

Date: 17 September 2024  
Our ref: 477473  
Your ref: EN010143



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

T 0300 060 3900

The Planning Inspectorate  
Major Applications & Plans  
Temple Quay House  
Temple Quay  
Bristol  
BS1 6PN

EastYorkshireSolarFarm@planninginspectorate.gov.uk

**BY EMAIL ONLY**

Dear Inspector,

**NSIP Reference Name / Code: EN010143**

**Title: Natural England's comments in respect of the East Yorkshire Solar Farm Project.**

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.

Natural England have been working with East Yorkshire Solar Farm Ltd. (*the Applicant*) to provide advice and guidance on the application for a Development Consent Order (DCO) in relation to East Yorkshire Solar Farm (EYSF) (*the project*) since March 2023, through Natural England's Discretionary Advice Service (DAS). These continued discussions with the Applicant have sought to resolve concerns and agree outstanding matters in a Statement of Common Ground.

We advise that through our engagement we have been able to reach a point of resolution on all outstanding issues (please refer to Table 1 for details of 'green' and 'yellow' issues), and we are submitting this update to the Planning Inspectorate on request of the Applicant. We have also attached, on the Applicant's request, our DAS response to the Applicant dated 06 September 2024 in Annex I.

For any further advice on this consultation please contact the case officer Laura Tyndall and copy to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours faithfully,

Laura Tyndall  
Higher Officer – Terrestrial Sustainable Development  
Yorkshire and Northern Lincolnshire Area Team

PART I: Summary and Conclusions of Natural England's advice.  
PART II: Natural England's detailed advice (starting on page 5)  
PART III: Natural England's detailed comments on the Development Consent Order (DCO) (starting on page 15)  
Annex I: Natural England's Discretionary Advice Service (DAS) comments submitted to the Applicant dated 06 September 2024 (starting on page 16)  
Annex II: Natural England's email correspondence to the Planning Inspectorate in relation to Deadline 5 and Deadline 6 (starting on page 21)

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

The advice in this letter identifies where progress in resolving issues has been made following the submission of our Deadline 3 response (dated 23 July 2024), due to ongoing engagement with the Applicant through our Discretionary Advice Service. 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 back to our Written Representations (Deadline 1) 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 Deadline 3 response (dated 23 July 2024), based on engagement with the Applicant through DAS. Please refer to the below sections for a summary of how our position has changed.

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 satisfied for 'green' and 'yellow' issues identified in the text below that the project would not have an adverse effect on the integrity of the following internationally designated sites.

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

Following the submission of our Deadline 3 response, there have been resolutions reached for all key issues relating to internationally designated sites (i.e. issues moved to either 'green' or 'yellow'), as a result of our engagement with the Applicant through DAS. This includes the provision of the EYSF Technical Note to NE - further information for NE1 (dated 15 August 2024), 8.44 Applicant's Response to Submissions Received at Deadline 3 (dated August 2024); alongside a meeting held with the Applicant on 10 September 2024.

We note that the above documents were also submitted into Examination prior to Deadline 5, however, we were unable to provide comments within set timescales due to late submission of the Technical Note. Please refer to Annex II for our email correspondence with the Planning Inspectorate 30 August 2024 in relation to this.

Natural England is satisfied that 'green' issues are unlikely to result in adverse effects on the integrity (AEol) of the relevant internationally designated sites, 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.

- Loss of functionally linked land (FLL) for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction and operation) ('green') **[NE1.1]**
- Bird-days calculations used to inform the assessment of mitigation measures for loss of functionally linked land ('yellow') **[NE1.2]**
- Noise and visual disturbance during construction to FLL for the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar (construction) ('green') **[NE2.1]**
- Noise assessment methodology for assessment of disturbance to FLL for the relevant qualifying features of the listed SPA/Ramsar sites (construction) ('yellow') **[NE2.2]**
- 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) ('green') **[NE6.1]**
- Avoidance of core fish migration seasons (construction) ('yellow') **[NE6.2]**
- Physical damage to River Derwent SAC habitat (construction) ('green') **[NE7]**
- Potential damage to River Derwent SAC habitats from dust (construction) ('green') **[NE8]**
- In-combination impacts on international designated sites (construction and operation) ('green') **[NE9]**
- 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

Following the submission of our Deadline 3 response, there have been resolutions reached for all key issues relating to nationally designated sites (i.e. issues moved to either 'green' or 'yellow'), as a result of our engagement with the Applicant through DAS (as detailed above for internationally designated sites).

On the basis of the information submitted in relation to these sites, Natural England is 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

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 refer to Page 2 of this document for the definition of 'yellow' issues. Please find a summary of each 'green' issue below, and refer to Part II, Table 1 for further details:

- Potential impacts on Humber Estuary SSSI designated features, which overlap with Humber Estuary SAC / SPA / Ramsar features ('green') **[NE13]**
- Potential impacts on Derwent Ings SSSI and Brighton Meadows designated features, which overlap with Lower Derwent Valley SAC / SPA / Ramsar features ('green') **[NE14]**
- 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 impacts on the River Derwent SSSI bird assemblages **[NE17]** and fish assemblages **[NE18]** (construction) ('green')
- Potential water quality impacts to Barn Hill Meadows SSSI (construction) ('green') **[NE19]**

## Part II: Natural England’s detailed advice

Part II of this letter updates and where necessary augments Part II of our Deadline 3 comments. It confirms that all significant issues (‘red’ and ‘amber’ issues) have now moved to either ‘yellow’ or ‘green’ issues following our DAS engagement with the Applicant. Please refer to Page 2 of this document for a definition for ‘yellow’ issues. Please note that any issues which already had ‘green’ status at our Deadline 3 response have been removed from this table for clarity around which issues have been recently resolved. For issues that would mostly hold ‘green’ status, but part of the issue is considered to hold ‘yellow’ status, we have split these out accordingly (e.g. NE1 has moved to NE1.1 and NE1.2).

**Natural England’s 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)
NE1.1	<b>International designated sites</b> <ul style="list-style-type: none"> <li>• Humber Estuary SPA</li> <li>• Humber Estuary Ramsar</li> <li>• Lower Derwent Valley SPA</li> <li>• Lower Derwent Valley Ramsar</li> </ul>	Potential loss of functionally linked land (FLL) for the relevant qualifying bird features of the listed SPA / Ramsar sites.  (C) and (O)	In our Deadline 3 response we advised on the outstanding assessment required to determine if impacts on these designated sites were likely. Based on the additional information provided by the Applicant (as detailed in Part I), we consider that enough additional assessment has been provided to rule out adverse effects on the integrity of the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar, subject to the securing of all relevant mitigation measures (refer to the column to the right for details).  Please note that we consider that for one aspect of the additional assessment provided for NE1, Natural England does not agree with the Applicant’s position or approach. Therefore, we consider this aspect a ‘yellow’ issue and have created a separate row for	We advise that to enable a conclusion of no adverse effect on integrity of the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar, that Mitigation Area 1h (28.75 ha) and Mitigation Area 1g and 1h (15 ha) (alongside management and remediation measures) are secured through the Development Consent Order (Page 38; Schedule 2, requirement 6). These must be secured for at least the lifetime of the development.  We also advise that both the HRA and framework Landscape and Ecological Management Plan (fLEMP) should be updated to incorporate all relevant additional	<b>‘Green’</b>

			<p>detailed comments relating to this [NE1.2] and have renumbered this issue as NE1.1. As per the definition of 'yellow' issues on Page 2 (please refer to this page for full description), 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.</p> <p>Please refer to the comments below in relation to the resolution of all other issues included in NE1.1.</p> <p><i>Comments on the 2023/2024 bird surveys &amp; assessment of mitigation measures</i></p> <p>The results of the 2023/2024 surveys returned significantly higher peak counts of pink-footed geese, lapwing, and golden plover, than those found in the 2022/2023 surveys. We requested that further assessment was provided to determine whether the Ecology Mitigation Areas proposed are adequate to mitigate for potential impacts on these species.</p> <p>The Applicant has carried out additional assessment around the carrying capacity of the mitigation area for all three species above, using a bird-days approach, as recommended in our D3 advice letter. Please see individual comments per species separated below:</p> <ul style="list-style-type: none"> <li>• <i>Pink-footed goose</i>: The Applicant's additional assessment now uses the</li> </ul>	<p>information received since the beginning of Examination relating to assessment of, and mitigation of impacts on, wintering/passage birds associated with these designated sites (e.g. additional bird-days calculations and management/monitoring regimes).</p>	
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			<p>highest peak number of 800 individuals, as recorded in Field 1h in December 2023. We advised that this figure was used, as the birds using the area due to be mitigation land are also at risk of being displaced by other birds which currently use the area to be developed.</p> <p>The Technical Note clarifies further how the 15ha of a total 79.09ha is to be managed to target the months in which pink-footed goose was found (October to December), to include stubble and associated split grain, and delayed sowing of the next crop until January. This states that it is not considered likely that the Order limits (including the mitigation areas) currently support suitable foraging opportunities for the species outside of these months. We therefore advise that the management proposed here should be adequate.</p> <p>We advise that although all assessment submitted by the Applicant to-date now demonstrates that the Mitigation Area 1g and 1h (15ha managed on a rotational basis) has adequate carrying capacity for pink-footed goose, that NE1.2 ('yellow') is also referred to in relation to issues with the assessment methodology.</p>		
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			<p><i>Golden plover and lapwing:</i> The Applicant's updated bird-days calculations demonstrate that Mitigation Area 1h (28.75ha) can incorporate a buffer of 150m next to the field edges and remain of adequate size to support the peak numbers of golden plover and lapwing. The remaining usable area with a 150m buffer incorporated is given as 26.3 ha. The bird-days calculations demonstrate that a managed wet grassland area of this size, will provide adequate provision for both lapwing and golden plover.</p>		
NE1.2	<p><b>International designated sites</b></p> <ul style="list-style-type: none"> <li>• Humber Estuary SPA</li> <li>• Humber Estuary Ramsar</li> </ul>	<p>Bird-days calculations used to inform the assessment of mitigation measures for loss of functionally linked land. (C) and (O)</p>	<p>We advise that the figure used in the bird-days calculations for pink-footed goose is for sugar beet, when the Applicant is proposing to feed to geese with stubble and associated split-grain. As sugar beet has higher energy content than stubble, the calculation may not be representative of the area required. However, it is our understanding that an accurate value for stubble and split grain was not available. The calculation demonstrates that an area of 12.16ha is required. As the Applicant is providing 15ha in total, alongside the potential for the geese to graze some of the lapwing and golden plover mitigation land, we can advise that the total provision is sufficient based on the evidence available.</p>	<p><u>N/a</u>: Refer to the row above in relation to securing mitigation measures for pink-footed geese.</p>	'Yellow'



NE2.1	<b>International designated sites</b> <ul style="list-style-type: none"> <li>• Humber Estuary SPA</li> <li>• Humber Estuary Ramsar</li> <li>• Lower Derwent Valley SPA</li> <li>• Lower Derwent Valley Ramsar</li> </ul>	Noise and visual disturbance during construction to FLL for the relevant qualifying bird features of the listed SPA / Ramsar sites.  (C)	<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: <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> Please note that we have separated this issue into two parts (originally just NE2), to acknowledge that the majority of this issue is 'green' [NE2.1], whilst outlining the aspect we consider to be a 'yellow' issue [NE2.2].	<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.  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.  <u>Visual disturbance</u> As stated above for NE1, we advise that the mitigation area is secured prior to commencement of construction works.	<b>'Green'</b>
NE2.2	<b>International designated sites</b> <ul style="list-style-type: none"> <li>• Humber Estuary SPA</li> <li>• Humber Estuary Ramsar</li> </ul>	Noise assessment methodology for assessment of disturbance to FLL for the relevant qualifying features of the listed SPA/Ramsar sites  (C)	We advise 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.	N/a: Please refer to comments in the row above.	<b>'Yellow'</b>

	<ul style="list-style-type: none"> <li>• Lower Derwent Valley SPA</li> <li>• Lower Derwent Valley Ramsar</li> </ul>		<ul style="list-style-type: none"> <li>• We note that 8.1.6 states that there is little observable effect below 55dB LA<sub>max</sub>, and that as LA<sub>eq</sub> is always lower than LA<sub>max</sub>, that 55dB LA<sub>eq</sub> will be used as the threshold to identify FLL affected by construction activity. However, noise contours are useful for both LA<sub>eq</sub> and LA<sub>max</sub> as they present different information. We advise that consideration of LA<sub>eq</sub> only is not precautionary, and that the reason it is lower is because it is an average. Therefore, a point on the 55dB LA<sub>eq</sub> 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 are available for both LA<sub>max</sub> and LA<sub>eq</sub>, it could be determined, for example, if a field would occasionally experience very loud noise (LA<sub>max</sub>), but over the course of the day the noise would be low (LA<sub>eq</sub>). 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.</li> </ul>		
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NE6.1	<b>International designated sites</b> <ul style="list-style-type: none"> <li>• River Derwent SAC</li> <li>• Humber Estuary SAC</li> </ul>	<p>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> <p>(C)</p>	<p>As stated in our previous D3 response, 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 impacts on lamprey and bullhead associated with the River Derwent SAC and/or Humber Estuary SAC.</p> <p>Please note that we have separated this issue into two parts (originally just NE6), to acknowledge that the majority of this issue is ‘green’ [NE6.1], whilst outlining the aspect we consider to be a ‘yellow’ issue [NE6.2].</p>	<p>The buffers which are to be used for HDD in relation to these specific watercourses should be established within the CEMP.</p>	<b>‘Green’</b>
NE6.2	<b>International designated sites</b> <ul style="list-style-type: none"> <li>• River Derwent SAC</li> <li>• Humber Estuary SAC</li> </ul>	<p>Avoidance of core fish migration seasons</p> <p>(C)</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>	<p>N/a: Please refer to comments in the row above.</p>	<b>‘Yellow’</b>

NE9	<p><b>International designated sites</b></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><i>In-combination loss of FLL</i></p> <p>In relation to in-combination impacts relating to loss of FLL, we are now confident that the mitigation measures provided will be adequate to mitigate for all loss of functionally linked land resulting from this proposal. Therefore, as a result of this, there are unlikely to be residual effects, and therefore no in-combination effects.</p> <p>In our D3 response, we also advised that following potential in-combination issues were resolved:</p> <ul style="list-style-type: none"> <li>• <i>Noise disturbance to FLL in-combination</i></li> <li>• <i>Noise disturbance to otter in-combination</i></li> <li>• <i>Water quality impacts in-combination</i></li> <li>• <i>Atmospheric pollution (dust) in-combination</i></li> </ul> <p>We now advise that based on all information received to-date, that in-combination impacts on international designated sites can be ruled out.</p>	<p>Refer to NE1.1 for mitigation measures required for FLL.</p>	<b>'Green'</b>
NE13	<p><b>National designated sites</b></p> <p>Humber Estuary SSSI</p>	<p>Potential impacts on Humber Estuary SSSI designated features</p> <p>(C) and (O)</p>	<p>We advised in our Deadline 3 response that for NE13, issues remained outstanding until the corresponding SAC / SPA / Ramsar issues were resolved. We advise that now that subject to the above measures being secured, as detailed in the NE1 section above, that we consider that the proposed development will not damage or destroy the</p>	<p>Refer to NE1.1 for mitigation measures required for FLL.</p> <p>Please also refer to yellow issues NE1.2, NE2.2, and NE6.2, which also apply to the Humber Estuary SSSI.</p>	<b>'Green'</b>

			<p>interest features for which this site has been notified.</p> <p>However, please refer to yellow issues NE1.2, NE2.2, and NE6.2, which also apply to the Humber Estuary SSSI.</p>		
<b>NE14</b>	<p><b>National designated sites</b></p> <ul style="list-style-type: none"> <li>Brighton Meadows SSSI</li> <li>Derwent Ings SSSI</li> </ul>	<p>Potential impacts on Brighton Meadows SSSI and Derwent Ings SSSI designated features</p> <p>(C) and (O)</p>	<p>We advised in our Deadline 3 response that for NE13, issues remained outstanding until the corresponding SAC / SPA / Ramsar issues were resolved. We advise that now that subject to the above measures being secured, as detailed in the NE1 section above, that we consider that the proposed development will not damage or destroy the interest features for which these sites have been notified.</p> <p>However, please refer to yellow issues NE2.2, and NE6.2, which also apply to Brighton Meadows SSSI and Derwent Ings SSSI.</p>	<p>Refer to NE1.1 for mitigation measures required for FLL.</p> <p>Please also refer to yellow issues NE2.2, and NE6.2, which also apply to Brighton Meadows SSSI and Derwent Ings SSSI.</p>	<b>'Green'</b>
<b>NE17</b>	<p><b>National designated sites</b></p> <ul style="list-style-type: none"> <li>River Derwent SSSI</li> </ul>	<p>Potential impacts on River Derwent SSSI bird assemblages during construction</p> <p>(C)</p>	<p>We advise that the additional information outlined in 8.44 Applicant's Response to Submissions Received at Deadline 3 for NE17 (River Derwent SSSI bird assemblages), provides adequate additional information to confirm that that the proposed development will not damage or destroy the interest features for which the River Derwent SSSI has been notified. We advise that any relevant documentation (e.g. Ecology Chapter of the Environmental Statement), is updated to include this additional information.</p>	<p>Our recommendation is that any relevant documentation (e.g. Ecology Chapter of the Environmental Statement), is updated to include this additional information. However, as the 8.44 Applicant's Response to Submissions Received at Deadline 3 document has been submitted into Examination, and relevant measures are addressed in other documents, we advise this is adequate to address impacts.</p>	<b>'Green'</b>

NE18	<b>National designated sites</b> <ul style="list-style-type: none"> <li>River Derwent SSSI</li> </ul>	Potential impacts on the River Derwent SSSI fish assemblage during construction (C)	We advise that the additional information outlined in 8.44 Applicant's Response to Submissions Received at Deadline 3 for NE18 (River Derwent SSSI fish assemblage), provides adequate additional information to confirm that that the proposed development will not damage or destroy the interest features for which the River Derwent SSSI has been notified.	Our recommendation is that any relevant documentation (e.g. Ecology Chapter of the Environmental Statement), is updated to include this additional information. However, as the 8.44 Applicant's Response to Submissions Received at Deadline 3 document has been submitted into Examination, and relevant measures are addressed in other documents, we advise this is adequate to address impacts.	<b>'Green'</b>
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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. Please note that any issues which already had 'green' status in our Deadline 3 response have been removed from this table for clarity around which issues have been recently resolved.

Page	DCO or omission ref	Natural England's comments	Risk (Red/Amber/Green)
38	Schedule 2, requirement 5	We advise that as outstanding matters in Table 1 have been resolved, we are able to confirm agreement with the final detailed design (subject to all relevant updates to the HRA and fLEMP, as outlined in NE1.1). Therefore, this issue has been moved to 'green'.	<b>'Green'</b>
38	Schedule 2, requirement 6	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. We advise that subject to the fLEMP being updated in accordance with NE1.1, that this issue can now be moved to 'green'.	<b>'Green'</b>

## Annex I - Natural England's Discretionary Advice Service (DAS) comments submitted to the Applicant dated 06 September 2024

Date: 06 September 2024  
Our ref: 411969 - DAS/A008504  
Your ref: East Yorkshire Solar Farm



Clare Heeley  
Associate Director  
Infrastructure Consents and Town Planning  
Environment and Sustainability  
AECOM - Portwall Place  
Portwall Lane  
Bristol  
BS1 6NA

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

0300 060 3900

### BY EMAIL ONLY

Dear Clare,

**Discretionary Advice Service (Charged Advice) - Undefined Scope DAS/A008504.**  
**Development proposal:** East Yorkshire Solar Farm.

Thank you for your consultation on the above dated **15 August 2024**.

This advice is being provided as part of Natural England's Discretionary Advice Service, in accordance with the Quotation and Agreement dated 07 February 2024.

The following advice is based upon the information provided in the email dated 15 August 2024.

1. EYSF Technical Note to NE - further information for NE1 (dated 15 August 2024)
2. 8.44 Applicant's Response to Submissions Received at Deadline 3 (dated August 2024)

### **Protected sites**

#### **Internationally designated sites**

*Loss of functionally linked land (FLL) for Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar birds (NE1 and NE9)*

We consider that the additional information/assessment provided now adequately addresses outstanding issues raised for NE1 and NE9 in our Deadline 3 submission. We consider that based on this information, subject to all relevant mitigation measures being appropriately secured in any consent given, that adverse effects on the integrity of the Humber Estuary SPA / Ramsar and Lower Derwent Valley SPA / Ramsar can be ruled out alone and in-combination.

We advise that a final HRA appropriate assessment is produced to incorporate all relevant additional information that has been submitted since the last iteration of the HRA was produced.



Please refer to the further comments below in relation to the relevant information provided, alongside our advice on securing the mitigation measures.

#### *Updated assessment of mitigation measures*

- The EYSF Technical Note to NE – further information for NE1 (dated 15 August 2024) provides details on the bird-day calculations used to determine whether the proposed mitigation measures are adequate, following the higher peak counts of SPA / Ramsar species found in the 2023/2024 surveys. The completion of these calculations provides further assurance that the mitigation areas proposed (Mitigation Area 1h - 28.75 ha and Mitigation Area 1g and 1h - 15 ha) are adequate for pink-footed geese, golden plover and lapwing.
- The Technical Note also provides further justifications around the management measures for the 15ha mitigation area intended for pink-footed geese. This confirms that based on the survey results, in which the species were only recorded using the application site in October and December, that providing stubble and associated split grain will provide adequate provision.
- We note that the Mitigation Area 1h (28.75ha) will now include a 150m buffer around the solar PV areas (the buffer totals 2.45ha). Inclusion of this buffer will still allow for 26.3ha of usable area, which is demonstrated as sufficient through the bird-days calculations.

#### *Securing the mitigation measures*

- We advise that to enable a conclusion of no adverse effect on integrity of the Humber Estuary SPA / Ramsar and the Lower Derwent Valley SPA / Ramsar, that Mitigation Area 1h (28.75 ha) and Mitigation Area 1g and 1h (15 ha) (alongside relevant management and remediation measures) are secured through the Development Consent Order (Page 38; Schedule 2, requirement 6). Subject to the most up-to-date version being secured, we would advise this resolves this issue noted in PART III of our Deadline 3 response.
- Alongside a final HRA as noted above, the Landscape and Environmental Management Plan should be updated with any additional relevant detail included through this additional information, such as the remedial / monitoring measures and the full cropping schedule for the entirety of the rotational Pink-footed Goose mitigation area (79 ha), that are both outlined in the submitted Technical Note.

#### *In-combination assessment comments (NE9):*

- We note that the most recent version of the HRA (dated July 2024) states that the 1% value used in assessment is set low to inherently capture the potential for multiple developments to have impacts on SPA birds. It is our advice that the 1% rule of thumb is not intended to be utilised in this manner, and this is only a guide to help determine, for an individual development, when mitigation measures for functionally linked land are likely to be required. For some species and/or development sites, mitigation measures are required at lower values than 1% due to other factors, which may include vulnerability of the species and frequency of use. Therefore, it is our advice that the 1% value is not interpreted in this way for in-combination assessments.

However, in this case, we are now confident that the mitigation measures provided will be adequate to mitigate for all loss of functionally linked land resulting from this proposal. Therefore, as a result of this, there are unlikely to be residual effects, and therefore no in-combination effects.

### *Other advice relating to the mitigation area(s)*

We advise the following information should be clarified within an updated Landscape and Environmental Management Plan (LEMP):

- We note that the golden plover/lapwing mitigation area appears to contain an existing hedgerow. It is unclear from the documents available as to whether this hedgerow is to be retained or removed. We would recommend that clarification on this is provided, as this could reduce the suitability of the grassland habitat for waders.
- We note that the wet grassland species list for Mitigation Area 1h looks relatively suitable / comprehensive. However, we advise that success will very much depend upon the nature of the soils of the creation sites. If these areas have high fertility, then some of the species could be outcompeted by more aggressive grass species. For example, Yorkshire Fog (*Holcus lanatus*) may become dominant even at low frequencies, particularly if fertility levels are higher. In this case, we would recommend replacement with rough/smooth meadow grass (*Poa pratensis* / *Poa trivialis*).  
We would recommend tailoring the species list to the conditions present, alongside how the area is intended to be managed. We note also that the long-term management information states that the area will be cut, but we recommend that this should be amended to a cut and remove. We would not consider that cutting and leaving the grass would be successful. We would also generally recommend that seed of local provenance is used where possible.

### **Nationally designated sites – Sites of Special Scientific Interest**

#### *Humber Estuary SSSI, Breighton Meadows SSSI and Derwent Ings SSSI (overlapping features)*

We advised in our Deadline 3 response that for NE13 and NE14, issues remained outstanding until the corresponding SAC / SPA / Ramsar issues were resolved. We advise that now that subject to the above measures being secured, as detailed in the NE1 / NE9 section above, that we consider that the proposed development will not damage or destroy the interest features for which these sites have been notified.

#### *River Derwent SSSI (non-overlapping features)*

We advise that the additional information outlined in 8.44 Applicant's Response to Submissions Received at Deadline 3 for NE17 (River Derwent SSSI bird assemblages) and NE18 (River Derwent SSSI fish assemblage), provides adequate additional information to confirm that the proposed development will not damage or destroy the interest features for which the River Derwent SSSI has been notified. We advise that any relevant documentation (e.g. Ecology Chapter of the Environmental Statement), is updated to include this additional information.

### **Note relating to NE Deadline 3 response 'yellow' and 'green' issues**

Please note we have not further reviewed or considered comments provided in the additional documentation for either 'yellow' or 'green' issues. We consider that these were adequately addressed at the point of our last statutory comments for Deadline 3, and therefore have no further comments to make in relation to these aspects.

For clarification of any points in this letter, please contact Laura Tyndall on [██████████@naturalengland.org.uk](mailto:██████████@naturalengland.org.uk).

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,

Laura Tyndall  
Lead Adviser  
Yorkshire and northern Lincolnshire Area Team

Cc [commercialservices@naturalengland.org.uk](mailto: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 II – Natural England’s email correspondence to the Planning Inspectorate in relation to Deadline 5 and Deadline 6

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**From:** Tyndall, Laura  
**Sent:** 30 August 2024 16:21  
**To:** eastyorkshiresolarfarm@planninginspectorate.gov.uk  
**Subject:** Natural England Deadline 5/6 Update

Dear Inspector,

I am writing to confirm that Natural England will not be providing comments at Deadline 5 of the East Yorkshire Solar Farm Examination. We note the “*Technical note to Natural England*” document was not submitted until 22 August, and we are unable to provide comments within the timescales given. However, we are engaging with the Applicant through our Discretionary Advice Service, and we will be having a meeting with them in the week commencing 09 September regarding the additional information submitted on the proposed mitigation.

We will then aim to provide our next full PINS response on Deadline 6 (01 October). This will include responses to relevant Deadline 4 submissions, along with the required submissions listed under D6 (e.g. updated SoCG).

Please let us know if there are any issues with this approach.

Kind regards,  
Laura

**Laura Tyndall**  
**Higher Officer**  
Terrestrial Sustainable Development  
Yorkshire & Northern Lincolnshire Area Team  
Lateral, 8 City Walk, Leeds, LS11 9AT  
[www.gov.uk/natural-england](http://www.gov.uk/natural-england)