

Date: 15 November 2022
Our ref: 408186
Your ref: EN010110



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National Infrastructure Planning
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BY EMAIL ONLY

Dear Sir,

EN010110: Application by Medworth CHP Limited for an Order Granting Development Consent for the Medworth Energy from Waste Combined Heat and Power Facility.

Title: Natural England's comments in respect of Medworth Energy from Waste Combined Heat and Power Facility by Medworth HCP Limited

Examining authority's submission deadline EN010110 Tuesday 15th November 2022.

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.

For any further advice on this consultation please contact the case officer Emily Butterwick via telephone on [REDACTED] or email emily[REDACTED] and copy to [REDACTED]

Yours sincerely,

Janet Nuttall

West Anglia Sustainable Development Casework Manager

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Natural England's Relevant Representations

PART I: Summary and Conclusions of Natural England's advice.
PART II: Natural England's detailed advice (starting on page 8)
PART III: Natural England's detailed comments on the Development Consent Order (DCO) (starting on page 12)

Part I: Summary and Conclusions of Natural England's advice

Natural England's advice in these relevant representations is based on information submitted by Medworth CHP Limited in support of its application for a Development Consent Order ('DCO') in relation to Medworth Energy from Waste Combines Heat and Power Facility (*the project*).

Part I of these representations summarises what Natural England considers the main issues¹ to be in relation to the DCO, 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.

Summary of Natural England's Advice

Natural England is satisfied that the Environmental Statement and Habitats Regulations Assessment confirm that the proposed scheme is unlikely to have any adverse effect on key matters within Natural England's statutory remit, including designated sites. However, there is the significant matter of Biodiversity Net Gain that needs to be resolved. To overcome our concerns, a feasibility assessment is needed for offsite Biodiversity Net Gain before the Development Consent Order requirement. We recommend consulting with the Local Planning Authority and county ecologists regarding offsite Biodiversity Net Gain.

We are satisfied with the parameters of the Construction Environment Management Plan, Outline Ecological Mitigation Strategy and Landscape Environment Management Plan. The Environmental Statement explored the reasonable alternatives of this proposal and we are satisfied that these were addressed.

Our comments are set out against the following sub-headings which represent our key areas of remit:

- Internationally designated sites
- Nationally designated sites
- Protected species

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

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

- Biodiversity net gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees
- Connecting people with nature (National Trails, open access land and England Coast Path)
- Other valuable and sensitive habitats and species, landscapes and access routes

Our comments are flagged as red, amber or green:

- Red are those where there are fundamental concerns which it may not be possible to overcome in their current form.
- Amber are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- Green are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured).

Part I of these representations provides an overview of the issues and a summary of Natural England's advice. Section 2 identifies the natural features relevant to this application. Section 3 summarises 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 Medworth HCP Limited 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 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 Medworth HCP Limited 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 section 4 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.

2.The natural features potentially affected by this application

Internationally designated sites considered within the HRA:

- Ouse Washes SPA, SAC and Ramsar
- Nene Washes SPA, SAC and Ramsar
- The Wash SPA and Ramsar
- The Wash and North Norfolk Coast SAC.

Internationally designated sites

Our position regarding impacts on internationally designated sites is summarised below. Further detail on our reasoning for this is given against each impact pathway within Part II.

Natural England is satisfied that 'green' issues are unlikely to result in adverse effects on the integrity (AEoI) of the following internationally designated sites, subject always to the appropriate mitigation/compensation as outlined in the application documents being secured adequately.

Issues that are unlikely to result in an adverse effect on the integrity of internationally designated sites:

- Loss of Functionally Linked Land used by qualifying species.
- Impacts to air quality from emissions during construction and operation of the facility.
- Impacts to air quality from increased traffic, vehicles and generators.
- Impacts from dust deposition during construction and operation.

All issues have been appropriately evidenced through survey efforts and obtaining historic records. Natural England are in agreement with the conclusions of the HRA.

Protected species

Natural England's position regarding European protected species is summarised below. Further detail on our reasoning for this is given in part II.

Natural England are satisfied that this development will not result in direct impacts to protected species. This conclusion was reached based on the following evidence:

- There is no evidence of protected species present on the development site.
- Seven trees were noted as having bat roost potential, however no species were observed to use these trees and there was no evidence of roosting.
- Extensive surveys were carried out for all protected species, including bird surveys to determine use by qualifying species from internationally designated sites. These found no presence of protected species, with one exception, being water vole.
- There was evidence of a low presence of water voles but no evidence of them using any potential burrows during the survey.

Natural England are of the position that no mitigation is necessary to address the impacts to protected species. However, we do have some concerns regarding the presence of water voles on site. We recommend that, prior to the commencement of works, a qualified ecologist surveys the areas of high suitability for water voles to determine if the protected species is present on site. If so, the applicant should contact Natural England for a protected species licence and a subsequent Letter of No Impedement. The Construction Environment Management Plan proposes that pre-construction ecological surveys will be conducted to update baseline data. This addresses our recommendations, thus we have no concerns regarding protected species.

Biodiversity Net Gain

Natural England's position regarding provision of Biodiversity Net Gain (BNG) is summarised below. Further detail on our reasoning for this is given in Part II.

At present, the development will result in a Biodiversity Net Loss of -9.98% in Habitat Units, -21.56% in Hedgerow Units and -11.85% of River Units. The applicant has ensured that as much habitat creation as possible is delivered on site, including:

- Incorporation of wet woodland into the Sustainable Urban Drainage System (SuDS)
- Native, species- rich hedgerows and shrubs
- Species-rich, wet grassland
- Species rich neutral grassland
- Installation of brown roofs on administrative buildings to mimic brownfield land
- Installation of a green wall on the administrative building

Natural England are of the position that, with consideration of future statutory requirements set forth by The Environment Act 2021 for mandatory BNG for NSIPs in 2025, at present the applicant has not yet gone far enough to address loss of biodiversity.

We recommend the applicant consult Natural England on their offsite Biodiversity Net Gain provision as more detailed plans emerge. It is noted that this application is in its early stages and as such no detailed designs have been developed. The key consideration for offsite BNG is feasibility and how potential options will be delivered. We are in agreement that Biodiversity Metric V3.0 was appropriate to use for this development.

Soils and best and most versatile agricultural land

Natural England's position regarding soils and the best and most versatile agricultural land is summarised below. Further detail on our reasoning for this is given in Part II.

Natural England has no concerns regarding soils. We are satisfied that the Outline Soil Management Plan considers the appropriate handling, placing compaction and management of soils in accordance with best available practice. There was no Best and Most Versatile Agricultural Land within the application site.

Ancient woodland and ancient/veteran trees

Natural England's position regarding ancient woodland and ancient/veteran trees is summarised below. Further detail on our reasoning for this is given in Part II.

Natural England is satisfied with the findings of the Tree Survey submitted and conclude there will be no impacts to ancient woodland or veteran trees.

Connecting people with nature (National Trails, open access land and England Coast Path)

Natural England's position regarding access is summarised below. Further detail on our reasoning for this is given in Part II.

Consideration has been given from the applicant to the landscape and visual impacts from the proposed development. We are satisfied that no open access land or public rights of way will be directly impacted.

3. Natural England's overall conclusions

The main issue raised by this application are:

- Overall Biodiversity Net Loss from the development.

The applicant will need to meet trading rules with the loss of medium distinctiveness habitat in terms of what they provide. The applicant must provide habitat of the same broad type with at least a medium distinctiveness or above.

Natural England's Relevant Representations

4. Part II: Natural England's detailed advice

Part II of these representations expands upon the detail of all the significant issues ('red' and 'amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Part II also shows 'green' issues where a resolution has been reached and subject always to the appropriate requirements being adequately secured.

Natural England has no outstanding concerns to the project impacting designated sites for the following reasons:

The applicant has submitted a thorough Environmental Statement which we are satisfied demonstrates beyond reasonable scientific doubt that there would be no significant effect on the integrity of any European site.

Natural England is satisfied that the project is unlikely to have a significant impact on the nearby internationally designates sites Ouse Washes SPA, SAC and Ramsar, Nene Washes SPA, SAC and Ramsar, The Wash SPA and Ramsar and The Wash and North Norfolk Coast SAC.

The project site currently supports habitats of negligible ecological interest and all protected species issues (including any licensing requirements under the Habitats Regulations or the 1981 Act) can be addressed by the proposed draft DCO requirements:

- During ecological surveys prior to commencement of works, should a protected species be identified on site, the appropriate mitigation licence will be sought from Natural England.

Natural England welcomes the onsite BNG proposed as set out in the Outline Landscape and Ecological Management Plan which will have a positive effect on the natural environment by providing local priority habitats, implementing a Sustainable Urban Drainage System and providing artificial habitats for protected species (including bat boxes, bird boxes, hedgehog boxes, invertebrate hotels, refugia and hibernacula. This is in accordance with the principles set out in paragraph 170 of the National Planning Policy Framework. Natural England notes that this commitment is reflected in proposed Requirement Work No. 10 (j) of the draft DCO. Natural England therefore advises that this requirement should be secured by a suitably worded requirement in the DCO, if the project is approved.

Please note that Natural England has outstanding concerns relating to the delivery of 10% Biodiversity Net Gain as a result of this development. This is not a fundamental reason of principle for why the project should not be permitted, but rather a consideration for the subsequent submissions from the applicant.

The application site does not include any irreplaceable habitat or very high distinctiveness habitat. It is recommended that offsite options for BNG delivery should feed into local strategic delivery. We note the applicant's consideration of Cambridgeshire and Peterborough's Habitat Opportunity

Mapping and Natural Cambridgeshire’s Developing with Nature Toolkit. Our advice is to consult with Local Planning Authorities to determine the options that are available for offsite BNG.

Natural England were pleased to see the recognition of BNG good practice principles and the applicant’s considerations in their design around connectivity, resilience and strategic significance. We also note the use of the Habitat Priority Index to identify priority habitats that have been integrated into onsite BNG design, as well as the intention to secure BNG habitat for 30 years.

In summary, aside from the issue raised above in relation to BNG and protected species, Natural England have no other concerns relating to this planning application. We are available to make oral representations at an issue specific hearing or open floor hearing, should the Planning Inspectorate deem it necessary.

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.

Natural England will continue engaging with the applicant to seek to resolve outstanding concerns throughout the examination. Natural England advises that the matters indicated as ‘red’ and ‘amber’ will require consideration by the Examining Authority during the examination.

Natural Englands Relevant Representations, Part II, Table 1

Table 1: Natural England’s detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment. • Further evidence or assessment work required. 	NE comment on mechanism for securing resolution – e.g. mitigation/compensation	<ul style="list-style-type: none"> • Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable). 	Risk Red/Amber /Green
	International designated sites		None required.			GREEN

	National designated sites (biodiversity & geodiversity)		None required.			GREEN
	Protected Species		Further assessment work required.	Survey to be undergone prior to the commencement of works to determine the presence of protected species on site. A Water Vole survey should be completed, including a survey of potential burrows.	A qualified ecologist should undergo the appropriate protected species surveys prior to commencement of works. This is included in the CEMP but we recommend this is secured in the DCO to address our concerns.	AMBER
	Biodiversity net gain		Offsite BNG delivery strategy to address the overall net loss of biodiversity from the proposed development.	Provide a detailed design for offsite Biodiversity Net Gain as part of the appropriate compensation for habitat loss onsite, including feasibility for delivery.	Include offsite BNG delivery strategy to provide the appropriate compensation for biodiversity units lost onsite. It is necessary to include this in the DCO to ensure this is delivered to meet the future requirements set forth by The Environment Act 2021. The applicant will need to meet trading rules with the loss of medium distinctiveness habitat in terms of what they provide. The applicant must provide habitat of the same broad type with at least a medium distinctiveness or above.	AMBER
	National designated landscapes		None required.			GREEN

Soils and Best and Most Versatile Agricultural Land		None required.			GREEN
Ancient Woodland and Ancient/Veteran Trees		None required.			GREEN
Connecting people with nature		None required.			GREEN
Other valuable and sensitive habitats and species, landscapes and access routes		None required.			GREEN

Natural England's Relevant Representations

PART III: Natural England's detailed comments on the Development Consent Order (DCO) and associated documents

Page	DCO/DML or omission ref	Natural England's comments	Risk (Red/Amber/Green)
33	Work No. 10 (j)	Essential to the DCO.	GREEN
35	Sch. 2 4	Essential to the DCO.	GREEN
35	Sch. 2 5	Welcomed part of the DCO.	GREEN
35	Sch. 2 6	Essential part of the DCO. Matters concerning the delivery of a minimum of 10% BNG must be addressed, including proposed offsite BNG delivery strategy.	AMBER
36	Sch. 2 10	Essential to the DCO.	GREEN
38	Sch. 2 18	Essential to the DCO.	GREEN
40	Sch. 2 25	Welcomed part of the DCO.	GREEN

