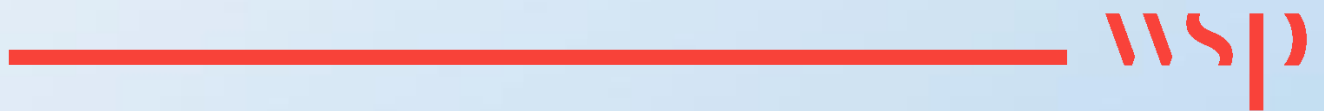


# Appendix 5.8

## **NE DAS Response**



Date: 25 June 2020  
Our ref: DAS/312493 UDS6742  
Your ref: N/A



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Dear Mr. Davidson

**Discretionary Advice Service (Charged Advice) 6742/312493**

**Development proposal and location:** Time extension for implementation of granted Development Consent Order (DCO) for the North Killingholme Power Project.

Thank you for your consultation on the above dated 02 June 2020.

This advice is being provided as part of Natural England's Discretionary Advice Service. WSP (on behalf of C.GEN Killingholme Ltd.) has asked Natural England to provide advice upon:

- The updated ecological baseline information provided to determine if this alters the conclusions of the original Environmental Statement (ES).

This advice is provided in accordance with the Quotation and Agreement dated 30 April 2020.

The following advice is based upon the information within:

- Environmental report (dated 01 June 2020)
- Preliminary Ecological Appraisal (dated May 2020)
- Winter Bird Survey Report (dated May 2020)
- Breeding Bird and Waterbird Survey Report (dated May 2020)
- Great Crested Newt eDNA Summary Report (dated May 2020)
- Otter and Water Vole Survey (dated May 2020)
- Bat Survey Report (dated May 2020)
- Reptile Survey Report (dated May 2020)
- Badger Walkover Summary Report (dated May 2020)

Please note that the advice provided below is based solely on the documents that have been listed above. The Habitats Regulations Assessment (dated 07 September 2014) on the Planning Inspectorate website, indicates that there are other potential impact pathways that will need to be examined to determine if there are any significant changes.

**Protected sites**

**AIR QUALITY**

The Air Quality section in the Environmental Report outlines the updated information that has been gathered to determine if there will be any changes to the conclusion of the air quality assessment.

These updates include the background levels of pollutants and the rate of emissions in the exhaust gases. Natural England notes that you have concluded that “no adverse changes are expected to the significance of environmental effects described in the ES”. However, Natural England considers that further explanation is required to quantify what these changes will be. For example, it would be useful to include a table that shows the Process Contributions, Predicted Environmental Concentrations and their respective percentages of the environmental thresholds. The original air quality assessment is no longer on the Planning Inspectorate website and therefore the information required for others to be able to come to this conclusion themselves should be presented. It would be helpful if a summary table of the original and the updated air quality assessments could be provided. For completeness, we recommend that sulphur dioxide concentrations are also discussed within the update. Furthermore, we note that there is no discussion on an updated in-combination assessment, we recommend that further justification is provided to demonstrate that this has been considered.

## ECOLOGY AND BIODIVERSITY

This section relates to species and habitats associated with the protected sites designations, namely, the Humber Estuary Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar and Site of Special Scientific Interest (SSSI) as well as North Killingholme Haven Pits SSSI.

Natural England notes that your conclusion for the wintering bird surveys is that “increases in the numbers of avocet and knot at Killingholme Haven Pits and on the foreshore are of note but the absence of interaction between these species and the [development] Site means the previous assessment of Site value is not altered”. However, Natural England is of the opinion that there is an impact pathway / interaction in terms of visual and noise disturbance and therefore we recommend that further explanation is provided to demonstrate that the mitigation measures that are identified within the DCO remain appropriate.

We note as part of the wintering bird survey report that some of the charts that have been provided do not appear to correspond to the text for the species numbers recorded, e.g. 3.6.88. Whilst we understand the complexities of presenting the amount of data that is available, we consider that it would be helpful to provide a summary table for each species highlighting the results from the various datasets. Currently, it is extremely time consuming going through each species individually to assess if there have been any changes. In addition, to reiterate, we recommend that as the original surveys are not publically available, this data needs to be provided.

It appears that there were no surveys carried out in August in the most recent survey period. This is the beginning of the passage period for some SPA/Ramsar species, therefore we recommend that further explanation is provided to explain why surveys were not carried out in this month.

Regarding breeding birds associated with the Humber estuary designations, we note that the survey results recorded a pair of marsh harriers, “possibly exhibiting courtship display ... in late March over Halton Marshes”. Natural England is aware that there were nesting marsh harriers near to Halton marshes in 2019. This species is known to change nest sites each year, and therefore we recommend that further evidence is provided to identify the zone of potential noise disturbance impacts as a result of the construction and operation of the proposed development. However, we appreciate that the justification provided within the noise impact assessment in the original application may be sufficient, but we are unable to view this evidence.

### **Protected species**

The advice on this proposal, and the guidance contained within Natural England’s standing advice relates to this case only and does not represent confirmation that a species licence (should one be sought) will be issued. Please see **Annex 1** for information regarding licensing for the following European Protected Species: water voles and bats.

Natural England is satisfied that there has not been a significant amount of habitat change on the site, since the previous habitat surveys.

After reviewing the species' survey reports provided for great crested newt, otter, water vole, badger, bats, reptiles and breeding birds (that are not features of the Humber Estuary designated sites), Natural England is satisfied that the results demonstrate that there are no significant changes in the populations of these species since the original surveys were carried out. Although we recommend that the survey reports produced for the DCO are also provided with any consultation to ensure that all data is appropriately represented.

We note that a summer bat roost was recorded in one of the buildings on site (recorded as B5), where no roosts were recorded previously. However, Part 3 Requirement 32 of the DCO requires a bat mitigation strategy to be in place prior to any demolition works and a European Protected Species licence to be in place, where appropriate. Therefore, the DCO requirement remains relevant.

We note that badgers continue to use the site since previous surveys and therefore the requirements will remain the same regarding Protected Species licensing.

For clarification of any points in this letter, please contact Hannah Gooch at

[REDACTED]

The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely

Hannah Gooch  
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Natural England

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## **Annex 1**

### **European Protected Species**

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).