



Little Crow

Solar Park

Little Crow Solar Park, Scunthorpe

APPLICANT'S POST HEARING SUBMISSIONS:

ISSUE SPECIFIC HEARING 2

**Environmental Statement, General Matters and the
draft Development Consent Order**

DEADLINE 4

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The Little Crow Solar Park Development Consent Order 201X

**Applicant's Post Hearing Submissions: Issue Specific Hearing 2:
 Environmental Statement, General Matters and the draft Development Consent Order ("dDCO")**

1. Introduction

- 1.1 This document is submitted by INRG Solar (Little Crow) Limited ("the Applicant") and contains the Applicant's Issue Specific Hearing 2 ("ISH2") Post Hearing Submissions, including written summaries of oral submissions made on behalf of the Applicant at ISH2 on Tuesday 29th p.m. and Wednesday 30th June 2021 and some brief commentary on the Open Floor Hearing held on Tuesday 29th June a.m.

2. Open Floor Hearing (29 June 2021)

Agenda Item	Topic	Applicant's Response
N/A	The Interested Party at Fennswood/Heron's Lodge will be submitting further details on the points discussed at the Open floor hearing.	The Applicant agreed that if the Interested Party submits details at Deadline 4 that the Applicant will provide a response at Deadline 5.
N/A	The Examining Authority ("ExA") explained he needs to undertake further site inspections before the examination closes and that at least one of these will need to include Fennswood. He proposed that an "access required site inspection" be held.	The Applicant, Interested Party and Council confirmed that they were happy to proceed on the basis of an "access required site inspection".

3. ISH2 Part 1 (29 June 2021) – Environmental Statement – general matters

Agenda Item	Topic	Applicant's Response
3 d)	The Applicant's approach to replying to second written question 2.1.5 (gross land area for each of the proposed Work Numbers etc) [PD-010].	The agenda was re-arranged to accommodate the requirements of the attendees. The Applicant explained its approach to calculating the gross land area for each of the proposed Works and visually explained how it would present information on the various site areas for each work no in response. This is set out in full at 2.1.5 of the

		<p>Response to the Examining Authority's Second Written Questions ("EXQ2") (Document Reference 9.33 LC OTH).</p> <p>The Applicant notes that North Lincolnshire Council agreed with this approach at the hearing.</p>
3 e)	Any implications of Lapwing as an 'assemblage qualification' species for the Humber Estuary Special Protection Area.	The Applicant confirmed that it would provide a note to the ExA on the Applicant's view as to how the species identified as forming part of an assemblage qualification for the SPA whilst not constituting a qualifying feature of its own volition should be considered for the purposes of undertaking a Habitat Regulations Assessment under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended). This note is attached at Appendix 1 below and further detailed are also provided in response to question 2.2.4 of EXQ2 (Document Reference 9.33 LC OTH).
3 f)	Proposals for sheep grazing as part of the Proposed Development and how those proposals would be secured.	The Applicant explained its proposals for sheep grazing as part of the Proposed Development. This response is set out in full at 2.2.4 of EXQ2 (Document Reference 9.33 LC OTH).
3 a)	<p>Solar energy generation technology, including reference to Appendices 2 and 3 in the Applicant's Technical Guide [REP1-011].</p> <p>The ExA raised the following queries:</p> <p>i) the modular area for the solar panels that has been quoted and used in the simulation for the 420Wp panels (i.e. Simulation 1, Appendix 2) is referred to as the area for the modules and given as 793,584m² in the Technical Guide (Document Reference 9.20 LC OTH, PINS Reference REP1-011), however in REP1-008 (Document Reference 9.17 LC OTH) i.e. the Note for Issue Specific Hearing 1) an area of 924, 346sqm is referred to. So did the simulation in Appendix 2 use the correct area?</p>	<p>The Applicant explained the background to queries raised by the ExA in respect of the Technical Guide submitted at Deadline 1 (Document Reference 9.20 LC OTH, PINS Reference REP1-011) and confirmed that an updated Technical Guide 2/Addendum will be prepared and submitted at Deadline 4 (Document Reference 9.20A LC OTH).</p> <p>i) The response is set out in full at 2.1.3 a of EXQ2 (Document Reference 9.33 LC OTH).</p>

	<p>ii) The terminology used in the simulation was discussed particularly 'Pnom Ratio'</p> <p>iii) The ExA raised a series of questions on Simulation 1: what is the performance ratio and how is this calculated?</p> <p>iv) The ExA queried the performance ratio of 84.46% rounded up to 84.5 in the tables shown and queried whether this figure should be 0.815.</p> <p>v) The ExA raised a query on the data in tables on page 4/4 and 6/6</p> <p>vi) The ExA sought to compare the table on page 4 with the hourly output projection shown on [Figure 6] page 10 to look at May and December to see if his calculation of output at noon could be confirmed, in order to demonstrate what the development is capable of producing and how the battery energy storage system feeds into this.</p> <p>vii) The ExA queried the assessment of the carbon footprint found at section 6 of the Air Quality and Carbon Assessment (Document Reference 7.12A LC TA4.5, PINS Reference REP2-12) in comparison with the data provided in the simulations within the Technical Guide (Document Reference 9.20 LC OTH, PINS Reference REP1-011).</p>	<p>ii) The response is set out in full at 2.1.4 of EXQ2 (Document Reference 9.33 LC OTH). 'Pnom Ratio (nominal power) is defined at 2.1.4 (c);</p> <p>iii) The performance ratio is defined at 2.1.4 (d) of EXQ2 (Document Reference 9.33 LC OTH). This definition and calculation have been set out in the updated Technical Guide (Document Reference 9.20A LC OTH);</p> <p>iv) The Applicant raised this with the software producers and they confirmed that the figures provided are accurate as set out in Appendix 4 (vii) of the updated Technical Guide (Document Reference 9.20A LC OTH). The Applicant is able to confirm that the figure queried has not affected how the simulation is run;</p> <p>vi) v) The Applicant noted that losses and their effect on irradiation are complex and offered to provide a written summary and this is found at Appendix 4 of the updated Technical Guide(Document Reference 9.20A LC OTH); The Applicant explained that the ExA was using theoretical data that was based on ideal conditions. The Applicant uses actual meteorological data to show peak production levels. The Applicant has created a schedule of hourly rates in the response to the query raised for EXQ2 at 2.1.6 (see Document Reference 9.34, 9.35, 9.36 & 9.37 LC OTH. This breaks down 365 days and 24 hours to provide 8760 pieces of information (capped at 99.9 MW and uncapped). The Applicant confirmed that the aim of this assessment is to maximise the solar element of the project and the battery energy storage system within the environmental parameters.</p> <p>vii) The Applicant confirmed that the consultants based the assessment on a 135 MWp installation and noted that these are only candidate simulation scenarios. However, in order to assist the ExA , the Applicant agreed to submit an updated report that was aligned with the rest of the project noting that it still showed just one particular scenario. Please see document reference 7.12B LC TA4.5 Air Quality.</p>
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3 b)	Consideration of the proposed electricity storage system as 'associated development', having regard to s115 of the Planning Act 2008 and the 'Guidance on associated development applications for major infrastructure projects' (Department for Communities and Local Government April 2013).	The Applicant explained why the proposed electricity storage system is 'associated development' having regard to s115 of the Planning Act 2008 and the relevant guidance. This response is set out in full at question 2.1.2 of EXQ2 (Document Reference 9.33 LC OTH).
3 c)	The scale of the Proposed Development, including generating capacity and the potential for the generating capacity to be affected by advances in solar panel technology.	<p>The Applicant confirmed that the general time to commence implementation of a scheme of this nature is between circa 6-9 months from the point of consent. So Quarter 1 2023 is likely to be the start date in or around the site with health and safety provisions dealt with first, followed by diversion of the public footpath, access tracks and then support posts. A phased approach will be taken and the Applicant expects some areas could have modules fitted within the first four to five months.</p> <p>The Applicant confirmed that this was one of the most dynamic markets within the renewable industry and that it was quite likely that modules of around 550-600W could be available for consideration. The Applicant noted that it was prudent not to curtail the ability to secure the best technology that is available at the time.</p> <p>The Applicant confirmed that even if there were advances in efficiency of modules over the next year or so the land take for the project would not change to any great extent. A decision would need to be taken as to whether to send any additional energy generated to the battery energy storage system and then release it to the grid later. Ultimately the Applicant must choose the size of module that best suits the project and the size of battery that best complements the solar pv element.</p> <p>In relation to the size of battery energy storage system the Applicant does not believe that a particular size of battery energy storage system can be attributed to a particular size of solar module.</p>
3 g)	The consideration of cumulative and in-combination effects.	The Applicant was notified that the NSIP application for Keadby 3 Low Carbon Gas Power Station Project was accepted by PINS on 28 June 2021.

		The Applicant's team has now considered the Keadby 3 application documents and believes that there are no likely significant environmental effects from a cumulative perspective to arise with the Little Crow proposals, and that the Applicant will provide a more detailed justification of its position at Deadline 5.
3 h)	Economic Effect – Para 11.4.2 of Chapter 11 of the Environmental Statement [APP-068] refers to a capital cost for the proposed development of £160m based on a cost of £800,000 to install 1MW. Is this correct given that the Technical Guide (Para 5.7)[REP1-011] quotes circa £450,000 to install 1MW?	The Applicant confirmed that there was no inconsistency in the figures presented in the Technical Guide and the ES. £450,000 relates to the solar element and £350,000 relates to the battery installation. This figure is a guide only as the final figure will always be subject to the final design.
4. National and Development Plan policy	a) Relevant national policy.	<p>The Planning Act 2008 ("PA 2008") is the principal legislation governing the decision on whether consent should be granted for an application for a Nationally Significant Infrastructure Project ("NSIP"). Section 104 (1) of the PA 2008 applies "in relation to an application for an order granting development consent if a national policy statement ("NPS") has effect in relation to the development of the description to which the application relates." S104(3) requires that the Secretary of State must determine an application in accordance with the relevant NPS, subject to where specific exceptions apply.</p> <p>Where s104 does not apply, an application falls to be decided under s105 of the Act.</p> <p>The Applicant confirmed that there is no NPS which specifically cover is ground mounted solar development and which therefore "has effect" for the purposes of s104 PA 2008. This means that the application falls to be determined under s105 PA 2008. Section 105(2) requires the SoS to have regard to:</p> <ul style="list-style-type: none"> • any LIR (within the meaning given by the PA2008 s60(3)) submitted • to the SoS before the specified deadline for submission; • any matters prescribed in relation to development of the description • to which the application relates; and • any other matters which the SoS thinks are both important and relevant to the decision. <p>Although NPSs do not have a direct effect in relation to this proposal the SoS must have regard to "any other matters to which the Secretary of State thinks are both <i>important</i> and <i>relevant</i> to [his] decision." (our emphasis) The Applicant's position is that National Policy Statement EN-1 is both important and relevant in the determination of this application.</p>

		<p>Whilst NPS EN-1 (the Overarching National Policy Statement for Energy) at paragraph 1.4.5, excludes the generation of electricity from renewable sources other than wind, biomass or waste from its scope that is little more than confirmation that it does not have effect in relation to the Proposed Development for the purposes of section 104 PA 2008. The Applicant nevertheless considers that NPS EN-1 remains "important and relevant" to this application because the authorised development will be a generating station with a capacity of more than 50MW (Paragraphs 1.4.1 and 1.4.2 demonstrate that NPS EN-1 is specifically devised to apply to electricity generating stations of this scale); and NPS EN-1 (paragraph 3.7.2) emphasizes the national need for electricity and electricity infrastructure, including (at paragraph 3.3.11) battery storage to compensate for the intermittency of renewable generation and (paragraph 3.3.28) for the role that these technologies will play in contributing to the decarbonisation of the United Kingdom's electricity generation sector, (paragraph 3.3.13) meeting energy need and (paragraph 3.3.4) in providing a secure, diverse and affordable energy supply. Paragraph 3.1.2 of NPS EN-1 envisages that industry will propose new energy infrastructure projects within the strategic framework set by Government and that planning policy should not set targets for, or limits on, different technologies. The SoS decision on the Cleve Hill Solar Park Development Consent Order 2020 at paragraphs 7.2 and 7.3 refers specifically to the support that NPS EN-1 gives to renewable energy generating nationally significant infrastructure projects and lists it as a relevant and important to the consideration of the Application albeit as part of the planning balance. This decision made 31 references to EN-1, whereas only 7 were made to the National Planning Policy Framework ("NPPF") which indicates the extent to which the SoS considers EN-1 to be important and relevant and the significant weight that it should be afforded.</p> <p>The principle of the proposed development fully complies with the provisions of EN-1. This approach was supported by the SoS in the decision on The Cleve Hill Solar Park Order 2020 at paragraph 4.8 where the SoS agreed with the ExA that substantial weight should be attributed to the contribution that the proposed development, insofar as it relates to the solar PV element, would make towards the identified need for additional renewable energy generation, consistent with local and national policies on sustainable development. The SoS also agreed with the ExA that the proposed battery energy storage system was a factor of significant additional weight (see paragraph 4.8 of the SoS decision letter Appendix 6 to - the Applicant's Response to Examining Authority Questions (ExQ1) (Document Reference 9.24 LC OTH, PINS Reference REP2-022).</p>
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		<p>The Council noted that solar power was not specifically referred to in NPS EN-1 but felt it was still useful and relevant in that it assisted in creating a national stage for a low carbon agenda which included schemes such as the proposed development and that it was clear significant weight should be given to this.</p> <p>As set out in the Planning Statement (Document Reference 9.1 LC OTH, PINS Reference APP-109) at paragraphs 4.34-4.36, NPS EN-5 (the National Policy Statement for Electricity Networks Infrastructure) is a companion to NPS EN-1 and considered to be "important and relevant" to this application because the application contains a new substations with an underground 132kV connection to the existing underground 132kV cable. The new electricity generating infrastructure the UK needs will be dependent upon a robust electricity network.</p> <p>The Council agreed with the Applicant's assessment that EN-1 and EN-5 are relevant to the proposed development and the impacts of the NPS on the application.</p> <p>The National Planning Policy Framework ("NPPF") supported by National Planning Practice Guidance is an important considerations in decisions made on NSIPS, to the extent relevant to that project.</p> <p>The Applicant confirmed that the NPS do not overreach the NPPF and the Development Plan, but there was also an acknowledgement from the Council that there is very little conflict between the policies under consideration.</p> <p>The Applicant has agreed to prepare an up-to-date list of the documents and reports in the Planning Statement (Document Reference 9.1 LC OTH, PINS Reference APP-109) at paragraphs 4.7 - 4.63 relating to energy policy with a list provided at Deadline 4 which will be reviewed to select the most current and informative documents which will then be submitted prior to the close of the examination. This list is included at 4 b) below.</p>
	<p>b) Relevant development plan policies.</p>	<p>The extant Development Plan for North Lincolnshire is an important consideration in decisions made on NSIPS, to the extent relevant to that project.</p> <p>The NPPF sets out an overarching presumption in favour of sustainable development at paragraph 11 which the Applicant believes is relevant and engaged in this case because the proposals accord with development plan which is consistent with the NPPF, with the exception of Policy RD2 which recent decisions have confirmed should be regarded as "out of date" (see below)</p>

		<p>The Applicant and the Council both confirmed that the proposed development is considered to be an "effective" and "efficient" use of land in accordance with paragraphs 117 and 122 of the NPPF respectively. Paragraph 118 states that planning policies should encourage multiple benefits from both urban and rural land to achieve net environmental gains. The proposed development achieves this. Paragraph 148 notes that the planning system should support the transition to a low carbon future in a changing climate. Paragraph 154 states that local planning authorities should approve applications for renewable and low carbon development if its impacts are (or can be made) acceptable.</p> <p>The Council noted that the proposed development accords with Chapter 17 of the NPPF (Facilitating the sustainable use of minerals) since it will not sterilise any potential mineral extraction (iron stone) within the Order limits when the development is decommissioned.</p> <p>The Applicant and the Council agreed that the application supports the above principles.</p> <p>The Local Impact Report (REP2-026) sets out the relevant local plan policies relating to the proposed development. Policy CS 18 criteria 11 supports sources of renewable energy. For the purposes of this policy, the Applicant considers that the development makes an efficient and sustainable use of natural resources. The proposal is temporary and has the ability to revert back to agricultural use at the end of the scheme.</p> <p>Policy CS 2 is applicable to the proposed development. It is often applied to large scheme industrial applications but a renewable energy scheme in itself will comply with the aim of promoting renewable energy in new schemes. The Council confirmed that the application is in accordance with the local planning policy save for policy RD 2 which in any event should have less weight applied to it because of its inconsistency with the NPPF as noted in recent appeal decisions which show it to be out of date. These include Sweeting Thorns Appeal Decision (PINS Reference REP1-022). The Council have taken the view that renewable energy development is suitable for location outside the development boundary so the restrictive nature of RD 2 are no longer regarded by the Council as appropriate.</p> <p>The Council confirmed that a new Local Plan in being produced was this very much in its infancy and that it was extremely unlikely that this would become a material consideration in respect of this application.</p>
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		<p>The Applicant has identified the below as an up-to-date list of the documents and reports relating to the decarbonisation of electricity generation and expanding renewable generation to meet increasing demand:</p> <ul style="list-style-type: none"> • EN1 • EN5 • NPPF • The Energy White Paper – Powering our Net Zero Future, 2020 • The Climate Change Act 2008 • The Climate Change Act 2008 (2050 Target Amendment) Order 2019 • Energy Act (November 2012) • UK Renewable Energy Strategy 2009 • Energy Security Strategy 2012 • Clean Growth Strategy, published in October 2017 • Digest of United Kingdom Energy Statistics 2020 • Reducing UK emissions: 2020 Progress Report to Parliament (Committee for Climate Change, 2020) • Climate Change Committee 2021 Progress Report to Parliament <p>The Applicant suggest it present an updated review of the most up to date policy at Deadline 7 due to expected impending publication of a revised energy NPS for consultation.</p>
5 a) Draft Development Consent Order (dDCO)	Consistency between the dDCO [REP3-003] and the versions of the Explanatory Memorandum submitted during the Examination to date, i.e. REP1-005, REP2-005 and REP3-004.	The Applicant acknowledged the inconsistencies referred to and is undertaking a review of the Explanatory Memorandum to address these. As agreed at ISH2, a final version of the Explanatory Memorandum will be submitted at Deadline 7 with the Applicant's final dDCO.
5 b)	Definition of the generating capacity for the Proposed Development in the dDCO [REP3-003].	<p>Following a query from the ExA regarding the inclusion of the 'peak' in the dDCO when referring to the generating capacity, the Applicant confirmed that references to gross electrical output in Part 1 of Schedule 1 (Authorised Development) of the dDCO should be '... 50 megawatts'.</p> <p>The Applicant has updated the dDCO to remove 'peak'. Please see Document Reference 3.1D LC DCO.</p>
5 c)	The proposed Articles and Requirements in the dDCO [REP3-003], including:	

	<p>i. The mechanism for securing the archaeological commitments referred to in APP-065 and REP3-014.</p> <p>ii. The provisions contained in Article 18 (Requirements, appeals etc) and part 2 of Schedule 2 (Procedure for Discharge of Requirements).</p>	<p>i. The Applicant explained the mechanism for securing the archaeological commitments referred to in APP-065 and REP3-014. This response is set out in full at question 2.6.11 of EXQ2 (Document Reference 9.33 LC OTH). The Council indicated that it was their preferred approach to pull the mitigation together into one document and this is the approach the Applicant is now seeking to agree with the local planning authority.</p> <p>ii. The Applicant acknowledged that changes can be made to clarify Article 18 (Requirements, appeals etc) and part 2 of Schedule 2 (Procedure for Discharge of Requirements). Details of these changes are set out in full at question 2.6.14 a) a & b and b) of EXQ2 (Document Reference 9.33 LC OTH)</p>
5 d)	Any other general drafting matters	No general drafting matters were raised and the Council indicated it was content with the dDCO.

Appendix 1

The Little Crow Solar Park Development Consent Order

Applicant's Post Hearing Submissions (ISH2)

APPENDIX 1

Note relating to Habitat Regulations Assessment

1. Introduction

- 1.1 The Applicant undertook at Issue Specific Hearing 2 to provide a note setting out its views on the approach to HRA and the assessment of likely significant effects where the qualifying feature of a European site is an assemblage rather than a particular species. This note is provided for that purpose.
- 1.2 The discussion at the ISH centred around Lapwing and their contribution to the assemblage of waterbirds which constitutes a qualifying feature of the Humber Estuary SPA. It was noted that Lapwing itself is not a qualifying feature.

2. The Legal Position

- 2.1 For the purposes of the European Council Habitats Directive¹ (the "Habitats Directive"), transposed into UK Law by the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), the Secretary of State (in this case, the Secretary of State for Business, Energy and Industrial Strategy) is the competent authority².
- 2.2 The competent authority is required by Article 6(3) of the Habitats Directive to carry out an appropriate assessment ("AA") if development is likely to have a significant effect on a European Site, before granting consent.
- 2.3 The Secretary of State is therefore required to consider whether there would be any likely significant effects on the Humber Estuary SPA.
- 2.4 The judgment of what is likely to be "significant", should be interpreted objectively and in the context of the effect on the specific feature (a qualifying feature) and environmental conservation objectives of the site. The qualifying feature protected relevant to the DCO Application is the assemblage of waterbirds, with Lapwing having been recorded on the Application Site. The Secretary of State is required to consider whether the effect on Lapwing as a result of the Proposed Development is likely to cause a significant effect on the assemblage of waterbirds in the Humber Estuary SPA.
- 2.5 An applicant for a Development Consent Order is required³ to provide a report with the DCO application showing the site/s which may be affected together with sufficient information to enable the Secretary of State to make an AA, if required. The Applicant has provided a No Significant Effects Report ("NSER") (Document Reference 7.29A LC TA7.9, PINS Reference PDA-015) together with the relevant drawings (Document Reference 2.2 LC DRW, PINS Reference APP-007 and Document Reference 2.41 LC DRW, PINS Reference PDA-005).

3. The Assessment for the Proposed Development

- 3.1 The Natural England Humber Estuary SPA Citation (July 2007 Version 2:0 Register Reference Number UK9006111) (attached at the **Annex** to this note for ease of reference) confirms that the SPA site qualifies for assemblage qualification pursuant to Article 4.2 of Council Directive 79/409/EEC because it is used regularly by over 20,000 waterbirds in any season. The Applicant notes that this Council Directive has since been superseded by

¹ Council Directive 92/43/EEC

² Regulation 7(1) Habitats Regulations

³ Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended), Regulation 5(2)(g)

Council Directive 2009/147/EC, however the provisions of Article 4.2 to that Directive are identical and therefore the qualification of the assemblage remains the same.

- 3.2 As confirmed in the Applicant's Comments on North Lincolnshire Council's Local Impact Report (Document Reference 9.29 LC OTH, PINS Reference REP3-013), at paragraph 6.4 on page 12, the Applicant's assessment of Lapwing was to take a precautionary approach and assume that the Lapwing recorded on the Site did contribute to the Humber Estuary SPA waterbird assemblage and therefore the Applicant's conclusions on the impact of the Proposed Development on the assemblage as a qualifying feature, as set out in the NSER include the assessment of Lapwing forming part of the waterbird assemblage at the SPA. The NSER lists waterbird assemblage as a qualifying feature of the SPA in its Screening Matrix 02.
- 3.1 It should be noted that the SPA citation does not specifically list Lapwing as a qualifying species (under Article 4.1 of the directive 79/409/EEC) but rather Lapwing are identified as being part of an assemblage of waterbirds (under Article 4.2 of the Directive), given that it supports an abundance (in excess of 20,000) water birds regularly over each non-breeding season. Whilst population estimates for the birds which make up the assemblage are available the citation here relates to the assemblage rather than the individual species. Where nationally or internationally significant numbers of individual species are present these are identified as qualifying species under Article 4.1. A number of species are listed under both the species qualification and the assemblage qualification (including Avocet, Golden Plover, Ruff, Dunlin, bar-tailed godwit) but Lapwing are not. As such, it seems reasonable to assume that the numbers of Lapwing recorded on site are significant as part of an assemblage of wintering birds recorded within the SPA but not within their own right. Were populations of Lapwing themselves considered to be of significance, one would assume that this species would have been included as a qualifying species under Article 4.1, as other species listed in the assemblage are.
- 3.2 Further information is provided here on how the Applicant recorded a conclusion of No Significant Effect on lapwing of the SPA, and by extension therefore the waterbird assemblage qualifying feature, within the NSER. The typical threshold used to determine whether a project could have significant effects on a particular population of species is where it impacts or affects an area used regularly by over 1% of the population (in this case Lapwing using this Humber Estuary in the non-breeding season).
- 3.3 The non-breeding population of Lapwing using the SPA is established by the Wetland Bird Survey (WeBS) monitoring programme, administered by the British Trust for Ornithology (BTO). The population can be expressed using either numbers recorded in any one season, or as a five-year mean average to account for natural fluctuations between years. At the time of SPA classification the Lapwing population during the winter was recorded as 22,765. At the time of writing (July 2021) the current five-year average population is 16,453. During the season when wintering bird surveys were conducted at the Order Limits (winter 2017-18), the Lapwing SPA count was 13,135, and the five-year average was 13,689.
- 3.4 As described in the Wintering Bird Survey Report (Document Reference 7.23 LC TA7.2, PINS Reference APP-092) the wintering bird survey encompassed four survey visits spread over the winter months. The number of Lapwing recorded during each visit was 77, 109, 0 and 0 respectively. The peak count of Lapwing recorded using the land within the Order limits (109) represents less than 1% of the SPA population, regardless of whether the SPA population is taken to be that at the time of classification, the current numbers, or the population at the time of the wintering bird survey. The mean average numbers of Lapwing using the land across the survey visits was 46.5. As Lapwing were absent on two of the four visits, it is also considered that the Site is not used 'regularly' by Lapwing. Given the land within the Order Limits was demonstrated to be used irregularly by <1% of the Lapwing population associated with the SPA, it is concluded that the Proposed Development will be highly unlikely to result in significant effect on the Lapwing population of Humber Estuary SPA.
- 3.5 As is noted in the NSER at Table 1.1, North Lincolnshire Council and Natural England agree with the Applicant that the Proposed Development will be highly unlikely to have a significant effect on the features of the SAC, SPA or Ramsar site and the Applicant is therefore confident that the Secretary of State can be satisfied that no AA is required.

- 3.6 The Applicant also notes that North Lincolnshire Council acknowledged in ISH2 that Lapwing are prevalent across the Council area generally. This supports the Applicant's position that it is not possible to ascertain with any certainty whether the Lapwing recorded on the Site contribute to the assemblage, however, as explained above, the Applicant's assessment was undertaken on a precautionary basis and assumed that the Lapwing did contribute to the assemblage. That assessment still concludes that there will be no likely significant effect on the qualifying feature of the SPA.
- 3.7 The Applicant has concluded that there are no likely significant effects on the waterbird assemblage at the Humber Estuary SPA, as confirmed in the No Significant Effects Report (Document Reference 7.29A LC TA7.9, PINS Reference PDA-015).

ANNEX

Natural England Humber Estuary SPA Citation

EC Directive 79/409 on the Conservation of Wild Birds Special Protection Area (SPA)

Name: Humber Estuary

Unitary Authorities/Counties: City of Kingston-upon-Hull, East Riding of Yorkshire, Lincolnshire, North East Lincolnshire, North Lincolnshire

Component SSSIs: The SPA encompasses all or parts of the following Sites of Special Scientific Interest (SSSIs): Humber Estuary SSSI, North Killingholme Haven Pits SSSI, Saltfleetby-Theddlethorpe Dunes SSSI, and The Lagoons SSSI.

Site description: The Humber Estuary is located on the east coast of England, and comprises extensive wetland and coastal habitats. The inner estuary supports extensive areas of reedbed, with areas of mature and developing saltmarsh backed by grazing marsh in the middle and outer estuary. On the north Lincolnshire coast, the saltmarsh is backed by low sand dunes with marshy slacks and brackish pools. Parts of the estuary are owned and managed by conservation organisations. The estuary supports important numbers of waterbirds (especially geese, ducks and waders) during the migration periods and in winter. In summer, it supports important breeding populations of bittern *Botaurus stellaris*, marsh harrier *Circus aeruginosus*, avocet *Recurvirostra avosetta* and little tern *Sterna albifrons*.

Size of SPA: The SPA covers an area of 37,630.24 ha.

Qualifying species:

The site qualifies under **article 4.1** of the Directive (79/409/EEC) as it is used regularly by 1% or more of the Great Britain populations of the following species listed in Annex I in any season:

Annex I species	Count and season	Period	% of GB population
Avocet <i>Recurvirostra avosetta</i>	59 individuals – wintering	5 year peak mean 1996/97 – 2000/01	1.7%
Bittern <i>Botaurus stellaris</i>	4 individuals – wintering	5 year peak mean 1998/99 – 2002/03	4.0%
Hen harrier <i>Circus cyaneus</i>	8 individuals – wintering	5 year peak mean 1997/98 – 2001/02	1.1%
Golden plover <i>Pluvialis apricaria</i>	30,709 individuals – wintering	5 year peak mean 1996/97 – 2000/01	12.3%
Bar-tailed godwit <i>Limosa lapponica</i>	2,752 individuals – wintering	5 year peak mean 1996/97 – 2000/01	4.4%
Ruff <i>Philomachus pugnax</i>	128 individuals – passage	5 year peak mean 1996-2000	1.4%
Bittern <i>Botaurus stellaris</i>	2 booming males – breeding	3 year mean 2000-2002	10.5%
Marsh harrier <i>Circus aeruginosus</i>	10 females – breeding	5 year mean 1998-2002	6.3%
Avocet <i>Recurvirostra avosetta</i>	64 pairs – breeding	5 year mean 1998 – 2002	8.6%
Little tern <i>Sterna albifrons</i>	51 pairs – breeding	5 year mean 1998-2002	2.1%

The site qualifies under **article 4.2** of the Directive (79/409/EEC) as it is used regularly by 1% or more of the biogeographical populations of the following regularly occurring migratory species (other than those listed in Annex I) in any season:

Migratory species	Count and season	Period	% of subspecies/ population
Shelduck <i>Tadorna tadorna</i>	4,464 individuals – wintering	5 year peak mean 1996/97 – 2000/01	1.5% Northwestern Europe (breeding)
Knot <i>Calidris canutus</i>	28,165 individuals – wintering	5 year peak mean 1996/97 – 2000/01	6.3% <i>islandica</i>
Dunlin <i>Calidris alpina</i>	22,222 individuals – wintering	5 year peak mean 1996/97 – 2000/01	1.7% <i>alpina</i> , Western Europe (non-breeding)
Black-tailed godwit <i>Limosa limosa</i>	1,113 individuals – wintering	5 year peak mean 1996/97 – 2000/01	3.2% <i>islandica</i>
Redshank <i>Tringa totanus</i>	4,632 individuals – wintering	5 year peak mean 1996/97 – 2000/01	3.6% <i>britannica</i>
Knot <i>Calidris canutus</i>	18,500 individuals – passage	5 year peak mean 1996 – 2000	4.1% <i>islandica</i>
Dunlin <i>Calidris alpina</i>	20,269 individuals – passage	5 year peak mean 1996 – 2000	1.5% <i>alpina</i> , Western Europe (non-breeding)
Black-tailed godwit <i>Limosa limosa</i>	915 individuals – passage	5 year peak mean 1996 – 2000	2.6% <i>islandica</i>
Redshank <i>Tringa totanus</i>	7,462 individuals – passage	5 year peak mean 1996 – 2000	5.7% <i>britannica</i>

Bird counts from: Wetland Bird Survey (WeBS) database and *The Humber Estuary: A comprehensive review of its nature conservation interest* (Allen et al. 2003).

Assemblage qualification:

The site qualifies under **article 4.2** of the Directive (79/409/EEC) as it is used regularly by over 20,000 waterbirds (waterbirds as defined by the Ramsar Convention) in any season:

In the non-breeding season, the area regularly supports 153,934 individual waterbirds (five year peak mean 1996/97 – 2000/01), including dark-bellied brent goose *Branta bernicla bernicla*, shelduck *Tadorna tadorna*, wigeon *Anas penelope*, teal *Anas crecca*, mallard *Anas platyrhynchos*, pochard *Aythya ferina*, scaup *Aythya marila*, goldeneye *Bucephala clangula*, bittern *Botaurus stellaris*, oystercatcher *Haematopus ostralegus*, avocet *Recurvirostra avosetta*, ringed plover *Charadrius hiaticula*, golden plover *Pluvialis apricaria*, grey plover *P. squatarola*, lapwing *Vanellus vanellus*, knot *Calidris canutus*, sanderling *C. alba*, dunlin *C. alpina*, ruff *Philomachus pugnax*, black-tailed godwit *Limosa limosa*, bar-tailed godwit *L. lapponica*, whimbrel *Numenius phaeopus*, curlew *N. arquata*, redshank *Tringa totanus*, greenshank *T. nebularia* and turnstone *Arenaria interpres*.

Non-qualifying species of interest: The SPA is used by non-breeding merlin *Falco columbarius*, peregrine *F. peregrinus* and short-eared owl *Asio flammeus*, and breeding common tern *Sterna hirundo* and kingfisher *Alcedo atthis* (all species listed in Annex I to the EC Birds Directive) in numbers of less than European importance (less than 1% of the GB population).

Status of SPA:

- 1) Humber Flats, Marshes and Coast (Phase 1) SPA was classified on 28 July 1994.
- 2) The extended and renamed Humber Estuary SPA was classified on 31 August 2007.

This citation relates to a site entered in the Register of European Sites for Great Britain.
Register reference number: UK9006111
Date of registration: 31 August 2007

Signed: 
On behalf of the Secretary of State for
Environment, Food and Rural Affairs

