



HELIOS RENEWABLE
ENERGY
PROJECT

PINS Document Number:
EN010140/APP/6.3.8.10

Pursuant to:
APFP Regulation 5(2)(a)

**Environmental Statement
Appendix 8.10:
Consultation Record**

June 2024

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**ID 6: LETTER TO THE PLANNING INSPECTORATE ON BEHALF OF APPLICANT
DATED 03/11/2022**

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BY EMAIL ONLY

[REDACTED]
[REDACTED]
The Planning Inspectorate

Our Ref: 33627/A3/HREP
Your Ref: EN010140
Date: 03 November 2022

Dear [REDACTED]

HELIOS RENEWABLE ENERGY PROJECT

SECTION 51 ADVICE REQUEST – PLANNING ACT 2008

We write on behalf of Enso Green Holdings D Limited (hereafter referred to as the 'Applicant') in relation to the proposed construction, operation and maintenance, and decommissioning of a renewable energy project on 757.46 hectares of land located to the south-west of the village of Camblesforth and to the north of the village of Hirst Courtney in North Yorkshire (the 'site'), known as Helios Renewable Energy Project (the 'Proposed Development'). This letter seeks formal advice in accordance with Section 51 of the Planning Act 2008.

In accordance with Regulation 10(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations'), a Scoping Report comprising a formal request for a Scoping Opinion from the Planning Inspectorate ('PINS') was submitted to PINS on 7th June 2022. PINS adopted its Scoping Opinion on behalf of the Secretary of State on 14th July 2022.

This letter seeks further advice from PINS in relation to the request in its Scoping Opinion for additional ecology survey information to that committed to in the Scoping Report submitted by the Applicant, which would be used to inform an Environmental Statement ('ES') in support of the application for development consent.

The Applicant has provided comments on additional surveys requested by PINS beyond those committed to in the Scoping Report, which relate to invertebrates, bats, breeding birds and wintering birds. This letter sets out the Scoping Report's justification for scoping out additional surveys for these species, and the relevant response from the Applicant to the PINS Scoping Opinion's request for on-site baseline surveys of these species to be undertaken.

Invertebrates

Paragraph 8.7.4 of the Scoping Report states:

'Due to the presence of a largely arable and pastoral intensive farmland habitat within the site, it is not considered that the field parcels within the site provide suitable habitat mosaics to support locally or regionally important invertebrate assemblages and the impacts on the invertebrate assemblages are proposed to be scoped out of the assessment.'

ID: 3.4.5 ref. 8.7.4 of the Scoping Opinion states:

'Due to the absence of species-specific surveys, the Inspectorate does not agree to scope out the impact of invertebrates on the basis that habitat is not deemed suitable. The ES should determine the baseline and then assess significant effects where they are likely to occur'

Applicant's Response

The need for further targeted invertebrate surveys is considered to be disproportionate, when compared to the likely impacts on invertebrates associated with the Proposed Development, which are not considered to be significant.

Much of the site consists of intensively managed agricultural land, of which the majority is used for arable purposes. The current management of the land includes the regular application of herbicides and pesticides. These are used to prevent the growth of 'non-crop' vegetation which could potentially support invertebrates. In addition, both herbicides and pesticides are directly toxic to invertebrates, causing fatality. Given the existing farming technique used across the site, its suitability for invertebrates is negligible.

Linear habitats within, and surrounding the site, such as hedgerows, ditches, ponds and woodland are considered likely to support a more diverse invertebrate community than arable fields, although such features will be largely retained as part of the Proposed Development. Regardless, even these communities will be heavily impacted by existing land management practices, including herbicide and pesticide drift from agricultural fields and manure/fertiliser run-off impacting ditches and ponds.

Subsequently, it can be reasonably concluded that the current use of the site as arable farmland precludes the presence of sensitive or important invertebrate assemblages.

The cessation of intensive arable farmland management arising from the Proposed Development, particularly the use of herbicides and pesticides, is likely to improve conditions for invertebrate assemblages.

The Applicant seeks to make use of the land within the site that is currently intensively managed. These areas are considered to have a negligible value to invertebrate populations. Furthermore, the Applicant seeks to protect and enhance 'on-site' habitats that are considered more suitable to support a more diverse assemblage of invertebrates, such as hedgerows, woodlands blocks, ditches and ponds. In addition, the Applicant is proposing extensive new habitat creation including woodland and scrub planting, the creation of new meadow habitats, and the introduction of habitat piles and invertebrate towers and boxes. These measures will improve habitats for invertebrate populations.

The long-term benefits for invertebrate species, throughout the lifetime of the Proposed Development, will be secured through a Biodiversity Management Plan ('BMP'). The BMP will prescribe management methodologies to ensure that invertebrate (amongst other species) habitats are enhanced and managed effectively. The BMP will be appended to the Biodiversity ES chapter that forms part of the DCO application.

Due to the existing habitats and farming practices, the Applicant considers the need for specific invertebrate surveys to be unnecessary and disproportionate when considered in the context of the site and the anticipated effects of the Proposed Development and as set out in the Scoping Report, proposes that an assessment of likely significant effects on invertebrates should be scoped out of the ES.

Bat Activity

Paragraph 8.3.29 of the Scoping Report states:

'a number of mature trees were noted to have potential bat roosting features during the ecological baseline walkover survey. The likelihood of impacts upon potential roost sites and the requirement for further survey work pre construction in line with 'bat surveys for professional ecologists: good practice guidelines (2016)'¹ best practice guidance will be considered in the ES'.

ID: 3.3.4, Ref. 8.3.6 of the Scoping Opinion states:

'Bat surveys should be undertaken to inform a robust baseline in the ES; the Scoping Report does not identify bat surveys as a method to inform the baseline although bats are scoped into the ES assessment in Table 8.2'.

Applicant's Response

The Applicant considers that the request in the Scoping Opinion for additional bat surveys is unnecessary, given the lack of potential for associated impacts on foraging and commuting bat species. The Scoping Report has committed to assessing the potential for significant effects from the Proposed Development on bats (foraging/commuting and roosting), and therefore potential impacts to bat species will be considered within the Biodiversity chapter of the ES.

Bat habitat preferences are well understood, and the site clearly offers very limited foraging and commuting opportunities for bats. These are confined to field boundary features, such as hedgerows, ditches, ponds and treelines. Such features will be retained and enhanced as part of the Proposed Development, allowing bats to continue to commute and forage.

The dominant habitats consist of intensively managed agricultural land, the majority of which is used for arable purposes. Open arable farmland offers very little foraging and commuting potential for bats², and it is evident that bat activity is typically concentrated along boundary features such as hedgerows³. Current farming practices, particularly the use of herbicides and pesticides, also mean that low flying invertebrate prey species will be absent or rare

¹ Collins, J (ed.) (2016) *Bat surveys for professional ecologists: good practice guidelines* (3rd edn). The Bat Conservation Trust, London

² Heim, O., Lorenz, L., Kramer-Schadt, S. et al. Landscape and scale-dependent spatial niches of bats foraging above intensively used arable fields. *Ecol Process* 6, 24 (2017). <https://doi.org/10.1186/s13717-017-0091-7>

³Blary, C., Kerbirou, C., Le Voil, I., Kevin, B., (2021) Assessing the importance of field margins for bat species and communities in intensive agricultural landscapes. *Agriculture, Ecosystems & Environment* Volume 319, 1 October 2021, 10791

across much of the site; this reduces the potential for bat species to forage within this type of habitat and it can therefore be reasonably concluded that the majority of the site is unimportant for foraging bats due to land management practices. Subsequently, survey of such habitats is, in the Applicant's view, disproportionate to the potential for significant effects.

The Proposed Development will incorporate the creation and management of long-term meadow habitats across the site, including underneath and between the solar photovoltaic arrays. The creation of such habitats will encourage a more diverse range of invertebrate species (as outlined in the previous section), therefore providing improved foraging opportunities for bats and likely attracting foraging bats to the site.

Any lighting that is likely to be required during the construction, operational or decommissioning phases of the Proposed Development will be directed away from existing linear habitats typically used by bat species. This will be achieved by the use of low-level lighting and lighting hoods to prevent the spillage of light from its intended source as per the recommendations set out in *Lighting in the UK, Bats and Built Environment Series, Bat Conservation Trust and Institute for Lighting Engineers*⁴.

Due to the retention and enhancement of features considered suitable for foraging/commuting bat activity, and the cessation of intensive farm management practices, the Applicant considers the request for bat activity surveys to be disproportionate. The Applicant therefore proposes to adopt an assessment of impacts to foraging and commuting bats within the ES through the following methods:

- Desk-based study;
- Bat habitat suitability assessment; and
- Assessment of post development habitat enhancements.

It is the Applicant's position that the above approach will provide a robust assessment of the potential impacts of the Proposed Development of foraging and commuting bats.

Preliminary Bat Roost Assessment

The Proposed Development does not propose extensive removal of mature hedgerow trees. Whilst the design is not yet finalised, it will seek to retain existing mature hedgerow and boundary trees and these will be protected during construction and decommissioning, inline with British Standards BS5837:2012 *Trees in relation to design, demolition and construction*. The Proposed Development will also include the installation of bat roost boxes on mature and semi mature trees, further enhancing the site's potential to support roosting bats.

Several mature trees were noted to have potential bat roosting features during the ecological baseline walkover survey. The likelihood of impacts upon potential roost sites (trees) and the requirement for further survey work pre-construction in line with *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (2016⁵) best practice guidance will be considered in the ES. If, in the unlikely event, that tree clearance is required to facilitate the

⁴ Institution of Lighting Professionals & the Bat Conservation Trust (2018). Guidance Note 08/18: Bats and artificial lighting in the UK Bats and the Built Environment Series

⁵ Collins, J. (ed.) (2016) *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (3rd edn). The Bat Conservation Trust, London.

Proposed Development, surveys will be undertaken in-line with the aforementioned guidance and all policy and legislative obligations will be met.

Subsequently, it is the Applicant's position that there will be no effects on roosting bats during the construction, operation or decommissioning phases of the Proposed Development.

Breeding and Wintering Birds

Paragraph 8.2.4 of the Scoping Report states:

'Whilst they cover the large majority of the site, it is acknowledged that in some instances, the wintering bird survey and breeding bird survey study areas do not include the entire area within the site boundary. This is due to the evolution of the site boundary since the surveys were undertaken. However, it is considered that the baseline data gathered during the surveys provides an appropriately sufficient amount of information regarding breeding bird and wintering bird assemblages within the site and wider environment to robustly inform an assessment of the likely significant effects of the Proposed Development on these receptors.'

ID: 3.4.7, Ref: 8.2.4 of the Scoping Opinion states:

'... In the absence of further details regarding the extent and implications of such data gaps or agreement with the proposed approach from Natural England, the Inspectorate does not consider that the need for further survey data can be scoped out at this time.'

It is the Applicant's position that the 'data gaps' within the survey areas are negligible and inconsequential to the assessment of the Proposed Development's likely significant effects in the Biodiversity chapter of the ES. These 'data gaps' relate to the following areas:

- Breeding bird surveys of a small area of arable farmland in the south-west corner of the site, which is largely surrounded by areas that have been surveyed and with identical habitats. Wintering bird surveys have included this area.
- Breeding bird surveys of a short section of the proposed underground cable connection, which passes entirely through arable farmland and will be subject to temporary disturbance only. The surrounding land and majority of the underground cable connection has been surveyed for wintering birds.
- Breeding and wintering bird surveys of a section of the proposed underground grid connection cable, the majority of which passes through habitats of negligible value for wintering birds, and will also be subject to temporary disturbance only.

Any limitations to the survey data set will be clearly set out within the Biodiversity chapter of the ES.

It is further relevant that arable farmland habitat (i.e., a large majority of the Proposed Development area) is of limited value for ground nesting birds, and that their presence and population density is entirely reliant on agricultural management practices. The rotation of crops means that a field used by, for example, skylarks in one year may not be used at all in another year. Such habitat relationships are well understood and inter-annual variance in

breeding bird usage will form part of the assessment of likely significant effects in the Biodiversity chapter of the ES, which will also assess impacts over the lifetime of the Proposed Development. The substantial majority of the site has been fully surveyed for breeding birds and it is subsequently possible to robustly assess impacts based on known habitat associations and consideration of inter-annual variations. As previously outlined in the 'bat' sections above, the Proposed Development will retain boundary features and therefore breeding birds associated with hedgerows and trees will be subject to no or negligible impacts. Subsequently, it is the Applicant's position that additional surveys for breeding birds are unnecessary for impact assessment purposes.

With regards to wintering birds, the only areas that have not been surveyed are sections of the proposed underground grid connection cable which have subsequently been visited (for habitat survey purposes) and is established to be of negligible habitat value for wintering waterfowl or waders (i.e. managed grassland with high levels of disturbance), including all species which are qualifying features of the Lower Derwent Valley Special Protection Area ('SPA') and Ramsar site, and the Humber Estuary SPA and Ramsar site. On this basis, there would be no temporary impacts on such areas that could lead to adverse impacts on the integrity of any European site or other important winter bird populations.

It is subsequently the Applicant's position that field data collated to date, accompanied by desk study information and literature review (of bird habitat associations) will provide a fully robust baseline assessment to inform the assessment of the Proposed Development's likely significant effects on breeding and wintering birds, as well as the Habitats Regulations Assessment of the Proposed Development.

In addition to the further advice requested from PINS on the contents of this letter, the Applicant would welcome a meeting to discuss in further detail.

Your sincerely,

[Redacted signature]

[Redacted name]

[Redacted title]

Enc. Helios Renewable Energy Project, EIA Scoping Report

cc.

[Redacted recipient]

**ID 7: VIRTUAL MEETING WITH THE PLANNING INSPECTORATE ON
15/11/2022**

Minutes

Subject: Helios Renewable Energy Hub – Ecology advice and Project Update

Date / time: 15th November 2022 2:00pm closed at 3:10pm

Attendees:

- [REDACTED] Planning Inspectorate
- [REDACTED] Planning Inspectorate
- [REDACTED] Planning Inspectorate
- [REDACTED] Planning Inspectorate
- [REDACTED] ENSO Energy
- [REDACTED] Barton Willmore, now Stantec
- [REDACTED] Barton Willmore, now Stantec
- [REDACTED] Barton Willmore, now Stantec
- [REDACTED] Avian Ecology

Apologies:

- [REDACTED] Barton Willmore, now Stantec
- [REDACTED] ENSO Energy
- [REDACTED] Avian Ecology

Location: Microsoft Teams Video Call Meeting

1. Team Introductions

- Section 51 disclaimer – not legal advice.
- Meeting note will be published on the PINS website in due course.
- Introductions around the group.
- Purpose of the meeting is to discuss the need for ecology surveys as indicated in the Scoping Opinion. Section 51 advice of the Planning Act 2008 – formal letter submitted on 3rd November 2022.

2. Project Update

- Environment Agency (EA) are causing delays in terms of flood risk and modelling data we require. Resourcing issues from EA.
- Programme impacted and once we have the relevant information, we will be updating the programme and can share this with PINS.
- Consultation – non stat has been undertaken.
- [REDACTED] recommended we provide updated programme date to allow PINS to update their website.
- [REDACTED] using August 2023 as submission date in the meantime.

- ■ feedback non statutory events and information/responses. Comms team update the project team regularly.
- ■ – we have been in regular contact with Selby District Council and North Yorks County Council. Fortnightly meetings booked in with case officers.
- ■ – Statements of Common Ground drafted with SDC and NYCC.
- Transport consultants liaising with Highways Authority.
- ■ – indicated that a Local Councillors meeting was held W/C 7th November 2022. One of the ward member councillors was present.
- ■ – draft SOCC has been issued to both Councils and comments have been received.
- Little Crow Design Guidance – technical guide (Deadline 1 during process). A good example document – intention is to produce a similar good scheme.

3. Scoping / Ecology

- ■ – introduced Avian and history of biodiversity versus solar applications.
- ■ – presentation (indicated survey study areas) and provided our stance.
- ■ – referred to survey results and information provided in letter submitted to PINS in November 2022.
- ■ – recommends consultation with Natural England and Selby District Council.
- ■ – reasonable worst-case scenario would be required for assessments. Ensuring robustness.
- ■ – accepted and acknowledged recommendations.
- ■ – pointed out that neither LPA nor Natural England requested these data requests. ■ - very much the opinion of PINS, whilst taking into account responses of the two statutory bodies.
- ■ indicated that the Applicant will go to Natural England and use their discretionary advice service to discuss methodology, findings, evidence base to date (following ecology surveys) etc.
- ■ – tie it into best practice guidance in terms of ecological assessments.

4. AOB

- ■ – requested update on land referencing.
- ■ – agreements with landowner in place.

5. ACTIONS

- ■ to provide updated submission timescale once reviewed and agreed the programme with ■(ENSO Energy).

- Utilise Natural England's Discretionary Advice Service.

ID 8: REQUEST FOR DAS WITH NATURAL ENGLAND BY AVIAN ECOLOGY LTD ON 7/12/2022

Request for Discretionary Advice

7th December 2022.

Enclosures:

Figure 1: Site Location Plan

Appendix 1: Letter to PINS dated 3rd November 2022

Dear Natural England Case Officer,

Re Proposed Helios Renewable, Energy Project. Planning Inspectorate Case Reference: EN010140

This letter presents a request for Natural England's advice in accordance with your Discretionary Advice Service (hereafter referred to as the 'DAS') and should be read in conjunction with the attached appendices and figures.

The DAS request is submitted under advice of the Planning Inspectorate ('PINS').

Avian Ecology is working on behalf the Applicant ('Enso Energy Limited') for an application for development consent ('DCO application') for the above nationally significant infrastructure project ('NSIP').

The Environmental Impact Assessment ('EIA') Scoping Report was submitted to PINS on 7th June 2022. PINS adopted its EIA Scoping Opinion on 14th July 2022. Natural England provided its EIA Scoping response to PINS in a letter dated 4th July 2022 (Natural England reference 396058). Copies of these documents are available at the National Infrastructure Planning website¹. It is politely requested that Natural England refers to these documents to inform their understanding of the proposals and response to this DAS request.

Purpose of the DAS request

The advice provided by Natural England in its scoping response (letter reference 396058) is noted and has been considered in preparation of this note by the Applicant's ecological advisors (Avian Ecology).

In its Scoping Opinion, PINS requested additional clarification in relation to the Applicant's position on species surveys to determine the baseline conditions at the Site. In response, additional information was provided to the Planning Inspectorate (letter dated 3rd November 2022, see Appendix 1). A subsequent virtual project meeting was held with PINS on 15th November 2022 and the scope of ecological surveys discussed; PINS accepted that the Applicant's position was reasonable and

¹ National Infrastructure Planning (2022) Helios Renewable Energy Project. Accessed at: <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/helios-renewable-energy-project/?ipcsection=docs>.

recommended that the Applicant submit a DAS request to Natural England to confirm the scope of ecological baseline surveys required.

The Applicant wishes to confirm with Natural England the extent of baseline ecology and ornithology data required to inform the Environmental Statement ('ES'), in support of the DCO application and corresponding Habitats Regulations Assessment ('HRA'), if required.

Project Description

The Proposed Development is located to the southwest of the village of Camblesforth and to the north of the village of Hirst Courtney in North Yorkshire (the 'Site'), within the administrative areas of Selby District Council ('SDC') and North Yorkshire County Council ('NYCC').

The Application comprises *'The installation of ground mounted solar arrays, energy storage and associated development comprising grid connection infrastructure and other infrastructure integral to the construction, operation, and maintenance of the development for the delivery of over 50 megawatts (MW) of electricity.'*

A Site plan is provided as **Figure 1**. The Site predominantly comprises agricultural land, consisting of fields used for grazing and arable cropping. It extends to 757.46ha (c. 1,872 acres) of land to the southwest of the village of Camblesforth and to the north of the village of Hirst Courtney. Part of the Site also extends to the east of Drax Power Station. There are some residential properties which are close to, but located outside of, the north western part of the Site.

It is acknowledged that the Application will need to deliver Biodiversity Net Gain in accordance with the Environment Act 2021.

Scoping Report

Chapter 8 of the Scoping Report provides details of the methodologies implemented for the collation of baseline data and assessment of potential effects. Initial desk-study results are presented in Section 8.3, along with details of statutorily designated sites for nature conservation within proximity of the Site (Scoping Report Table 8.1 and Figure 8.1).

In response to the PINS request (meeting 15th November 2022), the Applicant seeks Natural England's advice regarding the requirement for baseline field surveys for the following receptors, each of which is further explained below:

- Invertebrates;
- Bat activity;
- Bats - Preliminary Roost Assessment; and,
- Breeding and Wintering Birds.

Invertebrates

Paragraph 8.7.4 of the Scoping Report states:

'Due to the presence of a largely arable and pastoral intensive farmland habitat within the site, it is not considered that the field parcels within the site provide suitable habitat mosaics to support locally or regionally important invertebrate assemblages and the impacts on the invertebrate assemblages are proposed to be scoped out of the assessment.'

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‘Due to the absence of species-specific surveys, the Inspectorate does not agree to scope out the impact of invertebrates on the basis that habitat is not deemed suitable. The ES should determine the baseline and then assess significant effects where they are likely to occur’

Applicant’s Response

The need for further targeted invertebrate surveys is considered disproportionate, when compared to the likely impacts on invertebrates associated with the Proposed Development, which are not considered to be significant.

Much of the Site consists of intensively managed agricultural land, of which the majority is used for arable purposes. The current management of the land includes the regular application of herbicides and pesticides. These are used to prevent the growth of ‘non-crop’ vegetation which could potentially support invertebrates. In addition, both herbicides and pesticides are directly toxic to invertebrates, causing fatality. Given the existing farming technique used across the Site, its suitability for invertebrates is negligible.

Linear habitats within, and surrounding the Site, such as hedgerows, ditches, ponds and woodland are considered likely to support a more diverse invertebrate community than arable fields, although such features will be largely retained as part of the Proposed Development. Regardless, even these communities will be heavily impacted by existing land management practices, including herbicide and pesticide drift from agricultural fields and manure/fertiliser run-off impacting ditches and ponds.

Subsequently, it can be reasonably concluded that the current use of the Site as arable farmland precludes the presence of sensitive or important invertebrate assemblages.

The cessation of intensive arable farmland management arising from the Proposed Development, particularly the use of herbicides and pesticides, is likely to improve conditions for invertebrate assemblages.

The Applicant seeks to make use of the land within the Site that is currently intensively managed. These areas are considered to have a negligible value to invertebrate populations. Furthermore, the Applicant seeks to protect and enhance ‘on-site’ habitats that are considered more suitable to support a more diverse assemblage of invertebrates, such as hedgerows, woodlands blocks, ditches and ponds. In addition, the Applicant is proposing extensive new habitat creation including woodland and scrub planting, the creation of new meadow habitats, and the introduction of habitat piles and invertebrate towers and boxes. These measures will improve habitats for invertebrate populations.

The long-term benefits for invertebrate species, throughout the lifetime of the Proposed Development, will be secured through a Biodiversity Management Plan (‘BMP’). The BMP will prescribe management methodologies to ensure that invertebrate (amongst other species) habitats are enhanced and managed effectively. The BMP will be appended to the Biodiversity ES chapter that forms part of the DCO application.

Due to the existing habitats and farming practices, the Applicant considers the need for specific invertebrate surveys to be unnecessary and disproportionate when considered in the context of the Site and the anticipated effects of the Proposed Development and as set out in the Scoping Report, proposes that an assessment of likely significant effects on invertebrates should be scoped out of the ES.

Bat Activity

Paragraph 8.3.29 of the Scoping Report states:

'a number of mature trees were noted to have potential bat roosting features during the ecological baseline walkover survey. The likelihood of impacts upon potential roost sites and the requirement for further survey work pre construction in line with 'bat surveys for professional ecologists: good practice guidelines (2016)² best practice guidance will be considered in the ES'.

ID: 3.3.4, Ref. 8.3.6 of the Scoping Opinion states:

'Bat surveys should be undertaken to inform a robust baseline in the ES; the Scoping Report does not identify bat surveys as a method to inform the baseline although bats are scoped into the ES assessment in Table 8.2'.

Applicant's Response

The Applicant considers that the request in the Scoping Opinion for additional bat surveys is unnecessary, given the lack of potential for associated impacts on foraging and commuting bat species. The Scoping Report has committed to assessing the potential for significant effects from the Proposed Development on bats (foraging/commuting and roosting), and therefore potential impacts to bat species will be considered within the Biodiversity chapter of the ES.

Bat habitat preferences are well understood, and the Site clearly offers very limited foraging and commuting opportunities for bats. These are confined to field boundary features, such as hedgerows, ditches, ponds and treelines. Such features will be retained and enhanced as part of the Proposed Development, allowing bats to continue to commute and forage.

The dominant habitats consist of intensively managed agricultural land, the majority of which is used for arable purposes. Open arable farmland offers very little foraging and commuting potential for bats³, and it is evident that bat activity is typically concentrated along boundary features such as hedgerows⁴. Current farming practices, particularly the use of herbicides and pesticides, also mean that low flying invertebrate prey species will be absent or rare across much of the Site; this reduces the potential for bat species to forage within this type of habitat and it can therefore be reasonably concluded that the majority of the Site is unimportant for foraging bats due to land management practices. Subsequently, survey of such habitats is, in the Applicant's view, disproportionate to the potential for significant effects.

The Proposed Development will incorporate the creation and management of long-term meadow habitats across the Site, including underneath and between the solar photovoltaic arrays. The creation of such habitats will encourage a more diverse range of invertebrate species (as outlined in the

2 Collins, J (ed.) (2016) Bat surveys for professional ecologists: good practice guidelines (3rd edn). The Bat Conservation Trust, London.

3 Heim, O., Lorenz, L., Kramer-Schadt, S. et al. Landscape and scale-dependent spatial niches of bats foraging above intensively used arable fields. *Ecol Process* 6, 24 (2017). <https://doi.org/10.1186/s13717-017-0091-7>.

4 Blary, C., Kerbirou, C., Le Voil, I., Kevin, B., (2021) Assessing the importance of field margins for bat species and communities in intensive agricultural landscapes. *Agriculture, Ecosystems & Environment* Volume 319, 1 October 2021, 10791.

previous section), therefore providing improved foraging opportunities for bats and likely attracting foraging bats to the Site.

Any lighting that is likely to be required during the construction, operational or decommissioning phases of the Proposed Development will be directed away from existing linear habitats typically used by bat species. This will be achieved by the use of low-level lighting and lighting hoods to prevent the spillage of light from its intended source as per the recommendations set out in Lighting in the UK, Bats and Built Environment Series, Bat Conservation Trust and Institute for Lighting Engineers⁵.

Due to the retention and enhancement of features considered suitable for foraging/commuting bat activity, and the cessation of intensive farm management practices, the Applicant considers the request for bat activity surveys to be disproportionate. The Applicant therefore proposes to adopt an assessment of impacts to foraging and commuting bats within the ES through the following methods:

- Desk-based study;
- Bat habitat suitability assessment; and
- Assessment of post development habitat enhancements.

It is the Applicant's position that the above approach will provide a robust assessment of the potential impacts of the Proposed Development of foraging and commuting bats.

Bats - Preliminary Roost Assessment

The Proposed Development does not propose extensive the removal of mature hedgerow trees. Whilst the design is not yet finalised, this will seek to retain existing mature hedgerow and boundary trees and these will be protected during construction and decommissioning, in line with British Standards BS5837:2012 *Trees in relation to design, demolition and construction*. The Proposed Development will also include the installation of bat roost boxes on mature and semi mature trees, further enhancing the Site's potential to support roosting bats.

Several mature trees were noted to have potential bat roosting features during the ecological baseline walkover survey. The likelihood of impacts upon potential roost sites (trees) and the requirement for further survey work pre-construction in line with *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (2016⁶) best practice guidance will be considered in the ES. If, in the unlikely event, that tree clearance is required to facilitate the Proposed Development, surveys will be undertaken in-line with the aforementioned guidance and all policy and legislative obligations will be met.

Subsequently, it is the Applicant's position that there will be no effects on roosting bats during the construction, operation or decommissioning phases of the Proposed Development.

Breeding and Wintering Birds

Paragraph 8.2.4 of the Scoping Report states:

'Whilst they cover the large majority of the site, it is acknowledged that in some instances, the wintering bird survey and breeding bird survey study areas do not include the entire area

⁵ Institution of Lighting Professionals & the Bat Conservation Trust (2018). Guidance Note 08/18: Bats and artificial lighting in the UK Bats and the Built Environment Series

⁶ Collins, J. (ed.) (2016) *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (3rd edn). The Bat Conservation Trust, London.

within the site boundary. This is due to the evolution of the site boundary since the surveys were undertaken. However, it is considered that the baseline data gathered during the surveys provides an appropriately sufficient amount of information regarding breeding bird and wintering bird assemblages within the site and wider environment to robustly inform an assessment of the likely significant effects of the Proposed Development on these receptors.'

ID: 3.4.7, Ref: 8.2.4 of the Scoping Opinion states:

'... In the absence of further details regarding the extent and implications of such data gaps or agreement with the proposed approach from Natural England, the Inspectorate does not consider that the need for further survey data can be scoped out at this time'.

It is the Applicant's position that the 'data gaps' within the survey areas are negligible and inconsequential to the assessment of the Proposed Development's likely significant effects in the Biodiversity chapter of the ES. These 'data gaps' relate to the following areas:

- Breeding bird surveys of a section of the proposed underground cable connection, which passes entirely through arable farmland and will be subject to temporary disturbance only. The surrounding land and majority of the underground cable connection has been surveyed for wintering birds. See **Figure 1, section A**.
- Breeding bird surveys of a small area of arable farmland in the south-west corner of the Site, which is largely surrounded by areas that have been surveyed and with identical habitats. Wintering bird surveys have included this area. See **Figure 1, section B**.
- Breeding and wintering bird surveys of a section of the proposed underground grid connection cable, the majority of which passes through habitats of negligible value for wintering birds, and will also be subject to temporary disturbance only. See **Figure 1, section C**.

Any limitations to the survey data set will be clearly set out within the Biodiversity chapter of the ES.

It is further relevant that arable farmland habitat (i.e., a large majority of the Proposed Development area) is of limited value for ground nesting birds, and that their presence and population density is entirely reliant on agricultural management practices. The rotation of crops means that a field used by, for example, skylarks in one year may not be used at all in another year. Such habitat relationships are well understood and inter-annual variance in breeding bird usage will form part of the assessment of likely significant effects in the Biodiversity chapter of the ES, which will also assess impacts over the lifetime of the Proposed Development. A substantial majority of the Site has been fully surveyed for breeding birds and it is subsequently possible to robustly assess impacts based on known habitat associations and consideration of inter-annual variations. As previously outlined in the 'Bats' sections above, the Proposed Development will retain boundary features and therefore breeding birds associated with hedgerows and trees will be subject to no or negligible impacts. Subsequently, it is the Applicant's position that additional surveys for breeding birds are unnecessary for impact assessment purposes.

Wintering Birds and SPA Qualifying Species

Wintering bird activity within the Site was low throughout the survey period (October 2021 to March 2022), with activity being limited to sporadic small flocks of mainly farmland species. Lapwings were

recorded within the Site in eight of the 12 survey visits, with a maximum flock size of 72 birds in February 2022 and a maximum of two golden plover recorded during one out of 12 surveys. Wetland birds recorded comprised of very low numbers of mallard, little egret, grey heron, little grebe and common gull. No other waterfowl species were recorded.

Other notable farmland species included kestrel, mistle thrush, starling and corn bunting.

With regards to surveys for wintering birds, the only areas that have not been surveyed are sections of the proposed underground grid connection cable which have subsequently been visited (for habitat survey purposes) and were established to be of negligible value for wintering waterfowl or waders (i.e. managed grassland with high levels of disturbance), including all species which are considered qualifying features of the Lower Derwent SPA and Ramsar site, and the Humber estuary SPA and Ramsar site. On this basis, there would be no temporary impacts on such areas that could lead to adverse impacts on the integrity of any European site or other important winter bird populations.

DAS Output Request

It is the professional view of the Applicant's ecological advisors (Avian Ecology) that the survey data summarised in this letter will provide adequate baseline information to inform the EIA and HRA (if required).

With the above statement in mind, we request Natural England's advice on the following:

- Q1. Does Natural England agree that, for the Proposed Development, surveys for invertebrates are not required?
- Q2. Does Natural England agree that, for the Proposed Development, bat activity surveys are not required?
- Q3. Does Natural England agree that the approach to roosting bats (Preliminary Roost Assessment section) is appropriate?
- Q4. Does Natural England agree that the scope and extent of breeding bird surveys, including survey areas, is acceptable for the purposes of impact assessment in the forthcoming ES?
- Q5. Does Natural England accept that the extent of survey area undertaken for wintering birds is acceptable for the purposes of impact assessment in the forthcoming ES?
- Q6. Does Natural England accept that the extent of survey area undertaken for wintering birds is acceptable for the purposes of HRA, if required?
- Q7. Does Natural England agree that the extent (duration) of bird surveys undertaken is adequate and robust?

Prepared by: [REDACTED]

Reviewed by: [REDACTED]

Figure 1: Site Location Plan

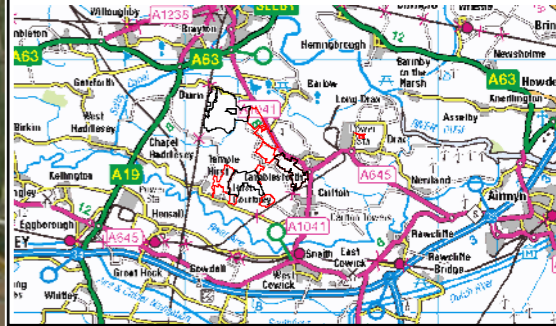


- Legend**
- Site Boundary
 - Habitat Survey Area
 - Wintering Bird Survey Area
 - Wintering Bird Survey Buffer
 - Breeding Bird Survey Area
 - Breeding Bird Survey Buffer
 - Great Crested Newt Survey Area
 - Desk Study Search area (Non-statutory designated sites, protected and priority habitats and species)

Rev	Date	Description	MR De	MJR App
00	01/12/2022		MR	MJR

This map contains data from the following sources:
 Ordnance Survey (2021)
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 Licence number 010031673.

Co-ordinate System : British National Grid
 Projection: Traverse Mercator
 Datum: OSGB 1936
 Units: Metres



HELIOS RENEWABLE ENERGY PROJECT

FIGURE 1



Avian Ecology, Suite 3c Walnut Tree Farm, Northwich Road, Lower Stretton
 WA4 4PG
 Tel: 0843 506 5116
 www.avianecology.co.uk



ID 9A: NATURAL ENGLAND DAS RESPONSE (DAS A008017) RECEIVED IN TWO DOCUMENTS ON 30/03/2023

Date: 30 March 2023
Our ref: DAS/A008017
Your ref: Drax Solar Helios Renewable energy Project



██████████
Avian Ecology Ltd.
Walnut Tree Farm
Northwich Road
Lower Stretton
WA4 4PG

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

0300 060 3900

Dear ██████████,

Discretionary Advice Service (Charged Advice)

DAS A008017

Development proposal and location: Solar renewable energy at Helios Renewable Energy Project, land to the SW of Camblesforth & North of Hist Courtney, N. Yorks.

This advice is being provided as part of Natural England's Discretionary Advice Service. Avian Ecology Ltd (on behalf of Enso Green Holdings D Limited) has asked Natural England to provide advice upon:

- Advice on potential impacts on designated or proposed sites
- Advice on biological survey methodology
- Advice on adequacy of available survey data

This advice is provided in accordance with the Quotation and Agreement dated 10th January 2023.

The following advice is based upon the information within:

1. Request for Discretionary Advice dated 7th December 2022
2. Ornithological Survey Report: Helios Renewable Energy Project on behalf of Enso Green Holdings D Limited dated 20 February 2023

Q1. Does Natural England agree that, for the Proposed Development, surveys for invertebrates are not required?

Q4. Does Natural England agree that the scope and extent of breeding bird surveys, including survey areas, is acceptable for the purposes of impact assessment in the forthcoming ES?

Regarding the above two questions, Natural England does not routinely provide advice on survey requirements, unless there is a potential for impacts to a notified feature of a Site of Special Scientific Interest or European site or there is a functional linkage, or there are potential impacts to European Protected Species. Therefore this falls outside of the scope of the advice that we can provide through our DAS. Natural England has produced [Standing Advice](#) which is available on its website. Whilst this advice is primarily designed to assist local planning authorities better understand the information required when assessing the impact of developments upon protected species, it also contains a wealth of information to help applicants ensure that their applications comply with good practice guidelines. We recommend that you may wish to consult the Local Planning Authority on this matter.

Protected sites

Wintering and passage birds

Natural England welcomes that wintering bird surveys have been undertaken. Natural England has reviewed the methodology that has been detailed in the Ornithological Survey Report, which covers the wintering period October to March and does not wish to raise any issues.

Q5. Does Natural England accept that the extent of survey area undertaken for wintering birds is acceptable for the purposes of impact assessment in the forthcoming ES?

Yes. The use of a 600 m buffer is acceptable.

Q6. Does Natural England accept that the extent of survey area undertaken for wintering birds is acceptable for the purposes of HRA, if required?

Yes. The use of a 600 m buffer is acceptable. However, we note that there is an area proposed for underground grid connection that has not been surveyed. Assessment of potential impacts on wintering birds from construction work along this route will need to be included in the HRA. This should include a full assessment of the potential habitat suitability for SPA bird species, we note that you have stated that the habitats are “of negligible value for wintering birds”, however, we would expect further interpretation of how this has been concluded. If it is identified that there are potentially suitable habitats within this area, you may wish to consider the assessment of potential construction impacts and whether these would avoid the passage/wintering periods. Or if it is as you describe that these areas will be “subject to temporary disturbance only”, further assessment of the potential impact on wintering birds, based on the construction activity details. In the absence of data, we would expect that a precautionary approach is taken and it is assumed that there are wintering birds in the area, unless bird surveys are undertaken.

Q7. Does Natural England agree that the extent (duration) of bird surveys undertaken is adequate and robust?

We note that there is no mention or discussion of passage birds, despite the proximity of the site to the Humber Estuary SSSI, SPA and Ramsar site, and to the Lower Derwent Valley SPA and Ramsar site, all of which have passage birds as a feature. The passage period is not strictly defined but can span from July to November inclusive (autumn passage) and March to May inclusive (spring passage). We recommend that assessment of potential impacts on passage birds is included in the forthcoming ES.

It is possible that the assessment of potential impacts on passage birds can be informed by historical records, consideration of observations of wintering birds and bird surveys at the appropriate time of year. Without this information, Natural England cannot agree that the extent (duration) of bird surveys undertaken is adequate and robust.

Natural England's general advice for assessing potential impacts to wintering and passage birds associated with the Humber Estuary SPA/ Ramsar is included below.

Functionally linked land

Natural England considers that the proposed development has the potential to impact on birds using functionally linked land associated with the Humber Estuary SPA and Ramsar site and the Lower Derwent Valley SPA and Ramsar site. We advise that the potential for loss of functionally linked land and/ or construction/operational impacts on birds on functionally linked land, should be considered in assessing what, if any, potential impacts the proposal may have on European sites.

In particular, the following information should be sought to support the Habitats Regulations Assessment (HRA):

- Wintering and passage bird surveys to determine bird usage of the fields on and adjacent to the site by SPA/Ramsar species. We recommend that the surveys follow the Vantage Point Survey methodology detailed below and include the fields adjacent to the site;

- A data search from the local Ecological Data Centre;
- Consultation with the Council's Ecologist;
- Consultation with local bird groups and other organisations that may hold relevant information; and
- A desk-based assessment - using aerial photography, mapping, habitat maps and relevant ecological literature – of the suitability for SPA birds of the habitats present on the proposed site and adjacent fields.

Please note that the HRA likely significant effect test identifies whether there is a credible risk that the project might undermine the conservation objectives for the European site. In this case, we advise that likely significant effect cannot be ruled out at the screening stage, due to the proximity to the Humber Estuary SPA and Ramsar site and to the Lower Derwent Valley SPA and Ramsar site and potential habitat suitability for SPA/Ramsar birds. Therefore, we advise that the bird survey results and other relevant data should be considered at the appropriate assessment stage of the HRA.

Vantage point surveys for wintering waders and wildfowl

We recommend that 'amended' vantage point (VP) surveys (principally following Nature Scot methodologies¹) are undertaken of the site and surrounding fields to provide an overview of bird usage. It would be useful to record birds in flight especially if the application may have the potential to affect bird flight lines. We would expect to see commentary of birds landing and taking off within and outwith the development site. The surveys should cover open arable land within the proposed site boundary, as well as land adjacent to the development that could be affected and provides the potential to support designated site species. The survey results should also provide some understanding of how the birds use the site as well as presence/ absence. We recommend two wintering bird surveys per month between September to March inclusive.

As well as wintering waterbirds, the Humber Estuary provides safe feeding and roosting sites for species migrating between breeding sites in the arctic and subarctic, and wintering grounds in southern Europe and Africa. The Humber Estuary is therefore important for waterbirds on passage in spring and autumn as well as those species that stay all winter. Therefore, if there is potential for passage SPA bird species to be using the site, we recommend bird surveys during the autumn passage period and spring passage period to determine the population status of passage birds.

The surveys should cover different tidal states and for sites which may potentially affect high tide roosts, observations should be conducted from two hours before high tide to two hours after high tide. Consideration should also be given to surveys in poor weather/ visibility conditions as large movements of birds can be observed at this time.

VP surveys may also need to take account of surveys at dusk and dawn, depending upon the bird species (i.e. geese and swans). If geese and swans have the potential to use the development site or surrounding area, we would expect to see surveys 1 hour before and 1 hour after, dusk and dawn during the respective bird survey season (i.e. winter, spring and autumn passage (as above)). Depending upon the species of concerns it may also be necessary to consider nocturnal surveys (specifically waders).

The Humber Estuary SPA qualifies under article 4.2 of the European Commission Bird Directive (79/409/EEC) in that it supports an internationally important assemblage of waterbirds. Please refer to Annex 2 for further guidance on the 'main component species' of the assemblage.

Natural England has generally advised that if $\geq 1\%$ of a Humber Estuary bird species population could be affected by a proposal, alone or in combination with other plans or projects, then further consideration is required. However, where species are particularly vulnerable due to declines in the Humber population, then it may not be appropriate to rely on the 1% of the estuary population as the

¹ Scottish Natural Heritage: Recommended bird survey methods to inform impact assessment of onshore wind farms (March 2017. Version 2)

critical threshold. Mitigation measures may be required where lower numbers of vulnerable species are using a site that is proposed for development.

Protected species

Natural England's advice on bats is included in the accompanying letter "DASA008017 Species only advice DAS - Bats Drax Solar Helios".

Natural England has produced [Standing Advice](#) which is available on its website. Whilst this advice is primarily designed to assist local planning authorities better understand the information required when assessing the impact of developments upon protected species, it also contains a wealth of information to help applicants ensure that their applications comply with good practice guidelines and contribute to sustainable development. In particular I would draw your attention to the flow chart which gives guidance on the species that are likely to be present on the application site based upon readily identifiable habitat features. Please refer to this Standing Advice for further information on what information the authority may require in terms of survey and mitigation proposals.

Further information can also be obtained from [The Institute of Ecology and Environmental Management](#), [The Bat Conservation Trust](#) and [Biodiversity Planning Toolkit](#) for more guidance.

This letter and the accompanying letter "DASA008017 Species only advice DAS - Bats Drax Solar Helios" concludes all aspects of Natural England's Advice detailed within the Quotation and Agreement dated 10 January 2023.

The advice provided in this letter has been through Natural England's Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,

██████████
████████████████████

Sustainable Development
Yorkshire and Northern Lincolnshire Area Team
Natural England

Cc commercialservices@naturalengland.org.uk

Annex 1

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

Annex 2

Humber Estuary Special Protection Area: non-breeding waterbird assemblage

The Humber Estuary Special Protection Area (SPA) qualifies under article 4.2 of the European Commission Bird Directive (79/409/EEC) in that it supports an internationally important assemblage of waterbirds. Confusion can arise concerning which species to consider when assessing the Humber Estuary SPA non-breeding, waterbird assemblage feature.

Natural England recommends focusing on what are referred to as the 'main component species' of the assemblage. Main component species are defined as:

- a) All species listed individually under the assemblage feature on the SPA citation (i.e the species that qualified in 2004 when the site was designated).
- b) Species which might not be listed on the SPA citation but occur at site levels of more than 1% of the national population according to the most recent Humber Estuary Wetland Bird Survey (WeBS) 5-year average count.
- c) Species where more than 2000 individuals are present according to the most recent Humber Estuary WeBS count.

The assemblage qualification is therefore subject to change as species' populations change. It should be noted that species listed on the citation under the assemblage features, whose populations have fallen to less than 1% of the national population, retain their status as a main component species and should be considered when assessing the impacts of a project or plan on the Humber Estuary SPA.

Natural England advises that the main component species of the Humber Estuary SPA non-breeding waterbird assemblage include (October 2022):

- a) Species listed individually under the assemblage feature on the SPA citation:

- Avocet, *Recurvirostra avosetta* (non-breeding)
- Bar-tailed godwit, *Limosa lapponica* (non-breeding)
- Bittern, *Botaurus stellaris* (non-breeding)
- Black-tailed godwit, *Limosa limosa islandica* (non-breeding)²
- Brent goose, *Branta bernicla* (non-breeding)²
- Curlew, *N. arquata* (non-breeding)²
- Dunlin, *Calidris alpina alpina* (non-breeding)²
- Golden plover, *Pluvialis apricaria* (non-breeding)²
- Goldeneye, *Bucephala clangula* (non-breeding)
- Greenshank, *T. nebularia* (non-breeding)
- Grey plover, *P. squatarola* (non-breeding)
- Knot, *Calidris canutus* (non-breeding)
- Lapwing, *Vanellus vanellus* (non-breeding)²
- Mallard, *Anas platyrhynchos* (non-breeding)²
- Oystercatcher, *Haematopus ostralegus* (non-breeding)
- Pochard, *Aythya farina* (non-breeding)
- Redshank, *Tringa totanus* (non-breeding)²
- Ringed plover, *Charadrius hiaticula* (non-breeding)
- Ruff, *Philomachus pugnax* (non-breeding)²
- Sanderling, *Calidris alba* (non-breeding)
- Scaup, *Aythya marila* (non-breeding)
- Shelduck, *Tadorna tadorna* (non-breeding)²
- Teal, *Anas crecca* (non-breeding)²
- Turnstone, *Arenaria interpres* (non-breeding)
- Whimbrel, *Numenius phaeopus* (non-breeding)²

² Species known to use non-wetland habitats (e.g. arable farmland and/or grassland/pasture)

- Wigeon, *Anas Penelope* (non-breeding)²
- And
- b) Species which are not listed on the SPA citation but occur at site levels of more than 1% of the national population according to the most recent Humber Estuary Wetland Bird Survey (WeBS) 5-year average count:
- Green sandpiper, *Tringa ochropus* (non-breeding)
 - Greylag goose, *Anser anser* (non-breeding)²
 - Little egret, *Egretta garzetta* (non-breeding)²
 - Pink-footed goose, *Anser brachyrhynchus* (non-breeding)²
 - Shoveler, *Anas clypeata* (non-breeding)
 - White-fronted goose, *Anser albifrons* (non-breeding)²

As stated above, the assemblage qualification is subject to change as species' populations change; therefore, the appropriate WeBS data should be considered in any assessment and the above list should be used as a guide only.

Please note, the advice set out above should be considered when assessing potential impacts on the waterbird assemblage feature. You will also need to consider potential impacts on species which are not considered to be non-breeding waterbirds but are listed on the citation qualifying under article 4.1 and 4.2 of the Directive. These include:

- Hen harrier, *Circus cyaneus* (non-breeding)²
- Marsh Harrier, *Circus aeruginosus* (breeding)²
- Little tern, *Sterna albifrons* (breeding)
- Avocet, *Recurvirostra avosetta* (breeding)
- Bittern, *Botaurus stellaris* (breeding)

The species marked ² are known to use non-wetland habitats (e.g. arable farmland and/or grassland/pasture) and may therefore be the most relevant for assessing potential impacts of a proposed plan/project on birds using functionally linked land associated with the Humber Estuary SPA. However, please note that this list should be used as a guide only; usage may depend on factors such as the habitats available on the site and distance to the Humber Estuary etc. Therefore, assessments of potential impacts on birds using functionally linked land should consider all relevant species and clear justification should be provided if any species are excluded from the assessment.

ID 9B: NATURAL ENGLAND DAS RESPONSE (DAS A008017) RECEIVED IN TWO DOCUMENTS ON 30/03/2023

Date: 30 March 2023
Our ref: 24908/415121
Your ref: Drax Solar Helios
Renewable energy Project



Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

0300 060 3900

BY EMAIL ONLY

Dear [REDACTED],

Discretionary Advice Service (Charged Advice): DAS A008017
Helios Renewable Energy Project
Development proposal and location: Drax Solar Project
SPECIES: Bat

Thank you for your consultation on the above which was received on 07 December 2022.

This advice is being provided as part of Natural England's Discretionary Advice Service. Avian Ecology, on behalf of Enso Energy Ltd, has asked Natural England to provide advice on:

- Bat activity survey baseline requirements related to the Scoping Report 8.3.29 and Scoping Opinion 3.3.4 ref 8.3.6.
- Acceptability of proposed bat preliminary roost assessment.

This advice is provided in accordance with the Quotation and Agreement dated 07 December 2022. The following advice is based upon the information within :

1. Drax Solar DAS Request V2 document 07.12.22
2. Figure 1 Site Location Plan
3. Appendix 1 Letter to PINS dated 3rd November 2022

Protected species advice: bats

Baseline Assessment Surveys

Natural England have not been provided details of the precited level of impact and therefore cannot comment if the proposed survey effort is proportionate. The habitat suitability of fields has not been detailed and it is not clear how suitable habitat will be impacted.

Chapter 8 of the Bat Survey Guidelines should be followed in respect of bat activity surveys. Natural England acknowledge that it may not be appropriate for bat activity surveys to be carried out in all the low suitability habitats. We suggest monitoring and to adapt the survey method should higher levels of bat activity be recorded in negligible-low suitability fields. If a licence is required, section C3 of the licence application method statement must detail the survey aims and objectives. Any deviations from best practice should be addressed and justified within the method statement.

The Scoping Report, Table 8.2, suggests there may be a medium impact on foraging/commuting bats and so this should be considered when addressing surveys related to foraging/commuting. Additionally, the site plan, provided as Figure 1 in the Discretionary Advice Service application suggests works will take place between woodland and the water body, and between other wooded areas in the wider landscape, which may lead to commuting and foraging of bats being disrupted.

The previous assessment of the site in the Preliminary Ecological Appraisal by Aspect Ecology advised further survey work should be undertaken (Preliminary Ecological Appraisal 5.3.11) due to the habitat in the area containing mature trees, waterbodies and wooded areas, all of which are favourable habitat for bats.

The BCT Bat Survey Guidelines recommends that desk-based assessments and habitat suitability assessments should be followed by field survey work, the level of which would be in relation to whether the habitat has low, medium or high suitability and previous records of bat activity in the area. Due to the scale of the project, while the habitat may appear to be low suitability, a significant area will be affected which may have a negative impact on the environment in that location.

Preliminary Roost Assessment

The full survey details that have been conducted so far have not been provided to Natural England for comment. Surveys should be carried out following the BCT Bat Survey guidance for best practice and be at an appropriate time of year to ensure the roost types are accurately determined and compensated. If there is a deviation from the guidance for best practice, this will need to be justified if applying for a licence.

Hibernation surveys have not been mentioned within the information provided. Hibernation surveys should be undertaken for any structure/tree that will be impacted by the works that has the potential to support hibernating bats. Hibernation surveys would not be required if works are timed to avoid impacts during the hibernation period and the structure/tree is to be retained and not significantly modified. If a licence is required and hibernation surveys have not been undertaken, please provide justification for why they were not undertaken within the licence application method statement.

Natural England agree that the proposed approach to the solar array site is proportionate and acceptable given the information available at this stage. Where licensable impacts are predicted, appropriate presence/absence and roost characterisation surveys should be undertaken in accordance with BCT's survey guidelines. Any deviations from best practice should be addressed and justified within the licence application method statement.

Mitigation

The full details of mitigation for any unavoidable impacts to bats have not been provided to Natural England for comment. All unavoidable impacts must be addressed and mitigated for. Any roost losses should be compensated for on a like for like principle.

The potential for disturbance of roosting bats during construction should be addressed, considering the distance between construction and potential roosts, and the expected levels of light, noise and vibration. If a licence is required, the licence application method statement should include an assessment of any impacts from lighting, noise, and vibration on bat activity and include details of mitigation measures which will ensure that all impacts during construction and post-construction will be avoided or minimised.

Generic Advice

A Reasoned Statement is mandatory for bat applications that are submitted for the purpose of Reasons of Overriding Public Interest. Please see <https://www.gov.uk/government/publications/reasoned-statement-to-support-a-mitigation-licence-application> for more details. The advice on this proposal, and the guidance contained within Natural England's standing advice relates to this case only and does not represent confirmation that a species licence (should one be sought) will be issued. Please see **Annex 1** for information regarding licensing for European Protected Species.

For clarification of any points in this letter, please contact [REDACTED]

The advice provided in this letter has been through Natural England's Quality Assurance process. The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted.

The advice given is, therefore, not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours

 Protected Species Licensing, Natural England

Cc commercialservices@naturalengland.org.uk

Annex 1
European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's Pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

**ID 11: VIRTUAL MEETING WITH NORTH YORKSHIRE COUNCIL ON
04/05/2023**

Helios Renewable Energy Project

Subject: Ecology Surveys Discussion

Date: 4th May 2023

Time: 16:00 to 17:00

Location: Microsoft Teams (virtual meeting)

Attendees:	██████████	North Yorkshire Council
	██████████	Enso Green Holdings D Limited
	██████████	Avian Ecology Limited
	██████████	Barton Willmore, now Stantec
	██████████	Barton Willmore, now Stantec
	██████████	Barton Willmore, now Stantec

Apologies: Nil

Agenda:

1. Introductions
2. Invertebrates
3. Breeding Birds
4. Wintering Birds
5. Bat Activity Surveys
6. Public Engagement
7. Programme
8. AOB

1. Introductions

- All attendees introduced themselves and their role in relation to the project.
- █████ provided an overview to █████ regarding the Natural England ('NE') Discretionary Advice Service ('DAS') request and explained that NE responded to advise the Applicant to discuss survey requirements with North Yorkshire Council ('NYC'). █████ explained that the Planning Inspectorate ('PINS') are in agreement with the survey proposals (as advised during February 2023 meeting) but desired reassurance from NE, which they were unable to provide; NYC is therefore requested to advise.

2. Invertebrates

- ■ advised that requirements for invertebrate surveys at other proposed solar development sites locally have been habitat-led and led by features on-site to provide a targeted approach. ■ advised ■ to use the habitat data for the Helios Renewable Energy Project site ('the Site') to discern whether habitat features may be present on the Site which may be suitable for notable invertebrates, rather than make assumptions and undertake non-targeted surveys.
- ■ advised there will likely be an improvement of conditions for invertebrates at the Site with the removal of agricultural practices (i.e. chemicals would not be applied to the land which would benefit invertebrates and increase their presence) as a result of the Proposed Development.
- Survey need should also be based on fate of habitat as a result of the Proposed Development (i.e. the effects of the Proposed Development); for example, if the habitat is to be lost, it puts greater importance on determining what is present and what habitat is available in the surrounding area. ■ advised that there are no obvious habitat features at the Site that would require invertebrate surveys but requested ■ to review the identified habitats at the Site for certainty.

3. Breeding Birds

- ■ confirmed that extensive breeding bird surveys have been undertaken to date. The Site boundary has been reduced in overall area as the Proposed Development has evolved since some of these surveys have been undertaken. Some additional land has also been added to the Site. Whilst the area of land no longer within the Site boundary was surveyed in 2022, there is approximately 14 hectares of land now within the Site that has not been surveyed due to Site boundary amendments. These areas are fully arable and unlikely to support different assemblages from the area surveyed to date, as the land use is the same across the Site; ■ advised that rather than survey this land, the findings of the previous surveys on the Site could be extrapolated to assume the same assemblages supported, which would be a robust approach. ■ agreed.

4. Wintering Birds

- ■ advised that NYC has no particular expectations of applicants beyond implementing best practice guidance for wintering bird surveys. NYC has advised applicants in the past to ensure sufficient data is available on functionally linked land in order to rule out potentially functionally linked areas, for example, Site of Special Scientific Interest ('SSSI') or Special Protection Area ('SPA') assemblages.

- ■ requested confirmation of whether any particular survey methodology for wintering birds is advocated by NYC. ■ has advised that she will check with the relevant NYC ecology team colleague to confirm. ■ further advised that NYC do not consider vantage point ('VP') surveys as necessary for solar developments, as these are designed to determine collision risks for wind turbines. ■ noted that surveys should be designed to assess impacts of a proposed development and subsequently winter bird use of the site is the primary potential impact for a solar farm.

5. Bat Activity Surveys

- ■ proposed that it is disproportionate to conduct bat activity surveys on the Site, as hedgerow to be lost as part of the Proposed Development is minimal and significant effects on bats are to be avoided through planting design and panel layout as part of the Proposed Development. ■ advised she is happy that the majority of internal boundary features are to be retained and subsequently no requirement for bat activity surveys. ■ advised there is likely to be need for tree (bat roost) surveys if any trees are to be removed as part of the Proposed Development.
- ■ advised there is likely to be an improvement of conditions for bats at the Site with the removal of agricultural practices (i.e. chemicals would not be applied to the land which would benefit invertebrates and increase their presence) as a result of the Proposed Development. ■ advised that establishing a baseline of activity would be beneficial in demonstrating the positives of the Proposed Development to bat activity. ■ suggested static monitoring or transect walked visits would suffice to determine existing usage of the Site, noting that a 'light touch' to surveys would be appropriate.

6. Public Engagement

- ■ asked if ■ would be interested in being involved with public engagement to which ■ agreed. ■ will liaise with ■ following the meeting.
- ■ advised that a permissive Public Right of Way ('PRoW') will be provided in the area of the Site not used for development. This area will provide amenity planting, ponds, and interpretation boards (such as for energy, ecology, heritage) for public engagement and education on the Site.

7. Programme

- ■ requested confirmation of the approach to the long-term management of the Site. ■ advised that the Applicant will ask the existing landowners to manage the Site (as the Applicant does not buy land, but leases it) as they will still own the land at the Site. They know the land very well and are therefore well placed to manage it, and they are also provided additional income from this management. Although it is not anticipated, should an agreement for this not be secured

with the landowners, a land management company or adjacent landowner would be utilised. This Site will also be grazed to manage planting.

- ■ asked about the programme for the project. ■ advised the current key dates are as follows:
 - PEIR submission in mid-summer 2023;
 - Statutory consultation to commence in early September 2023;
 - Preparation of ES to commence in late 2023; and
 - DCO application submission at Easter 2024.

8. AOB

- No AOB raised.

**ID 13: EMAIL FROM NATURAL ENGLAND TO APPLICANT DATED
09/05/2023**

[REDACTED]

From: [REDACTED]
Sent: 09 May 2023 14:01
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: DAS 24908/415121 Solar renewable energy at Helios Renewable Energy Project (Selby) EN010140

Follow Up Flag: Follow up
Flag Status: Flagged

Dear [REDACTED],

Thank you for contacting Natural England regarding the Helios Renewable Energy Project.

We would like to offer clarification under the following headings:

Contract

Natural England commonly provides advice on NSIPs through “undefined scope” DAS contracts; this may be how you have interacted with Natural England on previous cases. The DAS contract set up for this case was, however, a defined scope contract for document review. This contract concluded with our written response and therefore cannot be reopened. Further document review, written responses, or meetings will therefore require a new contract.

You may wish to consider setting up an “undefined scope” DAS contract, this would allow more flexibility for both you and Natural England, if you would like to consult on multiple documents. The contract will need to have a value of at least £2,500, but please note that you will only be charged for the discretionary advice provided, so we may not reach the nominal amount that you have selected as the maximum and only charge for what you request. This means that where a meeting or document review is required, we do not have to set up a contract each time. It is likely that this could be cheaper overall, as all hours undertaken on a UDS contract are charged at £110 per hour and there is no fixed cost for meetings. To set up such a contract, please send a request form to commercialservices@naturalengland.org.uk.

Vantage Point Surveys

We are happy to provide clarification on our previous response outside of any new contract. This seems relevant here, as you state that Natural England has a requirement for vantage point surveys, which was not the case. The only mention of vantage point surveys in our response was in the general advice that followed on from the specific advice in relation to Question 7. Whilst we generally recommend Vantage Point Surveys, we have not requested them for this site – the methodology used for this site is acceptable.

Could you please clarify which two other large scale solar projects within Camblesforth you are referring to?

Requirement for further ornithological surveys

In reviewing the document, we became aware that a section of the standard text that we provided could be misinterpreted as specific to this site:

“In particular, the following information should be sought to support the Habitats Regulations Assessment (HRA):

- *Wintering and passage bird surveys to determine bird usage of the fields on and adjacent to the site by SPA/Ramsar species.”*

This was not intended to be read as a requirement for passage bird surveys, we apologise for any confusion this may have caused. The sentence was kept in the advice due to the requirement for the (already completed) wintering bird surveys. For clarity, our stance on this case can be found in our specific advice in relation to Question 7:

“It is possible that the assessment of potential impacts on passage birds can be informed by historical records, consideration of observations of wintering birds and bird surveys at the appropriate time of year. Without this information, Natural England cannot agree that the extent (duration) of bird surveys undertaken is adequate and robust.”

We suspect that an argument can be made to rule out impacts on passage birds based on historical records and your observations of wintering birds, without the need for further ornithological surveys. We would be more than happy to review such an argument and its supporting evidence under a new DAS contract, and from this agree on a statement of common ground. We highly recommend an undefined-scope DAS contract as the easiest way of facilitating this process.

I hope that this clarifies Natural England's previous responses.

Kind regards,

█

█

█

Sustainable Development

Yorkshire and Northern Lincolnshire Area Team

Natural England

ID 15: VIRTUAL MEETING WITH NATURAL ENGLAND ON 29/06/2023

Subject: Ecology Surveys Discussion

Project/File: Helios Renewable Energy Project
 Date/Time: 29th June 2023 / 14:00
 Location: Microsoft Teams (virtual meeting)
 Attendees: ██████████ Natural England (NE)
 ██████████ Natural England
 ██████████ Natural England
 ██████████ Enso Green Holdings D Limited
 ██████████ Avian Ecology Limited
 ██████████ Stantec
 ██████████ Stantec
 Absentees: Nil
 Distribution: Attendees
 ██████████ Enso Green Holdings D Limited
 ██████████ Avian Ecology Limited

Agenda:

1. Introduction
2. Wintering Birds
3. Breeding Birds
4. Bat Activity Surveys
5. Protected Species
6. AOB

Item	Action
1. Introduction <ul style="list-style-type: none"> • All attendees introduced themselves and their role in relation to the project. • ██████ advised the purpose of the virtual meeting, confirming that it was arranged to agree the baseline survey requirements following previous correspondence with NE and to seek to confirm 'common ground' in this respect. • ██████ asked for confirmation of the project's timeline. ██████ advised of the Applicant's intention to publish the 	Nil

Item	Action
<p>Preliminary Environmental Information Report ('PEIR') in August 2023.</p> <ul style="list-style-type: none"> To provide context to the current standing, [REDACTED] provided a summary of consultation between NE and the Project Team to date. [REDACTED] advised that initial contact was received via NE's EIA Scoping response, followed by responses to requests made by the Applicant using NE's Discretionary Advice Service. [REDACTED] confirmed that additional bird surveys have been undertaken at the Project Site over the course of this correspondence and therefore additional information to that included in the EIA Scoping Report that was submitted to the Planning Inspectorate ('PINS') in June 2022 will be presented in the PEIR. 	
<ul style="list-style-type: none"> 2. Wintering Birds [REDACTED] advised North Yorkshire Council's stance that passage surveys can be confirmed through desk survey, and vantage point ('VP') surveys are not required for solar farms, including the Project Site. [REDACTED] confirmed NE's approach to VP surveys in general, and that NE were satisfied that VP surveys are not required for the Project Site. [REDACTED] advised that some assessment would be required for passage surveys. [REDACTED] suggested that this could be undertaken through desk study, or otherwise recommended that passage surveys were undertaken. If surveys are not to be undertaken, [REDACTED] requested a rationale of why these surveys were not considered necessary to be included in the PEIR. [REDACTED] advised that NE would be able to review the text ahead of the publication of the PEIR, if helpful. [REDACTED] confirmed that additional non-breeding bird surveys have been conducted since the EIA Scoping Report was submitted to PINS (on which NE's EIA Scoping response was based), so the Applicant is considered to be able to demonstrate that a sufficient assessment has been undertaken which would be acceptable to NE. This includes passage surveys in October, April and May (in addition to winter surveys). [REDACTED] confirmed that a significant number of Special Protection Area ('SPA') species (using a widely accepted benchmark of 1% of the corresponding SPA population) have not been recorded at the Project Site; whilst there may be a requirement for PINS to screen 	<p>Avian to include commentary within the PEIR addressing passage surveys and SPA species use of the Project Site.</p>

Item	Action
<p>for Habitat Regulations Assessment ('HRA'), ■■■ advised that based on the results of the surveys undertaken to date, there should not be a need to conduct an Appropriate Assessment ('AA'). ■■■ advised that NE appreciate that 1% is in line with the typical approach to HRA but are concerned at using 1% as the threshold around the Humber Estuary. ■■■ confirmed that if the results approach 1%, discussion will be required in the PEIR regarding how the birds are using the Project Site per season; for example, whether all species are using it throughout the winter season, or spread over the season at different times..</p> <ul style="list-style-type: none"> ■■■ stated that even low numbers of SPA assemblage species could indicate that the Project Site comprises functionally linked land ('FLL') and therefore AA may be required. ■■■ recommended that, rather than a Statement of Common Ground ('SoCG'), that NE could review the Applicant's HRA under the Discretionary Advice Service, as this would enable NE to advise accordingly. 	
<p>3. Breeding Birds</p> <ul style="list-style-type: none"> NE confirmed that they are agreeable to the survey area set out by ■■■. 	Nil
<p>4. Bat Activity Surveys</p> <ul style="list-style-type: none"> NE advised that the attendees at the virtual meeting are only able to discuss designated sites and a separate team would need to confirm this. 	Nil
<p>5. Protected Species</p> <ul style="list-style-type: none"> As with bat activity surveys (item 4 above), ■■■ advised that the attendees at the virtual meeting were unable to discuss protected species. Should this be required, they can seek input from the relevant team within NE. ■■■ advised that NE use a 'Letter of No Impediment' for NSIPs, which confirms that no species licenses are required. ■■■ therefore suggested discussion with the protected species team within NE to confirm that the scope of protected species surveys is appropriate, should a licence be thought to be required by the Applicant. ■■■ requested that the relevant contacts at NE in relation to protected species be provided. ■■■ requested confirmation in writing what the Project Team would like to discuss with the protected 	NE to provide appropriate contacts to enable a meeting regarding protected species and the development of a Letter of No Impediment. .

Item	Action
<p>species team, who will then coordinate. A separate virtual meeting is to be arranged for protected species.</p> <ul style="list-style-type: none"> • 	
<p>6. AOB No AOB raised.</p>	<p>Nil</p>

The meeting adjourned at 14:21.

The foregoing is considered to be a true and accurate record of all items discussed. If any discrepancies or inconsistencies are noted, please contact the writer immediately.

ID 16: REQUEST FOR DAS WITH NATURAL ENGLAND BY AVIAN ECOLOGY LTD ON 19/07/2023

From: [REDACTED]
Sent: Wednesday, July 19, 2023 3:23 PM
To: [REDACTED] >
Cc: [REDACTED]; [REDACTED] >; [REDACTED]
<[REDACTED]>; Gooch, Hannah <[REDACTED]>; [REDACTED]
<[REDACTED]>
Subject: Meeting of 29th June Minutes and Further Information.

Dear NE,

Thank you for your time at our virtual meeting on 29th June to discuss the Helios Renewable Energy Project.

Draft meeting minutes are attached to this email for your review and would be grateful for any comments.

During the meeting, we discussed the potential for the Proposed Development Site (the Site) to be functionally linked to the Lower Derwent Valley Special Protection Area (SPA) and Humber Estuary SPA for use by non-breeding birds. It is our view that the Site does not constitute functionally linked land (FLL) for these SPAs, but it is acknowledged that only partial data has been made available to Natural England (NE) for review to date. Based on the information presented in the EIA Scoping Report submitted to the Planning Inspectorate, and on which NE was consulted, it was advised by NE during the meeting that a draft Habitats Regulations Assessment (HRA) should be provided by the Applicant for review under the current DAS agreement. In response, having the advantage of the full set of survey data and its subsequent analysis, which are now available, we would like to propose an alternative approach. To this end, we have attached the draft Ornithology technical appendix, which has been prepared as a supporting appendix to the Biodiversity chapter of the forthcoming PEIR in support of the project to be published by the Applicant. This document contains the full details of the ornithological survey effort and our analysis of the Site and its potential to constitute FLL for the two SPAs. The final version of the Ornithology technical appendix will be published as part of the PEIR (and on which NE will be formally consulted) but the ornithological survey data and conclusions contained within the draft version will not change. We therefore request that NE reviews the attached document and advises on the following queries:

1. Does Natural England agree with the conclusions of the draft Ornithology technical appendix, in that the Site does not constitute functionally linked land to either the Lower Derwent Valley SPA or the Humber Estuary SPA?
2. If Natural England does not agree with the Applicant that the Site does not constitute FLL, then can Natural England provide the criteria used for the definition of FLL on which this view has been based, and also confirm that their approach towards this solar Nationally Significant Infrastructure (NSIP) is consistent with that applied to other solar NSIP projects, particularly in relation to the Lower Derwent Valley SPA or the Humber Estuary SPA (as well as to SPAs elsewhere in the country)?

Thank you again for your time and consideration, and we look forward to hearing from you in due course.

Kind regards,

[REDACTED]

**ID 17: DAS RESPONSE FROM NATURAL ENGLAND (DAS/A009135)
RECEIVED ON 31/08/2023**

Date: 31 August 2023
Our ref: DAS/A009135
Your ref: Drax Solar Helios Renewable Energy Project



██████████
Avian Ecology Ltd.
Walnut Tree Farm
Northwich Road
Lower Stretton
WA4 4PG

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

0300 060 3900

BY EMAIL ONLY

Dear ██████████,

Discretionary Advice Service (Charged Advice)

DAS UDS-A008017

Development proposal and location: Solar renewable energy at Helios Renewable Energy Project, land to the SW of Camblesforth & North of Hist Courtney, N. Yorks.

Thank you for your consultation on the above dated 19 July 2023.

This advice is being provided as part of Natural England's Discretionary Advice Service. Avian Ecology Ltd (on behalf of Enso Green Holdings D Limited) has asked Natural England to provide advice upon:

- Advice on potential impacts on designated or proposed sites
- Advice on biological survey methodology
- Advice on adequacy of available survey data

This advice is provided in accordance with the Quotation and Agreement dated 15 May 2023.

The following advice is based upon the information within:

- Notes from meeting between Avian Ecology and Natural England on 29 June 2023 (notes provided by Avian Ecology – dated 06 July 2023)
- Request for Discretionary Advice email dated 19 July 2023
- Updated Ornithological Survey Report Draft (Technical Appendix 8.2): Helios Renewable Energy Project on behalf of Enso Green Holdings D Limited (updated 19 June 2023)

Protected sites

Thorne and Hatfield Moors SPA

The Ornithological Survey Report Draft concludes in 2.2.16 that potential functionally linked land for Thorne & Hatfield Moors SPA has not been assessed due to the distance of the application site to the SPA. On the basis of this information provided, Natural England concur that significant effects

on breeding nightjar associated with the Thorne and Hatfield Moors SPA are unlikely to occur, either alone or in combination.

Functionally linked land (FLL) - Humber Estuary SPA/Ramsar and Lower Derwent Valley SPA/Ramsar

Alongside the surveys for the 2021-2022 wintering period, the updated Ornithological Survey Report Draft (updated 19 June 2023) now includes additional surveys in some areas for the 2022-2023 wintering period, and surveys for the 2023 spring passage period.

In the email requesting discretionary advice dated 19 July 2023, the following question was asked: “Does Natural England agree with the conclusions of the draft Ornithology technical appendix, in that the Site does not constitute functionally linked land to either the Lower Derwent Valley SPA or the Humber Estuary SPA?”. At present Natural England requires further information on a number of points listed below on surveys and data interpretation at present, and therefore we do not currently have enough information to rule out impacts on FLL.

Following the provision of the updated Ornithology Survey Report Draft, we provide the following additional advice around the data and assessment required to answer the above question.

Surveys and records data

- Natural England welcomes that the desk study results have been included in the report and 3.1 provides a summary of the data search in 3.1.2 to 3.1.6. However, we advise that the full results of the data search are provided, including a visual representation and / or map if possible, to allow for others to review the results. Please also provide clarification around whether the references made to records “on-site” in 3.1.1 include the 600m buffer area.
- We welcome the inclusion of the 2023 spring passage surveys. However, there is currently no assessment of potential impacts on the autumn passage period, therefore at this stage based on the information provided, Natural England does not consider that potential impacts on FLL can be ruled out, as there is potential for species to be using the site during this period. As advised in our previous DAS response, it is possible that assessment of potential impacts on passage birds can be informed by historical records, consideration of observations of wintering birds and bird surveys at the appropriate time of year. In the meeting between Natural England and Avian Ecology on 29 June 2023, we advised that if passage surveys are not going to be carried out, further justification around why these surveys are not considered necessary should be included. If this is the case for autumn passage, this justification should be provided. However, our recommendation is that autumn passage surveys should be undertaken.
- In our previous DAS response we advised that the proposed grid connection corridor should be surveyed, if potentially suitable habitats for SPA / Ramsar birds are found within this area. Section 2.2.3 of the updated report notes that surveys have now been carried out in “all suitable open land” within a 600m buffer of the grid connection area. We advise that further definition is provided around suitable open land, and what habitat types are considered to fall within this definition. It is also unclear whether the corridor itself has been surveyed, and if this is not the case, whether this is due to the habitat in the corridor itself not being deemed to be suitable for SPA / Ramsar birds.
- In our previous advice letter, we advised that depending upon the species of concern it may also be necessary to consider nocturnal surveys (specifically waders). As several wading bird species form part of both the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar, we would recommend that nocturnal surveys are carried out at the site.

- Although we accept that the surveys have been carried out with a transect methodology for this project, vantage point (VP) surveys remain Natural England's recommended methodology for undertaking passage and wintering bird surveys. Please refer to advice in our letter 30 March 2023 for full details of this. Based on the methodology provided, it is also currently unclear as to which fields have been surveyed on which dates. For example, the report states the number of hours of survey carried out on each date, but does not currently state whether each of these covered the whole site, or covered a section of the site each time. As different areas have been surveyed in different years, this will help us to understand the level of survey effort in each area.

Interpretation of results

We have the following additional comments to make in relation to points that may affect the interpretation of results in the ornithology report.

- We note that there are a number of occasions where the report states that the full results have not been provided, therefore it is difficult to assess whether the full list of important component species of the waterbird assemblages for both the Humber Estuary and the Lower Derwent Valley have been considered. Please find attached Annex B (Humber Estuary) and Annex B1 (Lower Derwent Valley) for clarification on the important component species that should be considered for each site. As stated above, we also advise that the full survey results should be provided to aid in assessment of this, alongside full definitions of how target species have been defined in the report. Additionally, we note that section 3.2.26 currently states that there are no target species of the Lower Derwent Valley found, which appears to be incorrect.
- Section 2.2.17 cites evidence from a report carried out on behalf of Natural England in 2021 in relation to FLL for SPA birds in the north west. This report states that for the purpose of that particular study the following criterion was used: "*A significant number of birds has been defined as 0.5% of the GB population or 1000 individuals.*" We advise that the threshold used in the report for the north west is specific to that area, and the advice given above, and in our letter dated 30 March 2023, should be referred to for this project.
- In follow-up to the above point, we note that Table 3.8, sets out the bird records in the context of % of GB population. We advise that the latest Wetland Bird Survey (WeBS) 5 year mean peak for the Humber Estuary is used to determine the percentages of the Humber Estuary and Lower Derwent Valley species' populations recorded.

Habitats Regulation Assessment advice

In our previous DAS response, we advised that likely significant effect cannot be ruled out at the screening stage, due to the proximity of the Humber Estuary SPA and Ramsar site and the Lower Derwent Valley SPA and Ramsar site, and potential habitat suitability for SPA / Ramsar birds. Although there may be a possibility of concluding that the site is not functionally linked, we continue to advise that the results of the bird surveys and other relevant data will need to be considered at the HRA appropriate assessment stage. This should fully assess the potential for impacts on functionally linked land to determine whether the proposed development is likely to have an adverse effect on site integrity of the Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar, following the precautionary principle. In particular, we consider that this needs to be assessed alone and in-combination with other plans / projects.

As discussed at the meeting on 29 June 2023, Natural England advised that providing an HRA might provide an assessment framework in order to assess potential impacts. On the basis of the information provided, Natural England advises that there is currently not enough information to rule out the likelihood of significant effects. Alongside the information already provided, and the further

information advised of above, we would advise that the HRA includes the following additional information / assessment.

- The general rule of thumb we advise of for the Humber Estuary and Lower Derwent Valley is that if $\geq 1\%$ (based on the WeBS 5 year mean) of any SPA / Ramsar bird species population could be affected by a proposal, alone or in combination with other plans or projects, then further consideration / assessment is required. We further advised in the meeting 29 June 2023, that although 1% is the generally used rule of thumb, further discussion is required around how the birds are using the project site in each season, even if numbers are below 1%. This could also include assessment of factors such as frequency of use and vulnerability of the species present. In addition, it would be beneficial to demonstrate that the habitat type was representative in the years of survey, for example, were there any cropping regimes that might make the site more or less suitable.
- We also advise that any construction / operational noise or visual disturbance impacts on SPA / Ramsar species are considered in the assessment. This includes potential disturbance as a result of constructing the grid connection corridor. For example, although the lake within field 339 will be retained, it is close to parts of the connection corridor, and therefore assessment should be made of potential impacts to SPA / Ramsar species using this lake, and whether this is likely to have a significant effect on populations associated with the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar.
- At present, there is no in-combination assessment included in the ornithology report. The HRA will need to consider in-combination impacts from other relevant projects and plans. The in-combination requirement makes sure that the effects of numerous proposals are assessed to determine their combined effect. Plans or projects that should be considered in the in-combination assessment include the following:
 - *The incomplete or non-implemented parts of plans or projects that have already commenced;*
 - *Plans or projects given consent or given effect but not yet started;*
 - *Plans or projects currently subject to an application for consent or proposed to be given effect;*
 - *Projects that are the subject of an outstanding appeal;*
 - *Ongoing plans or projects that are the subject of regular review;*
 - *Any draft plans being prepared by any public body;*
 - *Any proposed plans or projects published for consultation prior to application.*

Breeding birds surveys

As stated in our previous DAS response, Natural England does not routinely provide advice on survey requirements, unless there is a potential for impacts to a notified feature of a Site of Special Scientific Interest (SSSI) or European site or there is a functional linkage, or there are potential impacts to European Protected Species. Therefore advice on these surveys falls outside of the scope of the advice that we can provide through our DAS. Natural England has produced Standing Advice which is available on its website. Whilst this advice is primarily designed to assist local planning authorities better understand the information required when assessing the impact of developments upon protected species, it also contains a wealth of information to help applicants ensure that their applications comply with good practice guidelines. We recommend that you may wish to consult the Local Planning Authority on this matter.

Protected species

As noted in the meeting held between Avian Ecology Ltd. and Natural England on 28 June 2023, if further advice is required around the scope of protected species surveys, we recommend that a confirmation in writing around what is required is sent to the protected species team, who will then be able co-ordinate this going forward.

For clarification of any points in this letter, please contact [REDACTED] on [REDACTED]

The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,

[REDACTED]
[REDACTED]

Yorkshire and Northern Lincolnshire

Cc commercialservices@naturalengland.org.uk

Annex 1

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

**ID 20: TECHNICAL NOTE SUBMITTED TO NATURAL ENGLAND BY
APPLICANT ON THE 09/04/2024**

Technical Note: Consultation in accordance with Section 42 of the Planning Act 2008: Helios Renewable Energy Project Development Consent Order.

Response to Natural England letter dated 19th December 2023.

Introduction

This technical note relates to the Ornithology and Ecology impacts on statutorily designated sites for the protection of nature as a result of the Helios Renewable Energy Project (hereafter referred to as the 'Proposed Development'). The proposals involve the construction of a solar farm with a Battery Energy Storage System (BESS) and associated infrastructure on land west of the village of Camblesforth and north of the village of Hirst Courney in Selby, North Yorkshire (the 'Site').

A Preliminary Environmental Information Report (PEIR) was published for Statutory Consultation on 26th October 2023, which closed on 21st December 2023. Natural England (NE) provided comments on the PEIR in a letter dated 7th December 2023, followed by an amended response on 19th December. The purpose of this technical note is to respond to those comments in advance of the submission of the project Environmental Statement (ES) and form the basis of an initial Statement of Common Ground SoCG).

This technical note is written by Avian Ecology Ltd., the ecological consultant, on behalf of Enso Green Holdings D Ltd (the 'Applicant').

Responses to Natural England

The text of the NE letter dated 19th December is repeated below in italics.

For ease of reference, section numbering follows that of the NE response letter, with the Applicant's responses (provided by Avian Ecology Ltd.) and clarifications provided in boxed text.

2.1. Humber Estuary Special Protection Area (SPA) / Ramsar and Lower Derwent Valley SPA / Ramsar

2.1.1 Potential impacts on functionally linked land

'SPAs are classified for rare and vulnerable birds. Many of these sites are designated for mobile species that may also rely on areas outside of the site boundary. These supporting habitats may be used by SPA bird populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SPA species populations, and proposals affecting them may therefore have the potential to affect the European site.'

We note that Chapter 8 (Biodiversity) includes an Information to Inform HRA section in 8.10, which rules out likely significant effects on functionally linked land (FLL) for Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar birds in 8.10.17. As stated in our DAS response (dated 31 August 2023), we advised that further information was required on several points, and therefore we did not have enough information to rule out impacts on FLL.'

Applicant's response: the ES will include additional information (see later responses throughout) and a separate Appendix entitled 'Information to Inform Habitats Regulations Assessment' as Technical Appendix 8.7. This document concludes that there is no evidence of regular use of the Proposed Development site by significant numbers of qualifying or assemblage species, and that

the Proposed Development will not lead to adverse impacts on the relevant European Sites either alone, or in combination with other plans or projects.

'Based on the information provided as part of this consultation, NE continues to advise that further assessment should be provided regarding potential impacts on the Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar in the HRA. Please refer to the below advice on the Appendix 8.2 Ornithology Survey Report to inform these assessments.

Natural England produced a 2016 review of available literature on the impact of solar farms on birds (NEER012) which may be useful when carrying out additional assessment'.

Applicant's response: NEER012 will be referenced in Chapter 8 Biodiversity of the ES and used to inform the assessment. See also section 2.1.4 of this technical note (Glint and Glare).

2.1.2 Comments on Appendix 8.2: Ornithology Survey Report

'Natural England provided detailed advice on the non-breeding bird survey report in our Discretionary Advice Service (DAS) response dated 31 August 2023. We advise that this advice is considered in the next iteration of the non-breeding bird survey report and associated assessments'.

Applicant's response: This is noted and accepted. The points raised by NE on the non-breeding bird survey report through the DAS will be addressed in the next iteration included in the ES (Technical Appendix 8.2 of the ES).

'We welcome that alongside the surveys for the 2021-2022 wintering period, the Ornithological Survey Report (Appendix 8.2, dated 19 June 2023) includes additional surveys in some areas for the 2022-2023 wintering period, and surveys for the 2023 spring passage period. However, as noted in the above DAS response, we require further information on several points relating to surveys and data interpretation before we can determine if the site is functionally linked.

We advise that the following comments are still outstanding'.

2.1.2.1 Surveys and records data

- *Natural England welcomes that the desk study results have been included in the report and 3.1 provides a summary of the data search in 3.1.1 to 3.1.6. However, we advise that the full results of the data search are provided, including a visual representation and / or map, to allow for others to review the results. Please also provide clarification around whether the references made to records within the site in 3.1.1 includes the 600m buffer area.*

Applicant's response: the next iteration of Technical Appendix 8.2 of the ES will include visual representation of desk study records as Figure 8.20. Full records will be annexed to the same report. Both records from within the Site and from the 600m buffer are illustrated.

- *'We welcome the inclusion of the 2023 spring passage surveys. However, there is currently no autumn passage surveys or assessment of potential impacts on the autumn passage period. We advise that that autumn passage surveys should be undertaken. Should the findings of the autumn passage surveys indicate that mitigation is required further surveys may be required in order to inform the scale and purpose of any mitigation'.*

Applicant's response: Autumn passage surveys were completed in autumn 2023. The results are presented in full in revised Technical Appendix 8.2 of the ES. Results are considered to be consistent with spring passage and over-winter survey data and therefore the conclusions of the PEIR remain valid.

- *‘In addition to surveys, potential impacts on passage birds can be informed by historical records, consideration of observations of wintering birds and bird surveys at the appropriate time of year’.*

Applicant’s response. Passage surveys (spring and autumn) are now complete, and results are presented in Technical Appendix 8.2 of the ES. Historical records from the Proposed Development site are limited to those presented in Figure 8.20 of Technical Appendix 8.2 of the ES.

- *‘We have previously advised that the proposed grid connection corridor should be surveyed, if potentially suitable habitats for SPA / Ramsar birds are found within this area. Section 2.2.3 of the report notes that surveys have now been carried out in “all suitable open land” within a 600m buffer of the grid connection area. We advise that further definition is provided around suitable open land, and what habitat types are considered to fall within this definition. It is also unclear whether the corridor itself has been surveyed, and if this is not the case, whether this is due to the habitat in the corridor itself not being deemed to be suitable for SPA / Ramsar birds’.*

Applicant’s response. Further clarification of survey areas is included in revised Technical Appendix 8.2 of the ES. To clarify, ‘suitable open land’ refers to all that which has the potential to support SPA/ Ramsar birds. Habitat preferences of such species are well-understood, and presence can therefore be precluded from some areas, notably developed land, heavily vegetated areas (woodland/scrub), built areas and small enclosed fields. Technical Appendix 8.2 of the ES has been expanded to include a definition of unsuitable land and accompanying plan (Plate 1) showing areas not deemed as suitable open land.

- *‘We advise that depending upon the species of concern it may also be necessary to consider nocturnal surveys (specifically waders) as part of the survey effort. As several wading bird species form part of both the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar, we would recommend that nocturnal surveys are carried out at the site’.*

Applicant’s response. The Site and surrounding buffer have been extensively surveyed for SPA / Ramsar birds. Interim results were presented in the PEIR, Technical Appendix 8.2 which will be updated to include additional surveys undertaken over the autumn passage period, along with additional presentation of desk-study records. Nocturnal surveys have not previously been requested by NE nor by North Yorkshire Council (the LPA) in consultation and are not considered necessary, nor are they proposed.

- *‘Based on the survey methodology provided, it is currently unclear as to which fields have been surveyed on which dates. For example, the report states the number of hours of survey carried out on each date but does not currently state whether each of these covered the whole site or covered a section of the site each time. As different areas have been surveyed in different years, this will help us to understand the level of survey effort in each area’.*

Applicant’s response. Further clarification of survey areas and dates visited is included in revised Technical Appendix 8.2, table 2.6, of the ES.

2.1.2.2 Interpretation of results

‘We have the following comments to make in relation to points that may affect the interpretation of results in the ornithology report.

- *We note that there are several occasions where the report states that the full results have not been provided, therefore it is difficult to assess whether the full list of important component species of the waterbird assemblages for both the Humber Estuary and the Lower Derwent Valley have been considered. Please find attached Annex B (Humber Estuary) and Annex B1 (Lower Derwent Valley) for clarification on the important component species that should be considered for each site. As*

stated above, we also advise that the full survey results should be provided to aid in assessment of this, alongside full definitions of how target species have been defined in the report. Additionally, we note that section 3.2.26 currently states that there are no target species of the Lower Derwent Valley SPA / Ramsar found, which appears to be incorrect as survey results appear to have found several of these species’.

Applicant’s response. Full survey results will be included in revised Technical Appendix 8.2 of the ES, along with clarification regarding observations of SPA / Ramsar species. All component species of the waterbird assemblages for both the Humber Estuary and the Lower Derwent Valley have been considered in the ES and will be considered in the ‘Information to Inform Habitats Regulations Assessment’ Technical Appendix 8.7 (as defined in Annex B (Humber Estuary) and Annex B1 (Lower Derwent Valley), provided in Natural England’s letter of 7th December 2023).

- *‘The results should be assessed in the context of percentages of the Humber Estuary SPA and Lower Derwent Valley SPA populations according to the most recent Humber Estuary and Derwent Ings WeBS 5-year average count (currently 2017/18 - 2021/22), not the Great Britain (GB) population. We note reference to a Natural England 2021 study from the North West of England that used the GB population to determine significance of functionally linked land in section 2.2.17 and Table 3.8; however, this approach was deemed suitable for this regional-scale study and is not considered an appropriate threshold at a development site level’.*

Applicant’s response. Results of final survey data (i.e., including that from autumn 2023) will be assessed in the context of percentages of the Humber Estuary SPA and Lower Derwent Valley SPA populations according to the most recent Humber Estuary and Derwent Ings WeBS 5-year average count (currently 2017/18 - 2021/22). This information will be included in Technical Appendix 8.2 (Tables 3.10 and 3.11), and referenced where appropriate in the ES and the ‘Information to Inform Habitats Regulations Assessment’ Technical Appendix 8.7.

- *‘Generally, we advise for the Humber Estuary and Lower Derwent Valley that if $\geq 1\%$ (based on the WeBS 5-year mean) of any SPA / Ramsar bird species population could be affected by a proposal, alone or in combination with other plans or projects, then further consideration is required. Although 1% is the general threshold, we advise that an assessment of how the birds are using the project site in each season is undertaken, even if numbers are below 1%. This could also include assessment of factors such as frequency of use and vulnerability of the species present. In addition, it would be beneficial to demonstrate that the habitat type was representative in the years of survey. For example, this could include any cropping regimes that may impact its suitability to support SPA birds’.*

Applicant’s response. The reference to the general 1% threshold will be adopted in the ES and ‘Information to Inform HRA’ Technical Appendix 8.7 in the absence of other criteria from NE with regards to how FLL should be defined.

Frequency of use is defined in the 2021 NE study from the North West of England, as cited by NE, and is presented in the ES paragraph 8.4.4. The Applicant is not aware of any other published guidance as to how regular presence (frequency of use) is defined. Subsequently, in the absence of any other published threshold for frequency of use, the parameters published in the North West guidance have been adopted for the purposes of assessment.

The following criteria have been followed to determine whether land is potentially functionally linked to a European Site for qualifying species:

- A species count exceeds 1% of the Humber Estuary/Lower Derwent Valley SPA/Ramsar’s known non-breeding population (based on BTO data);
- A species count exceeds 1,000 individuals; and

- A species count exceeds the 1% and/or 1000 individuals for 2/3rds of the survey visits (i.e. regular use). This threshold is derived from Natural England report NERC361 (2021).

For those species which are only part of a qualifying assemblage (so are not individually a qualifying species), one of three thresholds would need to be reached to appraise the specific study area as being potentially functionally linked to the SPA/Ramsar for that species. These have been defined as:

- 1% of each and every listed species that make up the assemblage;
- 1%, or more, of the designated species nationally important population ; or,
- Over 2,000 birds of the qualifying species.

2.1.3. Noise and visual disturbance to SPA / Ramsar birds using functionally linked land.

'Natural England advises that noise and visual disturbance impacts on FLL during construction, operation and decommissioning should be assessed in the HRA. We note that wintering and passage bird surveys and the interpretation of these is ongoing. Without further information at this point we are unable to comment on this aspect.'

We advise the HRA should detail noise levels during construction, operation, and decommissioning phases of the development. There should be consideration of the impact of the noise levels on SPA bird populations utilising land functionally linked to the Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar. The results of the wintering and passage surveys should be used to inform whether disturbing noise levels from the development will reach land utilised by SPA birds.

This includes potential disturbance as a result of constructing the grid connection corridor. For example, although the lake within field 339 will be retained, it is close to parts of the connection corridor, and therefore assessment should be made of potential impacts to SPA / Ramsar species using this lake, and whether this is likely to have a significant effect on populations associated with the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar.

The HRA should also consider the potential for visual disturbance during construction and decommission of the development via lighting and movement of large machinery'.

Applicant's response. Significant numbers of qualifying features (Target Species) of the Humber Estuary SPA, Humber Estuary Ramsar, Lower Derwent Valley SPA or Lower Derwent Valley Ramsar were not recorded within the Site or 600m (alone or as part of an assemblage). Subsequently, disturbance impacts are considered to be non-significant.

2.1.4. Glint and Glare

'Natural England advises that glint and glare impacts from the panels should be considered in the ES, and the potential for impacts on birds is not listed as a consideration in Chapter 8. We advise the potential for the solar panels to affect flight paths of wintering and passage SPA / Ramsar birds which are utilising functionally linked land should be assessed within the HRA'.

Applicant's response. Avian Ecology is not aware of any evidence that glint and glare from solar panels has the potential to lead to a significant effect on birds; there is no mention of this potential issue in NE's previously cited review of available literature on the impact of solar farms on birds (NEER012), nor is Avian Ecology aware of comparable published literature regarding birds.

It is acknowledged there is government guidance on the potential effects of glint and glare on human pilots; however, it is our view this is unrelated to birds given the lack of published research or evidence. Publications regarding bird-deaths at solar farms consistently refer to desert solar farms in warmer (desert) climates, where high heat levels are generated and appear to cause death

through ‘singeing’ at times. Such temperatures are not typical in Northern Europe and therefore such deaths are not relevant to the assessment of the Proposed Development.

Avian Ecology is also not aware of any published research in to changes in flight paths caused by the presence of solar panels. The Applicant therefore disagrees that there is potential for the solar panels to affect flight paths of wintering and passage SPA / Ramsar birds and this is not considered further in the assessment presented in Chapter 8 of the ES.

2.2 Thorne and Hatfield Moors SPA – Breeding nightjar

‘The Ornithological Survey Report concludes in 2.2.16 that potential FLL for Thorne & Hatfield Moors SPA has not been assessed due to the distance of the application site to the SPA. Based on this information provided, Natural England concurs that significant effects on breeding nightjar associated with the Thorne and Hatfield Moors SPA are unlikely to occur, either alone or in combination.

Applicant’s response. This is noted. No additional response required.

2.3 In-combination assessment

‘Natural England notes that the Information to Inform HRA section in 8.10 does not contain an in-combination assessment at either the screening or appropriate assessment stage. At screening stage, the in-combination requirement ensures that the effects of numerous proposals, which alone would not result in a significant effect, are assessed to determine whether their combined effect would be significant enough to require more detailed assessment.

Following the above, a further in-combination assessment should be carried out following the appropriate assessment stage, to assess the residual effects of developments together. We advise that when considering in-combination impacts of loss of functionally linked land, the results of surveys undertaken for those developments should also be considered to understand whether there is a cumulative loss of land which can support wintering or passage birds.

We note the inclusion of Chapter 15 (Cumulative Effects) in the PEIR. Although this includes a list of potentially relevant developments in Table 15.1 for assessment of cumulative impacts, as stated above, we advise that an in-combination assessment is completed as part of the HRA process’.

Applicant’s response: In combination and cumulative effects will be considered in Chapter 8 Biodiversity ES and ‘Information to Inform Habitats Regulations Assessment’, Technical Appendix 8.7.

WILDLIFE AND COUNTRYSIDE ACT 1981

3.0. Nationally designated sites

‘The nationally designated sites relevant to the Proposed Development are:

- *Eskamhorn Meadows SSSI [Site of Special Scientific Interest]*
- *Thorne, Crowle & Goole Moors SSSI*
- *Hatfield Moors SSSI*
- *Humber Estuary SSSI*
- *Breighton Meadows SSSI*
- *Derwent Ings SSSI*

Please refer to the following sections for further advice around Nationally designated sites. Please also note the request for air quality assessment for all relevant sites as detailed in section 1.1’.

Applicant's response. A separate letter response has been prepared by the Applicant's Air Quality Consultant in relation to this issue, issued concurrently to this technical note to NE, and NE is referred to that document.

3.1. Eskamhorn Meadows SSSI

'Table 8.9 screens out impacts on Eskamhorn Meadows SSSI. Although we agree that there are unlikely to be impacts as a result of the pathways provided, we advise that it is not yet possible to completely rule out impacts on this SSSI until the advice in section 1.1 of this letter regarding air quality for all designated sites has been followed'.

Applicant's response. A separate letter response has been prepared by the Applicant's Air Quality Consultant in relation to this issue. This considers the potential effects of the Proposed Development on SSSI's, and concludes that there are no SSSI feature habitats within 200 m of the construction traffic routes that require further consideration with respect to air quality impacts.

3.2. Thorne, Crowle & Goole Moors SSSI and Hatfield Moors SSSI – Breeding nightjar feature

'Our advice regarding the breeding nightjar feature of Thorne, Crowle & Goole Moors SSSI broadly coincides with the above advice detailed in section 2.2 for Thorne & Hatfield Moors SPA'.

Applicant's response. No further response required.

3.3. Humber Estuary SSSI

'We note that there is no specific assessment in Chapter 8: Biodiversity of impacts on the Humber Estuary SSSI. Our advice regarding Humber Estuary SSSI broadly coincides with those set out above for Humber Estuary SPA / Ramsar. However, we highlight that Humber Estuary SSSI is designated for additional features. Therefore, potential impacts on these features should also be considered in the relevant assessment and appropriate justification provided where impacts are ruled out'.

Applicant's response. Chapter 8 Biodiversity of the ES will be expanded to consider all qualifying features for the Humber Estuary SSSI; however, with the exception of air quality (as addressed above and in the separate note (REF)), no other potential pathways for effects have been identified.

3.4. Derwent Ings SSSI

'We note that there is no specific assessment in Chapter 8: Biodiversity of impacts on Derwent Ings SSSI. Our advice regarding Derwent Ings SSSI broadly coincides with advice set out above for Lower Derwent Valley SPA / Ramsar. However, we highlight that Derwent Ings SSSI is designated for additional features. Therefore, potential impacts on these features should also be considered in the relevant assessment and appropriate justification provided where impacts are ruled out'.

Applicant's response. Chapter 8 Biodiversity of the ES will be expanded to consider all qualifying features for the Derwent Ings SSSI; however, with the exception of air quality (as addressed above and in the separate note (REF)), no other potential pathways for effects have been identified.

Issued and Approved by: [REDACTED], Avian Ecology Ltd.

**ID 21: DAS RESPONSE FROM NATURAL ENGLAND (DAS/A009135) DATED
26/04/2024**

Date: 26 April 2024
Our ref: DAS/A009135
Your ref: Drax Solar Helios Renewable Energy Project



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BY EMAIL ONLY

Dear ██████████

Discretionary Advice Service (Charged Advice) DAS UDS-A008017

Development proposal and location: Solar renewable energy at Helios Renewable Energy Project, land to the SW of Camblesforth & North of Hist Courtney, N. Yorks.

Thank you for your consultation on the above dated 09 April 2024.

This advice is being provided as part of Natural England's Discretionary Advice Service. This advice is provided in accordance with the Quotation and Agreement dated 15 May 2023.

The following advice is based upon the information within:

- Request for Discretionary Advice email dated 09 April 2024.
- The Technical Note authored by Avian Ecology Ltd. in response to Natural England's S42 consultation response, addressing ornithology / ecology impacts in relation to statutorily designated sites.
- The Technical Note authored by Air Quality Consultants (dated 02 April 2024) in response to Natural England's S42 response, addressing air quality impacts on statutorily designated sites.

Further information required:

Technical Note - Ornithology / Ecology

The comments throughout the note refer to how Natural England's previous advice will be addressed in the next iterations of several documents (as listed below). Until we receive the updated versions of these documents, we are unable to comment on any conclusions drawn in this technical note. Please see below for any general comments around the content of these updated documents. We will only be able to provide further assessment / advice once we have received the updated documents. If there are sections that we have made no comment on at all, this is due to requiring the updated documents to do so.

Functionally Linked Land impacts (Humber Estuary SPA/Ramsar and Lower Derwent Valley SPA/Ramsar)

- *Technical Appendix 8.2:* We welcome that this updated version will now include full historic records search results, Autumn 2023 passage survey results, and further clarifications around when fields were surveyed, how "suitable open land" is to be defined, and further assessment of results in context of the relevant designated site populations.

- *Technical Appendix 8.7: We welcome that an “Information to Inform a Habitats Regulations Assessment” will be submitted within this Technical Appendix. We also welcome that all component species of the waterbird assemblages will now be considered in-line with our Annex B and Annex B1.*
- *Applicant’s response to NE S42 Letter Section 2.1.2.2, page 4-5 of technical note; results in context of % of 5-year WeBS average:*

The following is noted in this section of the technical note: *“The reference to the general 1% threshold will be adopted in the ES and ‘Information to Inform HRA’ Technical Appendix 8.7 in the absence of other criteria from NE with regards to how FLL should be defined.”* Several criteria are then listed for determination of whether land is potentially functionally linked to a European site. Please refer to our comments below for each of these criteria.

1. *“A species count exceeds 1% of the Humber Estuary/Lower Derwent Valley SPA/Ramsar’s known non-breeding population (based on BTO data);”*

Natural England comment on above proposed criterion:

In relation to using 1% of the SPA population of a species as a ‘threshold’ to determine whether usage of an area is FLL is significant, we now know that populations of SPA bird species that rely on functionally linked land are becoming more vulnerable. This is due to a number of pressures, including the loss of suitable areas of land outside the designated site boundary, which the birds use for roosting and feeding. The Supplementary Advice on Conservation Objectives identifies where populations should be restored, which indicates that these species are vulnerable and not meeting the Conservation Objectives.

We do not consider that it is appropriate to interpret the 1% rule of thumb in a way that only loss of functionally linked land which has been recorded as being used by $\geq 1\%$ of the designated site population of a species is likely to lead to a significant effect. Loss of land to development that is used by less than 1% of the estuary population of key species may also be damaging, therefore a likely significant effect cannot be ruled out, and the Appropriate Assessment (AA) should consider a range of factors (see below paragraph). If it cannot be ascertained that there will not be an adverse effect on integrity of the site features, then mitigation measures may be required to avoid or reduce the effect. However, we acknowledge that not all functionally linked land will have the same level of importance for features of a designated site, and the importance of this site should be assessed in the AA.

We therefore advise that the 1% approach can be used as a rule of thumb, but as stated in our S42 response, and above, this should be combined with other assessment. This can include how birds are using the project site in each season, even if numbers are below 1%, and could include assessment of factors such as frequency of use and vulnerability of the species present. To expand on the latter point, for example, where species are particularly vulnerable due to declines in the Humber population, it may not be appropriate to rely on the 1% of the estuary population, and mitigation measures may be required where lower numbers of vulnerable species are using a site that is proposed for development. Factors such as site characteristics can also inform the assessment, for instance, through assessment of the habitat type in the years of survey. For example, this could include any cropping regimes that may impact its suitability to support SPA birds (see below paragraph).

In relation to cropping regime, we advise that information on crop cover at the time of the bird surveys should be provided alongside the survey results. The Habitats Regulations Assessment should consider the typical cropping pattern of the site, based on historic and future cropping data, and indicate how frequently different crops are present during the wintering and passage periods (e.g. ‘5 in 10 years’). In particular, the assessment should indicate how frequently short crop or bare ground (suitable for wading birds) and other crops such as winter wheat (suitable for geese) are present, to inform how the site functions as feeding or roosting areas for different SPA bird species.

2. *“A species count exceeds 1,000 individuals; and...”*

Natural England comment on above proposed criterion:

We do not consider this criterion is in-line with our guidance; please refer to the above section and previous advice in our S42 response.

3. *“...species count exceeds the 1% and/or 1000 individuals for 2/3rds of the survey visits (i.e. regular use). This threshold is derived from Natural England report NERC361 (2021).”*

Natural England comment on above proposed criterion:

As advised in our S42 response, the approach in the Natural England 2021 North West of England study that used the GB population to determine significance of functionally linked land was deemed suitable at a regional-scale and we do not consider this appropriate at development site level.

Additionally, it is also cited in this section that the parameters in the above study will be used to define ‘frequency of use’. Please refer again to our comments in response to the first proposed criterion, in relation to further types of assessment that may be undertaken.

4. *“For those species which are only part of a qualifying assemblage (so are not individually a qualifying species), one of three thresholds would need to be reached to appraise the specific study area as being potentially functionally linked to the SPA/Ramsar for that species. These have been defined as:*

- *1% of each and every listed species that make up the assemblage;*
- *1%, or more, of the designated species nationally important population; or,*
- *Over 2,000 birds of the qualifying species.”*

Natural England comment on above proposed criteria:

It is our advice that these criteria are not used in the assessment, and that the advice provided above, and in our S42 response (and previous DAS responses) is referred to. In relation the first bullet point, we advise that adverse effects may occur on a designated SPA/Ramsar, even if only a single species of an assemblage is affected. In relation to the second and third points, we advise that assessment in relation to the relevant designated site populations (i.e., the Humber Estuary SPA/Ramsar and Lower Derwent Valley SPA/Ramsar in this case) are focused on in the assessment of impacts on these sites.

- *Applicant’s response to NE S42 Letter Section 2.1.4:* We advise that the information here is included in the upcoming HRA to inform the assessment of glint and glare impacts.

In-combination assessment

- We welcome that In-combination and Cumulative effects are to be considered in the updated Chapter 8 (Biodiversity ES) and Technical Appendix 8.7. We will be able to comment further on this assessment once this has been provided.

Sites of Special Scientific Interest

- We welcome that additional assessment is to be provided of the additional Humber Estuary SSSI and Derwent Ings SSSI features in the updated Chapter 8 (Biodiversity ES). We will be able to comment further on this assessment once this has been provided.

Technical Note – Air quality

Construction phase traffic

- The assessment has correctly used a 200m buffer from the affected road network, to assess which designated sites lie within this distance, and where further assessment is required for these sites. The assessment notes that M62 passes over a 300 m stretch of the Humber Estuary, noting “...that in total, 12 hectares lies within the 200 m buffer.” The assessment then concludes that as “...the main habitats within the affected 12 hectares are mudflats and intertidal substrate foreshore (mud); these habitats do not represent the most sensitive features for which the estuary is designated.”, there are unlikely to be any air quality impacts on the Humber Estuary.

Although we welcome that this assessment has been undertaken, we advise that the predicted AADT figure is provided for construction traffic flows before we can make detailed comments on potential impacts.

We also advise that assessment of air quality impacts relating to any European site is included in the Habitats Regulations Assessment.

Operational phase traffic


It is noted that operational traffic associated with the proposed development is due to be “...well below the 1,000 Annual Average Daily Traffic (AADT) screening threshold for light vehicles set out in NE’s guidance.” Based on this statement, it is unlikely there will be a significant effect on designated sites alone, however, we advise that the predicted AADT figure is also provided for operational traffic flows before we can make detailed comments on potential impacts.

We also advise that assessment of air quality impacts relating to any European site is included in the Habitats Regulations Assessment.

The advice provided in this letter has been through Natural England’s Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,


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