

Date: 08 January 2025
Our ref: ID20049401
Your ref: **EN070009**



The Planning Inspectorate

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By email only, no hard copy to follow

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Dear Sir/ Madam

NSIP Reference Name / Code: H2 Teesside/EN070009
User Code: H2TS-SP014

Issue Specific Hearing (ISH) 3 (ISH3) into Environmental Matters

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 is unable to attend the Item Specific Hearings on Environmental Matters on 14th January 2025. In order to help the ExA in their decision making we have provided updates on the agenda items relevant to our remit, which can be found in Annex 1.

Natural England hopes our clarifications below are helpful and we will continue to work collaboratively with the Applicant to try and resolve the matters provided below. We note that the Applicant submitted additional information on 20/12/24, including an updated Report to Inform Habitats Regulations Assessment and a technical note on air quality impacts. Due to Christmas officer closures, we have been unable to review these prior to the Hearing and will review these by 22/01/25. We are also awaiting further information from the Applicant on bird and seal disturbance which we are expecting to be issued to us on 10/01/25.

For any further advice on this consultation please contact the case officer Antony Muller ([REDACTED]@naturalengland.org.uk) and copy to consultations@naturalengland.org.uk.

Yours faithfully

Northumbria Area Team

Annex 1: Natural England comments in ISH3 Agenda Items 5 and 6.

5. Air Quality and Emissions The ExA will ask the Applicant to:

Explain its approach to the assessment of ammonia and acid emissions/ depositions from vehicles in regard to the impact on the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI) (See Natural England's (NE) Relevant Representation (RR) [RR-026], Written Representation (WR) [REP2-072] and its Deadline (DL) 4 submission [REP4-028] under NE Key Issues: NE10 (Matter 1) and NE28.

NE10 -

We note the applicant's submission of 'H2T DCO 6.4.42 ES Vol III Technical Note Updates – Traffic Cumulative Assessments Rev 0 Dec 24' (link information received by email from AECOM 3.1.25). Natural England will review the report's contents and provide further feedback by Deadline 6A on 22.1.25.

NE28 -

With reference to 'H2T DCO 6.4.42 ES Vol III Technical Note Updates – Traffic Cumulative Assessments Rev 0 Dec 24' – We note that this report's introduction points out that the assessment serves the SSSI in terms of location (the respective protected sites overlap). We would welcome clarification on whether an updated narrative on the implications for the SSSI habitats (specifically coastal dune grasslands) has been prepared and where this can be found. Given the late stage of the examination and challenges associated with amending the Environmental Statement we propose that a 'Report on the implications for the Teesmouth & Cleveland Coast SSSI' may offer a more focused approach. This will provide clarity between the impacts on the SSSI interest features and the SPA interest features and how they have been assessed and resolved, as the two designations have different interest features.

Provide a detailed explanation of how it has addressed the concerns of NE as raised in RR [RR-026], WR [REP2-072] and its DL4 submission [REP4-028] under NE Key Issue NE12, in relation to the "Close Loop" Carbon Capture process and treatment of amine and non-amine emissions including the handling of maintenance phases and any unplanned events that might lead to temporary releases.

Explain the controls and measures to be implemented for venting or emergency emissions during maintenance with reference to NE's RR [RR-026], WR [REP2-072] and its DL4 submission [REP4-028] under NE Key Issue NE12.

Explain the assessment and approach to waste emissions and the potential impact on protected sites, in particular minimal waste, amine and non-amine wastes or other waste or emissions having regard to the issues raised by NE in its RR [RR-026], WR [REP2-072] and its DL4 submission [REP4-028] under NE Key Issue NE12.

NE12

Natural England welcomes the ExA's series of questions reflecting our representations on this theme. We understand that further information is to be submitted by the Applicant on 13.1.25 and we will provide further feedback when we have reviewed that information (Deadline 6A).

Explain its approach in relation to NE Key Issues NE17 (Nitrogen Deposition) (Matter

1) and NE18 (Operational Emission of Amine and Amine Degradation Products) (Matter 1) and how it is seeking to address the concerns of NE.

NE17

We note that the updated *Report to Inform Habitat Regulations Assessment* excludes the project from consideration as part of in combination assessment referencing the Wealden Judgement. Natural England disagrees with this approach and will submit further advice on this issue by 22.1.25.

We understand that further information is to be submitted by the Applicant on 13.1.25 and we will provide further feedback when we have reviewed that information (Deadline 6A).

Explain what progress there has been in regard to NE's Key Issue NE29 (Teesmouth & Cleveland Coast SSSI and National Nature Reserve - Scope of pollutants considered in the construction and operational assessments) and NE31 (Teesmouth & Cleveland Coast SSSI and National Nature Reserve Air Quality Impact of pollutants at SSSIs, including SSSIs underlying European designations) providing a timescale for progress in relation to this matter. <https://infrastructure.planninginspectorate.gov.uk> The ExA will ask NE and any other Interested Parties for comment, observations or their views related to the above matters at any appropriate point during this item and the ExA may ask questions.

NE29

Our comments on representation NE28 (please see above) provide relevant context. We would welcome clarification on whether an updated narrative on the implications for the SSSI habitats (specifically coastal dune grasslands) has been prepared and where this can be found.

NE31

Please refer to our comments above on NE17 as overarching context. We have liaised with the Applicant on this theme and most recently on 18.12.24 provided the following advice in respect of REP4-028:

“Natural England notes the significant proportion of the SPA over which the H2T project extends and the ongoing efforts being made to assess disturbance impacts from the project ‘alone’. Correspondingly the project’s ecological evidence base may provide a valuable basis upon which to consider likely impacts from other similar projects. We would encourage an approach whereby publicly available information is assembled in order to identify any trends in respect of avoidance and mitigation forming part of relevant approvals e.g. Construction & Environmental Management Plan content. This type of information may be used to inform a high level understanding of the scope for residual impacts across the area and, subject to information on timescales for construction, reveal key locations, including information on SPA species and their supporting habitats, where overlapping ‘zones of influence’ (noise/visual residual effects) may be expected. Where timescales are not clear a precautionary approach should be adopted whereby information is presented showing the spatial relationship between relevant projects and the proportion of the SPA affected.”

Natural England disagrees with the approach to screening out the project from in combination assessment that has been taken in the currently available *Report to Inform Habitats Regulation Assessment* but understands that an updated version will be submitted imminently. We will submit further advice on this issue by Deadline 6A - 22.1.25.

6. Biodiversity, Ecology and Nature Conservation, including Ornithology and Marine Ecology

The ExA wishes to explore/ examine the following matters:

NE maintain that further specific information is required regarding the treatment, pathways and composition of effluent streams (both aerial and liquid) before it can agree with the conclusion of No Adverse Effect on Integrity (AEOI) in relation to its Key Issues NE18 and NE20. NE advise that these impacts remain to be assessed alongside any exacerbating effects of reduced water availability before any mitigation measures can be identified and agreed. The ExA will ask the Applicant to advise on progress concerning/ resolving these matters, explaining what is being done to address/ satisfy NE in this regard, and providing timescales for reaching such resolution/ agreement on these matters.

NE 18 – Natural England requires details of the ‘closed loop system’ in order to determine the release of pollutants.

NE20 - Natural England provided comments to the applicant on this issue on 14/11/24, in which we agreed this matter as resolved.

With regard to Impacts to Teesmouth and Cleveland Coast SPA/Ramsar/SSSI and Functionally Linked Land (FLL), NE maintains it is concerned in regard to the applicant’s methodology when considering impacts from the development on protected bird species and assemblages and advises it cannot agree with the applicant’s conclusion of no AEOI, as presented in the Report to Inform an HRA. (See NE’s Key Points: NE2, NE5, NE6, NE7 & NE8). NE also advises the scale of the loss of FLL was unclear (NE Key Point: NE3) with it pointing out although direct loss of habitat from the Teesmouth and Cleveland Coast SPA is to be avoided by utilising Horizontal Directional Drilling (HDD), there remains the potential for direct loss of habitat in the event of HDD collapse. The Applicant will be asked to provide the ExA with an update in regard to progress on the NE Key Points listed above, including whether reaching a resolution is possible within the remaining Examination period and, if so, the expected timescales for such resolution.

Impacts to Teesmouth and Cleveland Coast SPA/ Ramsar/ SSSI

Natural England has engaged significantly with the Applicant to resolve the issues associated with SPA bird populations. In particular, Natural England has been working with the Applicant on how to assess noise and visual disturbance impacts on SPA birds and have advised on noise modelling and how the disturbance of SPA bird could be assessed for the development site as a whole during the construction phases. We have made progress on this with the Applicant however at present we are awaiting the final versions of these to comment on and confirm whether they are sufficient to inform assessment of the impacts of the development.

We note that the Applicant has provided an update Report to Inform Habitats Regulations Assessment. From our initial review this information does not appear to be in the updated document, however we are yet to review this document fully. As outlined in our previous representations, it is essential that information on the nature and level of noise and visual disturbance during the construction and operation phases is provided and that disturbance on SPA bird species is considered across the whole development site, in order to ascertain the significance of the level of noise/ visual disturbance on the SPA populations.

Functionally Linked Land

In our Relevant and Written Representations we requested for the losses of Functionally Linked Land (FLL) to be quantified for both permanent and temporary losses, and the function of the land to be identified (e.g. roosting, loafing, foraging) in order to determine the impacts of these losses on SPA bird populations. We have also requested that details on the phasing, duration of losses and timings of restoration of temporary FLL losses is provided to inform whether the scale and duration of such losses is likely to have AEOI on SPA populations.

We note that the Applicant has included additional information in the Applicant's Responses on Deadline 4 Submissions (Document Reference 8.26) and in the updated Report to Inform Habitats Regulations Assessment (December 2025). Natural England has not had the capacity to review these prior to the ISH but will do so by 22/01/25.

The ExA has noted NE's Key Action Points NE14 (Clarification of the in combination assessment process) and NE19 (Teesmouth and Cleveland Coast SPA/Ramsar Site (Construction and Operation) In-combination assessment) and that it "...has taken an action to review and confirm what project information is needed to achieve the requested, additional in combination assessment work." [REP4-028]. The ExA would ask NE for an update in regard to the above and a timeline for clarification on this matter. The Applicant will be asked to respond.

Natural England has engaged in discussions with the Applicant on the in-combination assessment. We note that the Applicant has updated the in-combination assessment in the updated Report to Inform Habitats Regulations Assessment. We were not sent this for review prior to submission therefore we do not know if this a robust assessment of the issues, in particular the spatial overlap of construction timescales.

The ExA notes NE's DL4 submission [REP4-028] and its update regarding NE's Key Points NE15 (Internationally Designated Sites – Annex D <https://infrastructure.planninginspectorate.gov.uk> Process followed in the Habitats Regulation Assessment) and NE26 (North Northumberland Coast Special Area of Conservation (SAC), The Humber Estuary SAC and the Wash and North Norfolk Coast SAC - Noise disturbance – Seals). The ExA will ask the Applicant for an update in regard to these NE Key Points, including whether reaching a resolution within the remaining Examination period is possible and, if so, the expected timescales for such resolution.

Natural England has been discussing this with the Applicant, however our position remains unchanged since our Written Representation.

The ExA notes NE's current position regarding its Key Points NE34 (Biodiversity Net Gain (BNG)) and NE35 (Soils/ Best and Most Versatile land) and would ask the Applicant to provide an update on progress in regard to these Key Points, including whether reaching a resolution within the remaining Examination period is possible and, if so, the expected timescales for such resolution. • The ExA notes that none of NE's submissions [RR-026], [REP2-072] or [REP4-028] appears to include NE's Key Point NE30 and would seek clarification from NE in this regard. The ExA will ask NE

and any other Interested Parties for comment, observations or their views related to the above matters at any appropriate point during this item and the ExA may ask questions.

Biodiversity Net Gain: Natural England has not engaged further with the Applicant on Biodiversity Net Gain since our Relevant and Written Representations. In our Representations we highlighted that the Applicant had not met the 10% minimum requirement for Biodiversity Net Gain provision, however this requirement is not mandatory for NSIP developments until November 2025. It is therefore up to the ExA, as the decision maker, to decide what level of biodiversity net gain provision is acceptable. Natural England encourages the provision of biodiversity net gain on site, and that such provision is designed to compliment and support species of local importance.

Best and Most Versatile Soils:

Natural England notes the technical information note from AECOM on Best and Most Versatile Soils, dated 18th December 2024, which was sent to Natural England by the Applicant on 3rd January 2025. As we have not had sufficient time to review this note we are unable to provide full details on its contents, however we acknowledge that the Applicant has provided further details on the locations and current uses of Best And Most Versatile Soils. We acknowledge that the majority of soils preliminarily identified as ALC Grades 2 and 3 are not used for agricultural uses, and therefore will not be restored to such use. We note the 2ha of soils to be permanently lost for the Cowpen Bewley Woodland Replacement has the potential to be BMV soils (as it is unknown as to whether this land is grade 3a or 3b) and is currently used for agricultural use. There will therefore be a permanent loss of 2ha of agricultural soils associated with the Cowpen Bewley Woodland Replacement and we advise that the ExA takes this into consideration when determining the project.

Based on the additional information provided in the Technical Memo note Natural England is satisfied that there is adequate information on which to base the principals of the Soil Management Plan on, and we advise that the Soil Management Plan measures are secured in the CEMP and any necessary DCO requirements.