

Date: 17 December 2021
Our ref: 372415, Case 15431
Your ref: EN010103



The Planning Inspectorate
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BY EMAIL ONLY

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To whom it may concern;

NSIP Reference Name / Code: EN010103

Thank you for your consultation on the above dated 27 October 2021 which was received by Natural England on 27 October 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Relevant Representation

PART I: Summary of Natural England's advice.

Natural England's advice is that in relation to identified nature conservation issues within its remit there is no fundamental reason of principle why the project should not be permitted but that the applicant has provided insufficient evidence to establish that the development will not result in an adverse effect on site integrity for the Teesmouth and Cleveland Coast SPA/Ramsar Site and will not damage the features of interest of the Teesmouth and Cleveland Coast SSSI.

PART II: Natural England's detailed advice.

Natural England is satisfied that the following issues have been adequately addressed:

- The assessment of the potential impacts on the Teesmouth and Cleveland Coast SPA/Ramsar/SSSI arising from operational atmospheric pollution;
- The proposed measures to mitigate the potential impacts on the Teesmouth and Cleveland Coast SPA/Ramsar/SSSI arising from construction/decommissioning noise and vibration;

- The prevention of direct impacts to the Teesmouth and Cleveland Coast SPA/Ramsar/SSSI through the use of Horizontal Directional Drilling to construct the gas transportation pipeline;

Natural England **is not** satisfied that the following issues have been adequately addressed:

- The potential for process water discharges (particularly nitrogen) to have adverse effects on site integrity of the adjacent designated sites;
- The potential impacts of installing rock armour protection have not been assessed in the Habitats Regulations Assessment.

Natural England's advice in these relevant representations is based on information submitted by Net Zero Teesside Power Limited (NZN Power) and Net Zero North Sea Storage Limited (NZNS Storage) in support of its application for a Development Consent Order ('DCO') in relation to Net Zero Teesside Project ('the project').

Natural England has been working closely with NZN Power and their consultants to provide advice and guidance since 2017. Natural England will continue to work with NZN Power and their consultants to develop a Statement of Common Ground throughout the Examination period.

These relevant representations contain a summary of what Natural England considers the main nature conservation issues¹ to be in relation to the DCO application, as well as the Deemed Marine Licence contained therein, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.

Part I of these representations provides an overview of the issues and a summary of Natural England's advice. This includes: an identification of the natural features relevant to this application, a summary of Natural England's overall view of the application and the main issues which it considers need to be addressed by the Secretary of State.

Part II of these representations sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by NZN Power and NZNS Storage and the Examining Authority as part of the examination process in order to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority properly to undertake its task or where further work is required to determine the effects of the project and/or to flesh out mitigation proposals and to consider compensation proposals to provide a sufficient degree of confidence as to their efficacy.

Natural England will continue discussions with NZN Power and NZNS Storage to seek to resolve these concerns and agree outstanding matters in a statement of common ground. Failing satisfactory agreement, Natural England advises that the matters set out in sections 4 to 7 will require consideration by the Examining Authority as part of the examination process.

The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

¹ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.



PART 1:

THE NATURAL FEATURES POTENTIALLY AFFECTED BY THIS APPLICATION

1. The designated sites relevant to this application are
 - 1.1.1. the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site
 - 1.1.2. the Teesmouth and Cleveland Coast Site of Special Scientific Interest (SSSI),
 - 1.1.3. the Southern North Sea Special Area of Conservation (SAC).
- 1.2. The proposed project will not affect any European or Nationally protected species.
- 1.3. The proposed project will not affect any protected landscapes.
- 1.4. The main issues raised by this application are:
 - 1.4.1. The project will discharge effluent waters to the Tees Bay, which is likely to result in an increase of nutrients (forms of nitrogen) and other pollutants entering the estuarine system of the River Tees. This could contribute to the further growth of algal mats at Seal Sands, which would contradict the Conservation Objectives for the site.
 - 1.4.2. The project includes the installation of rock armour protection at the proposed outfall locations, which are located within the Teesmouth and Cleveland Coast SPA. This has the potential to cause Likely Significant Effects and should be assessed in the Habitats Regulations Assessment.

Part II:

NATURAL ENGLAND'S RELEVANT REPRESENTATIONS IN RESPECT OF THE NET ZERO TEESIDE PROJECT

2. Planning Inspectorate Reference: EN010103

- 2.1. Natural England's advice is that in relation to identified nature conservation issues within its remit there is no fundamental reason of principle why the project should not be permitted .
- 2.2. Natural England's headline points are that on the basis of the information submitted:
 - 2.2.1. Natural England is satisfied that the following issues have been suitably addressed:
 - 2.2.1.1. That operational atmospheric pollution will not adversely affect the areas of the adjacent designated sites sensitive to nitrogen dioxide or ammonia deposition (e.g. Coatham Sands);
 - 2.2.1.2. That potential adverse effects due to construction/decommissioning noise and vibration will be mitigated by the proposed measures set out in the Habitats Regulations Assessment and draft Construction Environment Management Plan;
 - 2.2.1.3. That direct impacts to the Teesmouth and Cleveland Coast SPA/Ramsar/SSSI will be prevented due to the use of Horizontal Directional Drilling to construct the gas transportation pipeline below sensitive areas of these adjacent designated sites (e.g. below Coatham Dunes);
 - 2.2.1.4. The commitment to delivering net gains for biodiversity through the project.
 - 2.2.2. Natural England is not satisfied that it can be excluded beyond reasonable scientific doubt that the project would not have an indirect adverse effect on the integrity of the Teesmouth and Cleveland Coast SPA/Ramsar site;
 - 2.2.3. Natural England is not satisfied that the project is not likely to damage features of interest of Teesmouth and Cleveland Coast SSSI;
 - 2.2.4. Natural England advises that, if approved, the project must be subject to all necessary and appropriate requirements which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated.
- 2.3. Natural England's advice is that there are a number of matters which have not been resolved satisfactorily as part of the pre-application process that must be addressed by NZT Power and NZNS Storage and the Examining Authority as part of the examination and consenting process before development consent can be granted. Some of these matters, set out at paragraphs 2.3.1. and 2.3.2., are important enough to mean that if they are not satisfactorily addressed it would not be lawful to permit the project due to its impacts on the SAC, SPA, Ramsar and SSSI interests. However, Natural England's advice is that all these matters are capable of being overcome. The specific concerns in relation to each are outlined below.
 - 2.3.1. Discharges to the Tees Bay
 - 2.3.1.1. Chapter 9 Surface Water, Flood Risk and Water Resources of the Environmental Statement Volume 1 for the Application states that the operational phase of the 'electricity generating station with post-combustion carbon capture' will result in discharges of effluent waters into the Tees Bay. These include the following: potentially contaminated surface water, process

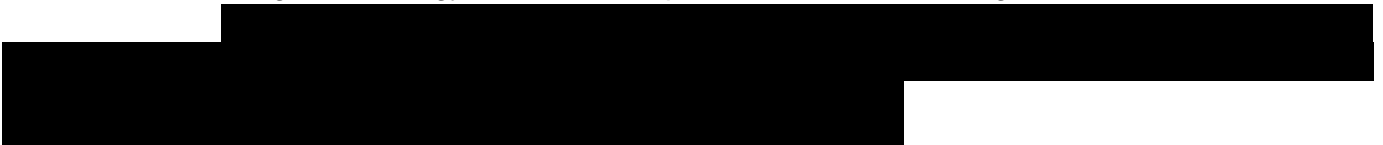
waters (including ammonia and urea), and blowdown waters, which will be discharged at an existing outfall in the Tees Bay or a new outfall to be constructed in the Tees Bay. These discharges will increase the overall loading of nutrients in the estuarine system, which could adversely effect the qualifying features of the Teesmouth and Cleveland Coast SPA/Ramsar and/or the special interest features of the Teesmouth and Cleveland Coast SSSI. Seal Sands is an area of particular concern, due to the growth of algal mats that are reducing the available foraging area for qualifying species (including knot, redshank and the waterbird assemblage).

2.3.2. Construction & Operation of Discharges Outfall

2.3.2.1. Chapter 14 Marine Ecology and Nature Conservation of the Environmental Statement Volume 1 provides details regarding the marine construction works associated with the reinstatement of the existing outfall or the creation of a replacement outfall in the Tees Bay. This includes the installation of rock armour protection to the outfall. Activities such as deposits and disposal activities have the potential to impact the achievement of the conservation objectives for Teesmouth and Cleveland Coast SPA. Rock armouring is mentioned in the Environmental Statement and the Development Consent Order (Part 2 section 3(c)vii) but has not been included in the Habitats Regulations Assessment (HRA). It is unclear whether this aspect of the project will have an adverse effect on the integrity of the site alone or in combination with other plans or projects.

2.4. Further to the mitigation measures identified within the HRA to minimise the potential for noise impacts to affect marine mammals Natural England offers the following advice regarding the project's approach to mitigating the potential impacts of unexploded ordnance (UXO) clearance:

2.4.1. Point 6.3.2 of the Habitat Regulations Assessment Report states that the standard Joint Nature Conservation Committee mitigation measures for piling and geophys surveys will be followed to minimise the potential for impacts on the qualifying features of the Southern North Sea SAC (specifically, harbour porpoise). However, additional guidance is available for UXO clearance, which should be incorporated into the proposed mitigation strategy to ensure best practice is followed. This guidance is available here:



PART II: OUTSTANDING MATTERS REQUIRING ATTENTION

- 3. Further details about the project in order to enable assessment**
 - 3.1. Confirmation if any wastewater (including foul sewage) from the project could be discharged from the Bran Sands Waste Water Treatment Works into the Dabholm Gut. If this is a possibility, the applicant should provide modelling of its impacts on the SPA/SSSI.
- 4. Further evidence or assessment work required**
 - 4.1. Modelling and assessment of the effluent waters created by the electricity generating station with post-combustion carbon capture discharge of nutrients and pollutants into the Tees Bay. In particular, the degree to which these will contribute to background coastal loading of nutrients and re-enter the estuarine system.
 - 4.2. Estimates of the anticipated loading (flow and concentration) of the proposed discharges (process water).
 - 4.3. Assessment of the potential impacts of installing rock armour protection within the SPA, as part of the project's HRA.
- 5. Matters that must be secured by requirements in the DCO**
 - 5.1. Additional mitigation or compensation strategies may be required depending on the outcome of the abovementioned additional details, evidence, assessments and modelling.
- 6. Comments on the draft DCO.**
 - 6.1. Natural England welcome the safeguards contained within the Draft DCO through the requirement to produce and have approved before any works can commence a Construction Environment Management Plan containing details of all environmental mitigation measures to be adopted. This will ensure there will be no detrimental impacts to bird species associated with the nationally and internationally designated sites adjacent to the proposal site.
 - 6.2. Natural England is satisfied that the draft DCO includes sufficient safeguards to ensure that the proposed landscaping scheme, and the environmental benefits resulting from it will be delivered.
 - 6.3. Natural England is satisfied that the DCO adequately ensures that any European and nationally protected species which have not been identified during survey work, but are subsequently discovered during project construction will be protected, and that the necessary licences will be obtained prior to works continuing should this be required.
 - 6.4. Natural England requests that the postal address given for the organisation in the DCO (Schedules 10 and 11 of the Deemed Marine Licence) is corrected to: Natural England, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX; Tel: 0300 060 3900.

Natural England
17 December 2021