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Your ref: EN030001



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Dear Mr Scott

**Statement of matters with respect to further written representations (pursuant to rule 20(2) of the Infrastructure Planning (Examination Procedure) Rules 2010)
Preesall Underground Gas Storage Facility**

Thank you for your consultation on the above dated 08 April 2014.

Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 ('NERC Act'). Natural England is the statutory adviser to Government on nature conservation in England and promotes the conservation of England's wildlife and natural features.¹ Natural England's remit extends to the territorial sea adjacent to England, up to the 12 nautical mile limit from the coastline.²

Natural England is a statutory consultee:

- (a) in respect of plans or projects that are subject to the requirements of the Conservation of Habitats and Species Regulations 2010 (as amended) (the "Habitats Regulations") which are likely to have a significant effect on European protected sites – that is, sites designated as Special Areas of Conservation ("SACs") and Special Protection Areas ("SPAs") for the purposes of the EU Habitats and Birds Directives;³
- (b) in respect of proposals likely to damage any of the flora, fauna or geological or physiographical features for which a Site of Special Scientific Interest ("SSSI") has been notified pursuant to the Wildlife and Countryside Act 1981 (the "1981 Act");⁴ and
- (c) in respect of applications for consent for Transport and Works Act projects which are likely to affect land in England.⁵

¹ NERC Act ss.1(2), 2 and 4.

² NERC Act, s.1(3).

³ Regulation 61 of The Conservation of Habitats and Species Regulations 2010.

⁴ Section 28I of the 1981 Act.

⁵ The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, Rule 13(3) and Schedules 5 and 6

It is also the Government's policy to consult Natural England in respect of sites listed for the purposes of the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2 February 1971 ("Ramsar sites") as if they were European protected sites.⁶

The letter, under Rule 20(2)⁷, identifies five matters which the Secretary of State for Energy and Climate Change considers further representations are needed for the purposes of his re-determination of this application.

Natural England has no comment to make on items i), ii) and iii), as these matters are outwith our remit.

However, Natural England draws your attention to the following comments.

Item iv) the adequacy of the environmental information produced in support of the application for the Development and whether further or updated environmental information is now necessary

Statutory designated sites

1. The potential for impacts were principally from disturbance to the Wyre Estuary SSSI and Morecambe Bay SPA (both on site and on functionally linked land), and from the installation of an off-shore outfall and discharge of hyper-saline solution on marine communities and offshore SPA birds. However, Natural England reached agreement with the developer about the assessment of, and mitigation proposals, for all impacts on marine and terrestrial sites.
2. The agreements reached were set out in a number of Statements of Common Ground submitted to the Examining Authority covering Ecology and Habitats Regulations Assessment; Air Quality; Landscape; Landscape and Ecological Management Strategy Plan (LEMSP).
3. The Shell Flat and Lune Deep candidate Special Area of Conservation (cSAC) has now been formally classified as a Special Area of Conservation (SAC). However, planning policy guidance requires that potential Special Protection Areas, possible/candidate Special Areas of Conservation, listed or proposed Ramsar sites, and any site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites. For the purposes of the environmental impact assessment and Habitats Regulations Assessment this site was treated in accordance with that guidance.
4. No new designated sites (ecological or geological) have been notified or confirmed within the area around the proposed development.

European Protected Species (EPS)

1. Surveys for protected species should not be more than two to three years old for medium or high impact schemes or for multi-plot or phased developments. However, surveys should be as up to date as possible, ideally from the most recent survey season. However, in this case, it is our understanding that it is unlikely that there will have been any significant change in population levels of EPS or changes to the habitats in and around the proposed development area that would materially alter the findings of the Environmental Impact Assessment.

⁶ National Planning Policy Framework (March 2012), para 118

⁷ The Infrastructure Planning (Examination Procedure) Rules 2010

2. Draft licence applications with regard to bats and great crested newts were initially submitted to Natural England in April 2012. Following our assessment of resubmitted documents, Natural England was able to confirm that, on the basis of the species information and proposals provided, Natural England was satisfied that no outstanding issues remained which would prevent the licences being granted in respect of this application. Letters of comfort were formally issued in October 2012.
3. Furthermore, Requirement 7 in Schedule 9 of the draft DCO seeks to ensure that development work does not start until pre-construction habitats and species surveys have been completed. These surveys will provide the necessary up to date information that will be used in any license application and to inform any necessary amendments to the LEMSP, in accordance with the provisions of Requirement 8 in the draft DCO.

Other issues

4. There are a number of other Requirements in the draft DCO that provide safeguards for the protection of environmental assets as follows -

- 23 - Code of Construction Practice
- 27 - Noise control
- 30-32 - Soil stripping, storage, handling and restoration

Conclusion

Natural England reached agreement with the developer about the assessment of, and mitigation proposals for, all impacts on marine and terrestrial sites. There are a number of Requirements in the draft DCO, which together with the LEMSP, that will provide the necessary safeguards and protection for the natural environment. Furthermore, we do not consider the ES data to have changed.

Therefore, Natural England's advice is that additional or updated environmental information is not necessary.

Item v) any other matters arising since 9 April 2013 which interested parties consider are material to the Secretary of State's re-determination of the application

Natural England has no other matters to raise that it considers material to the Secretary of State's re-determination of this application.

We would be happy to comment further should the need arise. For any queries relating to the specific advice in this letter only please contact David Carter on 01653 696082. For any new consultations, or to provide further information on this consultation please send your correspondence to consultations@naturalengland.org.uk.

Yours sincerely

Roy Hymas

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