

Date: 13 February 2023
Our ref: 416675
Your ref: EN020024



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Dear Inspector,

NSIP Reference Name / Code: EN020024

Title: Natural England's comments in respect of Yorkshire GReen Energy ENablement (GREEN) Project, promoted by National Grid.

Examining authority's submission deadline 13 February 2022.

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

Yorkshire and Northern Lincolnshire Area Team

Natural England's Relevant Representations

PART I: Summary and Conclusions of Natural England's advice.
PART II: Natural England's detailed advice (starting on page 7)

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

Summary of Natural England's Advice

Natural England's advice is that, in relation to identified nature conservation issues within its remit, there is no fundamental reason of principle why the project should not be permitted. However, we are currently assessing the wording of the Statement of Common Ground (SoCG) to ensure that we are in full agreement with the contents, and working with National Grid to resolve some minor issues as follows:

- Potential licensing requirements for water vole and badger.
- Additional detail on Biodiversity Net Gain (BNG).

Natural England's advice in these relevant representations is based on information submitted by National Grid in support of its application for a Development Consent Order ('DCO') in relation to Yorkshire GREEN (*the project*).

Part I of these representations summarises what Natural England considers the main issues¹ to be in relation to the DCO application, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.

Our comments are set out against the following sub-headings which represent our key areas of remit:

- Internationally designated sites
- Nationally designated sites
- Protected species
- Biodiversity net gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land

Our comments are flagged as amber or green:

- 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.
- Green are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured) OR where there are no issues or impact pathways.

Natural England has been working closely with National Grid to provide advice and guidance since 23 February 2021. This includes pre-application engagement around Protected Species survey

¹ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

approaches, biological survey results, potential impacts on internationally / nationally designated sites, and agriculture and soils. Natural England have recently received a Statement of Common Ground (SoCG) from National Grid, and will continue to work with the applicant to resolve any outstanding issues.

Part I of these representations provides an overview of the issues and a summary of Natural England's advice. Section 2 identifies the natural features relevant to this application. Section 3 summarises Natural England's overall view of the application and the main issues which it considers need to be addressed by the Secretary of State.

Part II of these representations sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by National Grid and the Examining Authority as part of the examination process in order to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority properly to undertake its task or where further work is required to determine the effects of the project and / or to flesh out mitigation proposals to provide a sufficient degree of confidence as to their efficacy.

Natural England will continue discussions with National Grid to seek to resolve these concerns and agree outstanding matters in the SoCG. Failing satisfactory agreement, Natural England advises that the matters set out in section 4 will require consideration by the Examining Authority as part of the examination process.

The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

2.The natural features potentially affected by this application

Internationally designated sites

Our position regarding impacts on internationally designated sites is summarised below.

Natural England is satisfied that the proposal is unlikely to result in adverse effects on the integrity (AEoI) of the following internationally designated sites.

- Lower Derwent Valley Special Area of Conservation (SAC)
- Lower Derwent Valley Special Protection Area (SPA)
- Lower Derwent Valley Ramsar

Natural England confirmed agreement of the conclusions of the draft No Significant Effects Report (NSER) on 08 September 2022, and stated that our previous advice in our S42 response still stands. The NSER concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

As there are no impacts anticipated on internationally designated sites ('green'), Natural England do not need to be involved in the examination stages for this aspect.

Nationally designated sites

Natural England's position regarding nationally designated sites is summarised below.

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

- Brighton Meadows SSSI
- Derwent Ings SSSI
- Fairburn and Newton Ings SSSI
- Melbourne and Thornton Ings SSSI
- Newton Mask SSSI
- Stutton Ings SSSI
- Sherburn Willows SSSI

As there are no impacts anticipated on nationally designated sites ('green'), Natural England do not need to be involved in the examination stages for this aspect.

Protected species

Natural England's position regarding European Protected Species is summarised below. Further detail on our reasoning for this is given in part II.

Natural England has previously provided advice on whether Letters of No Impediment (LoNI) were required at DCO submission for bat species and otter. On the basis of the surveys submitted, and based on the methodology for post-DCO submission surveys (for bat species), we agreed that insufficient evidence was present to trigger any requirement for LoNI for these species ('green').

Natural England has not yet provided agreement on whether the project will require licences for the following Protected Species: water vole ('amber') and badger ('amber').

Biodiversity Net Gain

Natural England's position regarding provision of biodiversity net gain (BNG) is summarised below. Further detail on our reasoning for this is given in Part II.

Natural England welcome proposals to provide BNG within the proposal and do not have any major concerns over the approach detailed in the BNG report (dated November 2022). However, we advise that the next steps and recommendations detailed in Section 4 need to be undertaken and the report updated in accordance with these. Alongside this, we advise that further information regarding the feasibility of achieving and securing a 10% net gain in all identified habitat types (hedgerow, habitat and river) should be provided within the application ('amber').

Nationally designated landscapes

Natural England's position regarding nationally designated landscapes is summarised below.

The proposal is not located within or in the vicinity of any nationally designated landscapes ('green').

Soils and best and most versatile agricultural land

Natural England's position regarding soils and the best and most versatile agricultural land is summarised below. Further detail on our reasoning for this is given in Part II.

Natural England confirmed agreement with the desk-based methodology for areas of temporary development, and with the survey methodology and spatial extent of ALC surveys in May 2022. Natural England also requested that detailed soil management plans were to be provided for areas subject to detailed soil surveys, and an approach to this has now been confirmed in an Outline Soil Management Plan (SMP) ('green').

3. Natural England's overall conclusions

In summary, Natural England is satisfied that the development is not likely to have impacts on internationally designated sites (Special Areas of Conservation, Special Protection Areas and Ramsar sites), nationally designated sites (Sites of Special Scientific Interest), and nationally designated landscapes (Areas of Outstanding Natural Beauty and National Parks). Through pre-application engagement, we have confirmed Letters of No Impediment (LoNI) are not required for bats and otter, and we have provided comments on the post-DCO bat survey methodology. Natural England is also satisfied with the overall approach relating to soils and best and most versatile agricultural land.

The main outstanding issues raised by this application relate to Protected Species and Biodiversity Net Gain (BNG). Further liaison with National Grid is required to obtain further details around BNG, and to determine if licences are required for water vole and badger.

Natural England's Relevant Representations

4. Part II: Natural England's detailed advice

Part II of these representations expands upon the detail of all the significant issues ('amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Part II also shows 'green' issues where a resolution has been reached and subject always to the appropriate requirements being adequately secured, OR where there are no issues or impact pathways present.

Natural England's advice is that in relation to issues within its remit there is no fundamental reason of principle why the project should not be permitted. However, we are currently working with National Grid to resolve outstanding issues relating to Protected Species licencing and Biodiversity Net Gain (BNG) through a Statement of Common Ground (SoCG).

Natural England's headline points are that on the basis of the information submitted:

Natural England is satisfied that the project is unlikely to have a significant impact on the Lower Derwent Valley Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. This has been assessed in the No Significant Effects Report (Habitats Regulations Assessment Screening) (dated November 2022), and Natural England has previously confirmed agreement with the conclusions of this report.

Natural England is also satisfied that the project is not likely to damage features of interest of Brighton Meadows Site of Special Scientific Interest (SSSI), Derwent Ings SSSI, Fairburn and Newton Ings SSSI, Melbourne and Thornton Ings SSSI, Newton Mask SSSI, Stutton Ings SSSI and Sherburn Willows SSSI.

Natural England advises that, if approved, the project must be subject to all necessary and appropriate requirements which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated.

Natural England's advice is that only relevant matters outstanding relate to potential requirements for Protected Species licencing for badgers and water vole, and some details relating to BNG. This has not been resolved satisfactorily as part of the pre-application process that must be addressed by National Grid and the Examining Authority as part of the examination and consenting process before development consent can be granted. Please refer to Table 1 for further details around these outstanding issues.

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

Natural Englands Relevant Representations, Part II, Table 1

		Table 1: Natural England's detailed advice	
NE key issue ref	Topic	Natural England's commentary and advice	Risk Amber/Green
1	Internationally designated sites <ul style="list-style-type: none"> • Lower Derwent Valley SAC • Lower Derwent Valley SPA • Lower Derwent Valley Ramsar site 	No likely significant effects are anticipated / no impact pathways have been identified for the internationally designated sites listed.	'Green'
2	Nationally designated sites (biodiversity & geodiversity) <ul style="list-style-type: none"> • Brighton Meadows SSSI • Derwent Ings SSSI • Fairburn and Newton Ings SSSI • Melbourne and Thornton Ings SSSI • Newton Mask SSSI • Stutton Ings SSSI • Sherburn Willows SSSI 	No damage to features of interest are anticipated / no impact pathways have been identified for the nationally designated sites listed.	'Green'
3	Protected Species:	Natural England has not yet provided any agreement on whether a badger licence is required. This will be determined in due course through further liaison with National	'Amber'

	Badger	<p>Grid. National Grid do not believe that a protected species licence is required, based on the following information as stated in the draft SoCG:</p> <p><i>“Evidence of badger setts and badger activity has been recorded within the Order limits.</i></p> <p><i>However, the Project has embedded environmental measures to avoid significant effects on badgers (which would also negate the risk of potential breaches of legislation) on badgers.</i></p> <p><i>Therefore, a specific protected species licence is not required.</i></p> <p><i>This position will be reviewed if pre-construction checks indicate that the proposed embedded environmental measures cannot sufficiently avoid negative effects on badgers.</i></p> <p><i>It is National Grid’s view that the approach is robust. National Grid will continue to liaise with Natural England to finalise agreement.”</i></p>	
4	<p>Protected Species:</p> <p>Water vole</p>	<p>Natural England has not yet provided any agreement on whether a water vole licence is required. This will be determined in due course through further liaison with National Grid. National Grid do not believe that a protected species licence is required, based on the following information as stated in the draft SoCG:</p> <p><i>“As no evidence of water voles was found within the Order Limits, no licence is required. This position will be reviewed if pre-construction checks indicate that the proposed embedded environmental measures cannot sufficiently avoid negative effects on water voles.</i></p> <p><i>It is National Grid’s view that the approach is robust. National Grid will continue to liaise with Natural England to finalise agreement.”</i></p>	<p>‘Amber’</p>

5	<p>Protected Species:</p> <p>Otter</p>	<p>Natural England assessed the updated otter surveys in August 2022 and provided confirmation to National Grid that a LoNI is not required for this species, due to insufficient evidence based on the surveys undertaken.</p>	<p>'Green'</p>
6	<p>Protected Species:</p> <p>Bat species</p>	<p>Natural England assessed the updated bat surveys in August 2022 and provided confirmation to National Grid that a LoNI is not required for this species, due to insufficient evidence based on the surveys undertaken.</p> <p>Natural England have also assessed National Grid's approach to post-DCO submission surveys for bat roosts, and provide the following comments in relation to the approach:</p> <ul style="list-style-type: none"> • The use of Ground level Preliminary Roost Assessments (PRAs) on the trees to be impacted by the proposed development to determine their suitability to support bats is considered acceptable. It should be noted that there is a level of subjectivity when classifying trees as having either 'high' or 'moderate' roosting potential. Natural England would recommend that a suitably qualified and experienced ecologist quality controls the classification process to reduce the risk of misclassification. • Tree climbing surveys give a snapshot of bat activity in the survey area / impact area and have a low encounter rate of bats. They should be used in conjunction with a suite of activity surveys to be able to fully understand how bats are using the landscape. Natural England has seen that previously transect surveys and other activity surveys have been used in conjunction with tree climbing as shown from the results discussed in '5.2.8 Chapter 8: Biodiversity' and available in '5.3.8H Appendix 8H Bat Survey Report'. Natural England would expect a similar level of survey effort for the remaining trees to be surveyed (where they have not been covered by the previous 	<p>'Green'</p>

		<p>activity surveys) and for best practice to be applied as has been done previously.</p> <ul style="list-style-type: none"> • This data along with the tree climbing data will aid in the assessment of the landscape which will be essential when planning appropriate mitigation i.e., are any key habit areas being bisected, will bats still have access to key habitat corridors, flight lines that have been identified during surveys, foraging areas <i>as well as</i> the roosting resources. • Natural England would welcome the approach of 2:1 ratio for trees with high/moderate potential still having the roosting resource compensated for even without evidence of bats. As well as bat boxes other techniques such as veteranisation of existing negligible trees and standing monoliths could be explored, if feasible. Bat boxes on poles can have varying success and this method should be explored further should it be pursued; it would not be Natural England's preference. • Should there be need for a bat mitigation licence, surveys should follow best practice. Any deviations would require sound ecological justification with the application. 	
7	Biodiversity net gain (BNG)	<p>Natural England welcome the commitment to providing BNG and do not have any concerns around the overall approach to BNG, as outlined in the BNG Report (dated November 2022). However, the next steps and recommendations (Section 4) need to be undertaken and the report updated in accordance with these. In particular, 4.1 (Pre-works surveys) and 4.2 (Calculations and Assessments) should be undertaken as early into this process as possible to inform 4.3 (Design and Management), to ensure application of Biodiversity Net Gain Good Practice Principle 1: Apply the Mitigation Hierarchy.</p>	'Amber'

		<p>The report also concludes that there is a net loss of BNG across all three habitat types identified within the project, including losses of high distinctiveness priority habitat. Whilst the ambition to mitigate for these on-site is noted, the current modelling relies on offsetting these losses off-site on currently unidentified locations. Therefore, further information regarding the feasibility of achieving and securing a 10% net gain in all identified habitat types (hedgerow, habitat and river) should be provided within the application. This conflicts with the BNG report's recommendation that <i>"an updated BNG calculation using the Biodiversity Metric 3.1 is to be produced reflecting detailed design post-consent."</i></p>	
8	Nationally designated landscapes	The proposal is not located within or in the vicinity of any nationally designated landscapes.	'Green'
9	Soils and Best and Most Versatile Agricultural Land	<p>Natural England confirmed agreement with the desk-based methodology for areas of temporary development, and with the survey methodology and spatial extent of ALC surveys (as detailed in Table 11.5 and Section 11.3, Chapter 11: Agriculture and Soils, Document 5.2.11, Volume 5), in May 2022.</p> <p>Natural England requested that detailed soil management plans were to be provided for areas subject to detailed soil surveys (as detailed in the annexes to Document 5.3.3E, Volume 5), in March 2022. National Grid have now submitted an Outline Soil Management Plan (SMP) (Document 5.3.3E ES Chapter 3 Appendix 3E), which states in Section 1.1.2 that: <i>"The Outline SMP will be revised (to the Detailed Soil and Aftercare Management Plan) prior to commencement of construction operations and will be informed by information provided through the detailed pre-construction soil surveys secured through DCO requirement 6"</i>. Natural England can confirm agreement with this approach.</p>	'Green'

