



# **STATEMENT OF COMMON GROUND BETWEEN NATURAL ENGLAND AND DRAX POWER LIMITED**

## **Drax Bioenergy with Carbon Capture and Storage**

The Planning Act 2008 (as amended)

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CONFIDENTIAL

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## **EXECUTIVE SUMMARY**

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A Statement of Common Ground (SoCG) is a written statement produced during the application process for a Development Consent Order (DCO). It is prepared jointly by the applicant and another party, to assist the Examining Authority in examining the DCO application by providing an understanding of the status of discussions or negotiations between the applicant and the other party.

This SoCG has been prepared between Natural England (NE) and Drax Power Limited (the 'Applicant') (jointly referred to as the Parties) to show where agreement has been reached to date in relation to the Applicant's application (the Application) for a DCO for their Bioenergy with Carbon Capture and Storage (BECCS) project (referred to as the Proposed Scheme). The SoCG represents an accurate and up to date reflection of matters discussed between the Parties. It is a document which will evolve during the pre-application and examination stages, and conclude with a version which confirms the Parties' positions on relevant matters before the close of the examination.

NE is interested in the Proposed Scheme in their capacity as the statutory nature conservation agency in England.

Throughout this document, points of agreement and disagreement between the Parties are clearly indicated.

# 1. INTRODUCTION AND PURPOSE

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## 1.1. PURPOSE OF THE STATEMENT OF COMMON GROUND

- 1.1.1. A Statement of Common Ground (SoCG) is a written statement produced during the application process for a Development Consent Order (DCO) and is prepared jointly by the applicant and another party.
- 1.1.2. Paragraph 58 of the Department for Communities and Local Government's (DCLG, now Ministry of Housing, Communities and Local Government) guidance entitled 'Planning Act 2008: examination of applications for development consent' (26 March 2015) (DCLG, 2015) hereafter referred to as DCLG Guidance) describes a SoCG as follows:
- “A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence.”*
- 1.1.3. The aim of a SoCG is to assist the Examining Authority in examining the DCO by providing an understanding of the status of discussions or negotiations between the applicant and the other party. The effective use of SoCGs aids an efficient examination process.
- 1.1.4. A SoCG may be submitted to the Planning Inspectorate (PINS) prior to the start of or during an examination and is updated as necessary or as requested during the examination.

## 1.2. DESCRIPTION OF THE PROPOSED SCHEME

- 1.2.1. A full description of the Proposed Scheme description is included in Chapter 2 (Site and Project Description) of the ES submitted with the DCO Application (document reference **APP-038**).

## 1.3. THIS STATEMENT OF COMMON GROUND WITH NATURAL ENGLAND

- 1.3.1. This SoCG has been prepared between Natural England (NE) and the Applicant (jointly referred to as the Parties) in relation to the Application.
- 1.3.2. It addresses topics of interest to NE. NE is interested in the Proposed Scheme in their capacity as the statutory nature conservation agency (SNCA) in England.
- 1.3.3. NE are a consultation body as prescribed under section 42(1)(a) (duty to consult) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. In their role as SNCA they are responsible for providing advice to project promoters and consultation responses on relevant ecology and landscape

matters in response to the Environmental Impact Assessment (EIA) scoping and statutory consultation (including any Preliminary Environmental Information Report (PEIR)) processes, engagement on the development of the Environmental Statement and Habitats Regulations Assessment application documentation and participation in the Examination process.

- 1.3.4. In addition, NE are responsible for providing statutory advice to the Planning Inspectorate on any Appropriate Assessment produced by the Planning Inspectorate, in accordance with Regulation 63(3) of the Conservation of Habitats and Species Regulations (2017, as amended).
- 1.3.5. Section 3 summarises the topics of relevance to this SoCG and Section 4 then details whether matters are agreed, not agreed or under discussion between the Parties.
- 1.3.6. In respect of matters relevant to the Proposed Scheme but not referred to in this SoCG, NE has no further comments to make at this point. It may have further or additional comments to make, particularly if further information about the project becomes available.
- 1.3.7. Section 3 summarises the topics of relevance to this SoCG and Section 4 then details whether matters are agreed, not agreed or under discussion between the Parties.
- 1.3.8. The SoCG is a document which will evolve during the pre-application and examination stages and conclude with a version which confirms the Parties' positions on relevant matters before the close of the Examination.
- 1.3.9. This SoCG has been prepared in accordance with the DCLG Guidance.



## 2. RECORD OF ENGAGEMENT UNDERTAKEN TO DATE

### 2.1. RECORD OF ENGAGEMENT

2.1.1. The tables below set out a summary of the key meetings and correspondence between the Parties in relation to the Proposed Scheme.

**Table 2.1 – Schedule of Meetings and Correspondence during the Pre-application Stage**

Date	Form of Contact	Summary
<b>February - November 2021</b>	Multiple emails and phone calls	The Applicant sought NE's advice by way of a Discretionary Advice Service Request. NE were unable to provide DAS advice at this time.
<b>10 December 2021</b>	Letter (by email)	Letter from NE to The Applicant, comprising NE's response to the S42 consultation request. NE provided advice and raised points in relation to air quality, ecology and biodiversity, landscape and visual impact assessment, and the water environment.
<b>7 January 2022</b>	Phone	Phone call between NE and the Applicant to arrange a future meeting to discuss the S42 consultation responses in relation to the PEIR. The Applicant also indicated that an application to use the Great Crested Newt (GCN) District Level Licence (DLL) would be sought. NE stated that they would need time to consider availability for a future meeting. NE requested that any discussion points should be sent via email with any future meeting likely to require a DAS.
<b>Jan to Feb 2022</b>	Multiple emails	The Applicant provided a list of topics in an email to NE that would form part of a future call, followed by continued discussions between NE and the Applicant to set up meeting.
<b>25 February 2022</b>	Teleconference	A meeting was had between NE and the Applicant to discuss matters including peregrine falcon, BMV agricultural land, BNG and SoCG.
<b>29 March 2022</b>	Email	The Applicant emailed meeting minutes from the teleconference on 25 February along with supporting documents for NE's review. This

<b>Date</b>	<b>Form of Contact</b>	<b>Summary</b>
		included a Nitrate-phosphate limitation note, additional detail on ALC methodology and the Applicant's approach to BNG.  The Applicant also requested a follow up meeting in early April.
<b>March to May 2022</b>	Multiple emails	NE and the Applicant continued to engage in discussions around use of DAS service.
<b>12 April 2022</b>	Email	The Applicant issued a briefing note on BNG and indicated that an additional DAS request was being progressed.
<b>5 May 2022</b>	Email	NE issued their DAS response to the Applicant.

**Table 2.2 – Schedule of Meetings and Correspondence during the Pre-Examination and Examination Stages**

<b>Date</b>	<b>Form of Contact</b>	<b>Summary</b>
<b>12 July 2022</b>	Email	The Applicant informed NE that the ExA would shortly be asking NE and other consultees to provide relevant representations in relation to the application, which would include a review of the HRA.
<b>July 2022</b>	Email	NE and the Applicant continued discussions relating to the DAS advice and in relation to the submitted DCO application, including confirmation of acceptance on the 21 July.
<b>1 August 2022</b>	Email	NE stated that they were no longer able to provide advice on the submitted DCO application via DAS in advance of producing their Relevant representation. NE and the Applicant agreed to continue working together and to set up a meeting after the Relevant Representations had been published. NE also agreed to issue a copy of their Relevant Representation to the Applicant in parallel with issuing it to PINS. NE suggested that any further DAS meetings and other engagement be

<b>Date</b>	<b>Form of Contact</b>	<b>Summary</b>
		postponed until their statutory Relevant Representation response was submitted.
<b>6 September 2022</b>	Email	NE issued their relevant representations to the Applicant. NE indicated that they were seeking advice from their air quality specialists on the air quality assessment. NE indicated that a response would follow shortly.
<b>14 September 2022</b>	Teleconference	A teleconference between NE and the Applicant was held to discuss ecology matters relating to NE's relevant representation responses and SoCG.
<b>23 September 2022</b>	Email	NE issued the second version (Version 1.2) of their relevant representation responses to the Applicant.
<b>25 October 2022</b>	Email	The Applicant issued a briefing note with queries and additional information relating to operational air quality effects of the Proposed Scheme. This included modelling of air quality impacts on proxy habitats for the River Derwent, as per NE's request in their Relevant Representation.
<b>26 October 2022</b>	Teleconference	NE and the Applicant held a meeting to discuss the ecological effects of the Proposed Scheme's air quality impacts. The SoCG and Relevant Representation responses were also discussed, including the accelerated deadline of the 11 November. NE and the Applicant agreed to work together to address as many unresolved issues prior to the 11 as possible. The Applicant confirmed they would issue a draft SoCG as soon as possible, with the Applicant's draft response to the NE Relevant Representation to follow as soon as possible after that. NE requested sight of both documents at the same time, which the Applicant stated they would try to achieve.



Date	Form of Contact	Summary
<b>28 October – 4 November 2022</b>	Emails	Agreement of Revision 01 of the Statement of Common Ground.

### **3. SUMMARY OF TOPICS COVERED BY THIS STATEMENT OF COMMON GROUND AND RELEVANT DOCUMENTS**

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#### **3.1. TOPICS COVERED IN THIS STATEMENT OF COMMON GROUND**

3.1.1. The following topics discussed between the Parties are covered by this SoCG:

- Best and most versatile agricultural land;
- Air quality;
- Ecology; and
- Landscape and visual impact.

#### **3.2. RELEVANT DOCUMENTS FOR THIS STATEMENT OF COMMON GROUND**

3.2.1. Table 3.1 provides a list of documents of particular relevance to this SoCG. This list will be updated to keep a record of the most recent version of the relevant document.

**Table 3.1 – List of Relevant Application Documents for this SOCG**

<b>Document Reference</b>	<b>Document Name</b>
<b>APP-013</b>	3.1 Draft Development Consent Order
<b>APP-037 – APP-178</b>	6.1 – 6.4 Environmental Statement
<b>APP-179</b>	6.5 Register of Environmental Actions and Commitments
<b>APP-185 – APP-194</b>	6.8 Habitats Regulations Assessment Report
<b>APP-180</b>	6.6 Outline Landscape and Biodiversity Strategy

## 4. CURRENT POSITION

### 4.1. BEST AND MOST VERSATILE AGRICULTURAL LAND

Table 4.1 - Best and Most Versatile Agricultural Land

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
4.1.1	ES Study Area and Methodology	<p>The ES Study Area is described in full in Section 11.7 of Chapter 11 (Ground Conditions) of the ES (document reference APP-047). The Methodology is described in full in Section 11.5 of Chapter 11 of the ES.</p> <p>DMRB guidance LA109 methodology has been stated as the assessment methodologies within the PEIR, no comment has been provided on this approach by NE within the S42 Response.</p> <p>Please see response Ref 5.24 within the Relevant Representation response for a comparison of the methodology used within Ch11 of the ES (document reference APP-047) against the methodology outlined within the ICE (2019) EIA Handbook. The comparison</p>	<p>The ALC survey methodology presented in the Soil Resource and Agricultural Land Classification Survey (document reference APP-158) is robust, however, coupled with the available Post-1988 ALC survey data, does not provide complete coverage of the agricultural land subject to disturbance from the proposed development within the project boundary (Figure 11.2).</p> <p>The EIA should be in line with the methodology presented in the ICE (2019) EIA handbook. Consideration of the development impacts on the soil resource and soil function should also be considered (IEMA guidelines (2022)).</p>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>concludes that no change to the assessment would be produced by applying ICE (2019) EIA Handbook methodology.</p> <p>Please see response Ref 5.22 within the Relevant Representation response in relation to the use of IEMA guidelines (2022).</p> <p>Notwithstanding this comment, it should be noted that soil function is assessed within Chapter 11 of the ES (document reference <b>APP-047</b>).</p>		
4.1.2	ES Baseline	<p>The Applicant set out the baseline in Section 11.7 of Chapter 11 (Ground Conditions) of the ES (document reference <b>APP-047</b>).</p> <p>Please see response Ref 5.23 within the Relevant Representation response in relation to ALC survey and temporary land take calculation.</p>	<p>The ALC Grade should be calculated for all agricultural land (or land which was last used for agricultural use) subject to proposed development or disturbance to inform soil management and sustainable re-use.</p> <p>A detailed ALC field survey should be undertaken on the southern tip of the On-Site Habitat Provision Area to inform soil management and sustainable</p>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			re-use, as at present it remains un-surveyed. Two areas of land subject to the ALC survey (eastern parcel and central parcel) have not been assigned an ALC Grade based on their current non-agricultural land use. The ALC Grade is not based on the current land use or cropping of the land, but the inherent capability of the land. The ALC Grade should also be calculated for the western parcel with the data presented in Appendix 11.2.	
4.1.3	Predicted Impacts	The Applicant set out the predicted impacts in Section 11.4 (Scope of the Assessment) and Section 11.9 (Preliminary Assessment of Likely Impacts and Effects) in Chapter 11 (Ground Conditions) of the ES (document reference APP-047).	NE agree with the predicted impacts as outlined in Section 11.4 (Scope of the Assessment) and Section 11.9 (Preliminary Assessment of Likely Impacts and Effects) in Chapter 11 (Ground Conditions) of the ES (document reference APP-047).	Agreed
4.1.4	Design, Mitigation and Enhancement Measures	The Applicant set out the design, mitigation and enhancement measures in Section 11.10 in Chapter 11 (Ground Conditions) of	Regarding Schedule 2 Requirement 14 NE highlight that additional information regarding sustainable soil management	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>the ES (document reference APP-047).</p> <p>Please see response Ref 5.25 within the Relevant Representation response in relation to comment regarding inappropriate soil handling.</p>	<p>should be included within the Soil Handling Management Plan as part of the CEMP (NE Key issue reference 17).</p>	
4.1.5	Residual Effects	<p>The Applicant set out the assessment of likely significant effects in Section 11.11 in Chapter 11 (Ground Conditions) of the ES (document reference APP-047) and confirms residual effects are not significant.</p>	<p>NE agree with the residual effects assessment in Section 11.11 in Chapter 11 (Ground Conditions) of the ES (document reference APP-047).</p>	Agreed
4.1.6	Relevant dDCO Requirements/Articles	<p>Schedule 2 of the dDCO (document reference APP-013) includes Requirements that secure mitigation and enhancement measures for Ground Conditions receptors.</p> <p>The dDCO includes a commitment to implement a CEMP that will be approved by the relevant local planning authority and regulatory bodies, which includes construction</p>	<p>NE state additional information should be provided regarding sustainable soil management in the Soil Handling Management Plan. Inappropriate soil handling is currently proposed for the Habitat Provision Area.</p>	Under discussion



Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>mitigation measures, as detailed in Chapter 11 (Ground Conditions) of the ES (document reference APP-047) and set out in the REAC (document reference APP-179).</p> <p>Relevant Requirements include:</p> <p>Requirement 14 – CEMP which will include a Soil Handling Management Plan</p> <p>Please see response Ref 5.25 within the Relevant Representation response in relation to the comment regarding inappropriate soil handling.</p>		

## 4.2. AIR QUALITY

Table 4.2 – Air Quality

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
4.2.1	ES Study Area	The ES Study Area is described in full in Section 6.6 of Chapter 6 (Air Quality) of the ES (document reference APP-042). The	NE agree with the list of statutory designated sites and have no further concerns on the Study	Under discussion

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		<p>methodology is described in full in Section 6.5 of Chapter 6 of the ES.</p> <p>The Applicant notes NE’s advice that potential LSE on the Humber Estuary designated sites from Construction traffic emissions be considered in more detail. The Applicant remains of the view that LSE would not arise from use of this construction traffic route. This is due to the height of the bridge (approximately 30m above ground level) and the consequent extra dispersal of emissions before they reach the habitats underneath, the low sensitivity of the habitats present (unvegetated mudflats and grazing marsh), and the fact that traffic flows reported in the ES are averaged peak monthly flows rather than Average Annual Daily Traffic (AADT) flows. The Applicant provided initial material to NE relating to this on a call on the 25 and 26 October and will provide additional material in the</p>	<p>Area other than in relation to construction traffic (see below).</p> <p>NE has advised in their RR ‘that the potential for likely significant effects from traffic emissions on the Humber Estuary designated sites, alone and in-combination, is considered in more detail in the HRA’. NE’s concerns relate to emissions from construction traffic using the M62 to access the Proposed Scheme from the north-east. NE’s position is set out fully in Table 1, Key Issue 1 of their RR.</p>	

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		Applicant's Response to NE's Relevant Representation.		
4.2.2	ES Methodology – dispersion modelling	<p>The methodology is described in full in Section 6.5 of Chapter 6 (Air Quality) of the ES (document reference APP-042).</p> <p>The Applicant notes NE's request for clarification on the Scenarios used to assess the impacts from aerial emissions on designated sites (NE Key Issues ID 18 and 23). The Applicant has provided an explanation in response to NE's queries in the Response to Relevant Representations.</p>	NE requests clarification on scenarios used to assess the impacts from aerial emissions on Humber Estuary SPA/SAC; Lower Derwent Valley SAC/SPA/Ramsar; Thorne Moor SAC; River Derwent SAC and Skipwith Common SAC designated features (see Key Issues 18 and 23 of Relevant Representation).	Under discussion
4.2.3	ES Baseline	<p>The designated sites relevant to the Air Quality assessment are set out in Section 8.5 of the Ecology Chapter of the ES (document reference APP-044)</p> <p>In determining the relevant ecological baseline for the assessment of air quality effects, the Applicant has had regard to the relevant Environment Agency</p>	NE agree with the list of designated ecological sites that have been included in the Operational Air Quality Assessment.	Agreed

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		advice ( <i>Air emissions risk assessment for your environmental permit</i> (2021, Sept 3)).		
4.2.4	Predicted Impacts	<p>The Applicant’s assessment of air quality impacts is set out in Sections 6.9, Section 6.11, and Section 6.12 in the Air Quality chapter of the ES (document reference APP-042). The Applicant’s Assessment of air quality effects on designated sites is set out in the Ecology chapter of the ES (document reference APP-044).</p> <p>Air quality effects on designated sites are discussed in the Ecology section of this SoCG, and are not considered further here.</p>	NE agree with the approach to predicting impacts set out in the ES.	Agreed
4.2.5	Design, Mitigation and Enhancement Measures	<p>The Applicant has proposed mitigation measures to address construction and operational phase air quality impacts.</p> <p>These are set out in Section 6.10 in the Air Quality chapter of the</p>	NE agree with the proposed construction-phase mitigation measures (see Key Issue 5 in Table 1 of our Relevant Representation), subject to the necessary mitigation measures being secured via the DCO and consider the proposed mitigation	Under discussion

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		<p>ES (document reference APP-042).</p> <p>The Applicant considers the mitigation measures appropriate and deliverable, and that they will be effective in addressing the air quality effects of the Proposed Scheme and avoiding significant adverse air quality effects. Construction measures are secured via the DCO requirement for a CEMP to be produced in line with the measures in the REAC. Operational measures will be secured via the permit variation for Drax.</p> <p>Further information relating to the ecological assessment of air quality effects is provided in the Ecology Section of this SoCG. The Applicant is also providing additional information regarding the operational phase mitigation measures to NE, which will be included in our response to the NE Relevant Representation.</p>	<p>measures adequate to address construction-phase air quality effects</p> <p>NE consider that further clarification on the mitigation measures for operational air quality impacts is required (see our Relevant Representation, Key Issue 22 in Table 1). NE has requested additional information from the Applicant regarding the operational phase mitigation measures, and looks forward to receiving this in due course.</p>	

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
4.2.6	Residual Effects	<p>With the application of the proposed mitigation measures, the Applicant considers there would be no significant residual effects arising from Construction or Operational phase air quality impacts. The Applicant also maintains their position as reported in the HRA Report, that there would be no adverse effects on the integrity of any European Site arising from Construction or Operational phase air quality impacts. This is set out in Section 6.11 in the Air Quality chapter of the ES (document reference APP-042), Section 8.11 of the Ecology chapter of the ES (document reference APP-044), and the Habitats Regulations Assessment Report (document reference APP-185 – APP-194).</p> <p>Notwithstanding the above, the Applicant notes NE’s request for additional information pertaining to effects of operational emissions on designated sites. The Applicant is preparing</p>	<p>NE has requested more information from the Applicant relating to the residual Operational air quality effects of the Proposed Scheme on the following European Sites and SSSI (see NE key issues 18 – 26 in our Relevant Representation):</p> <ul style="list-style-type: none"> <li>• Humber Estuary SAC &amp; SPA;</li> <li>• Lower Derwent Valley SAC, SPA and Ramsar;</li> <li>• Thorne Moor SAC;</li> <li>• River Derwent SAC;</li> <li>• Skipwith Common SAC;</li> <li>• Brighton Meadows SSSI;</li> <li>• Derwent Ings SSSI;</li> <li>• Melbourne and Thornton Ings SSSI;</li> <li>• Humber Estuary SSSI;</li> <li>• River Derwent SSSI;</li> <li>• Eskamhorn Meadows SSSI;</li> <li>• Barn Hill Meadows SSSI;</li> <li>• Burr Closes SSSI;</li> </ul>	Under discussion



Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		<p>additional information, which will be presented in our response to the NE Relevant Representation. The Applicant will continue to engage with NE during Pre-Examination and Examination, to seek to resolve as many areas that currently remain as points of discussion, as possible.</p>	<ul style="list-style-type: none"> <li>• Thorne, Crowle, and Goole Moors SSSI; and</li> <li>• Skipwith Common SSSI.</li> </ul> <p>NE note that the Applicant has committed to providing additional information in response to the points raised in our Relevant Representation.</p>	
4.2.7	Relevant dDCO Requirements/Articles	<p>Mitigation measures relevant to Air Quality are secured via dDCO Requirements 14 (Construction environment management plan) and 18 (Decommissioning environment management plan).</p> <p>The Applicant considers that these Requirements adequately secure the necessary mitigation measures for Construction and Decommissioning phase air quality impacts. The Applicant welcomes NE’s broad agreement to the need for these Requirements, and their importance in securing mitigation</p>	<p>NE notes that the DCO does not currently secure the mitigation measures proposed to reduce air quality impacts. The mitigation measures and a detailed monitoring plan should be secured within the DCO requirements. We highlight that securing the mitigation measures is essential to the robustness of the Habitats Regulations Assessment.</p>	Under discussion

Ref	Description of Matter	Applicant – Current Position	NE – Current Position	Position
		<p>measures included in the ES and HRA Report.</p> <p>The Applicant notes NE’s request for additional information on mitigation measures to reduce the operational air quality impacts of the Proposed Scheme and how these will be secured. The Applicant will provide additional information on this matter in their response to NE’s Relevant Representation. In any event it is noted that these mitigation measures will be secured via the environmental permit variation; not the DCO.</p>		

### 4.3. ECOLOGY

Table 4.3 – Ecology

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
4.3.1	ES Study Area	The Study Area for Ecology varies by receptor, and is set out in Section 8.6 of the Ecology chapter	NE agree with the Study Area used by the Applicant for ecological receptors, as set out	Agreed

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		of the ES (document reference APP-044).	in Section 8.6 of the Ecology chapter of the ES.	
4.3.2	ES Methodology	<p>The assessment methodology for Ecology is set out in Section 8.4 and 8.5 of the Ecology chapter of the ES (document reference APP-044).</p> <p>The Applicant notes NE’s request for clarification on the methodology/scenarios used in the aerial emissions modelling that informs the assessment of operational air quality effects on designated sites. The Applicant intends to provide an explanatory note in response to the NE queries. This will be provided in our response to the NE Relevant Representation.</p>	<p>NE has requested clarification on the methodology/scenarios used in the aerial emissions modelling that informs the assessment of operational air quality effects on designated sites. Our request is set out in full in our Relevant Representation (Table 1, Key Issues 18 and 23).</p> <p>Following discussions, it is confirmed that Key Issue 10 from our Relevant Representation is resolved and a matter of agreement with the Applicant.</p> <p>NE agree with the Methodology for the ecological impact assessment used by the Applicant, as set out in Section 8.4 and 8.5 of the Ecology chapter of the ES. Other than our query in relation to modelling of aerial emissions</p>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			methodology/scenario, NE has no further points to make in relation to the methodology for the ecological impact assessment.	
4.3.3	ES Baseline	The baseline for Ecology is set out in Section 8.7 and 8.8 of the Ecology chapter of the ES (document reference APP-044).	NE agree with the Ecology baseline as described in Sections 8.7 and 8.8 of the Ecology chapter of the ES.	Agreed
4.3.4	Predicted Impacts	<p>The impacts on Ecology are set out in Section 8.9, 8.11, and 8.12 of the Ecology chapter of the ES (document reference APP-044) and in the Cumulative Effect Assessment Matrix (document reference APP-177).</p> <p>With the application of mitigation measures, as secured via Requirements 7, 10, 14, 15, 18, and 19 of the draft DCO (document reference APP-013), the Applicant has identified that there would be significant negative effects in the short term during Construction/Decommissioning, for</p>	<p>NE has advised that additional information is required to rule out the potential for significant negative effects on some ecological features. In summary, we have advised that further information is needed in relation to the following:</p> <ul style="list-style-type: none"> <li>The effects of emissions from construction traffic using the M62 over the River Humber (construction traffic route) on the Humber Estuary SAC, SPA, Ramsar, and SSSI (Key Issue 1 &amp; 6</li> </ul>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>habitats, bats, breeding and wintering birds, terrestrial invertebrates, and vascular plants.</p> <p>With the application of mitigation measures, as secured via Requirements 7, 8, and 17 of the draft DCO, the Applicant has identified that there would be no significant negative effects on ecological receptors and some significant positive effects during Operation, including cumulatively with other plans and projects.</p> <p>We note the advice and requests for additional information raised by NE in their Relevant Representation. We maintain our position that the findings of the ES and HRA Report pertaining to ecology are valid. Nonetheless, the Applicant is preparing additional information in response to the NE Relevant Representation, and will continue to engage with NE to resolve as many outstanding issues as possible prior to Examination.</p>	<p>from Table 1 of our Relevant Representation);</p> <ul style="list-style-type: none"> <li>• Impacts from loss of functionally-linked land in the off-site Habitat Provision Area that may be used by birds that are qualifying interests of the Humber Estuary SPA/Ramsar, Lower Derwent Valley SPA/Ramsar, Brighton Meadows SSSI, Derwent Ings SSSI, Melbourne and Thornton Ings SSSI, and Humber Estuary SSSI (Key Issues 2 and 8 from Table 1 of our Relevant Representation);</li> <li>• Operation-phase aerial emissions and their effects on designated sites, including Humber Estuary SPA and SAC, Lower Derwent Valley SAC, SPA and Ramsar, Thorne Moor SAC, River Derwent SAC, Skipwith Common SAC,</li> </ul>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			<p>Brighton Meadows SSSI, Went Ings Meadows SSSI, Derwent Ings SSSI, Melbourne and Thornton Ings SSSI, Humber Estuary SSSI, River Derwent SSSI, Eskamhorn Meadows SSSI, Barn Hill Meadows SSSI, Burr Closes SSSI, Thorne, Crowle, and Goole Moors SSSI, Skipwith Common SSSI, Thorne Crowle and Goole Moors SSSI (Key Issues 19 – 21 and 22 – 24 from Table 1 of our Relevant Representation);</p> <p>NE agree with the outcome of the ecological impact assessment completed by the Applicant, as presented in Section 8.9, 8.11, and 8.12 of the Ecology chapter of the ES (document reference APP-044) and in the Cumulative Effect Assessment Matrix (document reference APP-177), in all other respects.</p>	



Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			NE notes that the Applicant is preparing additional information in relation to the points we have raised in our Relevant Representation and looks forward to receiving this in due course.	
4.3.5	Design, Mitigation and Enhancement Measures	<p>Embedded design measures that avoid or reduce ecological and wider environmental impacts are set out in Chapter 2 of the ES (document reference APP-042). Specific ecological mitigation measures are set out in Section 8.10 of the Ecology chapter of the ES (document reference APP-044) and in the Cumulative Effect Assessment Matrix (document reference APP-177).</p> <p>Mitigation measures are summarised in the Register of Environmental Actions and Commitments (REAC) (document reference APP-179), and secured via Requirements 7, 8, 14, 15, 18, and 19 of the draft DCO (document</p>	<p>NE has advised in Relevant Representation that additional information is required in relation to the following Design, Mitigation and Enhancement measures. The method of securing them is discussed in item 4.3.6 below, but NE seeks clarity on:</p> <ul style="list-style-type: none"> <li>The potential requirement for mitigation measures related to exhaust emissions from construction traffic using the M62 over the Humber Estuary SAC, SPA, Ramsar, and SSSI (see Key Issues 1 and 7 in Table 1 of our Relevant Representation);</li> </ul>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>reference APP-013), discussed in item 4.3.6 below.</p> <p>Mitigation/enhancement measures delivered in the off-site Habitat Provision Area would also be secured via a S106 agreement, whilst enhancement to deliver Biodiversity Net Gain (BNG) for rivers and streams is intended to be secured via S106 agreement.</p> <p>The Applicant considers that additional mitigation measures are not required for construction traffic on the M62, impacts to functionally linked land or in respect of operational air quality impacts. Further information will be provided in the Applicant’s Response to Relevant Representations.</p> <p>In relation to badgers, the REAC will be modified to ensure that the CEMP must include provision that the proposed timings of pre-construction surveys for badgers would be completed with one survey at least seven months prior to intended dates of site clearance,</p>	<ul style="list-style-type: none"> <li>• The potential requirement for mitigation measures related to loss of functionally-linked land in the off-site Habitat Provision Area;</li> <li>• Paragraph 8.10.23 of the Environmental Statement - Volume 1 – Chapter 8 Ecology document states that two pre-construction badger surveys will be undertaken at least three months prior and one week prior to site clearance. It should be noted that a licence to exclude badgers and the destructions of setts is unlikely to be granted between the months of December to June. Careful consideration should be given to the timing of works to prevent delays should badgers be discovered prior to site clearance activities (see Key Issue 9 in Table 1</li> </ul>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		with a further survey within one month prior to site clearance.	<p>of our Relevant Representation); and</p> <ul style="list-style-type: none"> <li>The potential requirement for additional mitigation measures related to operational emissions to air and their effects on Internationally and nationally designated sites, subject to receipt of additional information on operational air quality impacts and effects from the Applicant (see Key Issues 18, 19, 20, 21, 23, 24, and 25 from Table 1 of our Relevant Representation).</li> </ul> <p>NE otherwise agree with the Design, Mitigation, and Enhancement measures, as presented in Section 8.10 of the Ecology chapter of the ES (document reference APP-044) in the Cumulative Effect Assessment Matrix (document reference APP-177), and in the</p>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			REAC (document reference APP-179) in all other respects.	
4.3.6	Residual Effects	<p>Residual effects on Ecology are set out in Section 8.11 and 8.12 of the Ecology chapter of the ES (document reference APP-044) and in the Cumulative Effect Assessment Matrix (document reference APP-177).</p> <p>With the application of mitigation measures, as secured via Requirements 7, 10, 14, 15, 18, and 19 of the draft DCO (document reference APP-013), the Applicant has identified that there would be significant negative effects in the short term during Construction/Decommissioning, for habitats, bats, breeding and wintering birds, terrestrial invertebrates, and vascular plants.</p> <p>With the application of mitigation measures, as secured via Requirements 7, 8, and 17 of the draft DCO, the Applicant has</p>	<p>NE has advised that additional information is required to rule out the potential for significant negative effects on some ecological features. In summary, we have advised that further information is needed in relation to the following:</p> <ul style="list-style-type: none"> <li>• The effects of emissions from construction traffic using the M62 over the River Humber (construction traffic route) on the Humber Estuary SAC, SPA, Ramsar, and SSSI (Key Issue 1 &amp; 6 from Table 1 of our Relevant Representation);</li> <li>• Impacts from loss of functionally-linked land in the off-site Habitat Provision Area that may be used by birds that are qualifying interests of the Humber</li> </ul>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>identified that there would be no significant negative effects on ecological receptors and some significant positive effects during Operation, including cumulatively with other plans and projects.</p> <p>We note the advice and requests for additional information raised by NE in their Relevant Representation. The Applicant maintains its position that the findings of the ES and HRA Report pertaining to effects on ecology are valid. Nonetheless, the Applicant is preparing additional information in response to the NE Relevant Representation, and will continue to engage with NE to resolve as many outstanding issues as possible prior to Examination.</p>	<p>Estuary SPA/Ramsar, Lower Derwent Valley SPA/Ramsar, Brighton Meadows SSSI, Derwent Ings SSSI, Melbourne and Thornton Ings SSSI, and Humber Estuary SSSI (Key Issues 2 and 8 from Table 1 of our Relevant Representation);</p> <ul style="list-style-type: none"> <li>• Operation-phase aerial emissions and their effects on designated sites, including Humber Estuary SPA and SAC, Lower Derwent Valley SAC, SPA and Ramsar, Thorne Moor SAC, River Derwent SAC, Skipwith Common SAC, Brighton Meadows SSSI, Went Ings Meadows SSSI, Derwent Ings SSSI, Melbourne and Thornton Ings SSSI, Humber Estuary SSSI, River Derwent SSSI, Eskamhorn Meadows SSSI, Barn Hill Meadows SSSI,</li> </ul>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
			<p>Burr Closes SSSI, Thorne, Crowle, and Goole Moors SSSI, Skipwith Common SSSI, Thorne Crowle and Goole Moors SSSI (Key Issues 19 – 21 and 22 – 24 from Table 1 of our Relevant Representation);</p> <p>NE otherwise agree with the outcome of the ecological impact assessment completed by the Applicant, as presented in Section 8.9, 8.11, and 8.12 of the Ecology chapter of the ES (document reference APP-044) and in the Cumulative Effect Assessment Matrix (document reference APP-177), in all other respects.</p> <p>NE notes that the Applicant is preparing additional information in relation to the points we have raised in our Relevant Representation and looks forward to receiving this in due course.</p>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
4.3.7	Relevant dDCO Requirements/Articles	<p>Requirements 6, 7, 8, 14, 15, 18, and 19 in Schedule 2 of the draft DCO (document reference APP-013) include provisions that are relevant to addressing effects of the Proposed Scheme on ecological receptors.</p> <p>We note NE’s comments on Requirements 7, 8, 14, 15, 17, 18, and 19 and that only Requirement 18 would require an update to the DCO. The Applicant is currently considering the request to include reference to the REAC in this Requirement, noting that technological and environmental standards will develop over time such that not all REAC measures may be relevant or appropriate at the time of decommissioning.</p> <p>The air quality mitigation measures will be secured through the environmental permit variation, not the DCO.</p>	<p>NE has provided comments on the draft DCO in Table 2 of our Relevant Representation, specifically in relation to Requirements 7, 8, 14, 15, 17, 18, and 19. We welcome further discussion with the Applicant, with a view to reaching agreed wording for the relevant Requirements.</p> <p>We also consider that a Requirement should be added to Schedule 2 of the draft DCO, to secure the mitigation measures proposed to reduce Operational air quality impacts (emissions control measures as referenced in Section 6.10 of the Air Quality chapter of the ES (document reference APP-042)).</p> <p>Other than our comments above (as detailed in Table 2 of our Relevant Representation), NE agrees with the Requirements as currently drafted, and has no further comments to make on the draft DCO (document reference APP-013).</p>	Under discussion

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
4.3.8	Biodiversity Net Gain	<p>The Applicant submitted a BNG Report with the DCO Application (document reference APP-196). This set out the anticipated BNG that would be achieved by the Proposed Scheme, on the basis of the loss and disturbance of habitat and the proposals for habitat creation, restoration and enhancement as submitted in the Outline Landscape and Biodiversity Strategy (OLBS) (document reference APP-183).</p> <p>The Applicant has been working to refine requirements for landtake during construction and operation of the Proposed Scheme since submission. This has enabled an improvement in the BNG outturn for the Proposed Scheme.</p> <p>Following the same methodological approach taken for the submission version of the BNG Report (on-site and off-site Habitat Provision Area included in off-site part of Defra Metric), the Proposed Scheme can now achieve 10% net gain for Habitat units and Hedgerow units.</p>	<p>NE has made several observations on the BNG Report submitted with the DCO application (document reference APP-196). These are set out in Key Issues 11 – 13 of Table 1 of our Relevant Representation. In summary, we have requested that the Applicant provides additional information in relation to the following:</p> <ul style="list-style-type: none"> <li>• A further update to the BNG Strategy and assessment should be completed, in order to demonstrate a 10% BNG outturn for all habitat types;</li> <li>• That Requirement 7 of the draft DCO should make reference to a commitment to secure a 10% net gain for all identified habitat types;</li> <li>• We advise that the Habitat Provision Area within the Order Limits should be included in the ‘on-site’,</li> </ul>	Under discussion



Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>The Applicant continues to consider that it is appropriate for both the on-site and off-site Habitat Provision Area to be included in the off-site part of the BNG metric. This is because the Habitat Provision Areas have only been included in the Proposed Scheme for the purpose of ecology and landscape mitigation and enhancement, and the delivery of BNG.</p> <p>The Applicant is also in discussions with the Calder and Colne Rivers Trust, to secure off-site river and stream habitat enhancements via section 106 Agreement., As such the Applicant also expects to achieve 10% BNG for River and Stream habitats.</p> <p>The Applicant notes NE’s comment regarding the presence of reedbed habitats as referenced in the BNG report. The Applicant wishes to clarify that there are no habitats recorded within the Order Limits that meet the JNCC description for the Habitat of Principal Importance (HPI) ‘reedbed’.</p> <p>‘Reedbed’ habitats were recorded within the Order Limits at the northern extent of the existing</p>	<p>rather than ‘off-site’ part of the Biodiversity Metric; and</p> <ul style="list-style-type: none"> <li>• Further clarity on whether Habitat of Principal Importance habitats (reedbeds) are affected by the Proposed Scheme.</li> </ul> <p>Other than our comments above, NE agrees with the approach to the BNG report and has no further comments to make on the draft DCO (document reference APP-013) or BNG Report.</p>	

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>Power Station Site, as shown on Sheet 2 of 7 of Figure 8.3 of the ES (document reference APP-094). These are mapped as the phase 1 habitat type 'swamp', with the following description in the Preliminary Ecological Appraisal (document reference APP-136): 'Bulrush dominated this area of standing water, with occasional common centaury <i>Centaureum erythraea</i>, frequent figwort, Yorkshire fog, alder, marsh thistle <i>Cirsium palustre</i>, ragwort and Himalayan balsam.' This habitat covered an area of approximately 0.1 hectares.</p> <p>The Biodiversity Metric used for calculating BNG does not use exactly the same habitat classifications as the Phase 1 habitat mapping system – it is instead based around the UKHAB habitat classification system. There is no 'swamp' habitat category available in the Biodiversity Metric, and 'reedbed' habitat was therefore selected as the closest fitting habitat type available in the Biodiversity Metric for this area.</p>		

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		<p>As the delivery of BNG relies on measures outwith the OLBS, it is not appropriate for Requirement 7 of the DCO to refer to the delivery of 10% BNG, as it will not be the OLBS by itself which achieves that figure.</p> <p>The Applicant intends to submit an updated BNG Report into the Examination to confirm the latest position on BNG (this uses Version 3.1 of the BNG metric). The Applicant will also provide additional information in its response to the NE Relevant Representation.</p>		

#### 4.4. LANDSCAPE AND VISUAL IMPACT

**Table 4.4 – Landscape and Visual Impact**

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
	LVIA Assessment and Mitigation	The Applicant’s LVIA is set out in Chapter 9 (Landscape and Visual Amenity) of the ES (document reference APP-045), with	NE has no concerns with the LVIA assessment and mitigation proposed for the Proposed Scheme.	Agreed

Ref	Description of Matter	Applicant – Current Position	Natural England – Current Position	Position
		mitigation measures brought forward as described in the REAC.		

## 5. SIGNATURES

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**Table 5.1 – Signatures**

<b>Ref</b>	<b>Natural England</b>	<b>Drax Power Ltd (the Applicant)</b>
<b>Signature</b>		
<b>Printed Name</b>		
<b>Title</b>		
<b>On behalf of</b>	Natural England	Drax Power Ltd
<b>Date</b>		