

H2Teesside Project

Planning Inspectorate Reference: EN070009

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

The H2Teesside Order

Document Reference: 9.7: Statement of Common Ground between H2 Teesside Limited and Natural England

The Planning Act 2008



Applicant: H2 Teesside Ltd

Date: December 2024

The Planning Act 2008
**The Infrastructure Planning (Applications:
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**Statement of Common Ground between the H2 Teesside Limited and
Natural England**

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Approved By	

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1	20.11.2024	Deadline 4
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STATEMENT OF COMMON GROUND

**This Statement of Common Ground has been prepared and agreed by (1) H2 Teesside Ltd.
and (2) Natural England**

Signed.....
[Name]
[Position]
on behalf of H2 Teesside Ltd.
Date:

Signed.....
[Name]
[Position]
on behalf of Natural England
Date:

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1.0 INTRODUCTION AND PURPOSE

1.1 Introduction

1.1.1 This Statement of Common Ground ('SoCG') relates to an application (the 'Application') made by H2 Teesside Limited (the 'Applicant'), to the Secretary of State for Energy Security and Net Zero for a Development Consent Order ('DCO') under Section 37 of the Planning Act 2008 (the 'PA 2008') for the H2Teesside Project.

1.1.2 The Application has been accepted for examination. The Examination commenced on 29 August 2024.

1.1.3 The Examining Authority's ('ExA') Rule 8 letter (Annex B) dated 30 August 2024 confirms that the Applicant should prepare a SoCG with Natural England in respect of the Proposed Development.

1.2 Parties to the SoCG

The Applicant

1.2.1 The Applicant is a private limited company aiming to develop and operate the H2Teesside Project, which is an approximately 1.2-Gigawatt Thermal ('GWth') Carbon Capture and Storage ('CCS') enabled Hydrogen Production Facility and associated connections (together the 'Proposed Development') on land in Redcar and Cleveland, Stockton-on-Tees, and Hartlepool (hereafter referred to as the 'Proposed Development Site'). The Proposed Development will support the decarbonisation of UK-produced natural gas in Teesside for use in industrial applications, thus helping to achieve national targets in relation to net zero. It will also be a key contributor to restoring manufacturing jobs in the Tees Valley.

1.2.2 The Proposed Development Site covers an area of approximately 508 hectares (ha) and is located primarily within the administrative boundaries of Redcar and Cleveland and Stockton-on-Tees Borough Councils. The Hydrogen Pipeline Corridor (refer to Figure 4-4 in ES Volume II) [APP-087] extends further north-west to also include land within the administrative boundary of Hartlepool Borough Council.

1.2.3 The Hydrogen Production Facility will be located at the Main Site within the Teesworks development site, as shown in Figure 4-1: Proposed Development Site Boundary (including location of the Main Site) (ES Volume II) [APP-084].

The Role of Natural England

1.2.4 Natural England is a non-departmental public body. Its 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.

1.2.5 Natural England's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the Act. The roles and responsibilities of Natural England under PA 2008 are outlined as follows:

- Natural England is a consultee under Section 42 of the PA 2008, meaning applicants must consult with Natural England before submitting a DCO application;
- NE is the statutory nature conservation body under the Conservation of Habitats and Species Regulations 2019 ('Habitats Regulations') in respect of the Habitats Regulation Assessment ('HRA') process and provides advice to be taken into account by the Secretary of State in his/her consideration of Habitats Regulations matters; and
- Natural England is the licensing authority in respect of protected species and in relation to European protected species under the Habitats Regulations. Annex D of Advice Note 11 'Working with Public Bodies' produced by The Planning Inspectorate sets out in detail the role of the Natural England in the DCO process, including the level of input and agreement that might be expected from the Natural England.

1.2.6 In more general terms aside from its responsibilities under PA 2008, Natural England is responsible for:

- promoting nature conservation and protecting biodiversity, conserving and enhancing the landscape;
- securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment;
- promoting access to the countryside and open spaces; and
- encouraging open-air recreation and contributing in other ways to social and economic well-being through management of the natural environment.

1.2.7 The Applicant and Natural England are collectively referred to in this SoCG as 'the parties'. The parties have been, and continue to be, in direct communication in respect of the Proposed Development.

1.3 The Purpose and Structure of this SoCG

1.3.1 The purpose and possible content of SoCGs is set out in paragraphs 58 to 65 of the Ministry of Housing, Communities and Local Government guidance entitled 'Planning Act 2008: examination of applications for development consent' (April 2024). Paragraph 58 of that guidance explains the basic function of SoCGs as follows:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

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- 1.3.2 SoCGs are therefore a useful and established means of ensuring that the evidence at the DCO examination phase focuses on the material differences between the main parties, and so aim to help facilitate a more efficient examination process.
- 1.3.3 The purpose of this SoCG is therefore to summarise the agreements reached between the parties on matters relevant to the Examination of the Application and to assist the ExA. It also explains the matters which remain unresolved at the time of writing, but which both parties are working positively toward resolving. As such, it is expected that further iterations of the SoCG will be submitted to the ExA throughout the Examination and prior to the making of any DCO for the Proposed Development.
- 1.3.4 The SoCG has been prepared with regard to the above guidance and is structured as follows:
- Section 2 – sets out the engagement and related discussions held between the parties.
 - Section 3 – sets out the matters discussed and agreed to date.
 - Section 4 – sets out the matters to be agreed and the proposed way forward.
 - Section 5 – sets out the matters, if any, where there is disagreement.

2.0 ENGAGEMENT WITH NATURAL ENGLAND

2.1 Summary of Engagement

2.1.1 A summary of the key engagement that has taken place between the Applicant and Natural England is detailed in **Table 2.1** below.

Table 2.1: Engagement between the Applicant and Natural England.

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
16 September 2022	Virtual Technical Meeting	n/a	Introductory Meeting with Natural England ('NE').
9 May 2023	Scoping Opinion	See Appendix 1E: Scoping Opinion Responses [APP-188]	<p>A written representation in response to the Planning Inspectorate's ('PINS') consultation on the application for a Scoping Opinion submitted by the Applicant to PINS on 6 April 2023.</p> <p>NE provided a range of technical feedback to help inform the DCO Application. Key topics raised in the PINS Scoping Opinion included:</p> <ul style="list-style-type: none"> • The need to provide a nutrient neutrality assessment and to ensure no additional nitrogen is entering the River Tees as a result of the Proposed Development. • The need for and benefits of early consideration of the Proposed Development's relationship with wider environmental issues in the Tees Estuary. • The need to thoroughly assess the potential for the proposal to affect internationally designated sites of nature conservation • A full assessment of direct and indirect effects of the Proposed Development on the features of special interest within the SSSIs identified in the study area.

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
			<ul style="list-style-type: none"> Assessment of impacts from all phases of the proposals on protected species. Details on District Level Licensing for Great Crested Newts.
14 September 2023	First Consultation (statutory consultation) in accordance with Section 42 of the PA 2008	See Consultation Report [APP-030]	<p>The Applicant issued a Section 42 letter to NE on 14 September 2023 consulting them on the Proposed Development.</p> <p>Natural England provided a range of technical feedback to help inform the DCO Application. Key topics raised in the Statutory Consultation response included:</p> <ul style="list-style-type: none"> The need to assess the Proposed Development's impact on nationally and internationally designated sites through assessments such as the Habitats Regulations Assessment and Nutrient Neutrality Assessment. Natural England's standing advice on Protected Species and the need for further survey. Emphasis on the importance of the conservation of soil resources. The proposals should complement and enhance local distinctiveness where possible.
14 November 2023	Virtual Technical Meeting	n/a	This meeting was to provide NE a progress update on the work done for Ecology, Ornithology, as well as Habitat Regulations Assessment (HRA) and discuss the mitigations required.
13 December 2023	Second Consultation (statutory and non-statutory) in accordance with	Consultation Report [APP-030]	The Applicant issued a Section 42 letter to NE on 13 December 2023 consulting them on a number of changes to the Proposed Development as a result of further design development and

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
	Section 42 of the PA 2008.		technical work undertaken and also responses received to the First Consultation.
20 June 2024	Virtual Technical Meeting	n/a	This meeting was arranged to discuss provisional impact assessment and conservation payment certificate (IACPC) queries in relation to Great Crested Newt.
20 August 2024	Virtual Technical Meeting	n/a	This meeting was arranged to discuss Examination programme and actions, collaboration going forward and specific detail on NE Relevant Representations regarding Water Quality and Marine topics.
20 August 2024	Technical Meeting	n/a	This meeting was arranged to discuss Examination programme and actions, collaboration going forward and specific detail on NE Relevant Representations regarding Terrestrial Ecology, HRA and related Noise and AQ topics.
4 September 2024	Consultation on proposed changes to the DCO Application.	n/a	A letter was issued to NE on 4 September 2024 consulting them on a number of proposed changes to the DCO Application.
17 September 2024	Statement of Common Ground	REP1-018	Natural England and the Applicant engaged in discussions to agree the contents of this document submitted into the Examination at Deadline 1 [REP1-018].
16 October 2024	Email	n/a	Natural England provided the Applicant with feedback to inform the next iteration of the Statement of Common Ground, which has been used by the Applicant to inform the Deadline 4 update to the document.
17 October 2024	Change Application Report including updated HRA	CR1-001 – CR1-050	An amended Report to Inform HRA was submitted to the Planning Inspectorate to accompany the Change Application Report and to respond to Natural

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
	submitted to the Planning Inspectorate		England's Relevant Representations related to the Report to Inform HRA.
22 October 2024	Email	n/a	The Applicant proposed further meetings with Natural England to discuss updates to the Report to Inform HRA.
23 October 2024	Email	n/a	Natural England confirmed via email that the Applicant's Impact Assessment and Conservation Payment Certificate (IACPC) has been accepted and countersigned.
31 October 2024	Email	n/a	The Applicant confirmed timing on the meeting set for 6/11/24 and provided a proposed agenda to NE.
1 November 2024	Email	n/a	Natural England provided updates on noise disturbance related matters prior to the technical meeting with the Applicant.
6 November 2024	Technical Meeting	n/a	This meeting was arranged to discuss outstanding issues pertaining to Natural England's Relevant Representation. The main topic discussed were updates to the Report to Inform HRA and included discussion on ecology, marine ecology, noise and ornithology issues.
14 November 2024	Email	n/a	Natural England issued an update to the Applicant regarding further information and confirmation of agreement on selected Relevant Representations to inform the update of the SoCG for Deadline 4.
19 November 2024	Email	n/a	The Applicant engaged with Natural England regarding placeholder meetings in November, December and January to discuss outstanding matters within the SoCG.

DATE	FORM OF ENGAGEMENT	DOCUMENT REF. (IF ANY)	DETAILS
26 November 2024	Technical Meeting	n/a	This meeting was arranged to discuss outstanding issues pertaining to the bird count methodology utilised within the Report to Inform HRA.
28 November 2024	Technical Meeting	n/a	This meeting was arranged to discuss outstanding issues pertaining to the assessment of the SPA and air quality issues.
4 December 2024	Technical Meeting	n/a	This meeting was arranged to discuss provisional results from utilising the updated bird count methodology.
10 December 2024	Technical Meeting	n/a	This meeting was arranged to further discuss the updated bird count methodology to be incorporated into a future iteration of the Report to Inform HRA.
11 December 2024	Technical Meeting	n/a	This meeting was arranged to discuss outstanding matters regarding noise modelling.
18 December 2024	Statement of Common Ground	n/a	The Applicant and Natural England have been in discussions regarding Natural England's Relevant Representation's to inform an update of the SoCG for Deadline 5.

3.0 MATTERS AGREED

3.1.1 This section sets out the matters agreed between the parties.

Table 3.1: Matters Agreed between the Applicant and Natural England

MATTER AGREED	AGREED POSITION
River Tweed Special Area of Conservation ('SAC') and Tweed Estuary SAC	It is agreed that the River Tweed SAC and Tweed Estuary SAC are over 130 km away from the Proposed Development. Given that there are no underwater sound effects in the marine environment which could extend outside of the River Tees, there is considered to be no potential to affect River and Sea Lamprey designated as part of the River Tweed, even if they were passing this location when migrating to the river. These species have been identified as being present within the River Tees, however, there is considered to be no significant effect to these species from the Proposed Development (NE27).
Habitats Regulations Assessment ('HRA') – Ongoing Discussions	The following Relevant Representation matters pertaining to the HRA are agreed between the two parties: NE1, NE4, NE9, NE11 and NE13.
Effects on Designated Sites – Construction Dust	This matter (NE16) is now agreed between the two parties subject to Natural England being consulted on measures to avoid any Adverse Effects on Integrity from construction dust on protected sites in the Final CEMP(s).
Nutrient Neutrality – Ongoing Discussions	Following the provision of further information by the Applicant, NE20, NE21, NE22 and NE23 are now agreed between the two parties.
Further Bat Surveys – Cowpen Bewley Woodland Park	The two parties have now agreed this matter and Natural England accepts further confirmation of the low roosting suitability of the aforementioned boundary trees. The Applicant is reminded to ensure that any precautionary felling of trees is conducted at an appropriate time of year avoiding hibernation and maternity periods. This is provided for in the fCEMP. (NE32)
Water Vole Surveys and Appendix 12F [APP-206]	Following confirmation from the Applicant that updated water vole surveys would be undertaken post-consent in 2025 in areas where nesting birds were a limitation, the two parties have agreed this matter. (NE33)

MATTER AGREED	AGREED POSITION
North York Moors and Durham Coast SACs	<p>NE initially queried the critical load used for Durham Coast and advised it would be precautionary to include this site in the Appropriate Assessment. NE also advised acid deposition exceeds 1% of the critical load at North York Moors and should be considered in the Appropriate Assessment.</p> <p>However, following discussions with the Applicant, NE accepted that the modelled deposition at the North York Moors did not represent a significant effect (NE24). NE also accepted grey sand dunes do not form a feature of the Durham Coast SAC and the critical load value used by the Applicant is acceptable. This matter is now agreed between the two parties (NE25).</p>
Other valuable and sensitive habitats and species, landscapes and access routes	<p>Following the Applicant’s D2 and D3 submissions, this matter is now agreed between the two parties (NE36).</p>

4.0 MATTERS UNDER DISCUSSION

4.1.1 This section sets out the matters under discussion between the parties and the proposed way forward. **Table 4.1** provides a summary of the issues raised between the parties.

Table 4.1: Summary of Matters under Discussion between the Applicant and the Natural England

SOCG ID	MATTER	REPRESENTATION REFERENCES	APPLICANT POSITION	NATURAL ENGLAND POSITION
1.	Habitats Regulations Assessment ('HRA') – Ongoing Discussions	NE2, NE3, NE5, NE6, NE7, NE8, NE10, NE12, NE17, NE18, NE28 and NE29	<p>The Applicant notes a number of aspects that have been discussed with NE and/or discussions are on-going. Resolution of these matters is anticipated to be achieved by updates to the submitted Report to Inform HRA [APP-040] and/or further discussions on the issues raised. For the Applicant's specific position on each relevant representation from NE, please refer to the Applicant's Responses to Deadline 2 Submissions [REP3-006]</p> <p>D4 update: The Applicant provided an Ornithology Supplementary Baseline Report and an updated Report to Inform HRA alongside the proposed Change Application Report.</p> <p>D5 update: The Applicant has been in discussions with Natural England regarding the contents of an updated Report to Inform HRA. An updated Report</p>	<p>NE is concerned about the Applicant's conclusion of : No Adverse Effect on Integrity ('AEOI') when considering the impacts to designated sites arising from:</p> <ul style="list-style-type: none"> • aerial emissions; • impacts to surface water runoff, effluent discharge and water availability • habitat loss and disturbance to Functionally linked Land; and • in-combination impacts from the cluster of developments in Teesworks. <p>D4 update: Discussions with the Applicant regarding the contents of an updated HRA are ongoing with a view to agree the outstanding matters from Natural England's relevant representation.</p>

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			<p>to Inform HRA has been submitted into Examination at Deadline 5, incorporating updates to the in-combination assessment and AQ assessment (NE10, NE17). A further update to the Report to Inform HRA is planned for Deadline 6A, which will incorporate the updated assessment methodology (NE2) into the report.</p> <p>In response to Natural England’s Deadline 4 submission, the Applicant has provided responses on each matter currently under discussion, including more comprehensive responses to NE3, NE6, NE7, NE8, NE10, NE12, NE17, NE18, NE28 and NE29</p> <p>The Applicant will provide a detailed response to NE5 at Deadline 6A.</p>	<p>Natural England await a revised Report to Inform HRA from the Applicant.</p> <p>D5 update: Discussions with the Applicant regarding the contents of an updated HRA are ongoing. Natural England awaits feedback from the Applicant on a revised methodology and an updated in-combination assessment in the form of an updated Report to Inform HRA.</p> <p>Natural England also require further information regarding the sightlines from the blast furnace pool (NE8) and the closed loop process (NE12) for the Proposed Development.</p>
2.	Report to Inform HRA Information Requirements	NE14, NE15 and NE19	<p>The Applicant will be updating the HRA in response to NE’s comments – this includes:</p> <ul style="list-style-type: none"> considering all traffic scenarios (notwithstanding the Applicant has already accounted for TEMPRO growth); explaining the approach to, and undertaking a review of the developments 	<p>NE advises further information regarding the traffic model should be provided. NE is not clear on which search parameters were used to compose the long list as well as for identifying projects relevant to the in-combination HRA assessment.</p>

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			<p>to be dealt with in the in-combination assessment alongside the review of cumulative developments being undertaken for the ES; and</p> <ul style="list-style-type: none"> refining the presentation of the assessment results. <p>The Applicant will discuss the nature of all of the above with NE, but would note that the methodology applied for the Report to Inform HRA [APP-040] for H2Teesside, including the assessment of whether the critical level for NOx would be exceeded in the LSE section, aligns with the approach used for the Net Zero Teesside HRA. It also reflects the fact that according to APIS the only SPA/Ramsar interest features of concern regarding atmospheric pollutants are the nesting terns and nesting avocet which are not sensitive to NOx, acid deposition or ammonia. Therefore, for the SPA/Ramsar the only pollutant that requires consideration is nitrogen deposition at the avocet/tern nesting locations. The project air quality modelling has forecast the effects ‘alone’ (Table 8B-29 to 8B-32) and ‘in combination’ (Tables</p>	<p>NE advises relevant habitat types and their associated critical loads should be provided for each receptor. NE stated it would be helpful to follow the HRA process to include a table outlining modelling results for each phase (construction/ operation), designated site, and project alone/ in-combination results.</p> <p>At present the information provided in the HRA does not give sufficient information to be able to exclude AEOI.</p> <p>NE advises further information is required on a number of areas including ornithology, water quality and air quality. Neighbouring schemes should be considered within the HRA. At present, NE do not fully understand the Proposed Development’s impact on the designated site.</p> <p>D4 update: Discussions with the Applicant regarding the contents of an updated HRA are ongoing with a view to agree the outstanding matters from Natural England’s relevant representation.</p>

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			<p>8B-40 to 8B-43) as presented in ES Appendix 8B (Air Quality) [APP-191].</p> <p>D4 update: The Applicant provided an updated Report to Inform HRA alongside the proposed Change Application Report. A further update to the in-combination assessment of the Report to Inform HRA is currently being prepared by the Applicant, to be submitted into the Examination at Deadline 5. This update will align with the Cumulative and Combined Effects update.</p> <p>D5 update: An updated Report to Inform HRA has been submitted into Examination at Deadline 5, incorporating updates to the in-combination (NE14, NE19) and Air quality assessment (NE15) to answer these points.</p>	<p>Natural England await a revised Report to Inform HRA from the Applicant.</p> <p>D5 update: It is noted that the assessments do not include Ndep (or NOx or ammonia) arising from the road traffic, as highlighted at NE10. We also require further clarification on cumulative impacts, particularly concerning nitrogen deposition and its indirect effect on the SPA's nesting habitats. Although terns and avocets may not be directly impacted by nitrogen, deposition can alter vegetation structure, leading to encroachment that could affect nesting suitability. This assessment would benefit from clear distinctions between direct and indirect impacts, addressing cumulative impacts as they relate to overall ecosystem stability.</p>
5.	Report to inform HRA – Impacts to Seals	NE26	Please refer to the Applicant's Comments on the Relevant Representations Ref. NE26 Appendix 2: Technical Note for NE's RR (NE26), for the Applicant's full position on this matter. The information provided concludes that considering the very limited potential for disturbance to seals	NE have queried Sections 6.5.20 – 6.5.28 of the HRA with regards to Permanent and Temporary Threshold Shifts with regards to seals. NE require further information in this part of the report and advise that further mitigation is required to reduce the disturbance on seals in

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			<p>during the works, the noise from the pipeline construction is not considered to result in a barrier to seal movement between Greatham Creek and Seal Sands. Therefore, a pre-construction monitoring plan is not considered appropriate. The mitigation recommended is considered sufficient to reducing any noise produced during construction to below ambient (as per the updated noise modelling), even without considering the avoidance of the most sensitive period for seals at Seal Sands.</p> <p>D4 update: The Applicant is considering feedback from Natural England on this matter following the provision of a detailed response. The information provided in this detailed response was incorporated into the updated Report to Inform HRA, submitted with the Change Application Report.</p> <p>D5 update: Due to the feedback the Applicant received on this matter at Deadline 4, the Applicant will provide a detailed response on this matter at Deadline 6A, providing the M-weighted noise contours with an extended barrier around</p>	<p>the vicinity of the Proposed Development. NE advise that pre-construction monitoring is carried out to assess the behaviour of seals in the area under “normal” conditions. Further monitoring should be carried out during construction to assess the efficacy of mitigation measures. If behaviour indicating disturbance is noted, further mitigation must be put in place.</p> <p>D2 update: Natural England’s advice remains that pre-construction monitoring is carried out to assess the behaviour of seals in the area under ‘normal’ conditions and to assess the efficacy of mitigation measures. If behaviour indicating disturbance is noted, further mitigation must be put in place.</p> <p>D5 update: Discussions with the Applicant are ongoing on this matter.</p> <p>Following a conversation with AECOM, Natural England advises that provided HDD operations last no longer than 3 weeks in October, and noise abatement barriers reduce noise by 10dB, there is unlikely to be a significant impact on the seal population of the Teesmouth and Cleveland Coast</p>

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			<p>the Greatham Creek HDD area. Given the minimal potential for disturbance to seals during the works, additional monitoring of noise and seal behaviour before and during the works is not considered necessary.</p>	<p>SSSI from the HDD works at Greatham Creek. Natural England would welcome securing these mitigations through conditions to any licence granted.</p> <p>Natural England’s advice remains that pre-construction monitoring is carried out to assess the behaviour of seals in the area under “normal” conditions. Further monitoring should be carried out during construction to assess the efficacy of mitigation measures. If behaviour indicating disturbance is noted, further mitigation must be put in place. This may include more effective sound barriers further muffling of machinery. If monitoring shows that disturbance is not occurring, further mitigation is unlikely to be necessary.</p>
6.	ES Appendix 8B and the HRA	NE31	<p>ES Appendix 8B [APP-191] shows that in combination acid deposition at Hart Bog SSSI is 0.005 keq which is over 1% of the critical load, and PEC is exceeded. However, the contribution of H2Teesside is 0.000 i.e. effectively zero at the distance at which Hart Bog is situated.</p> <p>With regard to the Teesmouth and Cleveland Coast SSSI, paragraph 12.6.16 shows that ‘in</p>	<p>NE has raised specific issues in relation to Appendix 8B [APP-191] and the HRA, as follows:</p> <ul style="list-style-type: none"> • Acid deposition exceeded 1% of the acid critical load at Hart Bog SSSI so should be considered. (Table 8B-43). • Natural England do not agree with the statement in section 12.6.16 of the HRA

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			<p>combination’ nitrogen deposition is forecast to be 13.89 kgN/ha/yr, whereas N deposition in 2003 was up to 14.77 kgN/ha/yr. Therefore, a net improvement in nitrogen deposition is forecast and nitrogen deposition rates are forecast to be materially lower than they were when the habitat in question established. While the dune system is not ‘new’, the habitat structure has extensively changed due to slag deposition and movement from at least the 1940s to the early 2000s. In these decades N deposition will have been higher than it is now due to much higher NOx emissions (and was certainly higher in 2003 than it is now according to APIS). For example, UK N deposition reduced from 465 kt N in 1990 to 278 kt N in 2017 (Tomlinson et al, 2021).</p> <p>This position was submitted into the Examination for the consented Net Zero Teesside DCO and enabled no likely significant effects to be reported for this site by that applicant. That was subsequently accepted by the Examining Authority/Secretary of State for that DCO, and it would be inconsistent to take a different approach for the Proposed Development.</p>	<p>NE do not therefore consider that the assessment demonstrates no damage to Teesmouth and Cleveland Coast SSSI.</p> <p>D2 update: It is accepted that the contribution from the Proposed Development may be negligible but the argument needs to be made in the Report to Inform HRA.</p> <p>The comments on Ndep at the SSSI are the same as for NE17, the site is still exceeding its critical load and the Proposed Development is adding to this. The Applicant needs to justify that the Proposed Development would not undermine any environmental improvement that has occurred in recent years.</p> <p>D4 update: Natural England have requested clarification on cumulative nitrogen sources and confirmation that even minor increases will not hinder habitat recovery efforts within the SPA/SSSI.</p>

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			<p>D3 update: The Report to Inform HRA has been amended as part of the Proposed Change Application, the Change Application Report concludes no likely significant effect will arise on Teesmouth & Cleveland SSSI based on the negligible contribution of the Proposed Development.</p> <p>D5 update: With regard to impacts on the SSSI, the Applicant had meetings with Natural England on 28th November and 4th December. At those meetings the Applicant clarified that the dunes at Teesmouth & Cleveland Coast SSSI are calcareous as demonstrated by the presence of calcareous vegetation on the dunes. As set out in Bobbink et al 2022, surveys have indicated that calcareous, iron-rich dunes exhibit co-limitation of nitrogen and phosphorus and that phosphorus limitation is a factor in calcareous dunes and ‘may lead to fewer botanical responses in calcareous dunes compared with acidic or decalcified dune sites’. There is therefore a justification for considering that the lowest critical load of 5kgN/ha/yr is less appropriate than a slightly higher critical load of 10</p>	<p>D5 update: It is noted that the qualifying features for the SPA are not the same as the SSSI designated features. Therefore, even if the justification that the nesting bird species would not be adversely affected by changes to their supporting habitat within the SPA is appropriate to demonstrate no AEOI to the SPA, consideration must also be given (outside the HRA) to any harm to the SSSI designation. This can take into account the potentially lesser sensitivity of calcareous dunes compared to acidic/ decalcified dunes (for example, by demonstrating phosphorus limitation in the dunes – as outlined in the report underlying the recent change in critical loads (Bobbink et al 2022 - Review and revision of empirical critical loads of nitrogen for Europe[i])) but this evidence must be provided to apply anything other than the most precautionary lowest point of the critical load range.</p> <p>Overall, in-combination impacts, from this project in-combination with other projects in the area have the potential to undermine the</p>

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			<p>kgN/ha/yr as was used on APIS for calcareous dune systems before the critical loads reported on APIS were updated in 2023.</p> <p>Notwithstanding any change in the critical load applied, the Applicant’s view remains that if the total nitrogen deposition rate will remain lower with the Proposed Development consented (even allowing for other plans and projects) than it has been historically it cannot be argued that the Proposed Development will be harming the interest of the SSSI, even by impeding restoration. That is particularly the case given the contribution of the Proposed Development is at the ‘1% of the critical load’ level for dismissal as imperceptible. The Applicant awaits feedback from Natural England on this matter.</p>	<p>conservation Objective to Restore the site below critical loads.</p> <p>Please provide clarification on cumulative nitrogen sources and confirm that even minor increases will not hinder habitat recovery efforts within the SPA/SSSI.</p>
10.	Biodiversity Net Gain Provision	NE34	<p>The Applicant has set out its position on this matter in the Planning Statement. It will engage with NE as part of its overall discussions on seeking to deliver net gain for the Proposed Development.</p> <p>D3 update: Opportunities to deliver wider biodiversity enhancements and habitat benefits</p>	<p>NE advises that although not mandatory for NSIPs currently, net gain provision should be secured through the Proposed Development. Engagement throughout the process with NE is recommended.</p>

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			<p>within Teesside are being discussed with a number of parties and will be reported prior to the end of the Examination. These will be targeted to deliver multiple benefits for both habitats and species to achieve strategic biodiversity enhancements.</p> <p>D5 update: The Applicant would like to draw Natural England’s attention to the transcript of Issue Specific Hearing 2 (ISH2) – Part 3 (14 November 2024) [EV6-006], page 28 onwards.</p> <p>The main point of the transcript is that whilst the Applicant is not making a commitment to deliver BNG in line with the Principles or Statutory Metric, the Applicant is exploring opportunities for environmental enhancements within Teesside. Discussions are ongoing with various stakeholders, including local trusts, environmental authorities, and conservation organisations. The aim is to deliver strategic environmental enhancements that benefit both habitats and species. These enhancements are not a legal or planning requirement for the project and will not be submitted for consideration in the examination. Instead, they are being pursued voluntarily as part</p>	<p>D5 update: Although BNG is not yet a mandatory requirement for NSIPs, we strongly recommend that BNG provision is secured through this development. This will reflect the important role NSIPs must play in delivering the government’s environmental targets.</p> <p>Early engagement with Natural England on BNG proposals will help maximise outcomes and reduce risks.</p>

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			<p>of the Applicant’s commitment to responsible development. The Applicant will keep both the Environment Agency and Natural England updated on any progress.</p>	
11.	Best and Most Versatile Land	NE35	<p>BMV land across the Proposed Development Site is limited, with the majority of the Main Site and Connection Corridors classified as Urban and Non-Agricultural. A small portion of the Hydrogen Pipeline Corridor north of the River Tees has land classified as Grade 3, 4 and 5. As a worst case scenario Grade 3 land, at the Cowpen Bewley Replacement Land, is assumed to be Grade 3a, making it BMV land for the purposes of the assessment presented in ES Chapter 10 ‘Geology, Hydrogeology and Contaminated Land’ [APP-062].</p> <p>Taking into account the above, the Applicant does not propose to undertake supplementary ALC surveys of the Proposed Development Site at this time. However, the Applicant recognises the need for careful soil management and handling. The Framework CEMP [APP-043] will be amended to include the production of a Soils Management Plan (‘SMP’), included as part of the Final CEMP, produced prior to construction.</p>	<p>NE considers appropriate mitigation to prevent the loss of BMV land, should be set out within the assessment. This would require a detailed ALC survey of the pipeline routes to inform restoration. The following actions should be undertaken:</p> <ul style="list-style-type: none"> • For all areas in which POST-1988 ALC Survey information is not available, an ALC survey should be undertaken. • The colours used for mapping should be updated to match standard ALC colours. • The soil information presented (Figure 10-1 [APP-110]), should include the mapped soil associations. • The consideration of soil handling should be expanded in a Soils Management Plan (SMP). <p>D4 update: Natural England welcomes the updated Figure 10-19, submitted into the Examination at Deadline 2 and the commitment</p>

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			<p>ES Figure 10-1 [APP-110] is for artificial geology/made ground only. ES Figure 10-19 [APP-137] will be updated to include the correct colours for each ALC grade at Deadline 2.</p> <p>D5 update: The Applicant has produced a technical note (see Applicant’s Response’s to Deadline 4 Submissions) to respond to this matter, in order to provide further context on the agricultural land classification of the land required for the Proposed Development as well as its current land use and confirm that it does not intend to carry out an ALC survey.</p> <p>The Framework CEMP has been updated at Deadline 5 to include a section of soil management principles, that will be adhered to and incorporated into a Soils Management Plan, producing alongside the Final CEMP prior to construction.</p>	<p>to preparing a Soil Management Plan in the Framework CEMP, submitted into the Examination at Deadline 2.</p> <p>Natural England advises a detailed ALC survey for the full Study Area should be conducted by the Applicant, in which post-1988 ALC survey information is not available.</p> <p>D5 update: Natural England’s position remains that an Agricultural Land Classification (ALC) survey should be undertaken for all areas of agricultural land subject to temporary and permanent loss, in which Post-1988 ALC survey information is not available.</p>

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			The Applicant awaits feedback on this matter from Natural England.	
12	DCO Requirements	n/a	The Applicant is continuing discussions with Natural England regarding matters raised in their Relevant Representation and by extension the specific wording of Requirements in the draft DCO. There has as yet been no proposals for amendments to the DCO drafting from Natural England.	<p>The drafting of DCO Requirements 4, 14, 15 and 20 remain under discussion as discussion continues around Natural England’s Relevant Representation.</p> <p>Natural England is continuing discussions with the Applicant on matters pertaining to the draft DCO.</p>

5.0 MATTERS NOT AGREED

5.1.1 Table 5.1 provides a summary of the issues not agreed between the parties.

Table 5.1: Summary of Matters Not Agreed

SOCG ID	MATTER	APPLICANT POSITION	NATURAL ENGLAND POSITION