

Date: 23 July 2024
Our ref: 477473
Your ref: EN010143

The Planning Inspectorate
Major Applications & Plans
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EastYorkshireSolarFarm@planninginspectorate.gov.uk

BY EMAIL ONLY

Dear Inspector,

NSIP Reference Name / Code: EN010143

Title: Natural England's comments on relevant Deadline 2 submissions, in respect of the East Yorkshire Solar Farm Project.

Examining Authority's submission Deadline 3, with a date of 23 July 2024.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer Laura Tyndall and copy to consultations@naturalengland.org.uk.

Yours faithfully,

Laura Tyndall
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Natural England's comments on relevant Deadline 2 submissions

The advice in this letter identifies where any progress in resolving issues has been made following the submission of our Written Representations response (dated 18 June 2024). Our comments are set out against the following sub-headings which represent our key areas of remit:

- International designated sites
- Nationally designated sites

For our advice in relation to protected species, Biodiversity Net Gain, and Soils and best and most versatile (BMV) agricultural land, please refer to our Written Representations response.

Our comments are flagged as red, amber, yellow, or green:

- **Red** are those where there are fundamental concerns which it may not be possible to overcome in their current form.
- **Amber** are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- **Yellow** are those where Natural England does not agree with the Applicant's position or approach. We would ideally like this to be addressed but are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. However, we reserve the right to revise our opinion should further evidence be presented. It should be noted by interested parties that whilst these issues/comments are not raised as significant concerns in this instance, it should not be understood or inferred that Natural England would be of the same view in other cases or circumstances.
- **Green** are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured).

Internationally designated sites

Natural England's position regarding internationally designated sites has changed following the submission of our Written Representations response (dated 18 June 2024), based on the updated Habitats Regulations Assessment submitted to the Planning Inspectorate for Deadline 2 (27 June 2024).

Please refer to the below sections for a summary of how our position has changed. We can advise that several issues were resolved through the Applicant's engagement with our Discretionary Advice Service (DAS) in May and June 2024, but that issues remain outstanding for the Humber Estuary SPA/Ramsar and the Lower Derwent Valley SPA/Ramsar. We provided an email summary of some of our updated advice in relation to the updated HRA on 09 July 2024, in advance of the issue-specific hearing on environmental matters. We note that this has now been submitted into the Examination.

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

Natural England is not yet satisfied for 'amber' issues identified in the text below that it can be ascertained beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity of the following internationally designated sites. Please note that for 'amber' issues, we will have further comments to make in future Examination deadlines.

- Humber Estuary Special Protection Area (SPA)
- Humber Estuary Ramsar
- Lower Derwent Valley Special Protection Area (SPA)

- Lower Derwent Valley Ramsar

Further information is required to assess the following impact pathways for the above designated sites:

- Loss of functionally linked land (FLL) for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction and operation) ('amber') **[NE1]**
- In-combination impacts on international designated sites (construction and operation) ('amber') **[NE9]**

Following the submission of our Written Representations response, there have been resolutions for some key issues relating to internationally designated sites. As a result of the updates in the Deadline 2 HRA, some of these issues have now been moved from 'amber' to either 'green' or 'yellow' (please refer to Part II, Table 1 for further details and updated advice). Natural England is satisfied that 'green' issues are unlikely to result in adverse effects on the integrity (AEol) of the relevant internationally designated site, subject always to the appropriate mitigation/compensation as outlined in the application documents being adequately secured. Please refer to Page 2 of this document for the definition of 'yellow' issues.

- Noise and visual disturbance during construction to FLL for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction) ('yellow') **[NE2]**
- Operational impacts (visual disturbance) to FLL for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction) ('green') **[NE3]**
- Water quality impacts to the River Derwent SAC (construction) ('green') **[NE4]**
- Disturbance impacts to otter (Lower Derwent Valley SAC / River Derwent SAC) (construction) ('green') **[NE5]**
- Noise disturbance to river lamprey, sea lamprey (River Derwent SAC and Humber Estuary SAC); and bullhead (River Derwent SAC) (construction) ('yellow') **[NE6]**
- Physical damage to River Derwent SAC habitat (construction) ('amber') **[NE7]**
- Potential damage to River Derwent SAC habitats from dust (construction) ('green') **[NE8]**
- Air quality impacts from traffic emissions on internationally designated sites (construction) ('green') **[NE10]**
- Introduction and spread of non-native species on internationally designated sites (construction) ('green') **[NE11]**
- Impacts on Skipwith Common SAC, Thorne and Hatfield Moors SPA, and Thorne Moor SAC (construction) ('green') **[NE12]**

Nationally designated sites

Natural England's position regarding nationally designated sites is mostly unchanged following the submission of our Written Representations response, based on the information formally submitted to the examination. The only change is that impacts on the features of the River Derwent Site of Special Scientific Interest (SSSI) that overlap with the features of the River Derwent SAC **[NE15]**, has now been moved to 'green' following the resolution of these issues for the corresponding European site. However, outstanding issues remain for non-overlapping features, as outlined in **NE17** and **NE18**.

On the basis of the information submitted in relation to these sites, Natural England is not yet satisfied that the project is not likely to damage features of interest of the following nationally designated sites.

- Humber Estuary SSSI
- Derwent Ings SSSI
- Brighton Meadows SSSI
- River Derwent SSSI

We note that the Humber Estuary SSSI, Derwent Ings SSSI, and Brighton Meadows SSSI nationally designated site features that are affected by this proposal are broadly the same as the internationally designated site features. Please refer to the points in the 'Internationally designated sites' section above for all 'amber' issues, that also apply to these SSSIs **[NE13]** **[NE14]**.

Further information is required to assess the following impact pathways for the above designated sites:

- Potential impacts on the River Derwent SSSI bird assemblages **[NE17]** and fish assemblages **[NE18]** (construction) ('amber')

Natural England is satisfied that 'green' issues are unlikely to damage or destroy the interest features for which the below SSSIs have been notified, subject always to the appropriate mitigation as outlined in the application documents being secured adequately. Please find a summary of each 'green' issue below, and refer to Part II, Table 1 for further details:

- Potential impacts on River Derwent SSSI features that overlap with River Derwent SAC features (construction and operation) ('green') **[NE15]**
- Potential impacts on the River Derwent SSSI dragonfly assemblage (construction) ('green') **[NE16]**
- Potential water quality impacts to Barn Hill Meadows SSSI (construction) ('green') **[NE19]**

Natural England’s Deadline 3 submission

Part II: Natural England’s detailed advice

Part II of these Representations updates and where necessary augments Part II of the Written Representations. It expands upon the detail of all the significant issues (‘red’ and ‘amber’ issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. It also now includes ‘yellow’ issues. Please refer to Page 2 of this document for a definition for ‘yellow’ issues. Please note that any issues which already had ‘green’ status in our Written Representations response have been removed from this table for clarity around which issues have been recently resolved.

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

Natural England’s Written Representations, Part II, Table 1

NE key issue ref	Topic	Issue summary. (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment.	Natural England comment on the mechanism for securing mitigation / compensation measures in the DCO.	Risk (Red/Amber/Green)
NE1	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	Potential loss of functionally linked land (FLL) for the relevant qualifying bird features of the listed SPA / Ramsar sites. (C) and (O)	In our Relevant Representations and Written Representations responses, we advised that full conclusions relating to loss of functionally linked land (FLL) could not yet be drawn until Natural England were able to review the 2023/2024 wintering bird survey results. We welcome that the additional survey effort has now been detailed in Appendix D of the updated Habitats Regulations Assessment (HRA). Based on the results presented, we have the following comments to make. It is our advice	As discussed in the previous column, it is our advice that further assessment of the bird survey results is required in relation to determining the adequacy of the mitigation measures for avoidance of adverse effects on integrity of the relevant designated sites. In our Relevant Representations and Written Representations responses, we outlined that as the full additional bird survey data for the 2023/2024	‘Amber’

	<ul style="list-style-type: none"> • Lower Derwent Valley SPA • Lower Derwent Valley Ramsar 		<p>that there remain outstanding issues for this impact pathway, in relation to the 2023/2024 survey results, and amendments proposed to the mitigation area.</p> <p>We advise that we were also provided a Technical Note on these matters by the Applicant on 08 July, to assist in preparation of our Deadline 3 comments in relation to the updated HRA submitted at Deadline 2. This has been reviewed under DAS.</p> <p><i>Comments on the 2023/2024 bird surveys</i></p> <p>We note that the results of the 2023/2024 surveys have returned significantly higher peak counts of pink-footed geese, lapwing, and golden plover, than those found in the 2022/2023 surveys. We therefore advise that further assessment is required to determine whether the Ecology Mitigation Areas proposed are adequate to mitigate for potential impacts on these species.</p> <ul style="list-style-type: none"> • <i>Pink-footed goose</i>: The peak count of pink-footed goose within the solar PV area has increased from 80 in the 2022/2023 surveys to 515 in the 2023/2024 surveys (Field 2a, October 2023). This now represents 2.03% of the Humber Estuary population (Table 28). <p>We also note that a higher peak count has been recorded within the</p>	<p>passage/wintering period was not yet available, we were unable to comment on whether the mitigation measures detailed in the HRA / framework Landscape and Ecological Management Plan (LEMP) [APP-246] (termed “<i>Ecology Mitigation Area</i>” and detailed from 6.1.72 to 6.1.86 in this document) would be sufficient to avoid adverse effects on integrity of the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar. Therefore, we advised that detailed advice on the proposed mitigation measures would follow later in the Examination period, including more specific advice around the size, carrying capacity, habitat management, and any remediation measures.</p> <p>Following the release of the 2023/2024 surveys, we can provide the below initial comments on the mitigation measures outlined in the existing framework LEMP. Please note, it is likely that we will have further comments to make on this document at the next relevant deadline, as we are requesting further assessment. We note that the most recent version was submitted for Deadline 1.</p>	
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			<p>mitigation area, with 800 individuals recorded in Field 1h in December 2023. It is our advice that the highest peak count is used to calculate the % values given in Table 28 and should also be used as the highest peak count in informing the parameters of the mitigation area. It should be considered that pink-footed geese numbers identified as using the mitigation area for feeding are at risk of being displaced by other birds which currently use the area to be developed, therefore their numbers are relevant to consider in the mitigation design.</p> <p>Despite significantly higher peak counts, the size of the mitigation area due to be managed for pink-footed goose is remaining at 15ha. We advise that further assessment is provided around whether the area due to be managed for pink-footed goose remains adequate, considering the significant increase in numbers found in the 2023/2024 survey effort.</p> <p>The Technical Note provided by the Applicant advises that further assessment and amendments are not required in relation to pink-footed goose mitigation measures, as these are not based on peak population counts or a 'bird-days' approach, and</p>	<p><u>Ecology Mitigation Area 1h (28.75ha) (starts page 39)</u></p> <ul style="list-style-type: none"> • We note that the golden plover mitigation area has been amended to state that this is also mitigation for impacts on lapwing. However, as per the previous column, further assessment is required around whether the area is of adequate size to provide capacity for both golden plover and lapwing. • As noted in the previous column, it is our advice that if a 150m buffer is considered over-precautionary, then evidence should be presented to show that birds will use areas of the fields within 150m of the solar PV panels. If sufficient evidence is not available, we would continue to recommend that a 150m buffer is used. • Please note that further guidance on grassland management for wading birds will be provided to the Applicant separately, through our guidance documents TIN148 (management of wet grassland for waders) and 	
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			<p>instead the Applicant has used a 'minimum field size' approach. However, as the 2023/2024 bird survey results demonstrate that pink-footed goose numbers were an order of magnitude higher, we advise that the sufficiency of the minimum field size approach is reviewed at this stage.</p> <p>The minimum field size approach can be useful when bird numbers are relatively low, as they were in the first year of surveys. In this case, a 'bird-days' approach would have been less appropriate as it may have indicated a small field size to feed a lower number of birds, when geese will only use fields above a minimum hectareage. However, considering the increases shown in the 2023/2024 surveys, re-assessment is required around whether the minimum field size approach will create a sufficient mitigation area to feed the peak number of geese we now know use the site. To do this, it is important to consider the peak number of geese using any area within the red line boundary, not just those that would be displaced by the solar PV areas. Alongside displaced birds, adequate foraging provision must be available for the 800 individuals using the fields in the mitigation area.</p>	<p>IN140 (neutral grassland for lapwing). These documents can also be provided to the Planning Inspectorate on request.</p> <p><u>Ecology Mitigation Areas 1g and 1h (15ha)</u></p> <ul style="list-style-type: none"> It is noted in 6.1.86 that approximately 79.09ha is to remain in arable rotation, with 15ha managed towards the requirements of pink-footed goose in any given year. It is then stated in 6.1.90 that arable land outside of the 15ha rotational zone will continue to operate under existing farming practices, <i>"with a variety of crops being sown and harvested according to schedules preferred by respective landowners"</i>. <p>We advise that further assessment is provided around whether the 15ha will be able to feed geese throughout the season in the same way as at present. As different crops are likely to become available over the season on different fields, we advise information is provided</p>	
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			<p>It is also noted in the Technical Note, that the 28.75ha of mitigation designed for golden plover will be of foraging value for pink-footed goose also. Please note that we agreed this with the Applicant in principle, but we did not have the detail at the time to have certainty over whether this would work in practice. We advise that further assessment is therefore provided around the suitability of the grassland area in this context.</p> <ul style="list-style-type: none"> • <i>Golden plover</i>: The peak count of golden plover within the solar PV area has increased from 36 in the 2022/2023 surveys, to 460 in the 2023/2024 surveys (Field 1e, October 2023). This now represents 14.69% of the Lower Derwent Valley population, and 2.21% of the Humber Estuary population (Table 28). We note that the amount of the mitigation area due to be managed for golden plover has increased from 15ha to 28.75ha. We assume this is due to higher numbers of golden plover recorded in the 2023/2024 surveys, and whilst we welcome this proposed increase in size, it should also be clarified as to whether the 28.75ha intended as mitigation for golden plover excludes a buffer next to the field edges (as noted in our Relevant Representations 	<p>around how will this be replicated on the mitigation land, and justification around whether 15ha will be sufficient to do this.</p> <p>For example, if the 15ha is planted with sugar beet, then this crop will all be ready at the same time. Therefore, once this is depleted, there could be a gap in the availability of suitable forage.</p> <p>Pink-footed geese usually feed at the beginning of the winter on spilt grain in stubble fields, then move on to vegetable crops such as sugar beet or potatoes, and finally onto the new growing tips of grass or winter cereals prior to migration. At present, there is a commitment to leaving stubble fields in the 15ha, which will last only for the beginning of the winter. Although other fields are likely to be planted with winter cereals, there is currently no certainty around this. Therefore, there is no certainty that the geese will be fed in the later parts of the season. It is evident from</p>	
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			<p>response, this should be around 150m), or whether the 28.75ha is the total usable area.</p> <p>The Technical Note provided by the Applicant notes that due to the golden plover mitigation area being set on the edge of the Order limits, and that not all boundaries align with solar PV areas, that a blanket buffer of 150m is not required. It is also noted that the panels are not considered disturbing, therefore the 150m distance will only be implemented for disturbing elements of the infrastructure, such as field stations. It is our advice that if the 150m is considered over-precautionary, then evidence should be presented to show that birds will use areas of the fields within 150m of the solar PV panels. If sufficient evidence is not available, we would continue to recommend that a 150m buffer is used.</p> <p>Please also refer to our comments below in relation to the need for mitigation provisions to support lapwing.</p> <ul style="list-style-type: none"> • <u>Lapwing</u>: The peak count of lapwing within the solar PV area has increased from 51 in the 2022/2023 surveys to 274 in the 2023/2024 surveys. This now represents 4.99% of the Lower 	<p>survey data that geese use the site throughout the winter. Therefore, for certainty that the ecological function will be replaced, confirmation is needed around whether winter cereals will continue to be planted.</p> <ul style="list-style-type: none"> • Additionally, as other crops in proximity to the mitigation area for pink-footed geese could be unsuitable for requirements of the species, we advise that further details, or a schedule, of the crop rotation planned outside of the 15ha is provided. • We would welcome the provision of a “<i>master spreadsheet</i>” (as detailed in 6.1.94), that would be created as part of the detailed LEMP, to specify future cropping regimes within this mitigation area (including responsible landowner) for the 15ha to be managed in any given year. <p><u>Pre- and post-construction monitoring</u></p> <p>We welcome that, as per 7.1.2, walkover surveys are to be</p>	
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			<p>Derwent Valley population, and 1.8% of the Humber Estuary population. We note, however, that despite this increase, the HRA / the design of the mitigation area has not been updated to specifically assess the requirement to mitigate for impacts on lapwing.</p> <p>Lapwing have the same habitat requirements as golden plover, and they will compete for the same invertebrate food, therefore, further justification is required to demonstrate that the 28.75ha of wet grassland will produce enough invertebrate prey to provide for the combined peaks of both lapwing and golden plover.</p> <ul style="list-style-type: none"> We note that Footnote 23 states that the early October surveys are to be referred to as September surveys. We do not consider that the surveys should be referred to as the incorrect month, and that they should be defined by the correct month/date that they were undertaken. We have advised instead that if in September 2023, surveys were not undertaken, that further justification should be provided around why this is not considered to be a significant limitation. However, at this stage we consider this a minor limitation that is unlikely to materially affect the further assessment required, and we will not 	<p>conducted of the site between April and June in years 2, 4, 6, 10 and then every 5 years post-construction until year 40, to ensure that habitats are being managed accordingly. However, it is our advice that the monitoring proposed does not meet our recommended requirements for monitoring of mitigation areas, based on our experience of previous projects delivering similar mitigation measures.</p> <p>Natural England advises that an ecological mitigation plan should include, but is not limited to:</p> <ul style="list-style-type: none"> <i>Clear objectives.</i> <i>Target/s for each objective, including SPA bird use targets, habitat targets and targets for minimising recreational disturbance on the mitigation area.</i> <i>Details of required management and monitoring (including who is responsible and when it will take place).</i> <i>Details of limits of acceptable change.</i> <i>Details of remedial actions, where appropriate.</i> 	
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			<p>be requesting further evidence from bird surveys at this stage.</p> <ul style="list-style-type: none"> We note that the updated HRA still only contains the forecast for 2023/2024, and not the actual data around cropping patterns. If this is available, we advise that is provided in the next iteration of the HRA, to support the conclusions given. 	<p>We advise that the above additional information is required to provide certainty that the mitigation measures will be successful throughout the lifetime of the project.</p>	
NE2	<p>International designated sites</p> <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar Lower Derwent Valley SPA Lower Derwent Valley Ramsar 	<p>Noise and visual disturbance during construction to FLL for the relevant qualifying bird features of the listed SPA / Ramsar sites. (C)</p>	<p><u>Noise disturbance</u> Following the updates made to the HRA submitted for Deadline 2, including further justification provided in 8.1.15, 8.1.16 and 8.1.19, it is Natural England's view that potential noise disturbance impacts on FLL can be ruled out, if the following is satisfied:</p> <ul style="list-style-type: none"> As per 8.4.18 of the HRA, the habitat in Ecology Mitigation Areas 1g and 1h will be established prior to the commencement of construction works. Any construction works in the closest parts of the Scheme (e.g., Solar PV Area 1e) to the mitigation area will be undertaken first to minimise any potential for disturbance from noise. <p>Please note that the specific details around the adequacy of the Ecology Mitigation Area to mitigate for impacts on loss of FLL, are still</p>	<p><u>Noise disturbance</u> We advise that as per 8.4.18 of the HRA, the habitat in Ecology Mitigation Areas 1g and 1h will be established prior to the commencement of construction works.</p> <p>We advise that any construction works in the closest parts of the Scheme (e.g., Solar PV Area 1e) to the mitigation area will be undertaken first to minimise any potential for disturbance from noise.</p> <p><u>Visual disturbance</u> As stated above for NE1, we advise that the mitigation area is secured prior to commencement of construction works.</p>	'Yellow'

			<p>under discussion following the 2023/2024 wintering bird surveys. Please refer to the above section [NE1] relating to <u>loss of functionally linked land</u>. The above two bullet points relate only to avoiding impacts from <u>noise disturbance on birds using FLL</u>.</p> <p>It is our advice that NE2 is now a 'yellow' issue. We advise that this is the case, as it is our view that aspects of the noise assessment have not been carried out in-line with Natural England's recommendations. We have the below comment to make around how this evidence base could be strengthened. However, in this case, we do not believe this additional evidence would have a material impact on the outcome of the assessment.</p> <ul style="list-style-type: none"> • We note that 8.1.6 states that there is little observable effect below 55dB LAmax, and that as LAeq is always lower than LAmax, that 55dB LAeq will be used as the threshold to identify FLL affected by construction activity. However, noise contours are useful for both LAeq and LAmax as they present different information. We advise that consideration of LAeq only is not precautionary, and that the reason it is lower is because it is an average. Therefore, a point on the 55dB LAeq contour can sometimes experience noises louder than 55dB, and so may result in disturbing levels of noise at certain points in the day. If contours 		
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			<p>are available for both L_{Amax} and L_{Aeq}, it could be determined, for example, if a field would occasionally experience very loud noise (L_{Amax}), but over the course of the day the noise would be low (L_{Aeq}). By only providing contours of the average noise, it is not possible to determine whether there would be sudden, loud noises that are the most likely to be disturbing to birds.</p> <p><u>Visual disturbance</u> The appropriate assessment further assesses visual disturbance in sections 8.1.12 to 8.1.18. As per our comments above, the IECS 2013 Toolkit is referenced in relation to setting a buffer for visual disturbance. Please refer to our comments above around the use of this toolkit. However, we advise that a 300m buffer for visual disturbance is likely sufficient.</p> <p>It is then concluded in 8.1.19 that there will be no adverse effects on the integrity on the listed designated sites from visual disturbance on functionally linked habitats. In relation to <u>visual disturbance only</u> (refer to comments above in relation to the further information required for noise disturbance), based on the information provided, Natural England agree with this conclusion, subject to appropriate mitigation being secured. Please refer to the column to the right for further detail.</p>		
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NE5	International designated sites <ul style="list-style-type: none"> • River Derwent SAC • Lower Derwent Valley SAC 	Potential impacts to otter (<i>Lutra lutra</i>) during construction, including horizontal directional drilling (HDD) (C)	<p>Natural England notes the clarifying comments in the Deadline 2 HRA regarding the suitability of drainage channels DE03, DE52, OU13, OU20, and OU24 as otter habitat. The lack of otter presence in these watercourses, predicted short duration of HDD (several days), and use of drilling during the daytime rather than night, should be sufficient in managing impacts to otter. We advise that noise barriers should still be used on the HDD sites adjacent to watercourses with recorded otter presence, in addition to all other mitigation previously established. As stated previously, Natural England advises that nighttime use of HDD should be minimised and only occur in instances when 24-hour working is unavoidable, to avoid disturbance to the nocturnal activities of otter.</p> <p>We therefore consider that if the above is satisfied, issues relating to this topic are now resolved.</p>	<p>The buffers which are to be used for HDD in relation to specific watercourses should be established within the CEMP. Specific details regarding where HDD is to occur in relation to SAC boundaries should also be detailed in the CEMP, following completion of the Hydraulic Fracture Risk Assessment. These measures should be secured within the DCO.</p> <p>All noise mitigation measures relating to, for instance, HDD and the timing of works, should be included in the CEMP and secured in the DCO.</p>	'Green'
NE6	International designated sites <ul style="list-style-type: none"> • River Derwent SAC • Humber Estuary SAC 	Potential impacts to river lamprey, sea lamprey (River Derwent SAC; and Humber Estuary SAC); and bullhead (River Derwent SAC) during construction, including noise disturbance.	<p>Natural England notes that section 6.2.7 of the HRA submitted at Deadline 2 clarifies that the HDD process will take place over a short period of time. Additionally, as stated in the Framework CEMP [APP-238], HDD is planned outside of the "...core fish migration season of September to February and May".</p> <p>Alongside the further justifications provided across 6.2.5 to 6.2.7, we advise that adequate detail has now been provided to rule out</p>	<p>The buffers which are to be used for HDD in relation to these specific watercourses should be established within the CEMP.</p>	'Yellow'

		(C)	<p>impacts on lamprey and bullhead associated with the River Derwent SAC and/or Humber Estuary SAC.</p> <p>Please note that it is our advice that measures that are intended to avoid impacts on European site features, should be considered as mitigation. In this case, it would be our advice that avoidance of the core fish migration seasons for the designated fish features of the relevant European sites would comprise mitigation and should be assessed at the appropriate assessment stage. However, we do not consider that this would materially impact conclusions of the Stage 2 assessment on adverse effects on integrity.</p>		
NE7	<p>International designated sites</p> <ul style="list-style-type: none"> River Derwent SAC 	<p>Potential physical damage to River Derwent SAC habitat during construction</p> <p>(C)</p>	<p>We welcome the addition to 8.5.4 in the Deadline 2 HRA that confirms that a restoration plan for verge habitat will be included in the Framework LEMP and confirms that there is no evidence of otter using ditch DE21, therefore, suggesting this is not supporting habitat for otter. We therefore consider this issue resolved.</p>	<p>The restoration plan for the removed vegetation within the River Derwent SAC must be secured within the DCO. The plan could be included within the final LEMP.</p> <p>The buffers which are to be used for HDD in relation to specific watercourses should be established within the CEMP. Specific details regarding where HDD is to occur in relation to SAC should be included within the CEMP and secured within the DCO.</p>	<p>'Green'</p>

<p>NE9</p>	<p>International designated sites</p> <p>In-combination impacts on all relevant international designated sites</p>	<p>Potential in-combination impacts on international designated sites.</p> <p>(C) and (O)</p>	<p>In our Relevant Representations response, we advised that further in-combination assessment was required for the following identified impact pathways:</p> <ul style="list-style-type: none"> • Impacts to FLL, including loss of openness in the landscape. • Noise / visual disturbance (Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar). • Noise impacts to any designated sites if there is potential for timing overlap during construction. • Water quality (River Derwent SAC) • Atmospheric pollution (dust) (River Derwent SAC). <p>Following the provision of the Deadline 2 HRA, we have the following comments to make in relation to the in-combination assessment.</p> <p><i>In-combination loss of FLL</i></p> <p>We still consider this to be under discussion in relation to impacts on functionally linked land. We aim to advise on the in-combination assessment in further detail, once the assessment of impacts alone is complete. We note in the meantime that it is our advice that for impact pathways taken through to appropriate assessment, detailed in-combination assessment should be made at this stage also.</p>	<p>Further information/assessment is required around in-combination loss of FLL.</p>	<p>'Amber'</p>
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		<p><u>We consider that the following areas have now been resolved:</u></p> <p><i>Noise disturbance to FLL in-combination</i></p> <p>We note that the HRA has been updated with further information relating to in-combination noise assessment for the above designated sites. This states in 8.1.42, that regarding the proposed Helios Renewable Energy Project, “...there is a small section of overlap of the Underground Grid Connection for this development with the Grid Connection Corridor of the Scheme to the east of Drax Substation.” Further justification is then provided, noting that “...arable parcels immediately adjoining Drax Substation are small and subject to existing high levels of disturbance. No SPA/Ramsar birds were recorded in these fields in wintering bird surveys, and they are not considered functionally linked.” We therefore advise that for noise disturbance to FLL specifically, in-combination impacts with other plans and projects can be ruled out.</p> <p><i>Noise disturbance to otter in-combination</i></p> <p>We welcome the clarifications in 8.1.34 around HDD operations and potential noise disturbance impacts on otter for impacts of the project alone. However, we recommend that further assessment should be made of any potential overlap with other plans/projects that may be undertaking noise-producing works on</p>		
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		<p>the same temporal scale, that could be disturbing to otter. However, we consider it unlikely based on the new information provided in 8.1.34, particularly due to the short duration of the works, that there will be impacts in-combination.</p> <p><i>Water quality impacts in-combination</i></p> <p>The HRA clarifies the Scheme and all other developments (we understand this refers to the list in 8.2.16) will mitigate their own water quality impacts, therefore there is no potential for in-combination impacts. We note, however, that although impacts of a development may be fully avoided through mitigation, potential residual impacts that could act in combination should still be assessed, ie. where small discharges are still present from multiple projects, after mitigation has been applied. However, if the mitigation proposed will prevent the potential discharge of pollutants into the watercourse entirely, we can agree that there will be no AEIOI.</p> <p><i>Atmospheric pollution (dust) in-combination</i></p> <p>We welcome that the following addition has been made to 8.3.5: <i>“It is considered that the mitigation measures to be delivered and secured in the CEMP will entirely avoid adverse dust impacts resulting from the Scheme and, therefore, any potential for in-combination effects with other developments.”</i></p> <p>The updated HRA now also states the</p>		
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			following: "...none of the in-combination projects listed in Table 10 fall within the 200m impact zone for dust deposition surrounding the River Derwent SAC." We advise that based on this information, we can agree that impacts of atmospheric pollution (dust) in-combination can be ruled out.		
NE13	National designated sites Humber Estuary SSSI	Potential impacts on Humber Estuary SSSI designated features (C) and (O)	Our advice regarding impacts on the Humber Estuary SSSI coincides with our advice regarding the potential impacts upon the Humber Estuary SPA / Ramsar, as detailed above.	<u>N/a</u> : Further information required	'Amber'
NE14	National designated sites <ul style="list-style-type: none"> • Brighton Meadows SSSI • Derwent Ings SSSI 	Potential impacts on Brighton Meadows SSSI and Derwent Ings SSSI designated features (C) and (O)	Our advice regarding impacts on Brighton Meadows SSSI and Derwent Ings SSSI coincide with our advice regarding the potential impacts upon the Lower Derwent Valley SPA / Ramsar, as detailed above.	<u>N/a</u> : Further information required	'Amber'
NE15	National designated sites <ul style="list-style-type: none"> • River Derwent SSSI 	Potential impacts on River Derwent SSSI designated features (C) and (O)	Our advice regarding impacts on the River Derwent SSSI coincides with our advice regarding the potential impacts upon the River Derwent SAC, as detailed above. Therefore, for the overlapping features of the two sites only, we have now moved this issue to	Further information required for non-overlapping features. Please refer to NE17 and NE18 .	'Green'

			'green'. However, for features which do not overlap, please refer to the below sections [NE17] [NE18] .		
NE17	National designated sites <ul style="list-style-type: none"> River Derwent SSSI 	Potential impacts on River Derwent SSSI bird assemblages during construction (C)	<p>We advise that it is currently unclear from the information provided in 6.1 Chapter 8 – Ecology [APP-060] whether there has been any direct assessment on the '<i>Assemblages of breeding birds</i>' and '<i>Aggregations of non-breeding birds - Bewick's Swan, Cygnus columbianus bewickii</i>' features of the River Derwent SSSI. These features do not overlap with those of the River Derwent SAC.</p> <p>We therefore advise that further information is provided in relation to potential construction phase impacts on these features. Please refer to the River Derwent SSSI Designated Sites View page for further details, including the SSSI citation.</p>	It is our advice that if the measures to prevent impacts on this feature of the River Derwent SSSI are the same as those to prevent other European site impacts, that these are outlined in an updated Environmental Statement Ecology chapter and submitted to PINS. Natural England can then review the documentation and determine if these measures are adequate to also avoid impacts on this feature.	'Amber'
NE18	National designated sites <ul style="list-style-type: none"> River Derwent SSSI 	Potential impacts on the River Derwent SSSI fish assemblage during construction (C)	<p>We advise that it is currently unclear from the information provided in 6.1 Chapter 8 – Ecology [APP-060] whether there has been any direct assessment on the River Derwent SSSI '<i>Outstanding assemblage of native fish</i>' feature. Aspects of this feature do not overlap with the River Derwent SAC designated fish features.</p> <p>As detailed in [NE6], we note that the following is presented in Table 8 – 12 (pg183) of 6.1 Chapter 8 – Ecology [APP-060] in relation to mitigation of noise/vibration impacts from HDD: "<i>The core fish migration season of</i></p>	It is our advice that if the measures to prevent impacts on this feature of the River Derwent SSSI are the same as those to prevent other European site impacts, that these are outlined in an updated Environmental Statement Ecology chapter and submitted to PINS. Natural England can then review the documentation and determine if these measures are adequate to also avoid impacts on this feature.	'Amber'

			<p><i>September to February and May will be avoided for HDD beneath the River Ouse and River Derwent, unless the depth of the HDD is confirmed to be of a sufficient minimum distance of approximately 10m below the riverbed to avoid noise and vibration effects".</i></p> <p>We advise that further justification is provided around why this is considered sufficient to mitigation impacts for the species within the SSSI assemblage.</p> <p>We therefore advise that further information is provided in relation to potential construction phase impacts on these features.</p> <p>Please refer to the River Derwent SSSI Designated Sites View page for further details, including the SSSI citation.</p>		
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Natural England's Deadline 3 Submission

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

Part III provides Natural England's detailed comments on the Development Consent Order and detailed comments on issues not addressed in the DCO.

Page	DCO or omission ref	Natural England's comments	Risk (Red/Amber/Green)
38	Schedule 2, requirement 5	We welcome that Schedule 2, requirement 5 sets out how the final detailed design should be adhered to, including the following: "(2) <i>The details submitted must accord with the outline design principles statement</i> ", and "(3) <i>The authorised development must be carried out in accordance with the approved details.</i> " However, as there are outstanding matters as detailed in Table 1 (all 'amber' issues), we cannot yet provide agreement with the final detailed design. Therefore, this also remains an 'amber' issue at present.	'Amber'
38	Schedule 2, requirement 6	<p>We advise that the securing of the Landscape and Ecological Management Plan (LEMP), with this being "...<i>substantially in accordance with...</i>" the framework LEMP (fLEMP), is an essential requirement. However, we advise that we do not consider that the current fLEMP sufficient, as updates will be required as detailed in NE1 and NE7 in Part II, Table 1. Please refer to the below for a summary of the advice in these sections.</p> <p><u>Summary of relevant advice in NE1 and NE7</u></p> <p><u>NE1:</u> Please refer to our comments in NE1 in relation to outstanding issues relating to FLL.</p> <p><u>NE7:</u> We advise that the LEMP should be updated to include a restoration plan for the removed vegetation within the River Derwent SAC. Please refer to NE7 (Part II, Table 1) for further details.</p>	'Amber'
38	Schedule 2, requirement 7	We welcome the requirement for the biodiversity net gain strategy to be submitted and approved to the relevant planning authority prior to the commencement of development. As noted in NE21 , we recommend that this is least a 10% increase in the pre-development biodiversity value of the on-site habitat, is secured for a minimum of 30 years, and is subject to adaptive management and monitoring.	'Green'

39	Schedule 2, requirement 9	<p>Natural England notes that surface water drainage measures are secured.</p> <p>The production of the CEMP is secured within schedule 2, point 11 of the DCO. Natural England advises that the CEMP should include all mitigation measures in relation to water quality impacts put forward, specifically those which have been established for Horizontal Directional Drilling, surface water drainage, and the future Water Management Plan.</p> <p>Natural England welcomes the use of Horizontal Directional Drilling as a method for managing water quality and disturbance impacts to designated sites. All water quality mitigation measures relating to Horizontal Directional Drilling should be included in the CEMP and secured in the DCO.</p> <p>The inclusion of the water management plan within the CEMP should be secured within the DCO.</p>	'Green'
39 – 40	Schedule 2, requirement 11	<p>We welcome that the measures in the Construction Environmental Management Plan (CEMP) will be secured through requirement 11, and that approval will be required from Natural England (as detailed in 11(1)). As per Part II, Table 1, we have advised several aspects should be secured within the CEMP using more specific wording, and the framework CEMP may require updates. Therefore, this remains as 'amber' at present.</p> <p>However, we can provide agreement with the inclusion of this requirement more generally, subject to the final CEMP containing all elements Natural England have advised on. A summary of all aspects we have advised should be secured in the CEMP / through the DCO is provided below (refer to Part II, Table 1 for full advice).</p> <p><u>Summary of relevant CEMP advice (NE4, NE5, NE7, NE8, NE11, NE16, NE19)</u></p> <p><u>NE4:</u> We advise all water quality mitigation measures relating to HDD should be included in the CEMP and secured in the DCO. The water management plan within the CEMP should also be secured within the DCO.</p> <p><u>NE5:</u> The buffers for HDD in relation to specific watercourses should be established within the CEMP. Where HDD may occur within the SAC, alongside any noise mitigation measures, should be detailed in the CEMP and secured within the DCO.</p> <p><u>NE7:</u> The buffers for HDD in relation to specific watercourses should be established within the CEMP.</p>	'Green'

		<p>Where HDD may occur within the SAC should be detailed in the CEMP and secured within the DCO.</p> <p><u>NE8:</u> All dust mitigation measures included in the CEMP should be secured in the DCO, Including the dust management plan.</p> <p><u>NE11:</u> We advise the INNS biosecurity measures should be included within the final CEMP and secured in this section of the DCO.</p> <p><u>NE16 and NE17:</u> Water quality mitigation measures should be included within the CEMP and secured within the DCO. We note that Schedule 2, requirement 9 includes a statement that any foul water drainage plan must be submitted to the relevant planning authority prior to development. We advise that if the foul water plan is changed at a later stage, and will no longer be removed from site for treatment, then impacts to designated sites from discharges will need to be addressed.</p>	
40	Schedule 2, requirement 12	We welcome that this requirement secures the Operational Environmental Management Plan (OEMP), and highlights this must be substantially in accordance with the framework OEMP. We advise this is an essential requirement.	'Green'
40	Schedule 2, requirement 15	We welcome that this requirement secures the soil management plan (SMP), and highlights this must be substantially in accordance with the framework SMP. We advise this is an essential requirement.	'Green'
41	Schedule 2, requirement 18	We note this requirement is for decommissioning and restoration and advise this is an essential requirement. We advise that Natural England are consulted on this plan once finalised, if impacts to designated sites during decommissioning are identified.	'Green'