



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# **REPORT on the IMPLICATIONS for EUROPEAN SITES**

## **Proposed Tees CCPP**

An Examining Authority report prepared with the  
support of the Environmental Services Team

Planning Inspectorate Reference: EN010082

05 September 2018

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# 1 INTRODUCTION

## 1.1 Background

- 1.1.1 Sembcorp Utilities (UK) Limited (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed Tees CCPP (the Proposed Development). The Secretary of State has appointed an Examining Authority (ExA) to conduct an examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive<sup>1</sup> and the Habitats Regulations<sup>2</sup> for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 The Report on the Implications for European Sites (RIES) compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the examination by both the Applicant and interested parties, up to Deadline 6 of the examination (22 August 2018) in relation to potential effects to European sites<sup>3</sup>. It is not a standalone document and should be read in conjunction with the examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:  
<http://infrastructure.planninginspectorate.gov.uk/document/EN010082-000274>
- 1.1.4 It is issued to ensure that Interested Parties including the statutory nature conservation body (Natural England (NE)), are formally consulted on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations. Following consultation the responses will be considered by the ExA in making his recommendation to the Secretary of State and made available to the Secretary of State along with this report. The RIES will not be revised following consultation.

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<sup>1</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

<sup>2</sup> The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

<sup>3</sup> The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see PINS Advice Note 10.

1.1.5 The Applicant has not identified any potential impacts on European sites in other EEA States<sup>4</sup>. Only UK European sites are addressed in this report.

## 1.2 Documents used to inform this RIES

1.2.1 The Applicant provided with their DCO application a Habitats Regulations Assessment (HRA) report entitled '*HRA – No Significant Effects Report*' ('NSER') [APP-076], which included screening matrices.

1.2.2 At Deadline 1, the Applicant provided revised screening matrices as requested by the ExA in his Rule 6 letter [PD-005]. The revised screening matrices were provided within an updated version of the NSER [REP1-001], which included some minor clarifications regarding mitigation and superseded [APP-076].

1.2.3 At Deadline 5, the Applicant provided within [REP5-005] updated versions of Tables 1-4 of the NSER, which superseded those provided in Appendix 1 of [REP1-001].

1.2.4 A summary of the matters examined is set out in section 2 of this RIES.

1.2.5 The full list of documents referred to in this RIES is provided below:

### **Procedural decisions**

- ExA's Rule 6 letter [PD-005];
- ExA's Written Questions [PD-008];
- ExA's Second Written Questions (SWQs) [PD-012];
- ExA's Rule 17 letter [PD-006]; and
- ExA's decision to accept proposed changes to the application into the Examination [PD-013].

### **Application documents**

- NSER [APP-076; superseded by REP1-001];
- Stack Height Sensitivity Assessment - ES Annex E1 [APP-069];
- Draft DCO [version 1, APP-005]; and
- Indicative Drainage Plan Key Plan [APP-025].

### **Statements of Common Ground (SoCG)**

- Signed SoCG between the Applicant and Natural England [REP2-009];
- Signed SoCG between the Applicant and Redcar and Cleveland Borough Council [REP4-009]; and

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<sup>4</sup> European Economic Area (EEA) States.

- Draft SoCG between the Applicant and the Environment Agency [REP2-061]; superseded by [REP6-006] (not signed).

#### **Additional Submissions**

- Applicant - Implications of requested change to application on the EIA [AS-009];
- Applicant - ES Chapter 7 – Air Quality – rev 2 [AS-010] (clean) and [AS-020] (tracked) (updated to reflect the requested change to the application);
- Applicant – proposed change to application – cover letter [AS-007]; and
- Applicant – Works Plan, Sheet 1 [AS-001; supersedes APP-013].

#### **Relevant Representations**

- Natural England [RR-007].

#### **Deadline 1 (24 April 2018)**

- NSER including Applicant's revised screening matrices [REP1-001].

#### **Deadline 2 (16 May 2018)**

- Natural England - Written Representation and Response to Written Questions [REP2-071];
- Environment Agency – Written Representation [REP2-032];
- Environment Agency - Response to ExA's Written Questions [REP2-079];
- Applicant - Response to ExA's Written Questions [REP2-080];
- Applicant – Written Summary of Oral Case – Issue Specific Hearing on the Scope of the Application [REP2-049]; and
- Applicant - Updated Mitigation Summary Table [REP2-006].

#### **Deadline 3 (29 May 2018)**

- Applicant - Comments on the Environment Agency's Responses to the ExA's Written Questions [REP3-003].

#### **Deadline 4 (6 July 2018)**

- Applicant - Detailed air quality data supporting HRA [REP4-010];
- Applicant - Written Summary of Oral Case – Issue Specific Hearing on Environmental Matters – 13 June 2018 [REP4-011]; and
- Applicant - Draft DCO (version 3) [REP4-005] (tracked changes) and [REP4-008] (clean).

### **Deadline 5 (7 August 2018)**

- Applicant – Response to ExA's SWQs [REP5-005];
- Applicant – Draft DCO (version 4) [REP5-001] (tracked changes) and [REP5-002] (clean);
- Environment Agency – Response to ExA's SWQs [REP5-008]; and
- Natural England – Response to ExA's SWQs [REP5-010].

### **Deadline 6 (22 August 2018)**

- Applicant – Comments on the Responses to the ExA's SWQs [REP6-004];
- Applicant -Draft DCO (version 5) [REP6-008] (tracked changes) and [REP6-001] (clean); and
- Applicant - ES Annex L – Construction Environmental Management Plan (version 4) [REP6-009] (tracked changes) and [REP6-002] (clean).

## **1.3 Structure of this RIES**

### **1.3.1 This report is structured as follows:**

- **Section 2** identifies the European sites that have been considered within the DCO application and during the examination period, up to and including Deadline 6 (22 August 2018). It also provides an overview of the issues that have emerged during the examination.
- **Section 3** identifies the European sites and qualifying features screened by the Applicant for potential likely significant effects, either alone or in-combination with other projects and plans.
- **Section 4** identifies the European sites and qualifying features which have been considered by the ExA in terms of adverse effects on site integrity, either alone or in-combination with other projects and plans.
- **Annex 1 and Annex 2** comprise screening and integrity matrices for six European sites and their qualifying features. The screening matrices are based on those provided in the Applicant's NSER [REP1-001] and have been updated by the ExA, with the support of the Environmental Services Team, using the documents listed above to summarise the evidence submitted by the Applicant and Interested Parties up to Deadline 6 (22 August 2018). The integrity matrices have been produced by the ExA with the support of the Environmental Services Team.

## 2 OVERVIEW

### 2.1 European Sites Considered

- 2.1.1 The Tees CCpp project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's NSER [REP1-001].
- 2.1.1 Sections H2.7 and H3.3.6 of the NSER [REP1-001] explain how the Applicant has identified European sites for inclusion in the screening assessment.
- 2.1.2 The NSER [REP1-001] identifies the following European sites (and qualifying features) for which the UK is responsible for inclusion within the assessment:

**Table 2.1: European sites and qualifying features considered in the Applicant's NSER [REP1-001]:**

Name of European site	Qualifying features
Teesmouth and Cleveland Coast Special Protection Area (SPA)	Little tern (breeding)
	Sandwich tern (passage)
	Red knot (passage)
	Common redshank (winter)
	Waterbird assemblage (winter)
	Ringed plover (passage) <sup>5</sup>
Teesmouth and Cleveland Coast proposed Special Protection Area (pSPA)	Qualifying features as per the existing SPA with the addition of:
	Common tern (breeding)
	Pied avocet (breeding)
Teesmouth and Cleveland Coast Ramsar site	Criterion 5 – waterfowl assemblage (winter)
	Criterion 6 – common redshank (passage)
	Criterion 6 – Red knot (winter)
North York Moors Special Area of Conservation (SAC)	H4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>
	H4030 European dry heaths

<sup>5</sup>The ExA notes that ringed plover does not appear on the Natura 2000 standard data form or the Conservation Objectives for the Teesmouth and Cleveland Coast SPA, but has been considered in the Applicant's NSER and so is included here for completeness.

	H7130 Blanket bogs (priority feature if active bog)
North York Moors SPA	European golden plover (breeding)
	Merlin (breeding)

- 2.1.3 The locations of these European sites relative to the application site are illustrated on Figure H2.1 of the NSER [REP1-001].
- 2.1.4 NE confirmed in its relevant representation [RR-007] the European sites which it considered relevant to the application; all of which have been identified and considered by the Applicant in its NSER.
- 2.1.5 The NSER also refers<sup>6</sup> to a possible extension to the Teesmouth and Cleveland Coast SPA, which would include additional marine and terrestrial areas as part of the SPA and additional species as qualifying features [REP1-001]. The extent of the possible extension is illustrated on Figure H2.1 of the NSER [REP1-001]. The Applicant considers impacts to the possible SPA extension (including provision of a screening matrix) in the NSER [REP1-001]. The NSER [REP1-001] identifies common tern and pied avocet as proposed new qualifying features of the possible SPA extension and considers impacts to these species.
- 2.1.6 NE's RR [RR-007] confirmed that the planned extension to the Teesmouth and Cleveland Coast SPA had not been formally consulted on and therefore had no official status at that time. However, the ExA is now aware that NE commenced formal consultation<sup>7</sup> on extensions to both the Teesmouth and Cleveland Coast SPA (a potential SPA (pSPA)) and the Ramsar site (a proposed Ramsar site) on 31 July 2018 (during the Examination). These sites are now to be considered in accordance with UK Government policy and should be given the same protection as if they were a designated habitat site.
- 2.1.7 NE's consultation information<sup>8</sup> suggests that non-breeding ruff will be included as a new qualifying feature of the pSPA (in addition to common tern and pied avocet which were identified in the Applicant's NSER). An assessment of potential impacts to ruff as a new qualifying feature is not provided in the NSER [REP1-001].
- 2.1.8 The proposed extension to the Teesmouth and Cleveland Coast Ramsar site would include additional wetland areas as part of the Ramsar site and also designate sandwich tern under Ramsar Criterion 6<sup>8</sup>. Whilst the proposed Ramsar extension has not been specifically referenced in the

<sup>6</sup> A possible extension to the Teesmouth and Cleveland Coast Special Protection Area (TIN172) (2015) [on-line]: <http://publications.naturalengland.org.uk/publication/5987326182293504>

<sup>7</sup> Overview of consultation (2018) [on-line]: <https://consult.defra.gov.uk/natural-england-marine/teesmouth-and-cleveland-coast-potential-sp/>

<sup>8</sup> Departmental Brief: Teesmouth and Cleveland Coast pSPA and Ramsar (2018) [on-line] [https://consult.defra.gov.uk/natural-england-marine/teesmouth-and-cleveland-coast-potential-sp/supporting\\_documents/Teesmouth%20and%20Cleveland%20Coast%20pSPA%20Departmental%20Brief.pdf](https://consult.defra.gov.uk/natural-england-marine/teesmouth-and-cleveland-coast-potential-sp/supporting_documents/Teesmouth%20and%20Cleveland%20Coast%20pSPA%20Departmental%20Brief.pdf)

Applicant's NSER, the ExA understands<sup>9</sup> that the proposed Ramsar will not extend outside of the area covered by the pSPA and notes that impacts to sandwich tern have been considered in the NSER (as a qualifying feature of the existing Teesmouth and Cleveland Coast SPA). The Applicant has not provided a screening matrix in respect to the proposed Ramsar site.

- 2.1.9 There have been no concerns raised by Interested Parties in relation to the European sites and qualifying features considered by the Applicant in its NSER.

## 2.2 HRA Matters Considered During the Examination

- 2.2.1 As detailed further in section 3 of this RIES, the Applicant's screening assessment concludes that the Proposed Development would have no likely significant effects (LSE), either alone or in-combination with other projects or plans, on any of the European sites considered in the assessment. The Applicant considers that an Appropriate Assessment (AA) in respect to the Proposed Development is not necessary [REP1-001 and REP6-004].
- 2.2.2 At Deadline 2, a signed SoCG between the Applicant and NE was submitted [REP2-009], which confirmed NE was in agreement with the Applicant's conclusion that there would be no LSE, either alone or in-combination, on European sites. This same confirmation is provided in NE's Written Representation [REP2-071].
- 2.2.3 The SoCG between the Applicant and Redcar and Cleveland Borough Council (RCBC) [REP4-009] confirms the Council's agreement with the conclusions of the NSER.
- 2.2.4 In its SoCG with the Applicant submitted at Deadline 2 [REP2-061], the Environment Agency (EA) stated that it did not yet agree with the Applicant's conclusion that there would be no LSE on European sites, alone or in combination with other projects and plans. In his SWQs [Q2.2.3, PD-012], the ExA queried whether there was any update to the EA's position in this regard. At Deadline 5, the EA confirmed [Q2.2.3, REP5-008] that it was now content that sufficient information regarding HRA had been submitted for the DCO to progress and advised that this could be moved to the 'matters agreed' section of a forthcoming update to the SoCG. At Deadline 6, the Applicant submitted an updated (unsigned) SoCG with the EA [REP6-006], which included HRA under the 'matters agreed' section.
- 2.2.5 The EA [Q1.2.6, REP2-079; Q2.2.3, REP5-008; REP6-006] has also underlined the responsibility they have to assess impacts from the Proposed Development to European sites as part of the Environmental Permit application process. The Applicant anticipates submitting an application for the Environmental Permit in Q1 2019 [REP3-003].

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<sup>9</sup> Consultation Summary Document for Teesmouth and Cleveland Coast pSPA [on-line]  
[https://consult.defra.gov.uk/natural-england-marine/teesmouth-and-cleveland-coast-potential-sp/supporting\\_documents/Teesmouth%20and%20Cleveland%20Coast%20pSPA%20Consultation%20Summary%20Document.pdf](https://consult.defra.gov.uk/natural-england-marine/teesmouth-and-cleveland-coast-potential-sp/supporting_documents/Teesmouth%20and%20Cleveland%20Coast%20pSPA%20Consultation%20Summary%20Document.pdf)

- 2.2.6 The NSER [REP1-001] refers to the Habitats Regulations 2010, which have since been replaced by the Habitats Regulations 2017. The Applicant has stated [REP4-011] that there have been no material changes to the content of the new Habitats Regulations, but for the avoidance of doubt, has confirmed that the HRA was undertaken in line with the requirements of the Habitats Regulations 2017.
- 2.2.7 The following key matters were discussed during the Examination:
- Air quality impacts from the Proposed Development alone;
  - Air quality impacts in-combination with other plans or projects;
  - Location, height and diameter of stacks;
  - Implications of proposed change to the application; and
  - Mitigation measures, including implications of C-323/7 – People Over Wind, Peter Sweetman V Coillte Teoranta (2018) ('the Sweetman Judgement').
- 2.2.8 Further details of matters discussed during the examination are provided in Sections 3 and 4 of this RIES.

## 2.3 Matrices

- 2.3.1 The Applicant provided screening matrices within the NSER submitted with the DCO application [APP-076].
- 2.3.2 At Deadline 1, the Applicant provided revised screening matrices [REP1-001] as requested by the ExA in his Rule 6 letter [PD-005].
- 2.3.3 In his SWQs [Q2.2.1, PD-012], the ExA asked NE to confirm whether it was content with the Applicant's revised screening matrices [REP1-001]. In response, NE noted a typographic error in one of the matrices and referred the ExA to its response to Q2.1.5 [REP5-010] - in which it states that where the Competent Authority is unsure whether certain matters are avoidance or reduction measures, it will need to consider whether to carry out an AA to avoid the risk of legal challenge. NE confirmed that it had no further comments in respect to the revised screening matrices Q2.2.1 [REP5-010].
- 2.3.4 The ExA (with support from the Environmental Services Team) has modified the Applicant's screening matrices where considered necessary and produced a screening matrix for the Teesmouth and Cleveland Coast proposed Ramsar site. In light of NE's comments in [REP5-010], the ExA (with support from the Environmental Services Team) has also produced integrity matrices.
- 2.3.5 The ExA's screening and integrity matrices are included in Annex 1 and Annex 2 of this RIES.

### 3 LIKELY SIGNIFICANT EFFECTS

- 3.0.1 This section of the RIES provides a summary of the HRA matters considered during the examination up to and including Deadline 6 (22 August 2018).
- 3.0.2 The Applicant's approach to screening for LSE is described within Section H2 of its NSER [REP1-001]. The Applicant has followed Department of Environment, Food and Rural Affairs (Defra)/EA guidance on air emissions risk assessment for environmental permits<sup>10</sup>; the application of this guidance in respect of LSE on European sites has been examined as set out below. The NSER also refers to various European Commission (EC) guidance documents on habitats assessment including: *'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC'* (2000) and: *'Assessment of plans and projects significantly affecting Natura 2000 sites'* (2001).
- 3.0.3 The Applicant identifies emissions to air as the only impact pathway from the Proposed Development with the potential to result in LSE on the qualifying features of the European sites (Sections H2.7 and H3.3.6 of the NSER [REP1-001]). The Applicant has provided a letter from NE in respect to the Proposed Development [REP2-070], which confirms: *"Natural England concurs that the only potential impact on European protected sites is atmospheric emissions"*.
- 3.0.4 The NSER [REP1-001] therefore considers the following impacts:
- **Effects of air pollutants** emitted by the Proposed Development during operation on European sites within a 15 km radius; and
  - **In-combination effects** with other air pollution sources (typically various forms of thermal power plants).
- 3.0.5 The Applicant has identified European sites which could be affected by air pollutants from the Proposed Development within an 'Area of Influence', which is established using the air quality modelling data presented in ES Chapter 7 [APP-049; superseded by AS-020]. The Area of Influence comprises a 15km radius from the Proposed Development. The Applicant states [REP1-001] that this distance represents a worst case for larger emitters, as defined by the Defra/EA guidance<sup>10</sup>. The SoCG between the Applicant and NE [REP2-009] records NE's agreement in respect to the 15km study area.
- 3.0.6 The Applicant identified other developments within 15km of the Proposed Development with the potential to lead to cumulative or in-combination effects, based on their likely scale of emissions to atmosphere. Three such developments were identified, as set out in Section H3.3.6 of the NSER [REP1-001] and Section 3.2 of this RIES. Further to this, an additional search zone (wider than 15km) was used to identify any 'large

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<sup>10</sup>Department for Environment, Food & Rural Affairs and Environment Agency: Air emissions risk assessment for your environmental permit [on-line]. Available from: <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>

combustion projects' for consideration in the in-combination assessment. This additional search area is illustrated on Figure H3.1 of the NSER [REP1-001]. Paragraph H1.70 of the NSER [REP1-001] confirms that no further large combustion projects were identified within this additional search zone.

### **Other impact pathways**

- 3.0.7 The NSER states that other secondary effects (specifically disturbance from noise, lighting, presence of workforce activity) are unlikely to lead to LSE due to the lack of connectivity and/or distance between the European sites and the Proposed Development [REP1-001].
- 3.0.8 The ExA queried [Q1.2.1, PD-008] whether there are any hydrological pathways which may result in LSE between the Proposed Development and the European sites identified in the NSER. In response, the Applicant confirmed that the River Tees Estuary was the only water body in hydrological connectivity with the Proposed Development [REP2-080]. As illustrated on Figure H2.1 of the NSER [REP1-001], the Teesmouth and Cleveland Coast SPA, pSPA and Ramsar site are located in and around the River Tees Estuary (along with the proposed Ramsar extension, which is not illustrated).
- 3.0.9 The Proposed Development would connect to the existing Wilton International drainage system; a closed system which outfalls into the River Tees and is regulated by an existing discharge consent [REP2-080]. The existing drainage connection is illustrated on [APP-025]. The Applicant confirmed that there was no change to the existing baseline in this regard and no potential for LSE on the River Tees. The Applicant confirmed there are no hydrological pathways to other European sites [REP2-080].
- 3.0.10 The adoption of this approach in light of the Sweetman Judgement is discussed in Section 3.5 of this RIES.

## **3.1 Air quality**

- 3.1.1 Air quality impacts to European sites during operation of the Proposed Development have been identified and are of relevance to the findings of the NSER [REP1-001].
- 3.1.2 Impacts during construction and decommissioning of the Proposed Development have been considered briefly in the Applicant's screening matrices [REP1-001] and no LSE identified.
- 3.1.3 Impacts from maintenance activities are not referenced in the NSER [REP1-001]. However the Applicant has confirmed [response to Q1.5.9, REP2-080] that that all potential maintenance activities are smaller in scale than the corresponding construction activities and that no LSE will occur as a result of maintenance works.
- 3.1.4 The NSER is therefore focused towards potential air quality impacts during operation, which are identified and described in section H3 of the NSER [REP1-001], as follows:

- Increased nutrient nitrogen deposition;
  - Increased acid deposition; and
  - Increased atmospheric concentrations of oxides of nitrogen (NO<sub>x</sub>) (annual mean and 24 hour mean).
- 3.1.5 Impacts from increased ammonia concentrations are not considered in the NSER [REP1-001]. Ammonia slip is only an issue where Selective Catalytic Reduction (SCR) is to be implemented. In response to the ExA's Q2.1.4 [PD-012], the Applicant confirmed that SCR was not being considered for emissions abatement and was not required to achieve BAT or sufficiently low NO<sub>x</sub> emissions in respect to the Proposed Development [REP5-005].
- 3.1.6 The Applicant obtained information about the sensitivity of habitats in the European sites to air pollutants, using the Air Pollution Information System (APIS)<sup>11</sup>. Critical levels and critical loads were also obtained from APIS.
- 3.1.7 The NSER [REP1-001] explains that the levels and loads of air pollutants at habitats in the European sites were predicted using air dispersion modelling, as detailed in ES Chapter 7 [AS-020]. The Applicant sets out in Tables 1-4 of the NSER [REP1-001; superseded by REP5-005] the process contributions (PCs) which are predicted to occur from the Proposed Development as follows:
- Table 1 (nutrient nitrogen deposition);
  - Table 2 (acid deposition<sup>12</sup>);
  - Table 3 (NO<sub>x</sub> annual mean); and
  - Table 4 (NO<sub>x</sub> 24 hour mean).
- 3.1.8 The Applicant's screening approach to determine whether the PCs were insignificant, or required further assessment, was undertaken by comparing the PCs, and where necessary Predicted Environmental Concentrations (PECs), against the percentages of the critical levels and loads set out in the Defra/EA guidance<sup>10</sup>. In respect to long term impacts, principally this relied on the use of a 1% threshold, whereby if the PC is less than 1% of the critical load, then it is considered that no LSE will occur and further assessment is not required. In respect to short term impacts, this relied on the use of a 10% threshold, whereby if the PC is less than 10% of the critical load, then it is considered that no LSE will occur and further assessment is not required. These criteria are set out in Table H2.2 of the NSER [REP1-001].
- 3.1.9 In the ExA's written questions [PD-008 and PD-012], a number of questions were posed regarding the Applicant's approach to the assessment of air quality effects. The questions broadly addressed the matters described as follows:

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<sup>11</sup>Air Pollution Information System [on-line]: <http://www.apis.ac.uk/>

<sup>12</sup> Background acid deposition and critical loads are expressed as  $\text{keq ha}^{-1} \text{yr}^{-1}$  and the PC is expressed as a percentage of the critical load

### **Use of EA risk assessment significance criteria**

- 3.1.10 In Q1.2.6, PD-008, the ExA queried the reliance placed on the 1% significance criteria (as set out in Table H2.2 of the NSER [REP1-001]) in screening for LSE and why these thresholds are considered applicable for HRA.
- 3.1.11 The Applicant responded that these thresholds *“are used by convention to set the thresholds for assessing the potential for significant effects on ecological receptors”* [Q1.2.6, REP2-080].
- 3.1.12 NE stated [Q1.2.6, REP2-071] that it supported the use of the 1% critical level/load threshold *“in this case”* and considered this suitably precautionary to be used as a guideline in HRA. NE considered that *“...1% represents an un-measurable level, or a level that if measured would be difficult to assign to a specific sources outside of background pollution”* [Q1.2.6, REP2-071]. NE stated that 1% of critical level/load represents a habitat specific estimate of *“inconsequential”* level change in air quality, which it considers suitably precautionary to be used as a guideline in HRA [REP2-071, response to Q1.2.7].
- 3.1.13 The EA considered [Q1.2.6, REP2-079] that the 1% threshold is a screening level below which the environmental impact would be so low, it would be insignificant.

### **Use of EA significance criteria for European sites already in exceedance of critical loads or levels**

- 3.1.14 In Q1.1.6 and Q1.2.8 [PD-008], the ExA noted that some of the identified European sites are already in exceedance of critical loads/levels for given pollutants and queried whether use of the 1% (long term) and 10% (short term) screening thresholds was appropriate in such cases. The NSER [Table H2.1, REP1-001] contains links to Site Improvement plans for the Teesmouth and Cleveland Coast SPA and the North York Moors SPA and SAC, which refer to atmospheric nitrogen deposition as an issue which is currently impacting or threatening the sites.
- 3.1.15 The Applicant [response to Q1.2.8, REP2-080] noted that critical loads/levels are widely exceeded throughout the UK due to elevated baseline conditions. It noted that impacts from the PC of the Proposed Development did not exceed the screening thresholds at any habitat sites.
- 3.1.16 NE [response to Q1.2.8, REP2-071] explained that for the same reasons as stated in its response to Q1.2.6, it supported the use of the 1% critical level or load threshold as a reflection of inconsequential level change in air quality. NE reiterated that it considered the 1% threshold to be *“suitable as a screening threshold in this case with the background pollution levels”* [Q1.2.8, REP2-071].
- 3.1.17 The EA [response to Q1.2.8, REP2-079] did not wish to comment on whether the thresholds used by the Applicant were suitable; stating that this matter should be considered by NE at this stage.

3.1.18 At the ISH on Environmental Matters<sup>13</sup>, the ExA further queried the use of the 1% screening threshold in relation to European sites which are already in exceedance of critical levels/loads. The Applicant [as reported in REP4-011] responded that the 1% threshold is standard practice. Regarding the exceedances of critical loads/levels at some sites, the Applicant reiterated its view that this was not unusual on the basis that a large amount of UK habitat sites experience baseline levels above the critical load [REP4-011].

#### **Detailed air quality data to support HRA**

3.1.19 The full sets of detailed air quality results to support the HRA were not submitted as part of the DCO application due to their lengthy nature, but were submitted by the Applicant at Deadline 4 [REP4-010] following a request from the ExA at the ISH on Environmental Matters<sup>13</sup> [as noted in REP4-011]. Results are presented for the following parameters, relevant to the HRA:

- NO<sub>x</sub> annual mean;
- NO<sub>x</sub> 24 hour mean;
- acid deposition; and
- nutrient nitrogen deposition.

3.1.20 The 'PEC' and 'PEC/CL' metrics were not initially populated in the NSER [Tables 1-4, REP1-001]. At Deadline 5, the Applicant submitted revised versions of Tables 1-4, with the PEC and PEC/CL metrics populated [Appendix 2, REP5-005].

## **3.2 In-combination effects**

### **Assessment approach**

3.2.1 The Applicant's approach to considering potential in-combination effects from emissions to air is outlined within section H3.3 of its NSER [REP1-001]. In-combination effects with the following projects have been considered by the Applicant in the NSER [REP1-001]:

- North Sea Pipelines Ltd (ConocoPhillips) CCGT/CHP facility at Seal Sands, north of the Tees;
- MGT biomass facility, south of the Tees<sup>14</sup>; and
- Thor Cogeneration Plant, north of the Tees.

3.2.2 The Applicant subsequently determined that the Thor Cogeneration Plant had its licence revoked in August 2013 and as such, it was not considered further in the in-combination assessment [REP1-001]. The NSER therefore focuses on the potential for in-combination effects from

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<sup>13</sup> Held on 13 June 2018

<sup>14</sup> Referred to in the Applicant's later submissions as the 'Tees Renewable Energy Plant'; the ExA understands these to be different names for the same project.

the Proposed Development together with the North Sea Pipelines Ltd CCGT/CHP facility and the MGT biomass facility.

- 3.2.3 In their responses to Q1.2.12, NE, the EA and RCBC confirmed agreement [REP2-071; REP2-079 and REP2-081 respectively] that all relevant plans/projects which may result in in-combination effects together with the Proposed Development have been identified and considered by the Applicant in the NSER.

#### **Qualitative assessment**

- 3.2.4 The NSER [REP1-001] provides a qualitative assessment of the potential in-combination effects.

- 3.2.5 In respect to both identified developments, the NSER concludes that there is no potential for LSE on the Teesmouth and Cleveland Coast SPA, pSPA and Ramsar site and the North York Moors SPA and SAC in-combination with the Proposed Development. As explained by the Applicant in section H3.3.6 of the NSER [REP1-001], these conclusions are made on the basis that:

- An AA was undertaken in 2009 by the Department for Energy and Climate Change (DECC) <sup>15</sup> in respect to the North Sea Pipelines Ltd project, which considered the effects of that development in-combination with the MGT biomass facility and the Thor Cogeneration Plant. This AA concluded that there would be no adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site.
- The Secretary of State's decision letter in respect to the MGT biomass facility stated that there would be no LSE on the interest features of the Teesmouth and Cleveland Coast SPA and Ramsar sites and that an AA was not required.
- The Thor Cogeneration plant has had its licence revoked.
- The major influences on the identified European sites are considered by the Applicant to be from other pollutant sources, such as agriculture, transport and transboundary sources. The Applicant considers it to be very unlikely that insignificant air pollutant contributions from the Proposed Development could combine with insignificant contributions from other developments to result in LSE on the identified European sites.

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<sup>15</sup> Superseded by the Department for Business, Energy and Industrial Strategy

**The adequacy of the qualitative in-combination assessment, particularly in light of the judgment *Wealden District Council v Secretary of State for Communities and Local Government [2017] EWHC 351 (Admin)***

- 3.2.6 The Applicant describes in sections H3.3.4, H3.3.5 and H3.3.6 of the NSER [REP1-001] why it considers that a quantitative in-combination assessment is not feasible in this case. The Applicant reiterated this position at Deadline 2 [response to Q1.2.9, REP2-080], at the ISH on Environmental Matters<sup>13</sup> [as reported in REP4-011] and at Deadline 5 [response to Q2.0.3, REP5-005].
- 3.2.7 In his Written Questions [Q1.2.9, PD-008 and Q2.0.3, PD-012], the ExA cited the judgement in the case of *Wealden District Council v Secretary of State for Communities and Local Government [2017] EWHC 351 (Admin)* ('the Wealden judgement'), which draws into question the robustness of the Applicant's approach with regards to small incremental additions to an existing exceedance.
- 3.2.8 In response to Q1.2.8, the Applicant stated [REP2-080] that UK air quality has generally been improving in the long term, which the Applicant considers relevant to the in-combination assessment. The Applicant stated that the main sources of air pollution affecting the European sites are from diffuse sources such as agriculture. As such, the Applicant considers it is "*difficult to undertake any meaningful quantitative in-combination assessment*" [Q1.2.8, REP2-080].
- 3.2.9 In its response to Q 1.2.9, NE acknowledged the findings of the Wealden judgement but confirmed that on the basis of the information provided in this case, it was content that there would be no LSE, either alone or in-combination, on European sites [REP2-071]. NE stated that in reaching this conclusion, it had specifically considered the expected decline in background levels from pollution sources no longer in operation; and the predicted low levels of contributions from the Proposed Development, which are not expected to make a significant difference to the features for which the site is classified [REP2-071].
- 3.2.10 In his SWOs [PD-012, Q2.0.3], the ExA asked the Applicant to further explain how, in absence of a quantitative in-combination assessment, the findings of no LSE had been derived. In response, the Applicant [Q2.0.3, REP5-005] reiterated its view that in-combination effects are anticipated to be insignificant, stating that that only one additional industrial facility (the Tees Renewable Energy Plant<sup>14</sup>) may be operational in conjunction with the Proposed Development. The Applicant notes that the two plants would not be co-located and that any impacts are therefore anticipated to arise on different locations and habitats [Q2.0.3, REP5-005].
- 3.2.11 It is not clear why the North Sea Pipelines Ltd (ConocoPhillips) CCGT/CHP facility at Seal Sands (as identified and considered in the in-combination assessment in the NSER [REP1-001]) was not referenced in the Applicant's response to Q2.0.3 [REP5-005].
- 3.2.12 In Q2.0.3 [PD-012], the ExA also queried what information was available to support the Applicant's position of on-going improvements to

background emission levels [as stated in REP2-080]. In response, the Applicant stated [REP5-005, Q2.0.3] that UK air quality has generally been improving in the long term, with substantial improvements since the 1960s-80s in terms of sulphur dioxide, oxides of nitrogen and transboundary pollution. The Applicant explained that this trend is continuing, particularly in regards to industrial facilities as a result of the Industrial Emissions Directive (which promotes continued emissions improvement with the adoption of BAT in all such facilities) [REP5-005, Q2.0.3]. Therefore, the Applicant considers that overall air pollution and deposition at the affected European sites would continue to reduce, in line with national trends [REP5-005, Q2.0.3]. The Applicant cited a document published by Defra<sup>16</sup> in support of this position [REP5-005, Appendix A].

- 3.2.13 The Applicant stated that the Wealden Judgement did not stipulate whether in-combination assessment should be undertaken on a qualitative or quantitative basis [REP5-005, Q2.0.3]. The Applicant noted that a quantitative assessment would be undertaken as part of the environmental permitting process [REP5-005, Q2.0.3].
- 3.2.14 In its response to Q2.0.3, NE noted [REP5-010] that the Applicant had provided other information relating to background emission levels in [REP5-005, Appendix A]. NE confirmed that it had no further information to provide in this regard [Q2.0.3, REP5-010].
- 3.2.15 There were no further submissions on this matter at Deadline 6.
- 3.2.16 As such, at this stage no quantitative evidence has been presented to demonstrate that small incremental changes in pollutant deposition resulting from the Proposed Development could not lead to a LSE in combination with other plans or projects, particularly for those European sites which are already in exceedance of critical loads or levels for designated features.

### 3.3 Location, height and diameter of stacks

- 3.3.1 The Proposed Development includes a maximum of two main stacks, as set out in the draft DCO ('dDCO') [REP6-008]. The height, diameter and location of these stacks and the implications for the Applicant's HRA were matters discussed during the examination.

#### **Stack location**

- 3.3.2 The Applicant confirmed the stack locations assumed in the ES air quality modelling (and HRA) in its response to the ExA's Q1.2.26 [REP2-080], as follows:
- Western stack: 456437, 520398
  - Eastern stack: 456525, 520438

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<sup>16</sup> Defra (2017) Air Pollution in the UK 2016 [https://uk-air.defra.gov.uk/assets/documents/annualreport/air\\_pollution\\_uk\\_2016\\_issue\\_1.pdf](https://uk-air.defra.gov.uk/assets/documents/annualreport/air_pollution_uk_2016_issue_1.pdf)

- 3.3.3 The dDCO [REP6-008] allows for lateral movement of the stacks within the lateral limits of deviation (LoD) for the power station complex (Work No. 1a), as shown on the Works Plan, Sheet 1 [AS-001]. At Deadline 2, the Applicant explained that there is limited space for lateral movement of the stacks within the zone shown on the Works Plans and stated that any minor lateral movement of the stacks within this zone will not cause a change in the conclusions of significance of effect presented in the ES and HRA [REP2-049, Agenda Item 7.4].
- 3.3.4 At Deadline 2, the EA stated [Q1.2.8, REP2-079] that the locations of the stacks should be set, preferably at the grid references used within the Applicant's air quality modelling.
- 3.3.5 In response, the Applicant [REP3-003] acknowledged that the locations of the stacks may move slightly within the lateral LoD; but considered that it is the stack height that is of more importance for the air quality assessment, rather than their exact location.
- 3.3.6 In his SWQs [Q2.1.2, PD-012], the ExA queried whether there was any change to the EA's position regarding stack locations, as set out in their response to [Q1.2.8, REP2-079]. At Deadline 5, the EA confirmed that taking into account the restrictions imposed by the lateral LoD and the constraints of the site, it was now in agreement that the precise locations of stacks did not need to be determined through the dDCO [Q2.1.2, REP5-008].
- 3.3.7 There were no further submissions on this matter at Deadline 6.

### **Stack height**

- 3.3.8 Requirement 4 of the dDCO [REP6-008] specifies a maximum height of 75m above existing ground level for the main stacks.
- 3.3.9 The Applicant's air quality modelling (as utilised in the ES and NSER) is based on a stack height of 75m [para 7.53, AS-010]. The Applicant provided a Stack Height Sensitivity Assessment in ES Annex E1 [APP-069], which stated at paragraphs E1.8-1.9: *"75 m is the lowest stack height at which impacts on sensitive human receptors are deemed to be acceptable and not significant on ecological receptors"*.
- 3.3.10 At the ISH on the Scope of the Application<sup>17</sup>, the ExA queried why no minimum height of the stacks is specified in the dDCO, in particular noting the above statement in ES Annex E1 [APP-069].
- 3.3.11 The Applicant responded [Agenda Item 7.6, REP2-049] that on the basis of a 75m stack height, the assessment is able to confidently conclude that emissions to air would not result in significant effects on ecological receptors. The Applicant stated that following further assessment, a smaller stack height could also lead to a conclusion of no likely significant effects [Agenda Item 7.6, REP2-049]. However, in their response to the ExA's FWQs [Q1.1.26, REP2-080], the Applicant acknowledged that *"the threshold for potential likely significant effects would be exceeded at some habitats with a lower stack height [than 75m]"*.

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<sup>17</sup> Held on 10 April 2018

- 3.3.12 The Applicant notes that this matter would be considered in detail as part of the Environmental Permitting process [Agenda Item 7.6, REP2-049].
- 3.3.13 In his SWQs [Q2.1.1, PD-012], the ExA noted that the dDCO (as drafted at that time) [version 3, REP4-005] did not preclude the final design of the Proposed Development from having a stack height below that which has been assessed in the ES (and accordingly, the HRA) (75m). Q2.1.1 [PD-012] further outlined the ExA's concern that in the absence of a parameter which precluded a stack height of less than 75m, the proposed DCO may result in a development which gives rise to LSE which have not, or are different to, those assessed in the ES (and accordingly, the HRA).
- 3.3.14 In response, the Applicant provided at Deadline 5 an updated version of the dDCO [version 4, REP5-001]. This included new wording as part of Requirement 4, which specified that if the Applicant wanted to construct the main stacks at a height below 75m, it would have to submit a further assessment "to the local planning authority/Environment Agency" to either demonstrate that no new or materially different effects to those identified in the ES would arise from the lower stack height; or put forward additional measures capable of mitigating any LSE which would arise from the lower stack height.
- 3.3.15 The Applicant submitted a further iteration of the dDCO at Deadline 6 [version 5, REP6-008]; with the wording of Requirement 4 remaining as per version 4 [REP5-001].

#### **Stack diameter**

- 3.3.16 The air quality assessment presented in the ES [AS-010] (and therefore the HRA) is based on an 'optimised' 8m stack diameter, with no sensitivity testing having been undertaken. A parameter for the stack diameter was not specified in the dDCO submitted with the application [version 1, APP-005].
- 3.3.17 The EA, in its Written Representation [REP2-032], stated that the Applicant had not considered the technical feasibility of reducing the stack diameter to aid environmental monitoring of emissions and to increase the exit velocity from the stack to improve dispersion. In response, the Applicant [REP3-002] stated that these details could only be considered once the gas turbine technology has been selected; as such the final stack diameter would be determined as part of the Environmental Permitting process.
- 3.3.18 Q2.1.3 [PD-012] outlined the ExA's concern that changing the stack diameter from that specified in the air quality assessment may alter the findings of the air quality assessment (and accordingly the HRA). The ExA requested [Q2.1.3, PD-012] that the Applicant either explain how its assessment work addressed these concerns or alternatively, amend the dDCO to reflect the relevant parameters.
- 3.3.19 At Deadline 5, in response to Q2.1.3, the Applicant stated [REP5-005] that risk of significant effects was not a function of stack diameter, but of plant capacity and stack height. The Applicant considered that sensitivity

testing would offer no material benefit (in absence of selection of the gas turbine technology) and stated that once this technology is selected, changes to the stack diameter are likely to be limited [Q2.1.3, REP5-005].

- 3.3.20 Nonetheless, the Applicant stated [REP5-005] that it had added some wording into version 4 of the dDCO [REP5-001], to “ensure that the stack diameter would be 8m unless the undertaker can demonstrate that a different diameter would not result in any new or materially different effects and can be agreed with the relevant planning authority in consultation with the EA”. However, this wording was not included in version 4 of the dDCO submitted at Deadline 5 [REP5-001]; or version 5 of the dDCO submitted at Deadline 6 [REP6-008].

### 3.4 Implications of change to the application

- 3.4.1 During the examination, the Applicant proposed a change to the submitted DCO application [AS-007]. This change would increase the maximum height of the turbine hall from 25m to 32m and the maximum height of the heat recovery steam generator from 44m to 45m.
- 3.4.2 The Applicant produced a document entitled ‘Implications of Requested Change on the EIA’ [AS-009], which concluded that there would be no changes to the conclusions of the ES air quality assessment or the NSER. The Applicant stated that potential impacts to European sites relate to the emission (and dispersal) of pollutants from the stacks; therefore the assessment is not materially influenced by the heights of other proposed buildings [AS-009].
- 3.4.3 The ExA sought comments in respect to the proposed changes to the application [PD-006]. NE considered [REP3-008] that the proposed changes would not significantly alter the modelled dispersal areas for the emissions from the development and so do not affect the conclusions of the HRA. The EA [REP3-012] does not anticipate that the proposed changes to the application would generate new or different LSE than that presented in the original DCO application.
- 3.4.4 The ExA later accepted these changes for consideration in the examination [PD-013]. No interested parties raised concerns regarding the change to the application in respect to HRA.

### 3.5 Mitigation and C-323/7 – People Over Wind, Peter Sweetman V Coillte Teoranta (2018) (‘the Sweetman Judgement’)

- 3.5.1 On 12 April 2018 (during the examination of the Proposed Development), the Court of Justice of the European Union issued a judgement which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an AA and that it is not permissible to

take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage.

- 3.5.2 The implications of the Sweetman judgement for the Applicant's approach to HRA was a matter discussed during the Examination.
- 3.5.3 The Applicant considers that the Sweetman judgement does not affect the HRA screening exercise carried out by the Applicant, on the basis that no mitigation measures have been relied upon [REP4-011]. In support of this statement, the Applicant refers [REP4-011] to paragraph H.1.45 of the NSER [REP1-001], which confirms that *'No mitigation measures have been relied upon to reach the conclusions in this report as no adverse effects were identified'*.

### **Emissions to air**

- 3.5.4 The Applicant confirmed [Q1.1.20, REP2-080] that the air quality assessment and HRA report take account of "embedded measures", which are described as turbines that meet current BAT for NO<sub>x</sub> emissions and stack design to achieve sufficient dispersion. The Applicant states that no "further mitigation" (i.e. further to the embedded measures) is required in respect to emissions to air [Q1.1.20, REP2-080].
- 3.5.5 The Applicant further explained [REP4-011] that ES Chapter 7, paragraph 7.126 [APP-049; superseded by AS-010] explicitly states that no further mitigation measures in respect to air quality were required over and above the "base design", which is described as the use of a turbine that meets future BAT NO<sub>x</sub> emissions of 30 mg/Nm<sup>3</sup> and an appropriate stack height to ensure sufficient dispersion.
- 3.5.6 In his SWQs [Q2.1.5, PD-012], the ExA asked NE whether it agreed with the Applicant's position that BAT for NO<sub>x</sub> emissions and stack design are "embedded measures" and not avoidance or reduction measures as described in the Sweetman Judgement. In response, NE noted [Q2.1.5, REP5-010] that the Sweetman Judgement was a recent ruling and that there is currently little guidance from the courts as to what constitutes avoidance or reduction measures. NE stated that where the Competent Authority is unsure whether certain matters are avoidance or reduction measures, it should consider whether to carry out an AA to avoid the risk of legal challenge [REP5-010].
- 3.5.7 At Deadline 6, the Applicant explained that the stack height has been set at a maximum height of 75m in order to minimise visual effects and meet a level at which there are insignificant contributions of pollutants at all European sites [comments on NE's response to Q2.1.5, REP6-004]. In the Applicant's view, the gas turbine design and stack heights are *"inherent features and characteristics of the design"* of the Proposed Development and *"not protective measures intended to avoid or reduce harmful effects on European protected sites"* [Q2.1.5, REP6-004].
- 3.5.8 The Applicant reiterated its view that there is no need for the Competent Authority to carry out an AA [REP6-004].

### **Emissions to water**

- 3.5.9 Requirement 13(2)(f) of the dDCO [REP6-008] refers to “...mitigation measures designed to protect controlled waters” during construction of the Proposed Development, with such measures described in the Updated Mitigation Summary Table [REP2-006]. As described in paragraphs 3.0.8 and 3.0.9 of this RIES, the River Tees is hydrologically connected to the Proposed Development via the existing drainage system at the Wilton International site.
- 3.5.10 In his SWQs [Q2.2.5, PD-012] the ExA asked NE whether it was in agreement with the Applicant’s position that the proposed measures to ensure safe discharge of water to the existing drainage system (as described in [REP2-006]) are “embedded measures” and not avoidance or reduction measures as described in the Sweetman Judgement.
- 3.5.11 In response, NE noted [Q2.2.5, REP5-010] that the Sweetman Judgement was a recent ruling and that there is currently little guidance from the courts as to what constitutes avoidance or reduction measures. NE stated that where the Competent Authority is unsure whether certain matters are avoidance or reduction measures, it should consider whether to carry out an AA to avoid the risk of legal challenge [REP5-010].
- 3.5.12 At Deadline 6, the Applicant stated [Q2.2.5, REP6-004] that the only impact that is relevant in the context of potential effects on European sites is the emission and dispersion of NO<sub>x</sub>. The Applicant further explained that the reference in dDCO Requirement 13(2)(f) to measures to protect controlled waters relate to securing compliance with licencing conditions and are not intended to avoid or reduce a potential significant adverse effect on a European site; as such they were not considered in the NSER [Q2.2.5, REP6-004].

## **3.6 Summary of HRA screening outcomes during the examination**

- 3.6.1 The Applicant’s screening assessment [REP1-001] concluded that the project would have no LSE, either alone or in-combination with other projects or plans, on the qualifying features of the European sites listed below:
- Teesmouth and Cleveland Coast SPA;
  - Teesmouth and Cleveland Coast pSPA;
  - Teesmouth and Cleveland Coast Ramsar site;
  - North York Moors SAC; and
  - North York Moors SPA.
- 3.6.2 Evidence of agreement with NE regarding the Applicant’s conclusions is provided in the SoCG [REP2-009] and in [REP2-071]; whilst agreement with RCBC is provided in [REP4-009]. The (unsigned) SoCG with the EA [REP6-006] records agreement “...that relevant information, sufficient for

*the DCO process, has been provided by the Applicant in respect of ecology and protected sites”.*

- 3.6.3 Notwithstanding this, in light of NE’s advice in [REP5-010] the ExA considers that some uncertainty remains around the reliance placed on the 75m stack height and turbines that meet current BAT for NO<sub>x</sub> emissions in reaching the conclusion of no LSE and specifically whether (in light of the Sweetman Judgement) these would in fact constitute measures to avoid or reduce effects on European sites.
- 3.6.4 Accordingly, in keeping with the precautionary principle of HRA, the ExA is of the view that is necessary to consider whether there would be any adverse effects on integrity of the European sites.

## 4 ADVERSE EFFECTS ON INTEGRITY

### 4.1 Conservation Objectives

- 4.1.1 Links to the conservation objectives for the SPAs and SAC considered in the Applicant's screening assessment are provided within Table H2.1 of the NSER [REP1-001], with the exception of the Teesmouth and Cleveland Coast pSPA.
- 4.1.2 The ExA is aware that the conservation objectives for the Teesmouth and Cleveland Coast pSPA became available on NE's website<sup>18</sup> in August 2018, subsequent to the submission of the NSER [REP1-001]. This document updates and replaces the previous version of the Conservation Objectives (dated 30 June 2014) and reflects the consultation initiated in respect to the pSPA.

### 4.2 The Integrity Test

#### **Adverse Effects on Site Integrity**

- 4.2.1 The Applicant has concluded that the Proposed Development would not result in a LSE on any of the European sites considered in the NSER [REP1-001]. The Applicant has therefore not presented information specifically in relation to the assessment of effects on the integrity of the European sites, including whether there are any implications on the conservation objectives of these sites.
- 4.2.2 NE has advised [REP5-010] that that where the Competent Authority is unsure whether certain matters are avoidance or reduction measures, it will need to consider whether to carry out an AA to avoid the risk of legal challenge. In light of NE's advice, it remains unclear whether the 75m stack height and turbines that meet current BAT for NO<sub>x</sub> emissions can be relied upon to exclude LSE. As such, Stage 2 integrity matrices have been produced accordingly and are included in Annex 2 of this RIES.

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<sup>18</sup> European Site Conservation Objectives for Teesmouth & Cleveland Coast SPA and pSPA (2018) [on-line]  
<http://publications.naturalengland.org.uk/publication/6619918699069440>

## 5 SUMMARY

- 5.0.1 The ExA has produced this RIES to outline the latest position in respect of HRA matters during the examination.
- 5.0.2 A number of matters for clarification have been raised, including:
- The proposed extension to the Teesmouth and Cleveland Coast Ramsar site and the newly identified qualifying feature of the pSPA (ruff) have not been specifically addressed in the Applicant's HRA report and no conclusions as to LSE have been made by the Applicant; and
  - The extent to which the stack design and BAT for NO<sub>x</sub> emissions can be relied upon in excluding LSE.
- 5.0.3 All Interested Parties are invited to make written comments in response to this RIES by Deadline 7 (26 September 2018).

# **ANNEX 1: STAGE 1 MATRICES: SCREENING FOR LIKELY SIGNIFICANT EFFECTS**

## Stage 1 Matrices: Screening for Likely Significant Effects

The European sites included within the screening assessment are:

- Teesmouth and Cleveland Coast SPA;
- Teesmouth and Cleveland Coast pSPA;
- Teesmouth and Cleveland Coast Ramsar site;
- Teesmouth and Cleveland Coast proposed Ramsar site;
- North York Moors SPA; and
- North York Moors SAC.

The screening matrices are based on those provided by the Applicant in [REP1-001], but have been amended by the ExA (with the support of the Environmental Services Team) where considered necessary, based on the submissions from the Applicant and Interested Parties during the examination.

Evidence for, or against, likely significant effects (LSE) on the European sites and their qualifying features is detailed within the footnotes that follow the screening matrices. Where LSE cannot be excluded, that potential impact source is carried forward to Stage 2 assessment.

### Key to matrices:

✓=LSE **cannot** be excluded

×=LSE **can** be excluded

?=The ExA is unclear as to whether as to whether LSE can be excluded

C=construction

O=operation

D=decommissioning

**Stage 1 Matrix 1: Teesmouth and Cleveland Coast SPA**

Name of European site and designation: <b>Teesmouth and Cleveland Coast SPA</b>						
Site Code: UK9006061						
Distance to Proposed Development: Approximately 3.9 km to the north west, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Little tern <i>Sternula albifrons</i> (breeding)	×a	?b	×a	×a	?c	×a
Sandwich tern <i>Sterna sandvicensis</i> (on passage)	×a	?b	×a	×a	?c	×a
Ringed plover <sup>1</sup> <i>Charadrius hiaticula</i> (on passage)	×a	?b	×a	×a	?c	×a
Red knot <i>Calidris canutus</i> (over winter)	×a	?b	×a	×a	?c	×a
Redshank <i>Tringa totanus</i> (over winter)	×a	?b	×a	×a	?c	×a
Waterbird assemblage	×a	?b	×a	×a	?c	×a

<sup>1</sup> The ExA notes that ringed plover does not appear on the Natura 2000 standard data form or the Conservation Objectives for the Teesmouth and Cleveland Coast SPA, but has been considered in the Applicant's screening matrix and so is included here for completeness.

**Evidence supporting conclusions:**

- a. The Applicant explains that impacts from emissions during construction and decommissioning (such as from traffic) are considered negligible (see ES Chapter 7 Air Quality, Paragraphs 7.107 and 7.115 [**AS-020**]) and have been screened out from further consideration.
- b. Operational emissions from the Project are not predicted to make a significant contribution to any European designated site, with max PC < 1% for nutrient nitrogen deposition, acid deposition and ambient NO<sub>x</sub> emissions (see Chapter 7 Air Quality, Paragraph 7.114 [**AS-020**]).

Relevant habitats identified by the APIS website that are likely to be used by the avian qualifying features include supralittoral sediment (acidic and calcareous type), littoral sediment and standing open water and canals (see Tables 1-4 in Appendix A of the Applicant's HRA report [**REP1-001**; superseded by **REP5-005**]). The supralittoral and littoral sediment habitat types were assessed during the air quality assessment and the Applicant considers that these will not be significantly affected by operational emissions (see Tables 1-4 in Appendix A of the Applicant's HRA report [**REP1-001**; superseded by **REP5-005**] and Annex E.1 of the ES [**APP-069**] for a more detailed summary of the results).

No critical loads were available for the assessment of standing open water and canal habitats on APIS. However, the Applicant explains that nutrient nitrogen inputs for these habitats are influenced predominantly by water based nutrient loadings rather than by inputs from the atmosphere [**REP1-001**].

Therefore no significant effects on the supporting habitats or consequently on the bird species that are qualifying features are predicted by the Applicant [**REP1-001**].

The Applicant has confirmed that the air quality assessment and HRA report take account of "embedded mitigation" in relation to stack heights and turbine technology [**Q1.1.20, REP2-080; REP4-011**]. Following the Sweetman Judgement it is unclear to what extent "embedded mitigation" can be relied on to exclude likely significant effects. NE has advised [**REP5-010**] that where the Competent Authority is unsure whether certain matters are avoidance or reduction measures, it will need to consider whether to carry out an AA to avoid the risk of legal challenge. In light of NE's advice, it remains unclear whether the 75m stack height and turbines that meet current BAT for NO<sub>x</sub> emissions can be relied up to exclude LSE.

- c. Impacts from the Proposed Development in-combination with other plans and projects (specifically the North Sea Pipelines Ltd CCGT/CHP facility and the MGT biomass facility) have been considered by the Applicant and no LSE identified (see Section H3.3 [REP1-001]). NE, the EA and RCBC have confirmed agreement [REP2-071; REP2-079 and REP2-081 respectively] that all relevant plans/projects which may result in in-combination effects together with the Proposed Development have been identified and considered by the Applicant in the NSER.

The Applicant's in-combination assessment in [REP1-001] has been undertaken on a qualitative basis. A quantitative in-combination assessment has not been undertaken at this stage, as explained by the Applicant in [REP1-001; REP2-080; REP4-011 and REP5-011].

In Q1.1.6 and Q1.2.8 [PD-008], the ExA noted that some of the identified European sites are already in exceedance of critical loads/levels for given pollutants and queried whether use of the 1% (long term) and 10% (short term) screening thresholds was appropriate in such cases. The NSER [Table H2.1, REP1-001] contains links to Site Improvement plans for the Teesmouth and Cleveland Coast SPA and the North York Moors SPA and SAC, which refer to atmospheric nitrogen deposition as an issue which is currently impacting or threatening the sites. The Applicant [response to Q1.2.8, REP2-080] noted that critical loads/levels are widely exceeded throughout the UK due to elevated baseline conditions.

The Applicant considers that the major influences on the European sites are from other pollutant sources such as agriculture, transport, and transboundary and it is considered very unlikely that insignificant additions of air pollutants from the Proposed Development would combine with insignificant contributions from other plans or projects to result in LSE on the European sites [REP1-001]. No quantitative evidence has been presented to demonstrate that small incremental changes in pollutant deposition resulting from the Proposed Development would not result in a LSE in combination with other plans or projects, particularly for those European sites which are already in exceedance of critical loads or levels.

In addition (as described in footnote (b)), it remains unclear whether embedded mitigation (stack height and turbine technology) can be relied on to exclude LSE.

**Stage 1 Matrix 2: Teesmouth and Cleveland Coast pSPA**

Name of European site and designation: <b>Teesmouth and Cleveland Coast pSPA</b>						
Site Code: UK9006061						
Distance to Proposed Development: Approximately 2.8 km to the north west, at its closest point						
European site features (Additional qualifying features)	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Common tern <i>Sterna hirundo</i> (breeding)	×a	?b	×a	×a	?c	×a
Pied avocet <i>Recurvirostra avosetta</i> (breeding)	×a	?b	×a	×a	?c	×a
Ruff <i>Calidris pugnax</i> (non breeding) <sup>2</sup>	×a	?b	×a	×a	?c	×a

**Evidence supporting conclusions: See footnotes for the screening matrix for Teesmouth and Cleveland Coast SPA**

<sup>2</sup> Whilst ruff was not considered in the Applicant's screening assessment, the ExA has assumed that the conclusions presented by the Applicant in respect to common tern and pied avocet would also apply to ruff.

**Stage 1 Matrix 3: Teesmouth and Cleveland Coast Ramsar site**

Name of European site and designation: <b>Teesmouth and Cleveland Coast Ramsar site</b>						
Site Code: UK11068						
Distance to Proposed Development: Approximately 3.9 km to the north west, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Ramsar Criterion 5 – Total waterfowl assemblage (winter)	×a	?b	×a	×a	?c	×a
Ramsar Criterion 6 - common redshank <i>Tringa totanus tetanus</i>	×a	?b	×a	×a	?c	×a
Ramsar Criterion 6 – Red knot <i>Calidris canutus islandica</i>	×a	?b	×a	×a	?c	×a

**Evidence supporting conclusions:**

- a. See evidence in footnote (a) for the screening matrix for Teesmouth and Cleveland Coast SPA.
- b. See evidence in footnote (b) for the screening matrix for Teesmouth and Cleveland Coast SPA.

There are no critical loads available on APIS for Ramsar sites, so the Applicant explains **[REP1-001]** that the Ramsar site could not be specifically assessed in the air quality modelling. However, the Ramsar site has the same key bird species and site boundaries as the Teesmouth and Cleveland Coast SPA which has been assessed.

- c. See evidence in footnote (c) for the screening matrix for Teesmouth and Cleveland Coast SPA.

**Stage 1 Matrix 4: Teesmouth and Cleveland Coast proposed Ramsar site\***

Name of European site and designation: <b>Teesmouth and Cleveland Coast proposed Ramsar site*</b>						
Site Code: UK11068						
Distance to Proposed Development: Approximately 2.8 km to the north west, at its closest point						
European site features <i>(Additional qualifying features)</i>	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Ramsar Criterion 6 - Sandwich tern <i>Sterna sandvicensis</i>	×a	?b	×a	×a	?c	×a

\*Whilst the Teesmouth and Cleveland Coast proposed Ramsar site has not been specifically referenced in the Applicant's NSER, the ExA understands that the proposed Ramsar will not extend outside of the area covered by the Teesmouth and Cleveland Coast pSPA and notes that impacts to sandwich tern have been considered by the Applicant in the NSER (as a qualifying feature of the existing Teesmouth and Cleveland Coast SPA). The ExA has produced a screening matrix for the proposed Ramsar site on this basis.

**Evidence supporting conclusions: See footnotes for the screening matrix for Teesmouth and Cleveland Coast Ramsar site.**

**Stage 1 Matrix 5: North York Moors SPA**

Name of European site and designation: <b>North York Moors SPA</b>						
Site Code: UK9006161						
Distance to Proposed Development: Approximately 7.6 km to the south east, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Golden plover <i>Pluvialis apricaria</i> (breeding)	×a	?b	×a	×a	?c	×a
Merlin <i>Falco columbarius</i> (breeding)	×a	?b	×a	×a	?c	×a

**Evidence supporting conclusions:**

- a. See footnote (a) for the screening matrix for Teesmouth and Cleveland Coast SPA.
- b. See footnote (b) for the screening matrix for Teesmouth and Cleveland Coast SPA.

Relevant habitats identified by the APIS website that are likely to be used by the qualifying interest bird species include bog, montane and dwarf shrub heath habitats. These habitats were assessed during the air quality assessment and the Applicant has concluded that they will not be significantly affected by operational emissions (see Tables 1-4 in Appendix A of the Applicant's HRA report [REP1-001; superseded by REP5-005] and Annex E.1 of the ES [APP-069] for a more detailed summary of the results).

- c. See footnote (c) for the screening matrix for the Teesmouth and Cleveland Coast SPA.

**Stage 1 Matrix 6: North York Moors SAC**

Name of European site and designation: <b>North York Moors SAC</b>						
Site Code: UK0030228						
Distance to Proposed Development: Approximately 7.6 km to the south east, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air			In-combination effects		
	C	O	D	C	O	D
4010 Northern Atlantic wet heaths with Erica tetralix	×a	?b	×a	×a	?c	×a
4030 European dry heaths	×a	?b	×a	×a	?c	×a
7130 Blanket bogs (* priority feature if active bog)	×a	?b	×a	×a	?c	×a

**Evidence supporting conclusions:**

- a. See footnote (a) for the screening matrix for Teesmouth and Cleveland Coast SPA.
- b. See footnote (b) for the screening matrix for Teesmouth and Cleveland Coast SPA.

The habitats which are qualifying features of the North York Moors SAC were assessed during the air quality assessment and the Applicant has concluded that they will not be significantly affected by operational emissions (see Tables 1-4 in Appendix A of the Applicant's HRA report [**REP1-001**; superseded by **REP5-005**] and Annex E.1 of the ES [**APP-069**] for a more detailed summary of the results).

- c. See footnote (c) for the screening matrix for Teesmouth and Cleveland Coast SPA.

## **ANNEX 2: STAGE 2 MATRICES: ADVERSE EFFECTS ON INTEGRITY**

## Stage 2 Matrices: Adverse Effect on Integrity

The European sites considered in the screening assessment have been subject to further assessment in order to establish if the Tees CCPP NSIP could have an adverse effect on their integrity. These integrity matrices have been produced by the ExA (with the support of the Environmental Services Team) based on the submissions from the Applicant and Interested Parties during the Examination.

Information supporting the conclusions is detailed in footnotes for each table with reference to relevant supporting documentation.

### Key to matrices:

✓=Adverse effect on integrity **cannot** be excluded

×=Adverse effect on integrity **can** be excluded

C=construction

O=operation

D=decommissioning

Cells filled with grey tone denote effects screened out at Stage 1 as not likely to be significant for the reasons and justifications given in the Stage 1 screening matrices.

**Stage 2 Matrix 1: Teesmouth and Cleveland Coast SPA**

Name of European site and designation: <b>Teesmouth and Cleveland Coast SPA</b>						
Site Code: UK9006061						
Distance to Proposed Development: Approximately 3.9 km to the north west, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Little tern <i>Sternula albifrons</i> (breeding)		×a			×a	
Sandwich tern <i>Sterna sandvicensis</i> (on passage)		×a			×a	
Ringed plover <sup>3</sup> <i>Charadrius hiaticula</i> (on passage)		×a			×a	
Red knot <i>Calidris canutus</i> (winter)		×a			×a	
Redshank <i>Tringa totanus</i> (over winter)		×a			×a	
Waterbird assemblage		×a			×a	

<sup>3</sup> The ExA notes that ringed plover does not appear on the Natura 2000 standard data form or the Conservation Objectives for the Teesmouth and Cleveland Coast SPA, but has been considered in the Applicant's screening matrix and so is included here for completeness.

**Evidence supporting conclusions (applicable to the integrity matrices for all European sites)**

- a. The process contributions (PC) from the Proposed Development are not predicted to exceed the 1% screening thresholds at any of the habitat features (which either support avian qualifying features or are themselves qualifying features) [**REP1-001**; **REP2-071**]. The Applicant has concluded that the Proposed Development would have no LSE on any of the European sites considered in the assessment [**REP1-001**].

The Applicant states that with the use of a turbine that meets future BAT NO<sub>x</sub> emissions of 30 mg/Nm<sup>3</sup> and a 75m stack height, it can confidently conclude that emissions to air would not result in significant effects on ecological receptors [**Agenda Item 7.6, REP2-049; REP4-011**]. Requirement 4 of the dDCO [**version 5, REP6-008**] specifies that if the Applicant wants to construct the main stacks at a height below 75m, it would have to submit a further assessment “to the local planning authority/Environment Agency” to either demonstrate that no new or materially different effects to those identified in the ES would arise from the lower stack height; or put forward additional measures capable of mitigating any LSE which would arise from the lower stack height.

The Applicant has stated [**REP1-001; REP2-080; REP5-005**] that UK air quality has generally been improving in the long term, particularly in regards to industrial facilities as a result of the Industrial Emissions Directive (which promotes continuous emissions improvement with the adoption of BAT in all such facilities) [**REP5-005, Q2.0.3**]. Therefore, the Applicant considers that overall air pollution and deposition at the affected European sites would continue to reduce, in line with national trends [**REP5-005, Q2.0.3**]. The Applicant has cited a document published by Defra in support of this position (Defra (2017) Air Pollution in the UK 2016 [https://uk-air.defra.gov.uk/assets/documents/annualreport/air\\_pollution\\_uk\\_2016\\_issue\\_1.pdf](https://uk-air.defra.gov.uk/assets/documents/annualreport/air_pollution_uk_2016_issue_1.pdf)) [**REP5-005, Appendix A**].

The Applicant has concluded that there is no potential for LSE from the Proposed Development in-combination with other identified projects (specifically the Tees Renewable Energy Plant and the North Sea Pipelines CCGT/CHP facility) [**REP1-001**]. In its response to Q 1.2.9, NE acknowledged the findings of the Wealden judgement but confirmed that on the basis of the information provided in this case, it was content that there would be no LSE, either alone or in-combination, on European sites [**REP2-071**]. NE stated that in reaching this conclusion, it had specifically considered the expected decline in background levels from pollution sources no longer in operation; and the predicted low levels of contributions from the Proposed Development, which are not expected to make a significant difference to the features

for which the site is classified [**REP2-071**]. The Applicant further notes that the Proposed Development and the Tees Renewable Energy Plant would not be co-located and that any impacts are therefore anticipated to arise on different locations and habitats [**REP5-005, Q2.0.3**].

NE has agreed with the Applicant's conclusion that there would be no LSE, either alone or in-combination, on the European sites [**REP2-009** and **REP2-071**]. The Applicant's air quality modelling (as utilised in the ES and NSER) is based on a stack height of 75m [**para 7.53, AS-010**] and the Applicant has confirmed that the air quality assessment and HRA report take account of "embedded measures", which are described as turbines that meet BAT NO<sub>x</sub> emissions of 30 mg/Nm<sup>3</sup> and an appropriate stack height to ensure sufficient dispersion [**Q1.1.20, REP2-080; REP4-011**]. The Applicant states that no "further mitigation" (i.e. further to the embedded measures) is required in respect to emissions to air [**Q1.1.20, REP2-080; REP4-011**]. The ExA asked NE whether it agreed with the Applicant's position that BAT for NO<sub>x</sub> emissions and stack design are "embedded measures" and not avoidance or reduction measures as described in the Sweetman Judgement [**Q2.1.5, PD-012**]. As noted above, NE has advised that it is for the Competent Authority to decide whether to carry out an AA where it is unclear whether measures within the Proposed Development constitute measures to avoid or reduce effects on a European site [**REP5-010**]. Advice from NE has confirmed that LSE can be excluded on the basis of the measures described in the Applicant's HRA report; by extension it appears that the measures would also be adequate to exclude adverse effects on integrity.

**Stage 2 Matrix 2: Teesmouth and Cleveland Coast pSPA Extension**

Name of European site and designation: <b>Teesmouth and Cleveland Coast pSPA Extension</b>						
Site Code: UK9006061						
Distance to Proposed Development: Approximately 2.8 km to the north west, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Common tern <i>Sterna hirundo</i> (breeding)		xa			xa	
Pied avocet <i>Recurvirostra avosetta</i> (breeding)		xa			xa	
Ruff <i>Calidris pugnax</i> (non breeding)		xa			xa	

**Evidence supporting conclusions: See footnotes for the integrity matrix for Teesmouth and Cleveland Coast SPA**

**Stage 2 Matrix 3: Teesmouth and Cleveland Coast Ramsar site**

Name of European site and designation: <b>Teesmouth and Cleveland Coast Ramsar site</b>						
Site Code: UK11068						
Distance to Proposed Development: Approximately 3.9 km to the north west, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Ramsar Criterion 5 – Total waterfowl assemblage (winter)		×a			×a	
Ramsar Criterion 6 - common redshank <i>Tringa totanus tetanus</i>		×a			×a	
Ramsar Criterion 6 – Red knot <i>Calidris canutus islandica</i>		×a			×a	

**Evidence supporting conclusions: See footnotes for the integrity matrix for Teesmouth and Cleveland Coast SPA**

**Stage 2 Matrix 4: Teesmouth and Cleveland Coast proposed Ramsar site**

Name of European site and designation: <b>Teesmouth and Cleveland Coast proposed Ramsar site</b>						
Site Code: UK11068						
Distance to Proposed Development: Approximately 2.8 km to the north west, at its closest point						
European site features <i>(Additional qualifying features)</i>	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Ramsar Criterion 6: Sandwich tern <i>Sterna sandvicensis</i>		x <sub>a</sub>			x <sub>a</sub>	

**Evidence supporting conclusions: See footnotes for the integrity matrix for Teesmouth and Cleveland Coast SPA**

**Stage 2 Matrix 5: North York Moors SPA**

Name of European site and designation: <b>North York Moors SPA</b>						
Site Code: UK9006161						
Distance to Proposed Development: Approximately 7.6 km to the south east, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air (effects on supporting habitats)			In-combination effects (on supporting habitats)		
	C	O	D	C	O	D
Golden plover <i>Pluvialis apricaria</i> (breeding)		xa			xa	
Merlin <i>Falco columbarius</i> (breeding)		xa			xa	

**Evidence supporting conclusions: See footnotes for the integrity matrix for Teesmouth and Cleveland Coast SPA**

**Stage 2 Matrix 6: North York Moors SAC**

Name of European site and designation: <b>North York Moors SAC</b>						
Site Code: UK0030228						
Distance to Proposed Development: Approximately 7.6 km to the south east, at its closest point						
European site features	Likely Effects of NSIP					
	Emissions to air			In-combination effects		
	C	O	D	C	O	D
4010 Northern Atlantic wet heaths with Erica tetralix		xa			xa	
4030 European dry heaths		xa			xa	
7130 Blanket bogs (* priority feature if active bog)		xa			xa	

**Evidence supporting conclusions: See footnotes for the integrity matrix for Teesmouth and Cleveland Coast SPA**