

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 H2 Teesside Order

Document Reference: 8.51 The Applicant's Environmental Position Statement (Deadline 8)



Applicant: H2 Teesside Ltd

Date: February 2025

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1.0 THE APPLICANT'S ENVIRONMENTAL POSITION STATEMENT

- 1.1.1 This document outlines the Applicant's Environmental Position Statement at Deadline 8.
- 1.1.2 This is a summary document outlining the Applicant's position on Environmental matters with the following key statutory Environmental bodies:
- Natural England (including responding to its Deadline 7a submission comments); and
 - Environment Agency.
- 1.1.3 In responding to Natural England's comments, the Applicant has also answered the matters listed in items 6-11 of the ExA's Rule 17 Request of 19 February, and this is signposted where relevant in the tables below.
- 1.1.4 In summary, there are two relevant representation topics where the Applicant and Natural England do not agree (NE29 and NE31).
- 1.1.5 It should be noted that in the Applicant's Position Statement issued at D7a we recorded topics not agreed at NE17 and NE31, NE have confirmed that the remaining issue in question is relation to Nitrogen deposition on the SSSI only and so this is better associated with NE29 as opposed to NE17. NE17 is therefore now agreed.
- 1.1.6 At Deadline 7A the only remaining item under discussion with the Environment Agency was in respect of Protective Provisions. The Applicant has now agreed to accept the EA's submitted preferred Protective Provisions, which can therefore be included in the DCO. With this agreement, the Applicant expects the EA to be able to give its section 150 consent.

Table 1.1: Responses to Natural England's Deadline 7a Submission

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| <p>NE2: Assessment of significance of impacts on SPA bird populations – Resolved</p> <p>Also Response to item 6 of the ExA's Rule 17 Request</p> | <p>We would like to highlight that Paragraph 2.1.1 defines the wintering period as November to February. Natural England does not agree with this definition, and we regard the wintering period as October – March. However, given the outputs of the assessment of impacts on birds, in particular Annex J, we are satisfied that the conclusions are still valid despite this, however we would advise that any mitigation or monitoring that is required during the overwintering period for SPA birds is undertaken throughout the entire winter period (October – March).</p> | <p>The seasonal limitations as shown in Figure 14a of the Report to Inform HRA [REP6a-010] and fCEMP (Table 8.6) [REP7a-011] have informed the construction phasing and subsequently assessed in the RIHRA. NE are content with the assessment and no change to this is required. The fCEMP has been amended at Deadline 8 to reflect NE's position of overwintering period for SPA birds October to March. Measures in the fCEMP are secured via Requirement 15.</p> <p>The fCEMP includes provision for a bird monitoring and mitigation plan to be developed and for that to be consulted upon with Natural England (which is also explicitly secured by the DCO). As stated in the fCEMP, that plan must account for any changes to the construction programme, and will allow the exact monitoring regime to be determined, including any need for post-construction monitoring.</p> |
| <p>NE3: Loss of Functionally Linked Land - Resolved</p> | <p><u>RIHRA – Section 6.2 – Permanent loss of Functionally Linked Land</u></p> <p>We note that section 6.2 rules out the main site as being functionally linked to the SPA: 'Based on the count data and the ongoing nature of site clearance and industrial activity within Teesworks, the Applicant does not regard any of the habitats within or immediately adjacent to the Main Site as being functionally linked to the SPA. Functionally linked land is defined as being critical to, or necessary for, the ecological or behavioural functions in a relevant season of a qualifying feature for</p> | <p>With reference to NEs comments on permanent loss of functionally linked land on the main site, and permanent and temporary loss of functionally linked land at Navigator Terminal the applicant welcomes confirmation that NE agree with the conclusions made in The Applicants previous responses.</p> <p>With regard to NEs final comment referring to Restoration of temporarily lost Functionally Linked Land at Deadline 5 [REP5-051], the Applicant stated the following:</p> |

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| | <p>which a SAC, SPA or Ramsar site has been designated. The Main Site is the site of the former Redcar Steelworks which has been demolished and the land remediated under a separate planning consent. After remediation, the habitat will comprise of bare ground / crushed hardcore.'</p> <p>Natural England disagrees with the above statement. Sectors 9, 10, 12, 14, 14,15 are used by significant numbers of SPA birds (Herring Gull – as illustrated in Table J4-3 and Table 6-1 – see below) during the wintering period (October – March) for a behaviour essential to their survival (roosting). We regard the site as functionally linked land.</p> <p>We note that the Applicant has provided further assessment of this land on the integrity of the SPA bird populations in their answer to question 7 of Rule 8(3), 9 and 17 letter in their response dated 17/02/25. We agree with the conclusions made in this response and regard this issue as resolved.</p> <p>We note that the Applicant provided further assessment on the loss of permanent land at Navigator Terminal (Document Reference 8.37: Appendix 1: Assessment Of Potential Losses Of Functionally Linked Land (Fll) Within Terrestrial Habitat At Navigator Terminal).As the area of land to lost permanently in this area is unsuitable for SPA birds (tall sward with brambles) we agree that this loss will not be significant for SPA birds.</p> | <p><i>"The species recorded using the habitats described above (principally waders and gulls) feed by probing soft ground for invertebrates or other food items below the surface and/or by picking such items off the surface of the substrate. The habitats present in these areas include short sward grassland and arable land in various states of crop rotation from well-established crop to recently ploughed ground.</i></p> <p><i>The installation of a buried pipeline will require soil to be excavated and stored prior to installation of the pipe, after which the trench will be backfilled. This will create soft, unvegetated surface soils within the working areas that would, regardless of any efforts to restore habitat, provide foraging resources for birds immediately following the construction period. On this basis it is expected that the land would be functional as soon as pipeline installation is completed, construction teams have been demobilised and all construction/working areas have been removed."</i></p> <p>The Applicant would like to clarify it has not committed to the immediate restoration of temporarily lost Functionally Linked Land, the comments above specifically refer to areas disturbed as a result of buried pipeline installation i.e. backfilled trenches creating <i>soft, unvegetated surface soils</i> suitable for birds immediately following construction, irrespective of any restoration efforts. As such, no</p> |

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| | <p><u>Temporary loss of Functionally Linked Land</u></p> <p>Natural England is satisfied with the information regarding temporary losses of functionally linked land and agree with the conclusion in the RiHRA and Document Reference 8.37: Appendix 1: Assessment Of Potential Losses Of Functionally Linked Land (FIL) Within Terrestrial Habitat At Navigator Terminal. We have come to this opinion based on the proposed timescales and details regarding restoration.</p> <p><u>Restoration of temporarily lost Functionally Linked Land</u></p> <p>In Document Reference: 8.26 Applicant's Response to Deadline 4 Submissions and Compulsory Acquisition Regulations Relevant Representations (EN070009-001654-H2T DCO 8.26 Applicant's Responses to D4 submissions and CA Reg RR.pdf) we note that the Applicant states that land to be temporarily lost will be restored immediately post works and that such works should not prevent use of the land by SPA birds. Natural England is satisfied with this and advises that this is secured by appropriate DCO requirement.</p> | <p>amendments to the draft DCO have been made specifically in relation to this query from Natural England.</p> <p>As per Paragraph 4.3.1 in Framework Construction Environmental Management Plan [REP7a-011], associated requirements for the protection of retained vegetation (e.g. during vehicle movements and construction/re-instatement works), vegetation restoration soil protection and handling, and temporary soil storage will be included in the Final CEMP(s), building on the suggested measures set out in Table 7-3. These specifications will reflect current industry good practice and will be location specific.</p> <p>Further details on vegetation management and reinstatement refer to the Outline LBMP [CR1-022]. Paragraph 4.7.1 states habitats that would be temporarily lost or damaged during construction, would be reinstated on a like-for-like basis as shown in Figure 1 Sheets 1 to 11 (Annex A). The time required for habitats to reach target condition would be the same as the timescales used in the DEFRA metric. The timeframe for that activity would be set out in the detailed OBLMP.</p> <p>The fCEMP and OBLMP are secured via Requirement 15 and 4 respectively.</p> |

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| ExA's Rule 17 request comment 10 | <p>The ExA notes the Applicant's commitment in the Outline Landscape and Biodiversity Management Plan [REP7-021] regarding habitat restoration timescales (immediately after construction works are complete) and monitoring. The Applicant is requested to explain how this commitment aligns with Requirement 22 of the draft DCO [REP7a-003], which requires approval of the scheme for restoration of land used temporarily for construction and restoration within 1 year of final commissioning.</p> | <p>The Applicant has reviewed the latest iteration of the Outline LBMP [REP7-021] and is not aware of any commitment to the immediate restoration of habitats following the conclusion of the construction phase. Please also see response to NE3 above with regards to this point.</p> <p>The detailed restoration programme would be agreed pursuant to Requirement 22, and would need to be consistent with the relevant final form of LBMP (which if necessary, could be re-discharged if there was any anticipated misalignment).</p> |
| NE5, 6 and 7: Visual and noise disturbance to SPA birds | <p><u>NE 5 and 6: Visual and noise disturbance to SPA birds - Construction (also dealing with Rule 17 Request item 6)</u></p> <p>Natural England is satisfied with the approach provided in Annex J and the RIHRA. This advice is based on the information provided on the phasing of the development, the analysis of bird distribution across the site in Annex J and the details provided on the use of visual screens.</p> <p>Natural England notes that 3.2.23 of Annex J states that 'with mitigation applied, less than 1% of the waterbird assemblage will be disturbed in all months except in March 2027 (on the basis of the outline programme) when up to 1.13% of the waterbird assemblage could be disturbed'. Whilst Natural England is satisfied with the overall methodology and approach of Annex J, and that with mitigation it is possible to rule out significant impacts on most months, we note that more 1.13% of the SPA waterbird assemblage</p> | <p>At Deadline 7A, the Applicant revised the fCEMP [REP7a-011], committing to consulting with Natural England on mitigating noise and visual disturbance to bird populations in relation to construction. The fCEMP includes provision for a bird monitoring and mitigation plan to be developed and for that to be consulted upon with Natural England (which is also explicitly secured by the DCO). As stated in the fCEMP, that plan must account for any changes to the construction programme, and will allow the exact monitoring regime to be determined, including any need for post-construction monitoring.</p> <p>The fCEMP Table 8-6 has been amended at Deadline 8 to clarify the position on further noise reductions as so:</p> |

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| | <p>will be subject to disturbance which is unmitigated for. This includes more than 1% of the SPA's redshank population. Despite this level of disturbance, Natural England agrees with the conclusion of the RIAA that this will not result in AEOI alone due to the following factors:</p> <ul style="list-style-type: none"> • The duration of when more than 1% of the SPA waterbird assemblage will be disturbed is limited to one month. • The month when this disturbance will occur is March 2027 – which is at the end of the wintering period and unlikely to experience freezing conditions during which the birds will be under most stress. • The nature and scale of the works and the predicted noise levels. <p>We note the Applicant's commitment to further noise reductions of up to 10db from plant equipment at the detailed design stage once the plant equipment and mitigation measures can be confirmed (paragraph 2.5.4 of Annex J). Natural England welcomes this, and this approach to avoid impacts on SPA bird populations in general across Teesside and advises that this is secured in the CEMP and DCO wording. We would like to request to be consulted on the final CEMP and mitigation for noise and visual disturbance of bird populations.</p> <p>In our discussions, the Applicant has committed to a monitoring of bird populations. We advise that this includes monitoring during the construction phase and post construction, in order to determine the effectiveness of the mitigation and whether any</p> | <p>'In addition, the following additional measures could be applied to achieve further noise reductions of up to 10db, as required:</p> <ul style="list-style-type: none"> • HDD drilling within an acoustic enclosure; • All Hydraulic and electric tools fitted with muffler or sound reduction equipment to reduce noise; • All pumps, generators and compressors within acoustic enclosures; and • All earthworks plant to be fitted with exhaust silencers, super silenced plant to be selected.' <p>The fCEMP is secured via Requirement 15.</p> |

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| | <p>changes are required. We advise that this is secured within the CEMP, and that we are consulted on this.</p> <p>We have come to the above opinion based on the details provided within the Phasing plan (Chart 1: Indicative Outline Construction Programme), Annex J (Assessment Of Impacts Upon The Waterbird Assemblage Of The Teesmouth And Cleveland Coast Spa/Ramsar Accounting For Project Works Phases) and Annex K (Response To Natural England Relevant Representation Ne5 Regarding Lamax). If these details are to change we request to be consulted on such changes as this change the conclusion of the RIHRA and the scale of impacts on SPA bird populations.</p> <p><u>Other comments:</u></p> <p><u>Habituation to disturbance</u></p> <p>We note that in the RiHRA and Annex J, habituation to current sources of noise and visual disturbance by SPA birds is provided as justification as to why the predicted activity from the construction phase of the project will not result in harmful effects on bird populations (e.g. 6.4.10, 6.4.29 and 6.4.31 of RiHRA). Natural England does not accept this justification. Whilst we agree that some bird species can habituate to sources of disturbance, we require demonstration on how the predicted noise and visual disturbance will be comparable to those currently tolerated by SPA bird populations.</p> | <p></p> <p>See Annex A. This also answers item 7 of the ExA's Rule 17 Request.</p> |

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| | <p><u>Habituation</u></p> <p>We note that Paragraph 6.7.0 states that 'Furthermore, the South Tees Development Corporation (STDC) site has been subject to disturbance from industrial activities for a number of years, and the assemblage of birds is likely to have habituated to noise at these levels.' As outlined above, Natural England does not accept habituation as a justification for ruling out disturbance impacts on birds on its own and that a demonstration of how the predicted sources of disturbance will compare with those currently tolerated by SPA populations.</p> | <p>See Annex A. This also answers item 7 of the ExA's Rule 17 Request.</p> |
| <p>ExA's Rule 17 request comment 8</p> | <p>NE notes that there is a possibility of noise/ visual disturbance during any maintenance/ repair work, especially on the Above Ground Infrastructure (sic) sites. NE advises such works have the potential to exceed 55db in noise, especially if works require the breaking of concrete and that a DCO requirement is needed to ensure consultation with NE on maintenance/ repair works on areas outside the main site to determine the potential for bird disturbance and any avoidance steps or mitigation required. NE advises it has come to the above opinion based on the details provided in the Report to Inform the Habitats Regulation Assessment and Annex K, however, it considers if these details are to change it must be consulted on such changes. Please advise how you intend to address the above mentioned concerns raised by NE regarding consultation on:</p> | <p>Maintenance works of the pipeline corridor, including AGI's and works at the River Tees crossing, is accounted for in the Report to Inform HRA [REP6a-012] at paragraph 4.3.3 whereby it notes that the extent of maintenance for the pipeline corridor would typically involve occasional arrival by vehicle and a walkover visual inspection. For clarity, the reference to 'pipeline corridors' means all works outside of the main site, including AGI's, and therefore this has been assessed in the RiHRA. Therefore, these isolated activities would not lead to likely significant effects.</p> <p>If necessary, these activities would be conducted approximately once a month by a two-person team using a 4x4 vehicle. It is therefore considered that such works would not exceed 55dB.</p> |

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| | <p>i) maintenance/ repair works on areas outside the main site to determine the potential for bird disturbance and any avoidance steps or mitigation required; and</p> <p>ii) changes to the details provided in the Report to Inform the Habitats Regulation Assessment and Annex K.</p> <p>In addition to the above, please advise how the above is secured/ to be secured in the DCO or other relevant Examination document.</p> | <p>As discussed in paragraph 6.7.0 of the HRA, operational noise levels outside the Main Site are predicted to remain below 60 dB. This is due to dispersed noise from Main Site operations, with no additional noise sources established outside the Main Site. As a result, noise levels are below the disturbance threshold. While this may result in some localised displacement while routine maintenance is happening, any displaced birds will return as soon as maintenance ceases. The nature of bird use across the landscape is that short-term localised disturbance events are part of their normal experience and is one of the reasons birds use multiple areas (including different areas at different times). The Proposed Development operational activities (including maintenance) in the vicinity of Tees crossing will not result in prolonged and continuous disturbance. See also Annex A.</p> <p>The Applicant notes that prior to the first extended planned shutdown maintenance period an environmental management plan for that period must be submitted and approved by the relevant planning authority. This is secured pursuant to Requirement 17 of the draft DCO [REP7a-003]. These are more extensive maintenance activities which may have the potential to cause higher noise effects. The Applicant is therefore content for the ExA to recommend adding Natural England as a consultee to this plan if necessary.</p> |

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| NE8: Loss of Sightlines: Blast Furnace Pool | <p>Natural England agrees with the scope and justification provided that impacts on loss of sightlines to birds utilising Blast Furnace Pools can be ruled out. This is due to the scale of the project and proximity to Blast Furnace Pools that, when considering the topography and distance, will not result in loss of sight lines for SPA birds using the pools.</p> <p>We have come to this view based on the information provided in the RiHRA. If the scale/ layout of the project is to change then Natural England would wish to be consulted and for it to be assessed as to whether any changes.</p> | <p>The Applicant welcomes Natural England's position.</p> <p>The Applicant reported this in the D7A Environmental Position Statement [REP7a-039] which stated: <i>'Following the provision of further clarification by the Applicant at Deadline 5, this matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038].'</i> At Deadline 7A, the Applicant revised the fCEMP [REP7a-011], committing to consulting with Natural England on mitigating noise and visual disturbance to bird populations during both the construction and post-construction phases. The specific measures will be detailed in a Bird Mitigation and Monitoring Plan, taking account of the final construction programme, developed in consultation with Natural England, and incorporated into the Final CEMP(s).</p> |
| ExA's Rule 17 request comment 9 | <p>The ExA notes that the Applicant will provide further information in respect of NE8 at DL8. In doing so, the Applicant is requested to respond to NE's advice [REP7a-060] (Statement of Common Ground (SoCG) Update) that monitoring of noise and visual disturbance to SPA birds during operation should be secured in the DCO.</p> <p>NE also advises monitoring of birds during the operational phase at the development should also take place, in order to better understand the application technology and its potential to result in disturbance impacts on SPA bird populations, and this should also be secured through a Requirement in the DCO.</p> | <p>Matter NE8: Sightlines from the Blast Furnace Pool is agreed with Natural England. The Applicant reported this in the D7A Environmental Position Statement [REP7a-039] which stated: <i>'Following the provision of further clarification by the Applicant at Deadline 5, this matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038].'</i></p> <p>The Applicant considers that this is therefore relating to NE5, specifically in relation to operational noise and visual</p> |

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| | <p>The ExA considers an updated version of the Schedule of Operational Mitigation and Monitoring [APP-042] should be provided to incorporate any additional commitments required in relation to noise and visual disturbance during operation. Additionally, the ExA would seek your response to NE's comments, as precis above, and provide wording for the inclusion such Requirements within the DCO or provide justification as to why such additional Requirements are not necessary.</p> | <p>impacts, rather than maintenance activities noise and visual impacts.</p> <p>In this regard, the Applicant considers that the predicted noise levels during operation, outside of the Main Site are under 60 dB and thus below the threshold for disturbance. A small area of dune habitat immediately north of the Main Site is predicted to be affected by noise between 55dB and 60dB, however, this is unlikely to be disturbing due to pre-existing disturbance in the area independent of the Proposed Development (see Sections 4.3 and 6.7 of the Report to Inform HRA [REP6a-010]). As such, the Report to Inform HRA ruled out adverse effects on integrity of the Teesmouth and Cleveland Coast SPA and Ramsar as a result of noise disturbing qualifying bird species during operation. Therefore, the Applicant considers no operational noise requirement is needed, and no update to the Schedule of Operational Mitigation and Monitoring is required.</p> <p>However, if the ExA or Secretary of State considers that, notwithstanding the above, an operational requirement is necessary, the Applicant would propose the following without prejudice wording:</p> <p><i>"No part of the authorised development may be brought into use until an operational bird monitoring and mitigation plan</i></p> |

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| | | <i>has been submitted to, and after consultation with Natural England, approved by the relevant planning authority".</i> |
| NE14 and NE19 – In-combination assessment | Natural England agrees with the scope and the conclusion of the in-combination assessment and agrees that AEOL can be ruled out as a result of cumulative effects. We have come to this view based on the information submitted in support of the project, in particular the phasing plan, bird assessment and noise modelling presented in the RiHRA, Annex J and Annex K. Should any details of the project change then this has the likelihood to alter the conclusion of this assessment, therefore we advise that any changes require consultation with Natural England and any required re-assessment of impacts. This is of particular relevance to the cumulative impacts on SPA birds, due to the potential for temporal overlap between projects at Teesside. | The Applicant has revised the fCEMP [REP7a-011] at Deadline 7A to ensure mitigation measures remain appropriate throughout the evolution of the construction programme by amending the text in Table 8-6 as follows: <i>'The exact specification of noise and visual disturbance mitigation measures is subject to the detailed design of the Proposed Development. Finalised locations and specifications of mitigation measures for noise and visual disturbance, alongside proposals for monitoring (taking account of the final construction programme), must be detailed within a Bird Mitigation and Monitoring Plan (produced following consultation with Natural England) and incorporated into the Final CEMP(s).'</i> |
| NE31 Natural England's comments on 'H2 Teesside report to Inform Assessment of Air Quality Impacts on Teessmouth | <u>Overall comments</u> Natural England provided comments on this to the Applicant on 14/02/25. Whilst we accept no AEOL on the Teessmouth and Cleveland Coast SPA, we do not agree that the assessment excludes harm from air pollution impacts on the Teessmouth and Cleveland Coast SSSI due to the impact on the vegetated designated features cumulatively with other plans and project. The project alone would add 1.1% of the critical load for n-dep (0.11kgN/ha/yr) and 10.1% (1kgN/ha/yr) in-combination. At present no mitigation | See Annex B which deals with this issue in the round. To answer the ExA's question shortly, however, the key point is that the Parties will not be 'resolving' this matter in a DCO context. The Applicant would note that nitrogen deposition as a result of the Proposed Development represents a very small contribution (1.1%) to an overall cumulative level of nitrogen deposition (10.1%) of the 'lower critical load' of 10kgN/ha/yr and that this contribution only occurs over a very small area of the SSSI relative to the overall designated area (the area |

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| <p>and Cleveland Coast SSSI DRAFT'</p> <p>Also ExA Rule 17 Request Item 11</p> | <p>has been secured for this impact, and the project has not provided evidence that harm on the SSSI can be ruled out.</p> <p>It is our opinion that the project requires mitigation for its cumulative effect with regards to N-deposition on Teesmouth and Cleaveland Coast SSSI. We previously provided advice on potential mitigation options by email to the Applicant on 18/12/24. We note that in the H2 Teesside report to Inform Assessment of Air Quality Impacts on Teesmouth and Cleveland Coast SSSI DRAFT' the Applicant suggests in Paragraph 3.1.9 that strategic action could be taken to address these issues, however such an approach is not yet established and therefore cannot at present be used to deliver or secure mitigation for this project.</p> | <p>within the 0.1 contour shown on CR1-037 – this has been inserted below for ease of reference). The perceptible contribution of H2Teesside (i.e. the area subject to an increase of 1% of the critical load or above due to the scheme) only affects a very small amount of the SSSI: 0.5%. The 'lower critical load' is a theoretical level at which nitrogen deposition could begin to have an effect on the ecology of the SSSI. It is clear that the SSSI developed and was designated during a period when nitrogen deposition rates were much higher. These have declined significantly in recent years and are likely to continue to decline further with the uptake of electric vehicles and the transition of industries across Teesside. Finally, focusing on this one theoretical pressure that affects a very limited area of the SSSI doesn't take into account other more significant pressures on the SSSI that already exist, such as dog walking and recreational use. As such the Applicant maintains that it is not reasonable for Natural England to object to development in the area on the basis of a highly theoretical, potential future impact to the SSSI from the Proposed Development's de-minimus contribution to nitrogen deposition.</p> |

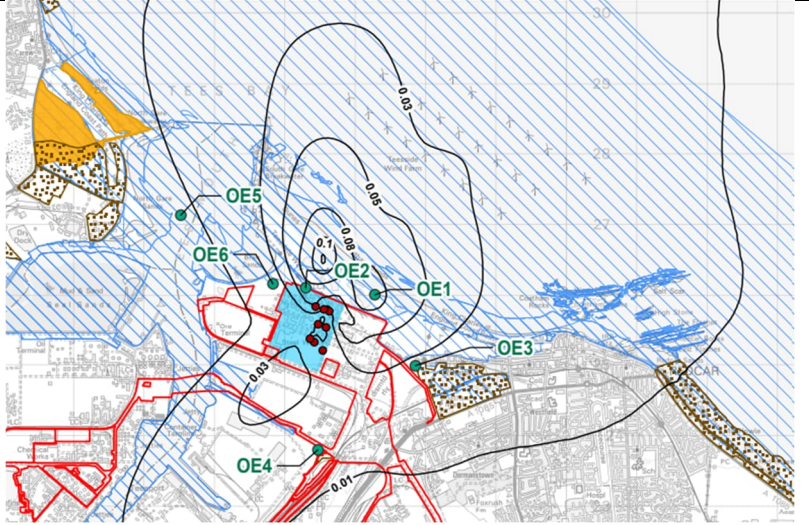
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| | |  <p data-bbox="1272 884 2078 1273">That notwithstanding, the Applicant is voluntarily happy to work with NE on strategic mitigation approaches, but for the reasons given above and in Annex B its position is that it should not in fact be required to mitigate. If the ExA or Secretary of State disagrees with this, then the Applicant 'falls back' to the National Policy Statement position, and considers that the public benefit of the Proposed Development, that is Critical National Priority Infrastructure, outweighs any 'unmitigated' 'impact' that might be considered to be assignable to the Proposed Development.</p> |

Table 1.2: Summary of Matters agreed with Natural England

| RELEVANT REPRESENTATION / THE MATTER | HOW THE APPLICANT CONSIDERS THIS CLOSED |
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| NE1: Risk of HDD Collapse/Leakage of Drilling Fluid to SPA Sites | The Applicant updated the Framework CEMP at Deadline 2 in response to Natural England's Relevant Representation. Natural England stated this matter as agreed at Deadline 4 [REP4-028]. |
| NE2: Impact Assessment on Birds | <p>Natural England agrees with the scope and methodology outlined in Annex J for assessing the significance of the proposed works on birds across the site as a proportion of the SPA waterbird population. They consider this a robust assessment on which to base conclusions about potential impacts on the SPA.</p> <p>Natural England note that Paragraph 2.1.1 defines the wintering period as November to February. However, Natural England defines the wintering period as October to March. Despite this discrepancy, they are satisfied that the assessment's conclusions remain valid. Nonetheless, they advise that any required mitigation or monitoring for SPA birds during the overwintering period should be conducted throughout the full winter period (October–March). The Applicant has accounted for this in the FCEMP updates submitted at Deadline 8.</p> <p>Natural England considers the issue resolved as confirmed in Natural England Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE3: Functionally Linked Land (FLL) | <p>In terms of the losses of FLL, the Report to Inform HRA [REP6a-012] reports that permanent habitat loss will be restricted to the main site and above ground installations (AGIs). For the purpose of this HRA, permanent habitat loss is considered to be habitat that will be unavailable to birds for the working life of the development. The locations of these areas are shown in Figure 16b. Where pipelines are above ground, it is anticipated that new pipelines will be installed in parallel on existing pipe racking or working to one side of the existing pipelines. As such, no new habitat loss is predicted at these locations.</p> <p>An assessment of the phasing of works and the availability / unavailability of FLL to birds over the duration of</p> |

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| | <p>the construction period has been completed and presented in Annex J of the Report to Inform HRA [REP6a-012].</p> <p>In terms of permanent loss of FLL on the Main Site, the Applicant has responded to Question 7 of the Inspectorate's Rule 17 letter dated 10 February 2025 [PD-021] and has also produced a Technical Note Assessment of Potential Losses of FLL within Terrestrial Habitat at Navigator Terminal contained in Appendix 1 of the Comments on Submissions received at Deadline 6A [REP7-024].</p> <p>The response to Question 7 of the Inspectorate's Rule 17 letter sets out the Applicant's position that Sectors 9 and 12 are not considered to be FLL and therefore do not play a significant role in the SPA. Furthermore, even if these sectors were considered FLL, the predicted changes in land use within these count sectors are not expected to result in significant losses of FLL or cause an AEol on the SPA.</p> <p>In the Outline Landscape and Biodiversity Management Plan [REP7-021] submitted at Deadline 7, the Applicant confirmed the time required for habitats to reach target condition is considered to be the same as the timescales used in the DEFRA metric and committed to monitoring to check that target condition based on the timescales used in the DEFRA metric is being achieved. The Applicant further notes that land will be available for birds to forage after it has been backfilled.</p> <p>The Applicant's consideration of permanent loss of FLL during construction is considered in Paragraphs 6.2.8 to 6.2.13 of the Appropriate Assessment of the Report to Inform HRA [REP6a-012]. The Applicant's consideration of temporary loss of FLL during construction is considered in Paragraphs 6.3.1 to 6.3.26 of the Appropriate Assessment of the Report to Inform HRA [REP6a-012]. Annex J of the updated Report to Inform HRA submitted at D6A [REP6a-012] contains the Assessment of impacts upon the waterbird assemblage of the Teesmouth and Cleveland Coast SPA/Ramsar accounting for project works phases.</p> |

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| | <p>The Applicant considers this matter is resolved in entirety, as a result of the updated Report to Inform HRA [REP6a-012] and Outline Landscape and Biodiversity Management Plan [REP7-021].</p> <p>Natural England considers the issue resolved as confirmed in Natural England Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE4: Use of IECS 2013 'Waterbird disturbance mitigation toolkit' | Agreed to be taken forward as part of NE5. |
| NE5: Noise Impact Assessment | <p>Natural England accepts the evidence provided in Annex K of the updated Report to Inform HRA and considers the matter resolved.</p> <p>Natural England considers the issue resolved as confirmed in Natural England Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE6: Visual Screening | <p>The Applicant submitted an Updated Report to Inform Habitats Regulations Assessment (HRA) at Deadline 6A [REP6a-012] which considered visual screening matters.</p> <p>This included updates to Figures 14a and 14b have been made to show increased extents of acoustic and visual barriers.</p> <p>The Applicant considers this matter closed following the meeting on unresolved issues held on 17 February 2025. Natural England has confirmed that it considers the matter resolved in its update to the Statement of Common Ground (SoCG) [REP7a-061].</p> |
| NE7: Quantification of operational visual disturbance sources | The Applicant submitted an Updated Report to Inform Habitats Regulations Assessment (HRA) at Deadline 6A [REP6a-012]. |

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| | <p>The Applicant's response at Deadline 7 to this matter [REP7-024], considering the Updated Report to Inform HRA concludes that noise and visual disturbance during operation is anticipated to be lower than that historically or currently experienced within the site and no LSE can be concluded.</p> <p>Natural England considers the issue resolved as confirmed in Natural England SoCG Update [REP7a-061].</p> |
| <p>NE8: Sightlines from the Blast Furnace Pool</p> | <p>The Applicant considers this matter to be closed by information provided in the Technical Note regarding Blast Furnace Sightlines submitted in Appendix 2 of the Applicant's D5 response [REP5-051]. The Applicant considers that this Appendix closes this matter by providing an assessment which considers the building layouts, positions and vertical scales on the Main Site as requested by NE.</p> <p>Following the provision of further clarification by the Applicant at Deadline 5, this matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038].</p> |
| <p>NE9: Construction Dust Assessment and Monitoring</p> | <p>The Applicant's view is human receptors are generally more sensitive to dust than ecosystems. Therefore, measures that control dust emissions for human receptors will by extension be sufficient in preventing dust coating of vegetation. The Applicant subsequently included a commitment in the Framework CEMP to consult with Natural England on the effectiveness of proposed measures (including monitoring) in reducing effects on designated sites.</p> <p>Natural England agreed this matter at Deadline 4 [REP4-028], subject to suitable provision within the Final CEMP. Page 30 of the Framework CEMP Revision 5 [REP7-009] secures this by stating that "Natural England must be consulted on measures to avoid adverse effects on integrity on protected sites from construction dust, prior to the finalisation of the Final CEMP(s)."</p> |
| <p>NE10: Ammonia emissions from vehicle and Acid Deposition</p> | <p>The Applicant considers this matter closed based on the following:</p> <p>The assessment of air quality impacts during construction and operation have focused on nesting habitat for</p> |

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| | <p>nesting terns and avocet since these are the only air quality sensitive features for which the SPA is designated, with any impacts during construction being controlled through the Framework CEMP which includes good practice measures to avoid or minimise air quality impacts.</p> <p>It was agreed with Natural England to screen in construction air quality impacts for appropriate assessment, and to then provide rationale as to why there is no adverse effect on integrity. This revised methodology and conclusions of no AEoI were provided in the Deadline 5 iteration of the Report to Inform HRA.</p> <p>APIS explicitly states on the Site Relevant Critical Load app that none of the SPA birds are sensitive to ammonia, by which it means the ability of their habitats to support the SPA birds will not be affected. APIS also has columns to list if lichens or bryophytes are integral to any feature for which a site is designated, and for the SPA these are blank; for the SSSI they are either blank or it says 'no'. Nowhere does APIS indicate that lower plants are integral to the interest features of either the SPA or the SSSI. This is therefore the justification for using the higher critical level of 3µg/m³. The Applicant added this explanation to the Deadline 5 version of the HRA.</p> <p>The Applicant considers this matter closed following the meeting on unresolved issues held on 17 February 2025. Natural England has confirmed that it has no further comments on this Relevant Representation and it is resolved as per Natural England's update to the Statement of Common Ground (SoCG) [REP7a-061] and Additional Submission [AS-048].</p> |
| NE11: Construction Emissions | <p>The Applicant included provision of further clarification within the responses to comments on written representations. Natural England stated this matter as agreed in their Deadline 4 submission [REP4-028] subject to suitable provisions within the Final CEMP and Preliminary Permitted Works (PPW) CEMP. The Framework CEMP specifies production of a PPW CEMP and a Final CEMP, this is secured by Requirement 15(1) and 15(2) in Schedule 2 of the draft DCO [REP6a-007].</p> |

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| NE12: Sources of Operational Pollutants | The Applicant has provided detailed clarifications of the closed loop process at Deadline 5. This was further supplemented during the ISH3 hearing, during which the Applicant committed to submitting a diagram which demonstrated the hydrogen production process and particularly the closed loop aspect of this. This was provided by the Applicant at Deadline 6a [REP6a-019]. The matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038]. |
| NE13: Stack Height Determination | Following the provision of further clarification by the Applicant at Deadline 1, this matter was agreed with Natural England at Deadline 2 [REP2-072]. |
| NE14: Cumulative and combined effects | Following the provision of further clarification by the Applicant at Deadline 5, this matter was agreed with Natural England at Deadline 6A [REP6a-034]. |
| NE15: Approach to HRA (Air Quality) | This has been progressed as part of response to NE10, and therefore, the Applicant considers this matter closed following the meeting on unresolved issues held on 17 February 2025. Natural England has confirmed that it has no further comments on this Relevant Representation in its update to the Statement of Common Ground (SoCG) [REP7a-061] and Additional Submission [AS-048]. |
| NE16: Construction Dust Assessment and Monitoring | This matter is set out in Section 10 of the Framework CEMP [REP7-009] and has been agreed with Natural England subject to the provision of suitable measures within the Final CEMP, as stated in Natural England's Deadline 4 submission [REP4-028]. The Framework CEMP specified production of a Final CEMP, this is secured by Requirement 15(1) and 15(2) in Schedule 2 of the draft DCO [REP6a-007]. |
| NE17: Nitrogen Deposition (Ndep) | <p>At Deadline 7, Natural England stated that if liquid or sludge amine waste were to be disposed of at a licensed facility within the Tees Nutrient Neutrality catchment, any resulting nutrient loading should be calculated and appropriately mitigated.</p> <p>In response, the Applicant has made amendments to the dDCO to address these concerns:</p> |

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| | <p>"To meet your requirements and ensure that liquid amine waste disposal occurs outside the Tees Nutrient Neutrality catchment, we propose the following amendment:</p> <p>(4) The details submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must:</p> <p>(a) Align substantially with the mitigation measures set out in Chapter 9 of the Environmental Statement, Flood Risk Assessment, Indicative Surface Water Drainage Plan, Nutrient Neutrality Assessment, and Water Framework Directive Assessment;</p> <p>(b) Ensure that Case 1B, as described in the Nutrient Neutrality Assessment, is not utilized for the process effluent drainage system; and</p> <p>(c) Prohibit the disposal of amines via a licensed facility into the Teesmouth SPA and Ramsar site."</p> <p>With these amendments secured in the dDCO, Natural England considers the issue resolved as confirmed in Natural England Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE18: Ecotoxicology | <p>Natural England does not accept the argument that the project's in-combination nitrogen deposition (N-dep) contribution can be discounted. However, the assessment appropriately considers the overall in-combination impact on the SPA qualifying features and the potential effects of N-dep on nesting birds.</p> <p>Key points:</p> <ul style="list-style-type: none"> • There is an exceedance at the SPA's closest point to the project (approximately 10% of the CL), but the Applicant has provided evidence that this area is not used by nesting birds, preventing an adverse effect on integrity (AEOI). • While an exceedance occurs at the historic South Gare nest site, the Applicant has demonstrated that this site is unlikely to be revisited. |

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| | <ul style="list-style-type: none"> A minor exceedance (below 0.3 kgN/ha/yr, approximately 2.8% of the CL) exists at the nearest tern and avocet nesting sites. However, the assessment of habitat relevance indicates that even if N-dep altered the saltmarsh, it would not adversely affect the birds' nesting habitat. <p>Natural England considers the issue resolved as confirmed in Natural England Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| <p>NE19: Update in-combination assessment</p> | <p>The Applicant considers this matter to be closed following the provision of an updated Report to Inform HRA at Deadline 5. The in-combination assessment within the Report to Inform HRA was updated at this Deadline to take account of an updated long list, used in an updated Cumulative Effects Assessment also submitted at Deadline 5.</p> <p>Natural England's feedback with regards to the in-combination assessment were taken into account and addressed as part of this update, with potential impact pathways considered alongside temporal overlaps with the other developments reported in the long list.</p> <p>With regards to NE's concerns at Deadline 6A relating to Noise, please refer to the Applicant's D7 response:</p> <p><i>"There can be a cumulative effect of noise from multiple sites, but as noise is measured on a logarithmic scale, the combined noise is logarithmically added together. For two equal noise sources there would be a 3dB increase. Given the generally localised nature of noise effects associated with the construction of each scheme, and provided each scheme complies with assigned noise and vibration limits and follows the general guidance contained within BS 5228-1 with respect to noise mitigation, it is considered unlikely that significant cumulative construction noise effects will occur.</i></p> <p><i>Section 7 of the HRA presents the in-combination assessment. In combination effects set out in this section</i></p> |

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| | <p><i>have been assessed based upon the project information available on planning portals. However, it should be noted that the Applicant does not have access to detailed and/or up to date construction schedules, predicted noise levels or limits, or data such as bird counts for other developments either at all, or to the level of detail required, unless these have been published on those planning portals.</i></p> <p><i>The Applicant considers that a robust in-combination assessment has been completed."</i></p> <p>Furthermore, the Applicant has revised the Framework CEMP to ensure mitigation measures remain appropriate throughout the evolution of the construction programme by amending the text in Table 8-6 as follows:</p> <p><i>'The exact specification of noise and visual disturbance mitigation measures is subject to the detailed design of the Proposed Development.</i></p> <p><i>Finalised locations and specifications of mitigation measures for noise and visual disturbance, alongside proposals for monitoring (taking account of the final construction programme), must be detailed within a Bird Mitigation and Monitoring Plan (produced following consultation with Natural England) and incorporated into the Final CEMP(s).'</i></p> <p>The Applicant considers this matter closed following the meeting on unresolved issues held on 17 February 2025. Natural England has confirmed that it has no further comments on this Relevant Representation and considers the issue resolved in its Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE20: Water quality and nutrient neutrality | The selection of Option 2B as the option being taken forward for the Proposed Development has provided the necessary clarification to Natural England that inputs from the Proposed Development in isolation, as well as in-combination with the adjacent NZT project, are not sufficient to cause an increase in DIN such that would |

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| | <p>adversely impact the condition of the Tees Bay or the Tees Transitional Waterbody. This matter was stated as agreed in Natural England's Deadline 4 submission [REP4-028].</p> <p>Following on from this, to tackle the potential impact of liquid amine waste disposal, the Applicant made the following update to Requirement 10 of the dDCO to ensure that liquid amine waste disposal takes place outside the Tees Nutrient Neutrality catchment:</p> <p><i>(4) The details submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must—</i></p> <p><i>(a) be in substantial accordance with the mitigation measures set out in Chapter 9 of the Environmental Statement, Flood Risk Assessment, Indicative Surface Water Drainage Plan, Nutrient Neutrality Assessment, and Water Framework Directive Assessment; (b) in the case of the process effluent drainage system, provide that Case 1B, as described in the Nutrient Neutrality Assessment, is not to be used; and</i></p> <p><i>(c) provide that amines are not disposed of via a licensed facility into the Teesmouth and Cleveland Coast SPA and Ramsar Site.</i></p> |
| NE21: Water quality and EIA evidence base | Following the provision of further clarification by the Applicant at Deadline 1, this matter was agreed with Natural England at Deadline 2 [REP2-072]. |
| NE22: Water Quality Surface water run off impacts | Following the provision of further clarification by the Applicant at Deadline 1, this matter was agreed with Natural England at Deadline 2 [REP2-072]. |
| NE23: Water quality discharged effluent | Following the confirmation from the Applicant that Appendix 9B includes combined modelling of the discharge of process water effluent and surface water runoff for the Proposed Development in isolation and cumulatively with NZT, both of which showed no significant impact on the water quality in Tees Bay, this matter was agreed with Natural England, as stated in Natural England's Deadline 4 submission [REP4-028] |
| NE24: Impact of acid deposition | The HRA was amended to address this point as part of the Report to Inform HRA submitted alongside Change Request 1 (CR1-023) . While the 'in combination' impact on North York Moors SAC/SPA exceeds 1% of the |

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| | critical load, the contribution of H2T is less than 0.001% i.e. effectively zero. This matter was agreed with Natural England, as stated in Natural England's Deadline 4 submission [REP4-028]. |
| NE25: Impact of Nitrogen deposition on qualifying species | Following clarification provided by the Applicant on the Durham Coast SAC at Deadline 1, Natural England agreed this matter in their Deadline 2 submission [REP2-072]. |
| NE26: Noise disturbance - Seals | <p>The Applicant provided further clarification regarding seal disturbance at Deadline 6A as part of the Report to Inform Habitats Regulations Assessment, Annex I Second Technical Note produced for response to Natural England's Relevant Representation NE26 [REP6a-010].</p> <p>Seasonal restrictions for all works associated with the HDD crossing of Greatham Creek and noise reduction measures are secured via the Framework CEMP [REP6a-014].</p> <p>The matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038].</p> |
| NE27: River Tweed SAC and Tweed Estuary SAC Impact on Atlantic salmon and sea lamprey (C and O) | Following further clarification, Natural England agreed that adverse effects on the integrity of these Habitats Sites can be ruled out, subject to the provision of a Lighting Strategy during the construction of the Proposed Development [REP2-072]. This is secured in Requirement 6 of the Draft DCO [REP6a-007] and will be produced alongside the Final CEMP(s). |
| NE28: Consideration of ammonia and acid deposition in the traffic assessment | <p>Progressed as part of response to NE10.</p> <p>The Applicant considers this matter closed following the meeting on unresolved issues held on 17 February 2025. Natural England has confirmed that it has no further comments on this Relevant Representation and considers the issue resolved in its Statement of Common Ground (SoCG) Update [REP7a-061].</p> |
| NE:30 | Does not exist. |

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| NE32: Bat Survey Effort | The Applicant provided further clarification regarding the low roosting suitability of the trees within the Cowpen Bewley Woodland Park. Natural England agreed this matter at Deadline 4 [REP4-028]. |
| NE33: Water Vole Survey Effort | The Applicant proposed to complete updated water vole surveys in 2025 in areas where nesting birds were a limitation. This would inform any licence application if required. The Applicant will consult Natural England as part of the licensing process if nesting birds present a continuing constraint to water vole surveys to agree a suitable approach to inform a licence (should one be required). Natural England agreed the approach outlined above at Deadline 4 [REP4-028]. |
| NE34: BNG Update | Following the provision of further clarification by the Applicant at Deadline 5, at Deadline 6A Natural England agreed that as BNG is not yet mandatory for NSIP developments and as such this is not a Key Issue to resolve for this project [REP7a-061]. |
| NE35: Soils and best and most versatile agricultural land | Following the provision of further clarification by the Applicant at Deadline 5, this matter was agreed with Natural England as stated in the email provided by Natural England [REP7-038]. |
| NE36: Other valuable and sensitive habitats and species, landscapes and access routes | Following the provision of further details on Viewpoint 7 from the Applicant at Deadlines 1 and 3, Natural England subsequently agreed this matter at Deadline 4 [REP4-028]. |

ANNEX A ASSESSMENT OF NOISE AND VISUAL DISTURBANCE ON SPA BIRD POPULATIONS: EVALUATING COMPARABILITY WITH EXISTING TOLERANCES

A.1 Overview of Bird Habituation to Disturbance

A.1.1 The RiHRA identifies the potential for birds to be habituated to existing noise and visual disturbance where this has the potential to reduce to some extent the responses of birds to construction-phase and operation-phase noise emissions.

A.1.2 In particular, the following count sectors are referred to:

- Within the North Tees Marshes and Cowpen Bewley areas - B7, B12, B14, G2, G6 (all of which are north of the River Tees); and
- Within the Foundry/Main Site count areas south of the River Tees – Sectors 9 – 15.

A.1.3 The RiHRA has not relied upon habituation as a sole reason for screening out likely significant effects; the assessment has been supported by baseline noise measurements and detailed noise modelling as well as knowledge of the levels of human activity commonly occurring across different parts of the proposed development area. As set out in the RiHRA and the Applicant's comments on submissions received at DCO Deadline 6A, the baseline noise levels have been taken into account where these are available, as measured at a range of locations representative of the spatial extent of the Proposed Development, for comparison with predicted noise levels arising from the Proposed Development.

A.2 Main Site

A.2.1 At the Main Site (ornithology count Sectors 9 and 12), the demolition of the former Steelworks infrastructure (completed in 2022) and site remediation works (ongoing in the interim) have been considered in the assessment as significant factors contributing to baseline conditions. The fact that birds, in particular herring gulls, were recorded within and adjacent to the Main Site whilst these works were taking place, is evidence of the capability of these species to tolerate anthropogenic disturbance at this location.

A.2.2 Unfortunately, it is not possible to provide quantitative comparison of baseline and predicted construction and operational noise levels at the Main Site for the reasons set out in the Applicants response to relevant representation NE7 at Deadline 7[REP7-024] (namely that the demolition of the steelworks and subsequent remediation works prevented noise monitoring within the Main Site).

A.3 North of the River Tees

A.3.1 North of the River Tees, Sectors G2, B14, B7 and B12 are immediately adjacent to the A1185, a national speed limit road which links Cowpen Bewley and Billingham with the A174 and the operational ports and industry at Seal Sands. As such it is a heavily used road, and a significant proportion of the vehicular traffic consists of HGVs. The assessment of potential impacts in this area is based upon the

ornithology survey team's direct experience during field surveys of the count sectors adjacent to this road. The baseline noise levels within G2 and B14 are best represented by noise monitoring location H1, where daytime L_{Amax} noise levels reach 98dB and the L_{Aeq} baseline noise level was measured as 50dB. Predicted L_{Aeq} noise levels across all parts of G2 and B14 are 50dB, except within a maximum of approximately 130m of the A1185, where the predicted L_{Aeq} will be 55dB. Birds in these count sectors were recorded despite the heavy traffic from the adjacent main road and this indicates a high degree of tolerance to visual and noise disturbance by birds at this location. Based upon this evidence, the Applicant concludes that the SPA qualifying bird species recorded here would not be disturbed by the proposed construction activities.

A.4 Bird Count Sectors B7 and B12

A.4.1 Count sectors B7 and B12 are within an operational landfill site. Furthermore, they are afforded visual screening from the Cowpen Bewley proposed pipeline construction area by a combination of roadside vegetation (tall grassland and scrub); the fact that the landfill ponds are within pits that are lower lying than the surrounding land; and a vegetated embankment that runs along a part of the A1185 adjacent to the landfill. Consequently, there are no sightlines for birds between the landfill ponds and the working area. This is illustrated by using Google Streetview or an equivalent online tool to:

- View the landscape north of the A1185 from National Grid Reference (NGR) NZ4859 2496 (for Sector B12), where it can be clearly seen that the landfill pool sits lower than the surrounding land; and
- View the landscape southwards along the line of A1185 from NGR NZ4862 2495 (for views that take in the pool at Sector B7 to the west, separated from the proposed area of works to the east of the road by a vegetated embankment).

A.5 Bird Count Sector G6

A.5.1 Sector G6 is immediately adjacent to the A178, another national speed limit road carrying large volumes of traffic, including HGVs. While there are no quantitative data regarding traffic volumes at this specific location available for the assessment, anecdotal experience of the ornithology surveyors working in this area was that the volume and speed of traffic along this road is sufficient to make crossing it on foot challenging and hazardous. Furthermore, automatic traffic count data for a location south of the A1185/A178 roundabout between 19th November and 25th November 2019 recorded 7,814 vehicles, of which 998 were HGVs. While these data are not specific to the section of A178 north of the roundabout, which Sector G6 is adjacent to, they can be regarded as indicative of baseline conditions with respect to traffic volumes along this stretch of road.

A.5.2 Baseline noise adjacent to this road is best represented by noise monitoring location Eb5 (57dB L_{Aeq}, 79dB L_{Amax}). Predicted construction noise levels at G6 will not exceed 55dB for any of the proposed construction or pipe testing activities,

therefore noise disturbance of birds has been screened out. Visual disturbance of birds at this location was considered in the RiHRA on a worst-case scenario, but the high volumes of road traffic were factored into the assessment with the conclusion that the large numbers of birds using the habitats here did so despite the presence of the road and that construction activities at locations east of and more distant than the road would not increase the visual disturbance of birds at this location above their tolerance thresholds.

A.6 Natural Visual Screening

A.6.1 Further to the assessment provided, a high degree of natural visual screening is provided by a combination of topography and roadside vegetation. This can be visualized in Google Streetview or an equivalent online tool and:

- Viewing northwards along the A178 towards Greatham Creek Bridge from NGR NZ5085 2515, which provides views of the proposed working area to the east of the road and the marshes to the west of the road (including Sector G6) which are visually screened from each other by a combination of topography and vegetation cover; and
- Viewing the habitats east and west of the road within Sectors G5 and G6 respectively from NGR NZ5089 2527. Mature scrub along the eastern edge of the road and the vegetation and topography west of the road provide visual screening between these areas.

A.6.2 Not only does the road rise above the surrounding landscape as it approaches the Greatham Creek bridge, itself forming a physical barrier between the working area and the marshes to the west of the road, there is also a significant cover of tall grassland vegetation on the western road verge and mature scrub on the eastern side of the road. There are therefore no sightlines to the construction area east of the A178, for birds using habitats to west of the A178.

A.7 Conclusions

A.7.1 The findings presented above provide strong evidence that the baseline conditions at the Main Site and North Tees Marshes are characterised by relatively high levels of noise and visual disturbance. Despite this, bird surveys conducted for the DCO application consistently recorded birds using these areas.

A.7.2 North of the River Tees, key locations where birds were observed already experience existing sources of disturbance but benefit from natural visual screening due to topography and semi-natural vegetation. This effectively reduces potential visual impacts from the proposed construction activities and would eliminate sightlines between the construction area and birds engaging in habitat use.

A.7.3 Based on this assessment, the Applicant concludes that the anticipated levels of visual and noise disturbance from operation of the Proposed Development will not result in significant effects to individual bird species or designated sites.

ANNEX B ASSESSMENT OF AIR QUALITY IMPACTS ON TEESMOUTH AND CLEVELAND COAST SSSI

B.1 Introduction

B.1.1 The Applicant considers that the nitrogen deposition effects of the Proposed Development have been mitigated as far as practicable at this stage, such that the project effects are at or close to the threshold of insignificance, but that a more strategic consideration of nitrogen deposition needs to take place in Teesside to enable the cumulative effects of planned industrial projects in the area to be appropriately managed.

B.1.2 The Applicant is committed to (but does not rely on for its case) voluntarily working with Natural England, the Environment Agency and the TVCA among others to develop a strategic monitoring and evaluation plan for the Teesmouth and Cleveland SSSI, recognising that this sits outside the specific remit of this Proposed Development. In particular, the mechanism for delivering the strategic approach will not be secured in the DCO, instead it will progress independently of the timeline for the implementation of this project.

B.1.3 This note confirms the Applicant's position on this matter.

B.2 Operational impacts

B.2.1 The Applicant maintains the position outlined in the *Report to Inform Assessment of Air Quality Impacts on Teesmouth and Cleveland Coast SSSI* [REP7-027] (and in its Written Summary of Oral Submissions at ISH3 (REP6A-019), and REP5-051. After considering the embedded mitigation measures designed to reduce emissions, the Proposed Development is not expected to have any likely significant residual effects on the Teesmouth and Cleveland Coast SSSI, either alone or in combination with other projects. This conclusion is based on the following key factors:

- The residual contribution of H2Teesside to any cumulative nitrogen deposition impact is negligible (1.1% of the critical load), meaning that directly addressing this contribution would result in an imperceptible benefit to the SSSI;
- The area where the de-minimus threshold of insignificance of 1% is exceeded represent 0.5% of the total SSSI area;
- The SSSI's vegetation developed at a time when nitrogen deposition rates were higher than they would be even with the Proposed Development in operation, particularly in the most affected area, Coatham Dunes;
- The dunes at Coatham Dunes are already significantly impacted by recreational disturbance. Any minor reduction in nitrogen deposition from the Proposed Development would likely be outweighed by continued trampling and other human activities.

B.2.2 The conclusion should also be seen in the context that the assessment has been conducted conservatively to minimise the risk of underestimating operational emissions. As the exact configuration of the Proposed Development is yet to be

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- determined, several precautionary assumptions have been applied, as outlined in Chapter 8 Air Quality [APP-060].
- B.2.3 To ensure a robust evaluation of environmental effects, the assessment follows the principles of the Rochdale Envelope approach, in line with the Planning Inspectorate's Advice Note 9 (2018). This approach considers the maximum (or, where relevant, minimum) realistic worst-case scenarios for key parameters, such as building dimensions and operational modes, to retain necessary flexibility.
- B.2.4 For the operational phase, emissions have been assessed based on worst-case scenarios to account for potential variations in the plant's design. The assessment assumes continuous operation of the development for 24 hours a day, 8,760 hours per year, representing the highest possible annual air quality impacts. Additionally, building dimensions and placements have been based on concept design information, with sensitivity tests conducted to evaluate potential changes in size and location, as detailed in Appendix 8B - Operational Phase [APP-191]. This approach ensures the assessment remains precautionary and comprehensive.
- B.2.5 Given that context, it is considered that the residual contribution of H2Teesside to any cumulative nitrogen deposition impact is negligible and therefore directly addressing the residual contribution would likely convey a similarly negligible benefit to the SSSI.
- B.2.6 The Applicant would also note that nitrogen deposition modelling conducted for DCO purposes represents the worst-case and upon completion of detailed design and finalisation of the operational parameters for the hydrogen plant this is likely to reduce further, potentially bringing the contribution of the Proposed Development below the 1% of the 'lower critical load' de-minimis threshold of insignificance.
- B.2.7 In this context, the Applicant is voluntarily happy to work with NE on strategic mitigation approaches, but its position is that it should not in fact be required to mitigate. If the ExA or Secretary of State disagrees with this, then the Applicant 'falls back' to the National Policy Statement position, and considers that the public benefit of the Proposed Development, that is Critical National Priority Infrastructure, outweighs any 'unmitigated' 'impact' that might be considered to be assignable to the Proposed Development.
- B.2.8 While the Applicant's position on operational impacts remains unchanged, as a responsible operator it is actively contributing to broader strategic discussions with the Environment Agency, Natural England, and other parties. These discussions aim to enhance understanding of the condition and resilience of the dune habitat, particularly in the context of historical reductions in industrial emissions and the ongoing decarbonisation efforts to align with the Track 1 status of the Teesside industrial cluster.
- B.2.9 These discussions will also consider a more strategic approach to dealing with the impacts of nitrogen deposition to effectively manage the cumulative effects of planned industrial projects in the area.
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- B.2.10 The Applicant is committed to (but does not rely on for its case) voluntarily working with Natural England, the Environment Agency and the Tees Valley Combined Authority (TVCA), and other industrial developers, to develop a strategic mitigation monitoring and evaluation approach for the Teesmouth and Cleveland Coast SSSI.
- B.2.11 While this initiative sits outside the specific remit of the Proposed Development, the Applicant recognises its importance. However, the mechanism for delivering this strategic approach will not be secured within the DCO given the Applicant's overall position, and will progress independently of the project's implementation timeline.
- B.3 Construction impacts
- B.3.1 In its email to AECOM on 14/02/25, Natural England requested clarification on the extent of traffic-related NO_x impacts on the Teesmouth and Cleveland Coast SSSI. Specifically, it sought information on how far into the SSSI the critical NO_x level (30 µg/m³) would be exceeded. The Applicant confirms that total NO_x concentrations would fall below the critical level within 10 metres of the roadside, which equates to approximately 5 metres into the SSSI.
- B.3.2 Natural England also questioned the classification of the construction nitrogen deposition impact as "temporary," given the five-year construction period. The Applicant clarifies that while the overall construction period spans five years, the exceedance (2% of the critical load due to the project alone, falling below 1% within 20 metres) is based on the peak construction year. During the remaining four years, vehicle movements will be significantly reduced, resulting in lower deposition rates than those modelled. Therefore, describing the impact as temporary remains appropriate.
- B.3.3 Additionally, the Applicant confirms that no sand dune habitats will be affected in the impacted areas of either road link:
- Link RE002 (off the A1085 into Coatham Marsh) consists of trees and grassland.
 - Link RE007 (off the A178 into Saltholme Reserve) consists of grassland and open water.
- B.3.4 The only remaining issue relates to nitrogen deposition cumulative effect accounting for other developments at the construction phase, which as with operational emissions discussed above, should be considered at a strategic level.
- B.4 CNP Policy
- B.4.1 If the ExA or Secretary of State disagrees with the Applicant's position and considers that the Proposed Development does cause a significant harm to the SSSI which has not been mitigated, then the Applicant's position is that such harm should be considered in the context of paragraph 4.2.16 of NPS EN1, which confirms that:
- "The Secretary of State will take as a starting point that CNP Infrastructure will meet the following...tests: where development within or outside a Site of Special Scientific Interest (SSSI) requires the benefits (including need) of the development in the*
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- location proposed to clearly outweigh both the likely impact on features of the site that make it a SSSI, and any broader impacts on the national network of SSSIs”.*
- B.4.2 This is in the context that paragraph 5.4.8 of the NPS states that *“Development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits (including need) of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs”.*
- B.4.3 The Planning Statement explains how the Proposed Development can be considered to be Critical National Priority ('CNP') infrastructure as defined by the NPS. However, the NPS is clear that presumptions such as the above can only apply where it can be shown that:
- there are no residual impacts onshore and offshore which present an unacceptable risk to, or unacceptable interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero or flood and coastal erosion risk; and
 - the mitigation hierarchy has been applied.
- B.4.4 In respect of the former, the conclusions of the Environmental Statement and the Planning Statement demonstrate that no such unacceptable risks arise.
- B.4.5 In respect of the latter, as well as the fact that the Applicant has undertaken the project design process to ensure that emissions are minimised and impacts avoided, the Applicant considers that it has clearly applied the mitigation hierarchy.
- B.4.6 This is best described in the first entry of table 6-2 of the Planning Statement – Policy Assessment Tables (APP-032), but in summary Chapter 6 of the ES sets out how the Applicant has undertaken its alternatives processes for the Main Site and the Connection Corridors, with environmental considerations at the fore including corridor routes not taken to ensure environmental impacts were not caused and looking to re-use existing corridors wherever practicable.
- B.4.7 Building on from that, the Applicant has built in a number of core measures to either reduce or mitigate impacts to key environmentally sensitive receptors including process engineering to reduce emissions, commitments to seasonal restrictions and sensitive construction methodology and barriers.
- B.4.8 The result of this work is that the only 'compensation' that the Applicant is required to do is for the unavoidable (due the location of the existing AGI) loss of trees at Cowpen Bewley Woodland Park.
- B.4.9 The results of the Environmental Statement confirm that the Applicant has applied the mitigation hierarchy, sought advice from relevant statutory bodies, and demonstrated its implementation.
- B.4.10 The Proposed Development therefore clearly passes the 'gates' to be able to rely on the policy presumptions for CNP infrastructure set out in the NPS.
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- B.4.11 As such the policy presumption in paragraph 4.2.16 of the NPS, that the public benefits of the Proposed Development can be assumed to outweigh adverse impacts to a SSSI, would apply to the Proposed Development.
- B.4.12 Therefore, if the ExA or SoS consider that the Applicant should have been responsible for mitigating impacts to the SSSI, has not done so, and such adverse effects can be attributed to the Proposed Development, this NPS policy means that such impacts should not be seen as a reason to not consent the Proposed Development in line with the first para of paragraph 5.4.8.
- B.4.13 Finally, it is also noted that the Applicant considers this would still be the case, even if for some reason the Proposed Development was not seen as CNP infrastructure. That is because its Needs case as set out in the Need Statement (APP-033), including in particular its contribution to the achievement of Net Zero, is sufficiently strong that it should be seen to outweigh the limited 'harm' that the Applicant's miniscule contribution to a strategic cumulative impact could be considered to have, if such harm was indeed attributed to the Proposed Development.