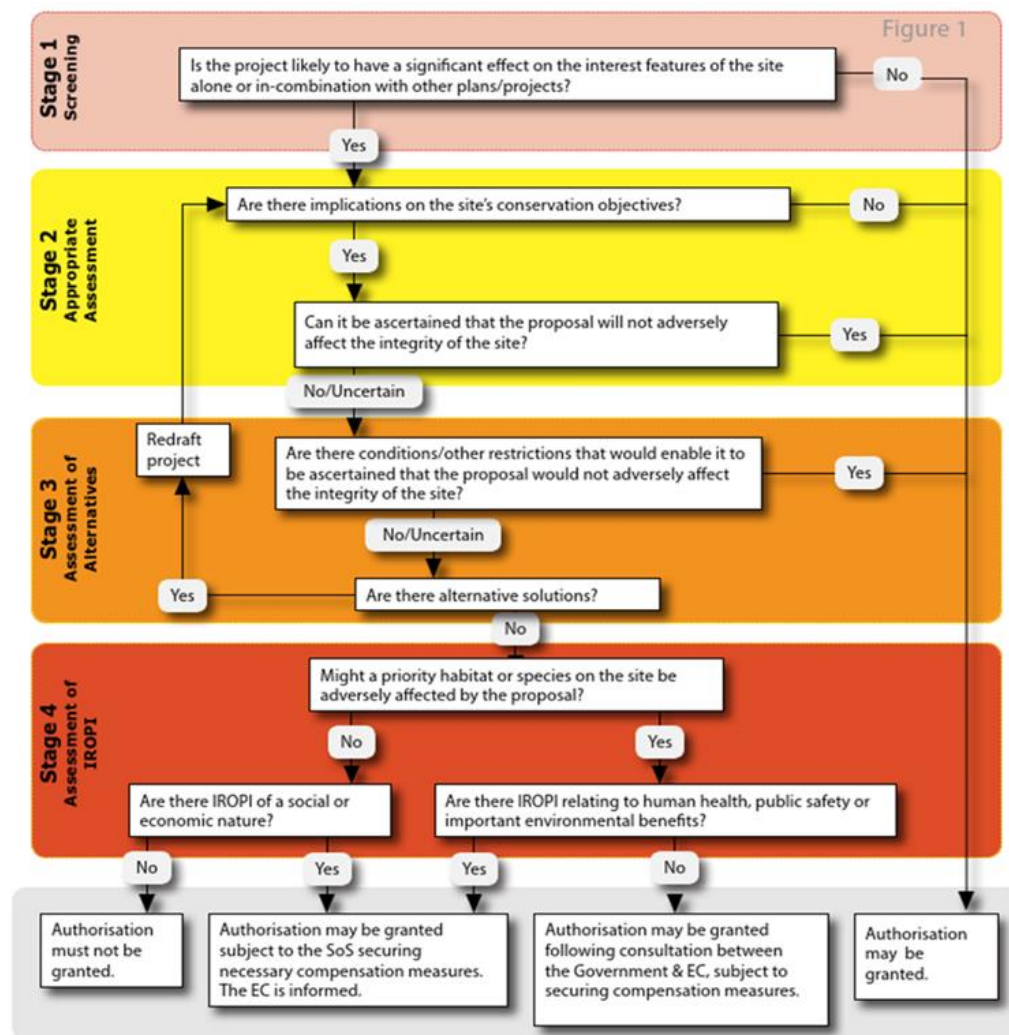


Figure 2-1. Four Stage Approach to Habitats Regulations Assessments of Projects

2.2 HRA Stage 1: Screening for Likely Significant Effects

- 2.2.1 The objective of the LSE test is to screen out those aspects of a project and / or the European sites that can, without any detailed appraisal, be said to be unlikely to result in significant adverse effects upon European sites, usually because there is no mechanism for an adverse interaction (*i.e.* a pathway) with European sites. Any remaining aspects are then taken forward to Appropriate Assessment. The assessment must consider the potential for effects in combination with other plans and projects.
- 2.2.2 This report has been prepared having regard to all relevant case law relating to the 2017 Regulations, the Habitats Directive and Birds Directive. This includes the ruling by the Court of Justice of the European Union (CJEU) in the case of *People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17)* (Ref 5-8). This case held that: "*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site*" (Paragraph 40). This establishes that

mitigation measures cannot be taken into account at the screening stage, but they can be taken into account in an Appropriate Assessment.

- 2.2.3 In 2018, the Holohan ruling¹ was handed down by the European Court of Justice. Among other provisions Paragraph 40 of the ruling states that: ‘*Article 6(3) of the Habitats Directive must be interpreted as meaning that an ‘appropriate assessment’ must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site*’ [emphasis added].

¹ Case C-461/17

3. Baseline Evidence and Gathering

3.1 Overview

- 3.1.1 There is no guidance that dictates the general physical scope of an HRA document. Therefore, in considering the physical scope of the assessment of the Scheme, we were guided primarily by the identified impact pathways (called the source-pathway-receptor model).
- 3.1.2 Briefly defined, impact pathways are routes by which the implementation of a project can lead to an effect upon a European designated site. For some impact pathways (notably air pollution) there is guidance that sets out distance-based zones required for assessment. For others, a professional judgment must be made based on the best available evidence.

3.2 Designated Sites Scoped into HRA

- 3.2.1 Guidance published by the Environment Agency (Ref 5-9) recommends that for large power generation developments greater than 50MW², a radius search of 15km should be used as the screening distance for air emissions when identifying relevant European designated sites which may be affected by the development. The PEI Report has considered a distance of 10km as appropriate, based on the likely impacts during construction and operation of a solar farm, compared with other large power generation developments, such as coal and gas fired power stations, where air emissions may disperse over a greater distance.
- 3.2.2 Additionally, a radius of 30 km should be used for any European site for which bats are a qualifying feature (Ref 5-10).
- 3.2.3 No European Sites are present within 10km of the Scheme. The nearest European site to the Scheme, Birklands & Bilhaugh Special Area of Conservation (SAC) is located approximately 18.3 km from the Scheme and is designated for Old acidophilous oak woods with *Quercus robur* on sandy plains.
- 3.2.4 No SACs with bats as a qualifying feature were identified within 30 km of the Scheme.
- 3.2.5 Paragraph 4.9 of PINS Advice Note 10, as well as guidance from the Department for Business, Energy and Industrial Strategy³ requires an evaluation of the potential for the Scheme Project to require other consents which could also require a HRA by different competent authorities, and a

² This applies to the following types of development: natural gas (or fuels with a similarly low sulphur content) fired combustion plants, with more than 500 megawatt thermal input, and larger combustion plants using more sulphurous fuels with more than 50 megawatt thermal input.

³ Guidelines on the assessment of transboundary impacts of energy developments on Natura 2000 sites outside the UK

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408465/transboundary_guidelines.pdf

statement as to whether the Scheme boundary overlaps with devolved administrations or other European Economic Area (EEA) States (Ref 5-11). It is confirmed that the Scheme boundary does not overlap with areas of devolved administrations or with those of other EEA States. It is also the case that no parallel consents are required for the Scheme which would require additional a HRA to be undertaken.

3.3 In Combination Effects with other Plans or Projects

3.3.1 PINS Advice Note 10: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects (Ref 5-6) states that in assessing in combination effects the following projects should be considered

- Projects that are under construction;
- Permitted application(s) not yet implemented;
- Submitted application(s) not yet determined;
- All refusals subject to appeal procedures not yet determined;
- Projects on the National Infrastructure's programme of projects; and
- Projects identified in emerging development plans, recognising that much information on relevant proposals will be limited and the degree of uncertainty which may be present.

3.3.2 As no European sites have been identified in this report, no in combination effects have been identified.

4. No Significant Effects Statement

- 4.1.1 The baseline evidence gathering has not identified any European Sites within a search area where they may be impacted by the construction, operation and decommissioning of a solar farm. As such, there are no European Sites to be taken forward to Stage 1 – Screening for Likely Significant Effects. On this basis it can be concluded that there will be No Significant effects to European Sites either from the construction, operation and decommissioning of the Scheme or in combination with other plans and projects.

5. References

- Ref 5-1. Anon. (2018). Conservation of Habitats and Species Regulations 2017 (as amended). HMSO, London.
- Ref 5-2. HMSO. (2019). The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. HMSO, London.
- Ref 5-3. National Planning Policy Framework. Department for Communities and Local Government. (2012 – last updated in July 2021). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf.
- Ref 5-4. European Commission. (2001). Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive.
- Ref 5-5. Ministry of Housing, Communities & Local Government. (2019). Appropriate Assessment. Available at: <https://www.gov.uk/guidance/appropriate-assessment>.
- Ref 5-6. The Planning Inspectorate. (2017). Habitats Regulations Assessment. Available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/06/Advice-note-10v4.pdf>.
- Ref 5-7. Holohan ruling (C-461/17).
- Ref 5-8. People Over Wind and Sweetman v Coillte Teoranta (C-323/17).
- Ref 5-9. Environment Agency. (2016). Air emissions risk assessment for your environmental permit. Available at: <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>.
- Ref 5-10. Collins, J. (ed.) (2016) Bat Surveys for Professional Ecologists Good Practice Guidelines 3rd Edition. The Bat Conservation Trust, London.
- Ref 5-11. Department for Business, Energy and Industrial Strategy. (2021). Guidelines on the assessment of transboundary impacts of energy developments on Natura 2000 sites outside the UK https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408465/transboundary_guidelines.pdf.

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