

NORTH LINCS S51 ADVICE – EST INPUT – 12 April 2022

Environmental Statement (ES) (Volume 6)

Description of the Development

The Inspectorate has identified inconsistencies in the way that the Proposed Development has been described in the ES and other application documents. Examples are provided below.

- ES Chapter 3 Project Description and Alternatives paragraph 3.2.3.8 states that the plastic recycling facility would have maximum dimensions of 132m x 90m with a maximum height of 25m. This differs from the dimensions of the process building in Table 1 (which are 130m x 80m with a maximum height of 28.9m; these accord with those in the draft Development Consent Order (dDCO)). This is further confused by the Explanatory Memorandum which states that the maximum scale of the building itself would be 100m x 50m.
- The description of the emissions stack varies across documents:
 - ES Chapter 3 Project Description and Alternatives paragraph 3.2.15 states that there would be three exhaust flues which “*may be contained in a single windshield*”.
 - ES Chapter 3 Table 1 states the footprint to be 10x10m diameter.
 - ES Chapter 11 Landscape and Visual has assessed the visual impacts of a single stack.
 - Table 18 of Appendix C of ES Chapter 5 Air Quality states that there would be three stacks (lines) each with a diameter of 2.47m, approximately 2.55m apart.
 - Work No. 1A of the dDCO provides for three emissions stacks, however the Parameters Table in Part 3 identifies a single stack (Work No. 1A) with a maximum diameter of 10m.
 - The Works Plans show three stacks in three different locations.
 - The Roof Plans show a single main stack (enclosing three flues) and an additional back up boiler stack.

The above are examples only and the Applicant should ensure that there is consistency in the project description for all elements across all documents, or an explanation as to why any parameters have been considered differently.

The ES should also clarify if the assessments presented within ES Chapter 5 Air Quality and ES Chapter 11 Landscape and Visual are based on a 120m stack height in relation to finished floor level or above ordnance datum (AOD).

Baseline information

ES Chapter 10 Ecology and Nature Conservation explains that migratory bird surveys are ongoing to cover the time period recommended by Natural England during s42(a) statutory consultation and the results will be available during the Examination. The results of these surveys should be incorporated into both the ES and the Report to Inform HRA and used to inform the assessment of effects.

Assessment scope

The Inspectorate considers there are a number of matters relating to the assessment scope that should be addressed by the Applicant, as detailed below.

ES Chapter 3 Project Description and Alternatives paragraph 3.2.37 describes a covered elevated walkway between various Energy Park buildings. The potential impacts of the walkway have not been explicitly assessed within the ES and, of particular note, it is not referenced within ES Chapter 11 Landscape and Visual Impact. The Applicant is advised

to perform an audit of the ES to ensure that any likely significant effects of this element of the Proposed Development are clearly identified and assessed.

The dDCO does not stipulate a minimum stack height, however stack height has potential implications on the dispersion of pollutants. The Applicant is therefore advised to give consideration as to whether a minimum stack height should be defined in the dDCO and to provide a sensitivity analysis of minimum and maximum parameters.

ES Chapter 5 Air Quality screens out an assessment of construction traffic on the basis that there would be 48 HGVs accessing the site per day, which would be below the Institute of Air Quality Management (IAQM) screening criteria of more than 100 HGVs Annual Average Daily Traffic (AADT), and therefore of negligible significance. ES Chapter 13 Traffic and Transport indicates at Table 15 that HGVs could exceed 100 per day in Years 2 (up to 105) and 5 (up to 150) of the construction programme in the worst case scenario, ie all deliveries by road. The Applicant is advised to clarify the basis on which air quality effects from construction traffic were screened out of assessment and assess any likely significant effects where necessary.

ES Chapter 5 Air Quality includes an assessment of air quality effects arising from operational traffic. Paragraph 4.3.10.5 confirms that the new access road was the sole road modelled. It states that traffic changes on other roads were not considered to be sufficient to have a material impact on air quality on the basis that the “*key thresholds as set by the Institute of Air Quality Management (IAQM) [2017 Land-Use Planning and Development Control: Planning for Air Quality] is that impacts to human or ecological receptors will not be significant where HGVs are less than 200 vehicles/day*”. However, as acknowledged in the ES in respect of construction traffic, Table 6.2 of the IAQM guidance has a threshold of 100 HGVs per day. ES Chapter 13 Traffic and Transport (Table 21) identifies that there are other road links within the study area that might exceed this threshold. The Applicant is advised to clarify the thresholds applied to the assessment and to confirm whether there are any additional receptors that are sensitive to emissions to air and assess any likely significant effects where necessary.

Assessment assumptions

There are no working hours set out in ES Chapter 3 Project Description and Alternatives, the dDCO or the Code of Construction Practice (CoCP). The Inspectorate recommends that this be rectified.

ES Chapter 3 Project Description and Alternatives paragraph 6.9.1.2 identifies that material will be imported in order to raise ground levels at the site to the levels recommended in the Flood Risk Assessment (FRA) as part of the strategy for addressing flood risk but does not specify the type or quantum of material required. ES Chapter 3 Project Description and Alternatives section 6.1 states that ‘*A material movement and stockpile strategy will be established as part of the pre-commencement conditions and in accordance with the EIA...*’. The Applicant is advised to clarify within the ES and any relevant supporting information what assumptions have been made in the assessments about the type and quantum of import material and how it would be transported to the site and to explain why it is considered the detail of this can be left to a future stage post DCO.

ES Chapter 6 Climate concludes that “*there will be a net reduction in GHG from the Project compared to the alternative baseline landfill scenario*”; this has been drawn on the basis that a carbon capture and utilisation system (CCUS) would be installed at the site to mitigate emissions of carbon dioxide (CO₂). There is no specific requirement within the dDCO that stipulates the CCUS must be built. This should be taken into consideration in

the conclusions presented with the ES, or the dDCO revised to require the provision of the CCUS within a timetable that is reflected within the ES.

The Proposed Development includes infrastructure for the manufacture of concrete blocks from incinerator bottom ash and fly ash (Work No. 2(b)); the ES explains that one benefit of this project element would be to reduce the amount of material to be disposed of offsite. There is no specific requirement within the dDCO that stipulates this processing facility must be built and put into operation. Greater clarity should be provided on how traffic movements have been derived, taking into account the potential scenarios involved and the Applicant is advised to demonstrate that the traffic movements used to inform the assessment in ES Chapter 13 Traffic and Transport and ES Chapter 5 Air Quality are presented on a worst-case scenario. If these assessments rely upon the implementation of Work No. 2(b), the dDCO should be revised to require the provision of Work No. 2 within a timetable that is reflected within the ES.

Assessment of significant effects

ES Chapter 16 Major Accidents and Hazards is presented in the form of a risk assessment. The Applicant is advised to ensure that the ES assigns significance to potential effects.

Requirements and delivery

Section 6.1 of ES Chapter 3 Project Description and Alternatives explains that: “*A material movement and stockpile strategy will be established as part of the pre-commencement conditions and in accordance with the EIA...*” Such a strategy is briefly mentioned on e-page 70 of the CoCP, however is not listed as a specific management plan in section 5.5 of the CoCP. Given the groundworks required for the Proposed Development, the Applicant is advised to consider the need for producing an outline plan and ensuring that its production and implementation is adequately secured.

ES Chapter 8 Ground Conditions, Contamination and Hydrogeology Table 11 states that ongoing ground gas monitoring will determine whether protection measures are required within the detailed design of any buildings or whether further monitoring is required. The monitoring is identified in the Operational Environmental Management Plan which refers to dDCO Requirement 3 (Detailed Design). Requirement 3 states that details must be in accordance with the principles in the Design Principles and Codes, but there is no reference to gas monitoring in that document. On the basis that gas protection measures should be finalised before operation commences, the Applicant is advised to consider the most appropriate means for the implementation of these measures to be secured through.

ES Chapter 19 Mitigation section 4 refers to an Operational Environmental Management Plan (Doc 6.3.8). This is listed in the interpretation section of the dDCO and referred to in Requirement 4(6), however is not listed in Article 44 as a document to be certified.

The NTS refers to the implementation of mitigation measures in respect of the Proposed Development. The Applicant is advised to revise the NTS to identify relevant mitigation measures.

Presentational matters

A plan showing the relationship of the affected road network to human receptors and/ or nature conservation sites would be a useful aid to support the assessment of air quality effects in ES Chapter 5 Air Quality.

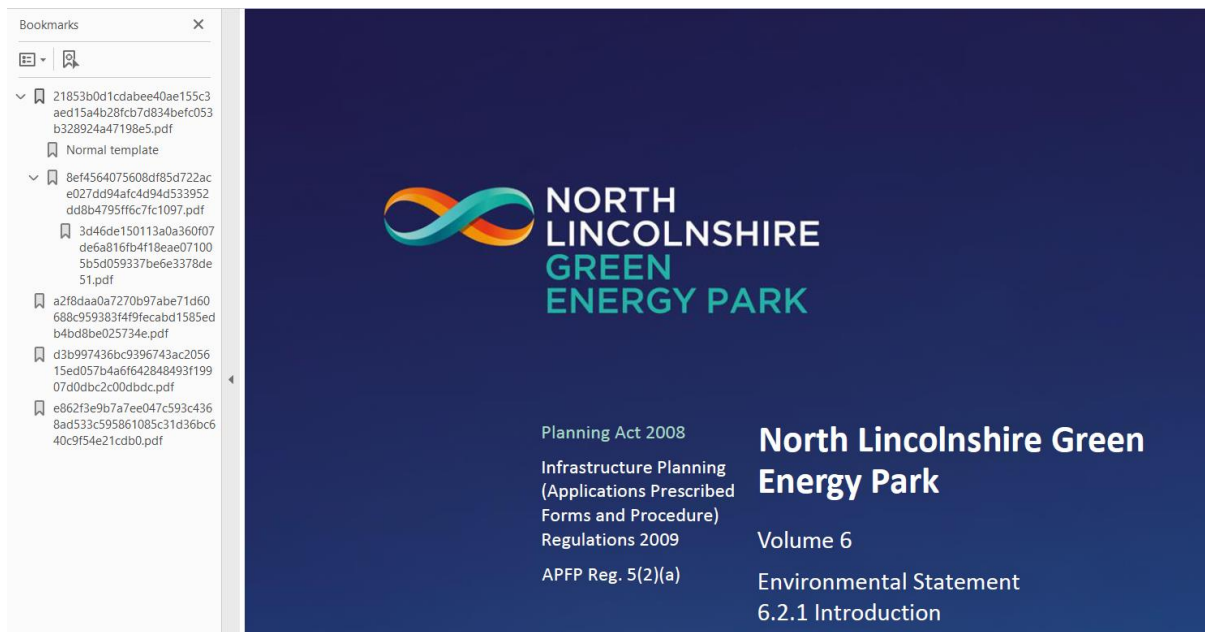
Paragraph 4.2.1.1 of ES Chapter 12 Archaeology and Cultural Heritage identifies the categories of designated heritage assets for which searches have been conducted. This includes World Heritage Sites, Listed Buildings, Scheduled Monuments, Registered Parks

and Gardens, Conservation Areas and Registered Historic Battlefields. Section 6 Baseline and Receptors does not identify any of these assets, but refers to the desk-based study in Appendix B. The Inspectorate advises that Section 6 replicates and populates these category headings with a summary of existing assets; this would aid in the understanding of the baseline environment. Similarly, for ease of reference it would be useful for Section 8 Impact Assessment to clearly set out impacts to these asset categories under relevant headings.

A number of aspect chapters include appendices within the same pdf document. The Inspectorate recommends that these are split into separate documents to enable side by side viewing of main chapters and their appendices.

The Applicant is advised to consider the use of assessment summary tables within each aspect chapter which clearly set out receptors, receptor sensitivity, potential impact, impact magnitude, significance of effect, mitigation and residual effects. This would aid readers in understanding the outcomes of the assessment.

To assist readers in navigating through documents, it would be useful if the bookmarks within the pdfs be revised to show the index/section headings rather than arbitrary links. An example image is set out below.



Flood Risk assessment (Document 6.3.3)

The Proposed Development is described as essential infrastructure primarily located within (defended) Flood Zone 3a and therefore subject to the sequential and exception tests. The FRA contains limited information to demonstrate how the sequential test has been applied. Paragraph 6.1.4 states that the *'layout has been sequentially adapted to ensure that it is located within Flood Zone 1, 2 and 3a and not Flood Zone 3b, and to minimise flood risk to the development and third party land'* but the FRA does not contain any information about the site selection process. In addition, the Planning Statement and/ or ES Chapter 3 does not describe flood risk as being a factor in site selection at long list or short list stage. The

Applicant is advised to ensure that sufficient information is provided within the FRA to inform the decision maker's application of the sequential test.

The FRA refers to National Planning Policy Framework (NPPF) and does not make reference to the information required in accordance with the National Policy Statement (NPS) for Energy (EN-1); the Inspectorate advises this is rectified. The NPS EN-1 exception test criterion includes that *'the project should be on developable, previously developed land or, if it is not on previously developed land, that there are no reasonable alternative sites on developable previously developed land subject to any exceptions set out in the technology-specific NPSs.'* Whilst the FRA refers to the land (in part) being allocated for employment and housing use within the North Lincolnshire Local Development Framework Housing and Employment Land Allocations Development Plan Document (2016), the Applicant is advised to provide information to inform the decision maker's application of the exception test for the Proposed Development.

Table 5-6 of the FRA sets minimum recommended finished floor levels for nine reference locations across the application site. It is unclear how the minimum height of the proposed new access road, which is located within Flood Zone 3a, would be secured. The minimum height is not shown on the Vertical Parameters' Plans and the Indicative Highways' Drawings does not show levels' information. The Inspectorate recommends that road levels (and limits of deviation) are clearly presented and secured within the application. In addition, the finished site level for the proposed visitor centre shown on the Vertical Parameters' Plan is +3.05m AOD, which is below the recommended level of +4.30m AOD (in Site ID 4) and +3.29m AOD (in Site ID 5). It is noted that the Indicative Elevations appear to indicate that the useable floorspace will be at a raised level (+5.10m AOD). The Inspectorate recommends that this matter is clarified and the recommended finished floor level is clearly presented and secured.

Table 3-8 of the FRA summarises consultation undertaken with the Environment Agency (EA) prior to submission of the application up until 26 August 2021. During a pre-application meeting held on 16 September 2021, the Applicant informed the Inspectorate that it was continuing to have discussions regarding flood matters with the EA; these discussions do not appear to be captured in Table 3-8. The Applicant should ensure that any further consultation with the EA (and any other relevant consultation bodies such as North Lincolnshire Council as Lead Local Flood Authority (LLFA) and Scunthorpe and Gainsborough Water Management Board as the relevant Internal Drainage Board (IDB)) is documented.

It would also be of assistance to the reader to understand the levels of the Proposed Development relative to both AOD and existing ground level, with a topographical survey and proposed levels. This is likely to influence the landscape and visual impacts as well as flood risk. It would be beneficial to understand the basis of the levels used for the proposed visuals and to be able to appreciate where the flood walls are proposed or land levels are to be changed such that the visual effect would be noticeable.

Report to Inform Habitat Regulations Assessment (HRA) (Document 5.9)

The status of the proposed new wetland habitat is unclear. The Report to Inform HRA indicates it does not form part of mitigation measures for recreational disturbance, but ES Chapter 10 Ecology and Nature Conservation suggests its inclusion has informed the conclusion of no significant effects in the Report to Inform HRA. This should be clarified in both the ES and the Report to Inform HRA, with consideration given to relevant case law pertaining to the inclusion of mitigation in the consideration of likely significant effects within HRA, ie if the proposed new wetland does form mitigation for impacts of recreational

disturbance to bird qualifying features of the Humber Estuary Ramsar and Humber Estuary Special Protection Area (SPA) then this impact pathway should be taken forward to an assessment of adverse effects of integrity for the relevant qualifying features.

The Report to Inform HRA assesses displacement or disturbance (from noise, light and human disturbance) of mallard from land functionally linked (River Trent) to the Humber Estuary Special Protection Area (SPA). ES Chapter 10 Ecology and Nature Conservation also assesses this impact pathway, but describes a potentially wider extent of land that could be considered functionally linked for wintering mallard of the Humber Estuary SPA, as also including 'the adjacent area of the River Trent and terrestrial habitats' (location not specified). It is also stated that there would be a large area of habitat loss adjacent to the River Trent but does not specify whether this involves land functionally linked to the Humber Estuary SPA. The Applicant should ensure that all application documents consistently describe and assess the potential effects to all functionally linked land.

The Report to Inform HRA identifies that there is potential for in combination effects from the Proposed Development with Keadby 2 and 3 in respect of operational emissions to air, including acid deposition to Thorne Moor Special Area of Conservation (degraded raised bogs still capable of natural regeneration qualifying feature). Section 4.5 of the Report to Inform HRA sets out the conclusions of the in combination assessment but does not specifically reference acid deposition, beyond noting that sulphur from the Proposed Development would contribute towards it and that the long term trend for sulphur dioxide is downwards. The Applicant is advised to clarify how the in combination effects from acid deposition have been assessed and the outcome of that assessment.

Plans of statutory or non statutory sites or features of nature conservation (Document 4.6)

Hatfield Moor Special Area of Conservation (SAC) is not shown on the plan illustrating European sites and SSSIs (Drawing Number NLGEP-ERM-XX-XX-DR-Z-0013). The Report to Inform HRA states that this European site is located just outside the 15km study area and therefore was screened out of the assessment. However, ES Chapter 10 Ecology and Nature Conservation describes the site as being 12.4km from the Proposed Development. The Applicant is advised to clarify these discrepancies and to provide an assessment of any likely significant effects to the SAC if it is located within the 15km study area.

A number of statutory and non-statutory designated sites of local ecological importance are not shown on the plan illustrating Locally Important Ecology Designations within 2km of the Emissions Source (Drawing Number NLGEP-ERM-XX-XX-DR-Z-0016). The plan shows sites within 2km of the emissions' source (the stack) and does not extend across the full area covered by the application site eg sections relevant to the proposed district heat network and railway reinstatement are partially excluded. ES Chapter 10 Ecology and Nature Conservation and ES Chapter 18 Cumulative Effects identify additional statutory and non-statutory designated sites within a 2km area taken from the application site boundary (rather than the emissions source) that are not identified on Drawing Number NLGEP-ERM-XX-XX-DR-Z-0016. The Applicant is advised to ensure that the plan supported in support of Regulation 5(L)(i) encompasses the full application site and accords with the ES.

Plans of water bodies in a river basin management plan

ES Chapter 8 Ground Conditions, Contamination and Hydrogeology (paragraph 6.2.1.2) states that groundwater resources at within the Order Limits have previously been classified as having good quantitative status and good chemical quality under the Water

Framework Directive WFD. However, there is no description of, or plan showing the locations of any WFD groundwater bodies. The Applicant should ensure that all waterbodies within a River Basin Management Plan are identified, described and that any impacts upon them are assessed.

Plans showing statutory or non statutory historic or scheduled monument sites or features of the historic environment

The plans in Document 4.7 do not identify all designated heritage assets that have been assessed within the ES. In addition, relevant plans provided within the ES are missing designated heritage assets that are identified on MAGIC map. Document 4.7 also incorrectly categorises some designated heritage assets as non-designated heritage assets. The Inspectorate advises the Applicant to redraft these plans to correct these errors.

The Inspectorate also notes that the plans identify features within a 1km buffer zone, which does not cover the full extent of the 7.5km study area applied in the ES with regard to impacts on setting. The Inspectorate advises the Applicant to ensure that the plans in Document 4.7 encompass the study area identified in the ES.

Further consultation

The Inspectorate encourages the Applicant to continue to engage with relevant consultation bodies up until the submission of the application. The Applicant is advised to update all relevant documents (including the Consultation Report, the ES, the FRA and the Report to Inform HRA) with details of consultation it has undertaken that has not been documented.

Carbon Capture Calculations

There are discrepancies throughout the Application documents as to the amount of CO₂ that would be captured by the CCUS. The dDCO describes Work No. 1B as a carbon capture facility capable of capturing up to 55,000 tonnes of CO₂ per annum, the Design and Access Statement states 650,000 tonnes per annum and ES Chapter 6 Climate states approximately 7.5% of CO₂ or 42,109 tCO₂e per annum (Table 11). The application documents should provide a consistent explanation of the CO₂ to be captured and the volume calculated should be fully explained. The Applicant should explain how this is to be secured in the DCO, or not as the case may be.

Flow chart of control documents

It has proven helpful in other cases to have a flow chart showing how the DCO and control documents are linked with any hierarchy between documents clearly set out to ensure that the mitigation offered is delivered and how.

Explanatory Memorandum (Doc Ref 2.2)/DCO (Doc Ref 2.1)

Advised at dds to include info on s35 direction from BEIS, no info included in any docs.

1.4 page 3 - Wording in Explanatory Memorandum 1.4 p.3 '*an utility connections and diversions*'.

Schedule 1 - Not clear in DCO Schedule 1 precisely which works are Associated Development: Part 2 of Sch 1 'Other Associated Development': '*In connection with and in addition to Work Nos 1, 1A-D and 2-15*' – these are all of the works listed in Part 1, there appears to be no differentiation, although the Explanatory Memorandum does set this out.

Statement of Reasons (Doc Ref 3.2)

7.24 - Para 8 of CA Guidance states that the applicant should demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA have been explored. 7.24 of SoR states that '*The land scheduled in the BoR is necessary and appropriate, there are no suitable alternatives*' but there appears to be no further information provided on how the Applicant came to this conclusion.

Funding Statement (Doc Ref 3.3)

2.3.1 - CA costs have been included in Indicative Budget Estimate for the project at £23m, however there appears to be no demonstration included of how the Applicant can meet these costs (accounts attached as appendices do not show this amount); 2.3.1 of FS states: '*the Applicant has sufficient funds on account to exercise all of the CA if required*'.

According to Funding Statement the funding for implementing each element of the project will come from '*established operators*' e.g. '*The Applicant is in discussion with a short list of established operators able to fund the design, build, operation and maintain the core power and heat generation facility.*' The Funding Statement does not demonstrate that the funding is guaranteed. ('*A Final Investment Decision on the project will be taken once the DCO decision is published*').

No information has been included as to timing of availability of funds.

Grid Connection Statement (Doc Ref 5.5)

Offer in-principle for increased capacity from NPG; please provide information on when this will be made available

Indicative Highway/Railway Drawings (5.14 and 5.15)

Indicative drawings provided by the Applicant do not appear to meet requirements in APFP Reg 6(2)