

# **South Humber Bank Energy Centre Project**

Planning Inspectorate Reference: EN010107

**South Marsh Road, Stallingborough, DN41 8BZ**

**The South Humber Bank Energy Centre Order**

## **7.4 - Statement of Common Ground with Natural England**



**Applicant: EP Waste Management Ltd**  
**Date: December 2020**

## DOCUMENT HISTORY

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## GLOSSARY

Abbreviation	Description
ACC	Air-cooled condenser.
CEMP	Construction Environmental Management Plan.
CCGT	Combined Cycle Gas Turbine.
CFA	Continuous Flight Augur.
DCO	Development Consent Order: provides a consent for building and operating an NSIP.
EclA	Ecological Impact Assessment.
EfW	Energy from Waste: the combustion of waste material to provide electricity and/ or heat.
EIA	Environmental Impact Assessment.
EPUKI	EP UK Investments Ltd.
EPWM	EP Waste Management Limited ('The Applicant').
ES	Environmental Statement.
mAOD	Metres Above Ordnance Datum.
MW	Megawatt: the measure of power produced.
NE	Natural England.
NELC	North East Lincolnshire Council.
NSIP	Nationally Significant Infrastructure Project: for which a DCO is required.
NSR	Noise Sensitive Receptor.
PA 2008	Planning Act 2008.
PEI	Preliminary Environmental Information.
PINS	Planning Inspectorate.
Q2	Quarter 2.
Ramsar	A wetland site designated as of international importance under the Ramsar Convention.
RDF	Refuse derived fuel.
SAC	Special Area of Conservation – high quality conservation sites that are protected under the European Union Habitats Directive, due to their contribution to conserving those habitat

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	types that are considered to be most in need of conservation.
SHG	South Humber Gateway.
SHBEC	South Humber Bank Energy Centre.
SHBPS	South Humber Bank Power Station.
SoCG	Statement of Common Ground.
SoS	Secretary of State.
SPA	Special Protection Area - strictly protected sites classified in accordance with Article 4 of the EC Birds Directive. Special Protection Areas are Natura 2000 sites which are internationally important sites for the protection of threatened habitats and species
WCA	Wildlife and Countryside Act- legislation for the protection of animals, plants and certain habitats in the UK.

## CONTENTS

<b>1.0 Introduction</b>	<b>1</b>
1.1 Overview	1
1.2 The Applicant	1
1.3 The Proposed Development Site	1
1.4 The Proposed Development	2
1.5 Purpose of this Document	3
1.6 Status of this Version	3
<b>2.0 The Role Of Natural England</b>	<b>4</b>
<b>3.0 Summary Of Consultation</b>	<b>5</b>
<b>4.0 Matters Agreed</b>	<b>7</b>
4.1 Adequacy of the Environmental Statement and Other Relevant DCO Application Documents	7
4.2 Surveys and Effects on Protected Species and Their Habitats	7
4.3 Habitats Regulations Assessment and Effects on Internationally and Nationally Designated Sites	7
4.4 Effects on Non-Statutory Nature Conservation Designations	11
4.5 South Humber Gateway ('SHG') Strategic Mitigation	11
4.6 Construction Environmental Management Plan	11
4.7 Biodiversity Protection, Mitigation and Enhancement	12
4.8 Landscape	13
<b>5.0 Matters Not Yet Agreed</b>	<b>15</b>
5.1 Cumulative Air Quality Effects and Piling Noise Effects on Humber Estuary SAC/ SPA/ Ramsar site/ SSSI	15

## TABLES

Table 3.1: Consultation Summary	5
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## **1.0 INTRODUCTION**

### **1.1 Overview**

- 1.1.1 This Statement of Common Ground with Natural England ('NE') (Document Ref. 7.4) has been prepared on behalf of EP Waste Management Limited ('EPWM' or the 'Applicant'). It relates to the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of 'The Planning Act 2008' (the 'PA 2008').
- 1.1.2 EPWM is seeking development consent for the construction, operation and maintenance of an energy from waste ('EfW') power station with a gross electrical output of up to 95 megawatts (MW) including an electrical connection, a new site access, and other associated development (together 'the Proposed Development') on land at South Humber Bank Power Station ('SHBPS'), South Marsh Road, near Stallingborough in North East Lincolnshire ('the Site').
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under sections 14 and 15(2) of the PA 2008.
- 1.1.4 The DCO, if made by the SoS, would be known as the 'South Humber Bank Energy Centre Order' ('the Order').
- 1.1.5 Full planning permission ('the Planning Permission') was granted by North East Lincolnshire Council ('NELC') for an EfW power station with a gross electrical output of up to 49.9 MW and associated development ('the Consented Development') on land at SHBPS ('the Consented Development Site') under the Town and Country Planning Act 1990 on 12 April 2019. Since the Planning Permission was granted, the Applicant has assessed potential opportunities to improve the efficiency of the EfW power station, notably in relation to its electrical output. As a consequence, the Proposed Development would have a higher electrical output (up to 95 MW) than the Consented Development, although it would have the same maximum building dimensions and fuel throughput (up to 753,500 tonnes per annum (tpa)).

### **1.2 The Applicant**

- 1.2.1 The Applicant is a subsidiary of EP UK Investments Limited ('EPUKI'). EPUKI owns and operates a number of other power stations in the UK and is a subsidiary of Energetický a Průmyslový Holding ('EPH'). EPH owns and operates energy generation assets in the Czech Republic, Slovak Republic, Germany, Italy, Hungary, Poland, Ireland, and the United Kingdom.

### **1.3 The Proposed Development Site**

- 1.3.1 The Proposed Development Site (the 'Site' or the 'Order limits') is located within the boundary of the SHBPS site, east of the existing SHBPS, along with part of the carriageway within South Marsh Road. The principal access to the site is off South Marsh Road.
- 1.3.2 The Site is located on the South Humber Bank between the towns of Immingham and Grimsby; both over 3 km from the Site.

- 1.3.3 The Site lies within the administrative area of NELC, a unitary authority. The Site is owned by EP SHB Limited, a subsidiary of EPUKI, and is therefore under the control of the Applicant, with the exception of the highway land on South Marsh Road required for the new Site access.
- 1.3.4 The existing SHBPS was constructed in two phases between 1997 and 1999 and consists of two Combined Cycle Gas Turbine (CCGT) units fired by natural gas, with a combined gross electrical capacity of approximately 1,400 MW. It is operated by EP SHB Limited.
- 1.3.5 The Site is around 23 hectares ('ha') in area and is generally flat, and typically stands at around 2.0 m Above Ordnance Datum (mAOD).
- 1.3.6 A more detailed description of the Site is provided at Chapter 3: Description of the Proposed Development Site in the Environmental Statement ('ES') Volume I (Document Ref. 6.2).

#### **1.4 The Proposed Development**

- 1.4.1 The main components of the Proposed Development are summarised below:
- Work No. 1— an electricity generating station located on land at SHBPS, fuelled by refuse derived fuel ('RDF') with a gross electrical output of up to 95 MW at ISO conditions;
  - Work No. 1A— two emissions stacks and associated emissions monitoring systems;
  - Work No. 1B— administration block, including control room, workshops, stores and welfare facilities;
  - Work No. 2— comprising electrical, gas, water, telecommunication, steam and other utility connections for the generating station (Work No. 1);
  - Work No. 3— landscaping and biodiversity works;
  - Work No. 4— a new site access on to South Marsh Road and works to an existing access on to South Marsh Road; and
  - Work No. 5— temporary construction and laydown areas.
- 1.4.2 Various types of ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 of the DCO.
- 1.4.3 The Proposed Development comprises the works contained in the Consented Development, along with additional works not forming part of the Consented Development ('the Additional Works'). The Additional Works are summarised below.
- a larger air-cooled condenser ('ACC'), with an additional row of fans and heat exchangers;
  - a greater installed cooling capacity for the generator;
  - an increased transformer; and
  - ancillary works.

- 1.4.4 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the Draft DCO and Chapter 4: The Proposed Development in the ES Volume I (Document Ref. 6.2) and the areas within which each of the main components of the Proposed Development are to be built is shown by the coloured and hatched areas on the Works Plans (Document Ref. 4.3). Three representative construction scenarios (timescales) are described within Chapter 5: Construction Programme and Management in the ES Volume I (Document Ref. 6.2) and assessed in the Environmental Impact Assessment ('EIA').

## **1.5 Purpose of this Document**

- 1.5.1 This document is intended to summarise clearly the agreements reached between the parties on matters relevant to the examination of the Application and assist the Examining Authority. It has been prepared with regard to the guidance in 'Planning Act 2008: examination of applications for development consent' (Department for Communities and Local Government, March 2015).
- 1.5.2 This version of the document summarises the agreements regarding matters listed below and is based on the information available at this time, which principally comprises the draft DCO and accompanying Environmental Statement ('ES') Volumes I to III as well as the Environmental Permit for the Consented Development.
- adequacy of the ES;
  - Habitats Regulation Assessment and effects on international and nationally designated sites (including noise and visual disturbance as well as effects on air quality);
  - effects on non-statutory nature conservation designations;
  - surveys and effects on protected species and their habitats;
  - contributions to the South Humber Gateway Strategy;
  - management of impacts through the use of a Construction Environmental Management Plan (CEMP);
  - biodiversity protection, mitigation and enhancement; and
  - landscape.

## **1.6 Status of this Version**

- 1.6.1 The Statement of Common Ground ('SoCG') was prepared in October 2020 and subsequently was agreed as suitable and including all of the relevant matters.
- 1.6.2 Once finalised, it will be submitted to the Examining Authority to assist the examination of the Application.
- 1.6.3 Section 2 of this document summarises the role of NE, Section 3 sets out details of consultation with NE to date, Section 4 sets out what has been agreed in relation to the above matters and Section 5 sets out any areas of disagreement/ matters to be agreed.

## **2.0 THE ROLE OF NATURAL ENGLAND**

2.1.1 NE's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the Act.

2.1.2 The roles and responsibilities of NE under PA 2008 are outlined as follows:

- NE is a consultee under section 42 of the 2008 Act, meaning applicants must consult with NE before submitting a Nationally Significant Infrastructure Project (NSIP) application;
- NE is the statutory nature conservation body under the Conservation of Habitats and Species Regulations 2017 ('Habitats Regulations') in respect of the Habitats Regulation Assessment ('HRA') process; and
- NE is the consenting and licensing authority in respect of protected species and operations likely to damage the protected features of SSSIs pursuant to the Wildlife and Countryside Act 1981 (WCA 1981) and in relation to European protected species under the Habitats Regulations.

2.1.3 In more general terms aside from its responsibilities under PA 2008, NE is responsible for:

- promoting nature conservation and protecting biodiversity, conserving and enhancing the landscape;
- securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment;
- promoting access to the countryside and open spaces; and
- encouraging open-air recreation and contributing in other ways to social and economic well-being through management of the natural environment.



### 3.0 SUMMARY OF CONSULTATION

- 3.1.1 The consultation that has taken place with NE in relation to the issues raised within this SoCG is summarised in Table 3.1 below.
- 3.1.2 Consultation has been ongoing with NE since the scoping stage for the Consented Development (August 2018). Consultation comments received for the Consented Development are considered to be relevant to the Proposed Development and therefore a summary of all consultation comments received to date for the Consented Development and Proposed Development is presented in Table 3.1 below.

**Table 3.1: Consultation Summary**

<b>Date</b>	<b>Details</b>
September 2018 (consultation on EIA Scoping for Consented Development)	NE consulted by NELC in respect of a request made by the Applicant for an EIA Scoping Opinion for the Consented Development.  Response by NE on 27 July 2018 provided advice on general principles, biodiversity and geology, designated landscapes and landscape character, access and recreation, soil and agricultural land quality, air quality, climate change adaptation and cumulative and in-combination effects.
February 2019 (consultation on Consented Development planning application)	On the basis of the information submitted with the planning application for the Consented Development, NE raised no objections. NE provided recommendations regarding the securing of mitigation through a planning condition and Section 106 agreement.
September 2019 (consultation on EIA Scoping Opinion for Proposed Development)	NE consulted by PINS in respect of a request made by the Applicant for an EIA Scoping Opinion for the Proposed Development.  Response from NE included comments regarding species surveys (including botanical surveys, wintering birds, breeding birds, badger), definition of study area, and impacts on ecological features.
December 2019 (consultation on Preliminary Environmental Information (PEI) Report for Proposed Development)	NE was consulted in accordance with Section 42 of the PA 2008 and provided with consultation documents including a copy of the PEI Report.  The response provided by NE (dated 13 December 2019) included comments in respect of: <ul style="list-style-type: none"> <li>functionally linked land;</li> </ul>

Date	Details
	<ul style="list-style-type: none"> <li>• noise and visual disturbance;</li> <li>• water quality and drainage;</li> <li>• protected species; and</li> <li>• environmental and biodiversity enhancement.</li> </ul> <p>The comments were noted and the proposed biodiversity enhancement measures were updated in light of NE's comments.</p>
January 2020 (consultation on Preliminary Environmental Information (PEI) Report for Proposed Development)	<p>NE issued a follow-up response on 7 January 2020 relating to air quality.</p> <p>The Applicant responded in writing to NE confirming receipt of their comments and outlining the works ongoing to inform the final DCO application.</p>
February 2020 (pre-application consultation meeting regarding the Proposed Development)	<p>Meeting held with NE to discuss the updated cumulative air quality assessment and revised HRA Signposting report in light of a biofuel planning application that had been made by a third party for a nearby site.</p>
NE Relevant Representation dated 11 July 2020	<p>NE's Relevant Representation included requests for clarification in relation air quality and noise and vibration related disturbance. The Applicant responded in writing to NE in October 2020, providing the clarifications sought by NE.</p>
November - December 2020 (NE Response to the information provided by the Applicant in response to NE Relevant Representation).	<p>Following review of the information provided by the Applicant further clarification has been sought by NE. A meeting was held between the Applicant and NE on 8<sup>th</sup> December to discuss the information required. See Section 5 which includes matters not yet agreed at Deadline 1.</p>

## **4.0 MATTERS AGREED**

### **4.1 Adequacy of the Environmental Statement and Other Relevant DCO Application Documents**

- 4.1.1 Impacts on ecology are considered in ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10) which summarises the ecological surveys undertaken and provides an assessment of the effects of the Proposed Development on ecological receptors. The survey reports are provided in ES Volume II, Appendices 10A to 10F (Document Refs. 6.4.13 to 6.4.18). A Biodiversity Strategy is included within the draft DCO application documents (Document Reference 5.11).
- 4.1.2 The application is also accompanied by an HRA Signposting report (Document Ref. 5.8).
- 4.1.3 It is agreed that the surveys and methods used to inform the assessment of effects upon protected species, habitats and biodiversity are appropriate and in line with current best practice and guidance.
- 4.1.4 It is also agreed that, in line with the conclusions of ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10), the Proposed Development will not result in significant effects upon habitats or protected species, as discussed below.

### **4.2 Surveys and Effects on Protected Species and Their Habitats**

- 4.2.1 It is agreed that the scope and methodologies for the protected species and habitat surveys carried out and presented in the ES are appropriate and follow current and accepted guidance. NE accept the rationale for the scoping out of wintering bird surveys as outlined in ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10).
- 4.2.2 It is agreed that the impact avoidance and mitigation measures for protected species and their habitats (including water vole and otter) set out in ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10) will provide effective protection and are therefore acceptable.

### **4.3 Habitats Regulations Assessment and Effects on Internationally and Nationally Designated Sites**

- 4.3.1 The application is accompanied by an HRA Signposting report (Document Ref. 5.8). It is agreed that NE will be given the opportunity to review the revised HRA Signposting report that is to be submitted at Deadline 2 in response to the Examining Authority's first written questions to ensure it contains all the information required by the competent authority to undertake an 'Appropriate Assessment' under the terms of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the 'Habitats Regulations').

#### Noise and Vibration Disturbance

- 4.3.2 Potential effects on the qualifying species of the Humber Estuary Special Area of Conservation (SAC)/ Special Protection Area (SPA)/ Ramsar/ Site of Special Scientific Interest (SSSI) as a result of noise and vibration have been addressed in the ES and relevant appendices.

- 4.3.3 As reported in ES Volume I, Chapter 8: Noise and Vibration (Document Ref. 6.2.8) and Chapter 10: Ecology (Document Ref 6.2.10), no significant operational noise and vibration effects are predicted at any location within the Humber Estuary SPA/ Ramsar site (due to distance and the presence of the existing flood defence embankment).
- 4.3.4 Potentially significant noise and vibration effects on waterbirds using functionally linked fields to the north and south of the Site were predicted if drop hammer piling were to be used in the winter months. It is agreed that appropriate mitigation will therefore be required to avoid any significant construction noise and vibration effects on ecological receptors. The Applicant remains in discussion with NE regarding the details of the proposed construction piling noise mitigation (see Section 5).
- 4.3.5 It is agreed that there will be no significant operational noise effects on the functionally linked habitats.
- 4.3.6 It is agreed that the wording of draft DCO Requirement 17 would secure the same control on construction piling (with regards to noise effects on waterbirds) as is secured in the Planning Permission. The wording of Requirement 17 is as follows:

*“17. (1) No part of the authorised development comprised within Work No. 1 may commence until a written specification of the type of piling to be used to support the building and structures has been submitted to and approved by the relevant planning authority.*

*(2) The written specification submitted to and approved under subparagraph (1) must include a scheme to mitigate the effects of the piling with regard to noise to ecological receptors (which shall be in accordance with section 7 of the biodiversity strategy) and a scheme to mitigate the effects of the piling with regard to groundwater resources (which must be in accordance with the results of the site investigation carried out, and the remediation strategy submitted, pursuant to requirement 19).*

*(3) All piling works must be carried out in accordance with the approved written specification unless otherwise agreed with the relevant planning authority.”*

- 4.3.7 Preparation of a Construction Environmental Management Plan (CEMP) including construction noise and vibration control measures is also to be secured by draft Requirement 15 (Construction Environmental Management Plan) (see Section 4.5 below for draft Requirement wording).
- 4.3.8 Based on the above, it is agreed that the effects of noise and vibration disturbance on the Humber Estuary bird species during operation have been adequately assessed and controlled and that the operation of the Proposed Development will not result in any adverse effects on ecological receptors.

#### Visual Disturbance

- 4.3.9 As reported in ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10), there will be no visual disturbance of waterbirds at any location within the Humber Estuary SPA/ Ramsar site (due to distance and the presence of the existing flood defence embankment).

4.3.10 A visual screen will be installed along part of the southern boundary of the Site to avoid visual disturbance of waterbirds feeding, roosting and loafing in the adjacent functionally linked field to the south during construction and operation of the Proposed Development. No significant visual disturbance effects on functionally linked habitats are therefore predicted.

4.3.11 It is agreed that the potential visual impacts on the qualifying species of the Humber Estuary SAC/ SPA/ Ramsar/ SSSI have been adequately addressed in the ES and the impact avoidance measure (a visual screen) will effectively mitigate visual disturbance effects on waterbirds using the field to the south of the Site. It is agreed that this is adequately secured by the wording of draft Requirement 8 (Hard landscaping and means of enclosure) as follows:

*“8.(1) No part of the authorised development may commence, save for the permitted preliminary works, until the details and position of means of enclosure, circulation areas, hardstandings and all other hard landscaping for that part have been submitted and approved in writing by the relevant planning authority.*

*(2) The details submitted under sub-paragraph (1) in respect of Work No. 1 must include details of a 2.5 metre high close board fence along the southern and eastern boundary of Work No. 1.*

*(3) The details submitted under sub-paragraph (1) in respect of Work No. 5 must include details of a 2.5 metre high close board fence along the eastern boundary of Work No. 5 to the extent that it is coincidental with the Order limits.*

*(4) In this requirement, “means of enclosure” means fencing, walls or other means of boundary treatment and enclosure.”*

#### Air Quality

4.3.12 The air quality impact assessment is presented in ES Chapter 7: Air Quality (Document Reference 6.2.7), including assessment of air quality effects on the Humber Estuary SAC/ SPA/ Ramsar/ SSSI habitats.

4.3.13 Effects of releases to air from the Proposed Development via emission stacks have been assessed using dispersion modelling. This, combined with ambient monitoring of air quality at the European designated sites, was used to demonstrate that the worst case emission levels were adequately dispersed from the stacks so as to not give rise to significant effects and that the stack height selected was therefore appropriate for the Proposed Development.

4.3.14

#### Water Pollution

4.3.15 The ditches within the Site boundary eventually discharge into the Humber Estuary. Pollution prevention during construction will be provided by the adoption of standard best practice construction methods to meet environmental requirements, which will be secured by the CEMP (see Section 4.5 below). These are measures which are put in place as standard on similar construction projects and are not included specifically to avoid or reduce any

adverse effects on the Humber Estuary SPA/ SAC/ Ramsar/ SSSI. These measures are therefore not mitigation measures in the context of the HRA.

- 4.3.16 As concluded in ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10) it is agreed that potential pollution during operation will be controlled through the drainage design as set out in ES Volume I, Chapter 14: Water Resources, Flood Risk and Drainage (Document Ref. 6.2.14) and the Environmental Permit required from the Environment Agency for the operation of the plant.
- 4.3.17 It is agreed that the ES provides a satisfactory assessment of the potential pollution risks to surface water (including waterbodies classified under the Water Framework Directive), that no surface water pathway by which the Proposed Development could result in significant effects on the Humber Estuary SAC/ SPA/ Ramsar/ SSSI designated habitats, and the marine ecology features they support (sea lamprey, river lamprey and grey seal) and that the pollution prevention and surface water management measures identified are appropriate.
- 4.3.18 As regards groundwater it is agreed that the risk of contamination to groundwater receptors is prevented through the CEMP (see Section 4.6 for draft Requirement wording) and environmental permitting obligations and therefore no indirect effect on any designated sites from groundwater contamination from the Proposed Development have been identified.
- 4.3.19 Furthermore, it is agreed that the inclusion of draft DCO Requirements 13 (Surface water drainage) and 14 (Foul water drainage) secure the measures to effectively prevent impacts on surface water quality.
- 4.3.20 The wording of draft Requirements 13 and 14 are agreed as follows:

*“13. (1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the permanent surface water drainage systems, including a future maintenance plan, have been submitted to and approved in writing by the relevant planning authority.*

*(2) The details submitted and approved under sub-paragraph (1) must be in accordance with the principles set out in the relevant part of the outline drainage strategy.*

*(3) The scheme approved under sub-paragraph (1) must be implemented as approved prior to the development coming into operation and maintained as approved throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.”*

*“14. (1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the permanent foul water drainage systems, including a future maintenance plan, have been submitted to and approved in writing by the relevant planning authority.*

*(2) The details submitted and approved under sub-paragraph (1) must be in accordance with the principles set out in the relevant part of the outline drainage strategy.*



*(3) The scheme approved under sub-paragraph (1) must be implemented as approved prior to the development coming into operation and maintained as approved throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.*

#### **4.4 Effects on Non-Statutory Nature Conservation Designations**

- 4.4.1 ES Volume I, Chapter 10: Ecology (Document Ref. 6.2.10) includes an assessment of potential effects on Local Wildlife Sites.
- 4.4.2 The assessment considers only potential for effects from changes in air quality during operation of the Proposed Development; no other potential impacts are identified given the Local Wildlife Sites' distance from the Site.
- 4.4.3 NE provided comments highlighting that there were potentially significant air quality impacts on four Local Wildlife Sites. However, the formal assessment of this is out with the remit of NE. NE defers to the Local Authority and/or the Environment Agency to determine whether it is possible to conclude no significant effects on non-statutory nature conservation designations within 2 km of the Proposed Development.

#### **4.5 South Humber Gateway ('SHG') Strategic Mitigation**

- 4.5.1 A financial contribution towards the South Humber Gateway strategic mitigation land will be made by the Applicant in accordance with NELC Local Plan Policy 9, which will be secured by a Deed of Variation to the Consented Development Section 106 Agreement between the Applicant and NELC (a draft was provided as Document Ref. 5.13). NE does not have any comments on the mechanism of how this financial contribution will be secured. However, it is agreed that the SHG strategic mitigation approach is acceptable to mitigate for the loss of functionally linked land associated with the Humber Estuary SPA/ Ramsar within the Site.

#### **4.6 Construction Environmental Management Plan**

- 4.6.1 It is agreed that the outline CEMP (Document Ref. 6.4.4) includes the necessary principal controls to effectively manage environmental risks associated with the construction of the Proposed Development. It is also agreed that draft Requirement 15 (Construction Environmental Management Plan) of the draft DCO (together with draft Requirement 17 as described above) is appropriate for controlling the environmental effects of construction.
- 4.6.2 The wording of draft Requirement 15 is agreed as follows:
  - "15. (1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority.*
  - (2) The plan submitted and approved must be in accordance with appendix 5A of the environmental statement and the biodiversity protection plan and incorporate—*
    - (a) visitor and contractor parking areas;*
    - (b) a materials management plan;*

- (c) materials storage areas;*
  - (d) wheel cleaning facilities;*
  - (e) noise, vibration and dust mitigation measures;*
  - (f) lighting details;*
  - (g) waste management in accordance with chapter 16 of the environmental statement; and*
  - (h) pollution control.*
- (3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.”*

#### **4.7 Biodiversity Protection, Mitigation and Enhancement**

- 4.7.1 Measures to protect biodiversity including water vole, grass snake, great crested newt and breeding birds during construction are set out in the Biodiversity Strategy (Document Ref. 5.11).
- 4.7.2 Biodiversity mitigation and enhancement measures are also set out in the Biodiversity Strategy (Document Ref. 5.11).
- 4.7.3 The mitigation and enhancement measures agreed as part of the Consented Development were as follows:
- creation of an area of species-rich grassland to the west of SHBPS;
  - creation of a new wildlife pond;
  - creation of log pile refuges; and
  - installation of bird boxes on mature trees to the west of SHBPS.
- 4.7.4 These mitigation and enhancement proposals have been further developed for the Proposed Development in response to NE comments on the PEI Report (Section 42 consultation) to also include:
- species-rich hedgerow creation; and
  - enhancement of ditch habitats within the Site to improve habitat for water vole.
- 4.7.5 It is agreed that the biodiversity protection, mitigation and enhancement measures provided within the Biodiversity Strategy (Document Ref. 5.11) are appropriate and comply with the policy in NPS EN-1 on biodiversity including paragraphs 5.3.15 and 5.3.18.
- 4.7.6 These measures are secured by draft DCO Requirements 11 (Biodiversity Protection) and 12 (Biodiversity mitigation and enhancement).
- 4.7.7 The wording of draft Requirements 11 and 12 are agreed as follows:
- “11.(1) The biodiversity protection plan must be implemented during the construction of the authorised development, unless otherwise agreed by the relevant planning authority.*



*(2) No later than 24 months from the commencement of construction of the new access on South Marsh Road a report by a qualified ecologist verifying the implementation of the biodiversity protection plan must be submitted to and approved in writing by the relevant planning authority, unless otherwise agreed by the relevant planning authority”.*

*“12.(1) No later than 12 months from submission of the details under requirement 11(2) a biodiversity mitigation and enhancement plan must be submitted to the relevant planning authority.*

*(2) The plan submitted and approved under sub-paragraph (1) must be in accordance with the principles set out in the indicative biodiversity mitigation and enhancement plan, and must include an implementation timetable, including monitoring and maintenance activities.*

*(3) The plan approved under sub-paragraph (1) must be implemented in full by the end of the second planting season after the plan is approved and implemented as approved during the operation of the authorised development unless otherwise agreed the relevant planning authority.”*

#### **4.8 Landscape**

4.8.1 The effects of the Proposed Development on landscape character are assessed in Chapter 11: Landscape and Visual Amenity of the ES Volume I (Document Ref. 6.2.11). No significant effects are identified.

4.8.2 It is agreed that the measures to retain and manage existing areas of tree planting in the north-west, west and south-west of the Site throughout the operational life of the Proposed Development, as set out in the Indicative Landscape Strategy (Document Ref. 5.10), are appropriate. This is secured by draft DCO Requirement 7 (Retained trees), as follows:

*“7. (1) All trees located within Work No. 3 must be retained throughout the construction and operation of the authorised development unless replaced under sub-paragraph (2) or otherwise agreed with the relevant planning authority.*

*(2) Any tree within Work No. 3 that is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, during the construction or operation of the development must be replaced in the first available planting season with a specimen of the same species unless otherwise agreed with the relevant planning authority.”*

4.8.3 Draft DCO Requirement 10 (Soft landscaping) secures the provision of other soft landscaping, as follows:

*“10. (1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme of soft landscaping and planting for that part has been submitted and approved in writing by the relevant planning authority.*

*(2) The scheme submitted and approved under sub-paragraph (1) must include details of—*

- (a) materials, and the number, species, sizes and planting positions of any planting;*
  - (b) measures to protect any existing shrub and tree planting that is to be retained;*
  - (c) an implementation plan; and*
  - (d) a future maintenance plan.*
- (3) The scheme must be implemented within a period of 12 months beginning with the coming into operation of the authorised development and maintained as approved during the operation of the authorised development, unless otherwise agreed with the relevant planning authority.”*

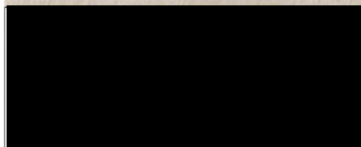
## **5.0 MATTERS NOT YET AGREED**

### **5.1 Cumulative Air Quality Effects and Piling Noise Effects on Humber Estuary SAC/ SPA/ Ramsar site/ SSSI**

5.1.1 Further clarification has been sought by NE regarding the following matters:

- assessment of cumulative (in-combination) NO<sub>x</sub> and acid deposition effects on Humber Estuary SAC/ SPA/ Ramsar site/ SSSI; and
- proposed mitigation for piling noise effects on waterbirds using Pyewipe mudflats and functionally linked fields to the north and south of the Site.

5.1.2 The parties are both committed to taking forward discussions on the matters above as necessary, so whilst they are not yet agreed both parties hope to conclude discussions in the near future.



Signed: Lauren Forecast

**On behalf of: Natural England**

Date:

Signed:

**On behalf of: EP Waste Management Ltd**

Date:

