

[Please note, the attached document includes Natural England's Written Representations and Natural England's responses to ExQ1.]

Overall, Natural England are satisfied that the proposals address the majority of potential impacts to the natural environment. Discussions with the Applicant since submission of Natural England's Relevant Representations (RR-044) have resulted in clarifications which, in some cases, have resolved the concerns raised at the Relevant Representation stage.

The only areas of concern where we consider further information is required to enable the examining authority to make an informed decision are: Internationally Designated Sites and Soils and Best and Most Versatile (BMV) Agricultural Land. We expect these concerns to be resolved through provision of further information in the form of revised or new documentation.

The key concerns we have regarding Internationally Designated Sites are:

- Mitigation to prevent entrapment/ isolation of lamprey during flooding events is not fully developed (NE8)
- Prevention of light spill impact on migrating lamprey during construction should be committed to more strongly (NE7)
- Limited explanation provided regarding 'de minimis' impact of construction piling on key species (lamprey) (NE3)
- HRA in-combination assessment is insufficient and scheme location criteria require review (NE5 and NE6)

The key concerns we have regarding Soils and BMV Agricultural Land are:

- Lack of commitment to reinstate all temporarily lost BMV land to its original classification after construction (NE15)
- Lack of clear commitment to ensure soils are not handled when wet (NE16)
- Soil Management Plan during pre-commencement activities (NE20)

Date: 12 November 2024
Our ref: 491112
Your ref: TR010065



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Dear Inspector

NSIP Reference Code: TR010065

Natural England's Written Representations and response to the Examining Authority's first written questions in respect of the A46 Newark Bypass

Examining Authority's submission deadline with a date of 12 November 2024

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

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

Yours faithfully

Rachel Navin
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Natural England's Written Representations

PART I: Summary and conclusions of Natural England's advice.
PART II: Natural England's detailed advice (starting on page 5)
PART III: Natural England's response to the Examining Authority's (ExA's) first written questions (starting on page 28)
PART IV: Natural England's detailed comments on the Development Consent Order (DCO) (starting on page 36)

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

Summary of Natural England's advice

Overall, Natural England are satisfied that the proposals address the majority of potential impacts to the natural environment. Discussions with the Applicant since submission of Natural England's Relevant Representations (RR-044) have resulted in clarifications which, in some cases, have resolved the concerns raised at the Relevant Representation stage.

The only areas of concern where we consider further information is required to enable the examining authority to make an informed decision are: Internationally Designated Sites and Soils and Best and Most Versatile (BMV) Agricultural Land. We expect these concerns to be resolved through provision of further information in the form of revised or new documentation.

The key concerns we have regarding Internationally Designated Sites are:

- Mitigation to prevent entrapment/ isolation of lamprey during flooding events is not fully developed (NE8)
- Prevention of light spill impact on migrating lamprey during construction should be committed to more strongly (NE7)
- Limited explanation provided regarding 'de minimis' impact of construction piling on key species (lamprey) (NE3)
- HRA in-combination assessment is insufficient and scheme location criteria require review (NE5 and NE6)

The key concerns we have regarding Soils and BMV Agricultural Land are:

- Lack of commitment to reinstate all temporarily lost BMV land to its original classification after construction (NE15)
- Lack of clear commitment to ensure soils are not handled when wet (NE16)
- Soil Management Plan during pre-commencement activities (NE20)

Part I of these Written Representations provides a summary (above) and overall conclusions of Natural England's advice. This advice identifies whether any progress in resolving issues has been made since submission of our Relevant Representations (RR - 044). As mentioned above, several issues that were raised at the Relevant Representations stage are now resolved, following discussions with the Applicant. This is explained in further detail in this document. Any comments still outstanding are detailed in this document.

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

- International designated sites
- Nationally designated sites
- Protected species
- Biodiversity net gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees

- Connecting people with nature (National Trails, open access land and England Coast Path)
- Other valuable and sensitive habitats and species, landscapes and access routes

Our comments are flagged as red, amber or green:

- **RED** (not applicable in this case) are those where there are fundamental concerns which it may not be possible to overcome in their current form.
- **AMBER** are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- **GREEN** are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured).

Natural England has been working closely with National Highways ('the Applicant') to provide advice and guidance since November 2020. Since submission of our Relevant Representations, a Teams meeting was held (16/09/2024) with National Highways, Natural England and members of the project team to discuss Natural England's Relevant Representations. Each key issue was discussed in detail, with further information and clarifications provided, and meeting minutes were circulated and agreed with the attendees. In some cases, this discussion was sufficient to resolve the concerns raised by Natural England at the Relevant Representation stage. In other cases, further information has been requested to resolve the concerns raised.

A Teams meeting was held (21/10/2024) with Natural England, the Environment Agency and members of the project team to discuss the design of the Farndon Flood Compensation Areas (FCAs) fish escape passages. Natural England has provided comments on the accompanying Technical Note which sets out the proposed design of the fish escape passages. The Applicant has confirmed that Natural England's comments have been taken on board and will be incorporated.

Further information will be provided in the Statement of Common Ground which is currently being reviewed and developed between National Highways and Natural England.

Internationally designated sites

Natural England's position regarding internationally designated sites **has changed** since submission of our Relevant Representations (RR-044). In some cases (NE1, NE2, NE4), clarifications provided by the Applicant have resolved our concerns, and the status of these comments has changed from 'amber' to 'green'. Natural England is satisfied that 'green' issues are unlikely to result in adverse effects on the integrity of the following internationally designated sites, subject always to the appropriate mitigation/compensation as outlined in the application documents being adequately secured. In one case (NE9), Natural England was satisfied at the Relevant Representations stage that the issue was unlikely to result in adverse effects to integrity, and this remains unchanged in our Written Representations.

In other cases (NE3, NE5, NE6, NE7, NE8) clarifications have been provided by the Applicant and Natural England awaits further information in the form of revised or new documentation, to formalise the outcomes of the discussions. Until the revised or new documentation is provided, the status of these items remains 'amber'. This indicates that Natural England is not yet satisfied that it can be ascertained beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity of the Humber Estuary SAC/ Ramsar.

Further information is provided in Part II of these Written Representations (see Table 1).

Nationally designated sites

Natural England's position regarding nationally designated sites **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding nationally designated sites (NE10) still stand and the status remains 'green'.

Further information is provided in Part II of these Written Representations (see Table 1).

Protected species

Natural England's position regarding European protected species **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding protected species (NE11) still stand and the status remains 'green'.

Further information is provided in Part II of these Written Representations (see Table 1).

Biodiversity Net Gain Provision

Natural England's position regarding provision of biodiversity net gain **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding biodiversity net gain (NE12) still stand and the status is unchanged.

Further information is provided in Part II of these Written Representations (see Table 1).

Nationally designated landscapes

Natural England's position regarding nationally designated landscapes **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding nationally designated landscapes (NE13) still stand and the status remains 'green'.

Further information is provided in Part II of these Written Representations (see Table 1).

Soils and best and most versatile agricultural land

Natural England's position regarding soils and the best and most versatile agricultural land **has changed** since submission of our Relevant Representations (RR-044).

In one case (NE14), clarifications provided by the Applicant have resolved our concerns, and the status has changed from 'amber' to 'green'. In one case (NE17), Natural England was satisfied at the Relevant Representations stage that the permanent loss of BMV agricultural land to be lost falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, and this remains unchanged in our Written Representations.

In two cases (NE15, NE16) clarifications have been provided by the Applicant and further information in the form of revised or new documentation is awaited to formalise the outcomes of the discussions. Until the revised or new documentation is provided, the status of these items remains 'amber'.

One new item (NE20) has been added since submission of our Relevant Representations in response to the Examiner's Questions. This relates to soil management during the pre-commencement phase of the project and has been categorised as 'amber'.

Further information is provided in Part II of these Written Representations (see Table 1).

Ancient woodland and ancient/veteran trees

Natural England's position regarding ancient woodland and ancient/veteran trees **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding ancient woodland and ancient/veteran trees (NE18) still stand and the status remains 'green'.

Further information is provided in Part II of these Written Representations (see Table 1).

Connecting people with nature (National Trails, open access land and England Coast Path)

Natural England's position regarding connecting people with nature **has not changed** since submission of our Relevant Representations (RR-044). The comments made at the Relevant Representations stage regarding connecting people with nature (NE19) still stand and the status remains 'green'.

Further information is provided in Part II of these Written Representations (see Table 1).

Natural England's Written Representations

Part II: Natural England's detailed advice

Part II of these Representations updates and where necessary augments Part II of the Relevant Representations (RR-044). It expands upon the detail of all the significant issues ('red' and 'amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Part II also shows 'green' issues which either remain unchanged since our Relevant Representations (RR-044) or which have been agreed since our Relevant Representations (RR-044) (subject always to the appropriate requirements being secured adequately).

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

Natural England's Written Representations, Part II, Table 1

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> Further details about the project to enable assessment Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|---|---|---|------------------------|--|
| NE1 | International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary Ramsar | Construction silt management measures are not specified in the Drainage Strategy Report (Construction phase) | In our Relevant Representations, Natural England noted that the Drainage Strategy Report related only to the operational phase of the project and did not include any measures to prevent silt and water quality impacts during construction, despite a statement made in the ES and the First Iteration EMP which stated that temporary drainage and silt management techniques were included in the Drainage Strategy Report. Since submission of the Relevant Representations, the Applicant has confirmed (via Teams meeting, 16/09/2024) that references to temporary drainage and silt management techniques being included in the Drainage Strategy were an error, and that the | Updated DCO requirement 3 ensures the provision of, and consultation with NE on, the final Pollution Prevention Management Plan & Erosion & Sediment Management Plan prior to commencement of any part of the authorised development. | Green | Yes – see text Status changed from amber to green |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|-------|--|---|--|-------------------------------|---|
| | | | <p>Drainage Strategy Report covers the permanent works only. The Applicant also confirmed that standard pollution prevention measures will also be adhered to, and that the project team are in discussion with the EA on management measures for sediments.</p> <p>Through discussions with the Applicant (Teams meeting 16/09/2024), Natural England understands that the outline mitigation measures (silt curtains, cut-off ditches, silt traps, etc.) referenced in the First Iteration EMP will be detailed in the Pollution Prevention Plan and the Erosion and Sediment Management Plan as part of the Second Iteration EMP.</p> <p>The implementation of these plans is considered likely to avoid an impact upon the qualifying features of the Humber Estuary SAC and Ramsar. Nonetheless, sufficient detail must be provided in each of these plans to ensure impacts upon the Humber Estuary SAC and Ramsar are avoided.</p> <p>Natural England requested to be added as a consultee for the Second Iteration EMP (and any individual silt management plans, if applicable) to consider the likely impact of construction works on international designated sites (Humber Estuary SAC and Humber Estuary Ramsar) and their qualifying features. This has been amended in the Draft DCO</p> | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|---|---|---|------------------------|--|
| | | | (Rev 2, October 2024) and Natural England thus consider the proposed mitigation has been secured appropriately. NE has changed this item to 'green'. | | | |
| NE2 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA screening: Omission of discussion regarding the 'loss of lamprey individuals' | <p>In our Relevant Representations, Natural England queried whether a statement (regarding 'loss of lamprey individuals') was included in error. The Applicant has confirmed (via Teams meeting 16/09/2024) that the potential loss of lamprey individuals mentioned is not an additional impact pathway and relates to the low risk of lamprey entrapment in Farndon FCAs prior to mitigation. Further information was provided by the project team regarding the impact pathway, which was accepted by Natural England.</p> <p>In our Relevant Representations, Natural England noted that the proposed electro-fishing measures were not discussed in the HRA and requested further clarity on the impact pathway. During the Teams meeting (16/09/2024), the Applicant explained that the electro-fishing was not mentioned in the HRA as a specific mitigation measure regarding lamprey as it is a multi-species mitigation and river lamprey are not expected in Slough Dyke. This was accepted by Natural England, though it was suggested that electro-fishing could still be mentioned in the updated HRA as it may have a beneficial effect.</p> | No further information required. | Green | Yes – see text Status changed from amber to green |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|--|--|---|------------------------|---|
| NE3 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | <p>HRA Screening: Limited explanation provided regarding 'de minimis' impact of construction piling on key species (lamprey)</p> <p>(Construction phase)</p> | <p>It was noted in Natural England's Relevant Representations that very limited information was provided in the HRA report to explain the potential 'de-minimis level impact upon resting lamprey or larval lamprey (if present)' due to daytime piling works. Further information was requested to rule out potential adverse impacts on resting and larval lamprey.</p> <p>During subsequent discussions with the Applicant and project team (via Teams, 16/09/2024) a detailed explanation was provided. It was explained that a worst-case scenario was assessed in the HRA (assuming that impact piling will be required, whereas it is more likely to be rotary piling). It was also clarified that lamprey are a low hearing sensitivity fish with greater resilience to underwater sound and vibration, and the risk of more significant responses such as startle reactions is low, in part due to the vibration disturbance pathway needing to pass through earth then water. In addition, the northern branch of the River Trent is considered the main lamprey migration route and will likely act as a bypass to the upper reaches during piling works along the river's southern branch, and the works at Kelham and Averham FCA will be completed prior to commencement of the main alignment works.</p> <p>Finally, detailed information was provided by the Applicant (via Teams meeting, 16/09/2024) regarding</p> | Updated HRA required. | Amber | <p>Yes – see text</p> <p>Status remains amber</p> |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|---|---|---|------------------------|--|
| | | | the habitat appraisal and suitability assessment for spawning lamprey, which provided explanation for the 'de-minimis' level impact. These explanations were welcomed and accepted by Natural England. It was requested that the HRA is updated to reflect these additional clarifications. Until the HRA is updated, the status remains 'amber'. | | | |
| NE4 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA Screening – Operational Lighting (Highway Lighting) (Operational Phase) | Natural England's Relevant Representations noted that the HRA does not reference to operational light spill and its possible effects on migrating lamprey. The Applicant has since confirmed (via Teams meeting 16/09/2024) that there is no existing lighting over Nether Lock Viaduct and Windmill Viaduct and the scheme will not introduce any new operational lighting in closer proximity to the River Trent than is currently present. Natural England accepts this explanation. | No further information required. | Green | Yes – see text Status changed from amber to green |
| NE5 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA screening in-combination: Assessment of scheme location criteria (Construction and operational phases) | At the Relevant Representation stage, Natural England requested that the HRA in-combination assessment should consider projects close to the scheme, as well as those close to the SAC/ Ramsar site. The Applicant has since confirmed (via Teams meeting 16/09/2024) that the review of projects for the in-combination assessment included: all relevant onshore NSIPs and proposed NSIPs within the 'Yorkshire and Humber' and 'East Midlands' regions; projects and plans within NSDC located within 2km of the River Trent; and projects or plans within 2km of the Humber Estuary SAC/ Ramsar. The Applicant confirmed an error in the HRA as it suggests that only | Updated HRA required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|--|---|---|------------------------|--|
| | | | <p>projects within 2km of the Humber Estuary were considered in the in-combination assessment; this is not correct. The Applicant confirmed a further error in the HRA as it states that non-NSIPs have not been detailed in the in-combination assessment table as in-combination effects are unlikely; this statement is also incorrect.</p> <p>Natural England welcomes these clarifications. It is requested that the HRA is updated to reflect these changes. Until the HRA is updated, the status remains 'amber'.</p> | | | |
| NE6 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA screening in-combination: Assessment lacks sufficient detail (Construction and operational phases) | <p>In our Relevant Representations, Natural England identified that the in-combination assessment in the HRA was too brief and lacked sufficient detail. Based on the information previously provided, it is difficult to rule out the possibility of significant in-combination effects.</p> <p>The Applicant has since acknowledged (via Teams meeting, 16/09/2024) that further clarity is required on the in-combination assessment. The Applicant has confirmed that this clarity will be provided in the form of a Technical Note to accompany the Applicant's response to the Relevant Representations. Natural England welcomes the opportunity to review this additional information, and request that it is incorporated into an updated HRA. Until the Technical</p> | Further information required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|--|---|---|------------------------|--|
| | | | Note/ updated HRA is received, no further comment is made and the status remains 'amber'. | | | |
| NE7 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA Appropriate Assessment: prevention of light spill impact on migrating lamprey does not follow mitigation hierarchy (Construction phase) | <p>At the Relevant Representations stage, Natural England noted that the bridge beam installation was planned during May 2026, which is within the lamprey migration season. This may contravene conservation objectives associated with maintaining the population and distribution of qualifying species (river and sea lamprey) of the Humber Estuary SAC/ Ramsar. It was noted that the mitigation hierarchy (avoid, mitigate, compensate) should be followed and a rationale should be provided as to why avoidance of lamprey migration season is not possible. The Applicant has since explained (via Teams meeting 16/09/2024) that bridge beam installation works will endeavour to avoid the lamprey migration season; however, the works are weather-dependent (i.e. they cannot be undertaken in high winds) and in some locations will be constrained by possession availability.</p> <p>Natural England also commented that imprecise language such as 'where possible' is used in relation to mitigation measures, which should be committed to more strongly. It was noted that the commitment to construction lighting mitigation measures could be in the form of a construction lighting strategy containing details of the light spill measures to be implemented. The Applicant explained (via Teams meeting 16/09/2024) that crane slewing would cast lighting on</p> | Further information required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|-------|--|---|---|------------------------|----------------------------------|
| | | | <p>the water for short amounts of time (four 30-minute intervals during a night shift) and this is the reason that the phrase 'where possible' was used.</p> <p>Nonetheless, Natural England requests the First Iteration EMP is amended to include the following commitment (REAC ref. B9):</p> <p><i>"The following measures are also required to minimise effects on lamprey migratory routes:</i></p> <ul style="list-style-type: none"> • <i>Night working will be restricted along the majority of the working width along the River Trent to minimise the requirement for artificial lighting to be used where possible, thereby avoiding disturbance effects of artificial lighting on sensitive ecological features.</i> • <i>Where this is not possible, static, task lighting with cowls will direct light towards the areas of works and avoid direct illumination of the River Trent. The only exception to this would be during crane slewing, where the lighting on the boom may cast across the water before coming to rest on the beam lift, which would be temporary and short-term (taking place over four 30-minute intervals during a night shift)."</i> <p>In addition, Natural England identified incorrect terminology in the HRA Appropriate Assessment,</p> | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|--|---|---|------------------------|--|
| | | | <p>where a statement was made around whether an 'LSE' could be ruled out, when instead the comment should have been about the potential for any 'Adverse Effect On Integrity'. The Applicant has subsequently confirmed this was an error (via Teams meeting, 16/09/2024).</p> <p>Natural England welcomes these clarifications and requests the HRA is updated accordingly. Until the updated HRA report is received, no further comment is made and the status remains 'amber'.</p> | | | |
| NE8 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar | HRA Appropriate Assessment: Mitigation to prevent entrapment/isolation of lamprey during flooding – consideration of climate change and more frequent flooding (Operational phase) | <p>In our Relevant Representations, Natural England noted that the number, location and design of fish escape passages (to prevent entrapment/ isolation of lamprey during flooding of the Farndon FCAs) were to be finalised during detailed design. Natural England noted that the details of design are important for their success and requested that agreement be sought with the Environment Agency regarding the number, location and design of fish escape passages. In addition, Natural England noted the design of these measures must include consideration for changes to flood events caused by climate change.</p> <p>The Applicant and wider project team has since engaged with Natural England and the Environment Agency regarding fish escape passages (Technical Note dated 15/10/2024 and Teams meeting 21/10/2024). The previous design submitted as part of</p> | Further information required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|-------|--|---|--|-------------------------------|---|
| | | | <p>the DCO application is no longer considered viable, due in part to the topography of Farndon East FCA. Four new options for fish escape passage design have been presented to Natural England and the Environment Agency and advice has been sought. It is understood that the current preferred option comprises provision of two fish escape passages from the north of each FCA, as overspill channels, into Old Trent Dyke.</p> <p>Natural England has provided the following commentary to the Applicant regarding the 'Farndon FCA Fish Escape Passages' Technical Note:</p> <ul style="list-style-type: none"> • The fish escape passages discussed throughout the technical note appear relatively small (0.5 m width and 0.3 m depth). This may cause fish difficulty in actively identifying the escape passage route, given the relatively large flood plain area. Natural England queries whether there is scope to widen and deepen the channels. • Natural England welcomes the approach for the fish passages to be naturalised routes and requests that all future design iterations adopt this approach. • The technical note states that Option 4 (preferred option) includes two fish escape passages as overspill open channels. Natural England assumes the overspills would require | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|-------|--|--|--|-------------------------------|---|
| | | | <p>the use of stop logs to ensure that water only passes through the escape channel at certain depths [project team to confirm].</p> <ul style="list-style-type: none"> • Similar to the comment above, fish would need to actively identify the escape channel and actively choose to pass via the spillover, exposing them to predation risk, and thus the fish may not pass downstream into Old Trent Dyke. Natural England queries whether there is scope for the fish escape routes to be fully open (i.e. no stop logs leading to an overflow). • Internal Drainage Board (IDB) management of Old Trent Dyke will involve annual dredging to remove debris and vegetation from the channel. There is a risk that any fish still present within Old Trent Dyke could be scooped out in digger buckets and dumped on the banks in the debris pile. • Natural England queries whether there is evidence from studies or other sources to support the following statement: “It should be noted that the Old Trent Dyke is the current route that fish re-enter the River Trent, following overtopping of the River Trent embankment in these locations”. • Natural England queries whether there would there be scope to undertake future surveys and analysis of any lamprey carcasses within the flood plain to determine if they have | | | |

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|------------------|--|---|---|---|------------------------|----------------------------------|
| | | | <p>spawned or not. This is in relation to the following statement: "It is likely that individual fish (including lamprey) caught in flood water within the Farndon FCAs would have exerted their energy migrating and have already spawned, resulting in a natural cause of death. There is no coarse fish or lamprey mortality data for the River Trent, so it cannot be ascertained during monitoring post-construction of the Scheme whether dead fish observed within the Order Limits or downstream of the Scheme during operation would be a result of the natural lifecycle of the species or other factors".</p> <p>The Applicant has confirmed that Natural England's comments have been taken on board and will be incorporated into the next iteration of the Technical Note. Until the updated document is provided, the status remains 'amber'. Natural England welcomes further discussion with the Applicant and the Environment Agency regarding the design of the fish escape passages, if required.</p> | | | |
| NE9 | International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC | HRA Screening: Reduction in habitat area, fragmentation, disruption and disturbance of international sites, | Natural England's position remains unchanged since our Relevant Representations: Natural England agrees with the conclusion of no likely significant effects on international designated sites regarding reduction in habitat area, changes to | No further information required. | Green | No |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|---|---|--|---|------------------------|----------------------------------|
| | <ul style="list-style-type: none"> • Humber Estuary Ramsar | <p>and changes to key elements of the site</p> <p>(Construction and operational phases)</p> | <p>key elements of the site, and fragmentation, disruption and disturbance of the SAC or the Ramsar sites.</p> | | | |
| NE10 | National designated sites (biodiversity & geodiversity) | <p>Location of nationally designated sites</p> <p>(Construction and operational phases)</p> | <p>Natural England's position remains unchanged since our Relevant Representations:</p> <p>The site is not located close to any nationally designated sites for biodiversity or geodiversity conservation, nor is it within a Site of Special Scientific Interest (SSSI) Impact Risk Zone. We note that the features of the Humber Estuary SSSI nationally designated site that are affected by this proposal are the same as the internationally designated site features. Please refer to the points in the 'Internationally designated sites' issues above for all 'amber' issues, that also apply to the Humber Estuary SSSI. Natural England has no further comments.</p> | No further information required. | Green | No |
| NE11 | Protected species | <p>Protected species licenses</p> <p>(Construction phase)</p> | <p>Natural England's position remains unchanged since our Relevant Representations:</p> <p>Based on the information provided in ES Chapter 8: Biodiversity, there is a requirement for a protected species licence to be obtained from Natural England for bats (ES 8.9.16).</p> | No further information required. | Green | No |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <p>Natural England has received a draft bat mitigation licence application from the applicant on 13/03/2024. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'Letter of No Impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.</p> <p>A Letter of No Impediment was provided by Natural England to the applicant on 08/05/2024. As set out in the letter, based on the information and proposals provided, Natural England sees no impediment to a licence being issued, should a DCO be granted. However, Natural England notes the following comments and caveats:</p> <ul style="list-style-type: none"> • Prior to submission of the formal application, the applicant should ensure all necessary consents have been obtained and that all relevant planning conditions relating to wildlife have been discharged. • The current survey levels are deemed sufficient for Natural England to provide the Letter of No Impediment; however, we would expect pre-construction/ top up surveys be conducted to confirm the status of the bat roost | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <p>in question, taking into consideration that suitability for hibernating bats may increase over time.</p> <ul style="list-style-type: none"> • For a formal EPS Bat mitigation licence Natural England would expect the licence application to be based on survey data from the current or most recent optimal survey season. <p>Should the DCO be granted then the mitigation licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted.</p> <p>If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will</p> | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <p>need to be addressed before any licence can be granted.</p> <p>Further information relating to wildlife licencing and NSIPs is provided within the Planning Inspectorate's Advice Note 11, Annex C – Natural England and the Planning Inspectorate. Specifically, at the bottom of page 6 and within Appendix I. See also Natural England's Standing Advice.</p> | | | |
| NE12 | Biodiversity net gain | Biodiversity net gain | <p>Natural England's position remains unchanged since our Relevant Representations:</p> <p>Biodiversity Net Gain (BNG) is not mandatory for NSIPs until November 2025, therefore Natural England's comments at this stage should be considered as advisory only.</p> <p>Natural England has reviewed the Biodiversity Net Gain Technical Report (Appendix 8.14 to the ES), and the following is noted:</p> <ul style="list-style-type: none"> • The Biodiversity Metric 3.1 has been used. Natural England raise no concern with this and welcome that the version of the metric used throughout the project is consistent. It should be noted that following November 2025, use of the Statutory Biodiversity Metric is expected to be a legal requirement. • The mitigation hierarchy appears to have been applied. | No further information required. | BNG not yet mandatory for NSIPs | No |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <ul style="list-style-type: none"> • The project demonstrates achievement of measurable net gain (4.99% net gain in habitat units, 8.17% net gain in hedgerow units, 36.93% net gain in river units). • Whilst the measurable net gain is noted and welcomed, the project does not achieve the recommended minimum 10% net gain – it is suggested that a commitment could be included within the DCO to achieve a minimum of 10% net gain. This is expected to become mandatory from November 2025. • The applicant proposes off-site habitat creation/enhancement at Doddington Hall, although it is noted that a legal agreement for this is yet to be finalised. • The scheme includes a ‘trading down’ in river units, with high distinctiveness habitat being compensated for with habitats of medium distinctiveness, and a reduction in the area of high distinctiveness ‘other rivers and streams’ (1.62ha lost and 0.86ha provided Biodiversity Net Gain Technical Report, para 5.1.18). Natural England would encourage habitat of high distinctiveness to be avoided or replaced with the same habitat of high distinctiveness. • Due to a loss of lowland meadow, a bespoke compensation agreement is stated to be required with Natural England (Biodiversity Net Gain Technical Report, para 5.1.15). It should | | | |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <p>be noted that in the absence of mandatory Biodiversity Net Gain, this is not currently a mandatory requirement. Nonetheless, an outline compensation agreement is included (Appendix A.6). It is noted that 0.1032ha of lowland meadow would be affected, 118m² of which would be permanent loss. Proposals set out in the outline compensation agreement include lowland meadow compensation totalling 0.7505ha. In principle, Natural England considers the compensation proposed to be appropriate, subject to appropriate ongoing management.</p> | | | |
| NE13 | National designated landscapes | <p>Location of site in relation to nationally designated landscapes</p> <p>(Construction and operational phases)</p> | <p>Natural England's position remains unchanged since our Relevant Representations:</p> <p>The site is not located within, or within the setting of, any nationally designated landscapes. As a result, Natural England has no specific comments to make on the landscape implications of this development. The examining authority should have regard for the landscape character of the area; we welcome the reference to Natural England's National Character Areas within ES Chapter 7: Landscape and Visual Effects.</p> | No further information required. | Green | No |
| NE14 | Soils and best and most versatile | Agricultural Land Classification (ALC) survey | In our Relevant Representations, Natural England noted that, due to access constraints, no ALC survey had been undertaken in a small area of the site south | No further information required. | Green | Yes – see text |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|--|--|---|---|------------------------|--|
| | agricultural land | (Construction and operational phases) | <p>of Farndon Roundabout. Clarity was requested regarding any plans for post-consent ALC surveying.</p> <p>The Applicant has since confirmed (via Teams meeting 16/09/2024) that the small area of land is now outside of the Scheme Order Limits and therefore no further work is required in this location as part of the scheme.</p> <p>Natural England welcomes and accepts this clarification.</p> | | | Status changed from amber to green |
| NE15 | Soils and best and most versatile agricultural land | Reinstatement of temporarily lost agricultural land (Construction and operational phases) | <p>At the Relevant Representations stage, Natural England requested that a commitment is added to the DCO that all agricultural land subject to temporary losses will be reinstated to the same ALC grade (as surveyed pre-construction). In the absence of this commitment, Natural England may consider the temporary losses to be permanent.</p> <p>The Applicant has since confirmed (via Teams meeting 16/09/2024) that the assessment of temporary loss of land was based on retention of soil quality and ALC grade after reinstatement. The Applicant confirmed that this is detailed in the Outline Soil Management Plan and in the REAC in the First Iteration EMP. The First Iteration EMP will be developed into a Second Iteration EMP, including a detailed Soils Management Plan. Natural England has not been able to locate this commitment in the Outline</p> | Further information required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | Soil Management Plan and notes the following wording in the First Iteration EMP, REAC Reference GS9: <i>“Unless otherwise agreed with the landowner, where agricultural land is to be returned to the landowner, it should be returned to its previous use as determined by the ALC survey”</i> . It is suggested that the caveat of “unless otherwise agreed with the landowner” is removed and the achievement criteria is amended to state the land will be returned to its previous ALC grade. | | | |
| NE16 | Soils and best and most versatile agricultural land | Handling of wet soils (Construction phase) | <p>In our Relevant Representations, Natural England requested a firm commitment from the Applicant that soil will only be handled when in a sufficiently dry state, and that this practice is followed throughout the entire construction stage. Advice was also provided on soil tests, which should be undertaken by a qualified soil scientist.</p> <p>The Applicant has since agreed (via Teams meeting, 16/09/2024) that it is important that soils are handled only after passing a field test which determines that soils are in a sufficiently dry state. The Applicant directed Natural England to the Outline Soil Management Plan which specifies the conditions under which soil may or may not be handled. Natural England still advises that the commitment could be made more strongly, for example by stating “soils <u>will</u> only be handled” when specific conditions are met</p> | Further information required. | Amber | Yes – see text Status remains amber |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
|------------------|--|--|---|---|------------------------|----------------------------------|
| | | | <p>(rather than the existing wording of “soils <u>should</u> only be handled” when sufficiently dry).</p> <p>It is noted that the First Iteration EMP will be developed into a Second Iteration EMP (including a detailed Soils Management Plan). Natural England requests that a firm commitment is made by the Applicant that soils will only be handled when in a sufficiently dry state, and that this will occur throughout the entire construction phase.</p> | | | |
| NE20 | Soils and best and most versatile agricultural land | Soil Management Plan during pre-commencement activities | Natural England notes that the outline Soil Management Plan (oSMP) will be developed into a full Soil Management Plan (SMP) prior to construction. It is requested that the SMP is also adopted in relation to pre-commencement activities, as there may be possible impacts related to soil handling and soil resources during this phase of works. | Further information required. | Amber | Yes – new item |
| NE17 | Soils and best and most versatile agricultural land | Permanent loss of BMV land <20ha (Operational Phase) | <p>Natural England’s position remains unchanged since our Relevant Representations:</p> <p>It is stated in Table 9-9 of ES Chapter 9: Geology and Soils that permanent loss of best and most versatile (BMV) agricultural land totals up to 15.7ha (>1ha of Grade 2 and 14.7ha of Grade 3a agricultural land). Assuming all temporarily lost BMV land is reinstated to its original condition (see NE15), the total permanent loss of BMV is below 20ha; falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements.</p> | No further information required. | Green | No |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | If there is a change to the amount of BMV agricultural land to be lost, it is requested that Natural England be re-consulted. | | | |
| NE18 | Ancient woodland and ancient/ veteran trees | Potential air quality impacts on ancient woodland and veteran trees | <p>Natural England’s position remains unchanged since our Relevant Representations: As noted in ES Chapter 8: Biodiversity, there is one ancient woodland (also designated Spring Wood, Kelham LWS) located within 200m of the affected road network (para. 8.8.15). There are also several veteran trees located within 200m of the affected road network. Given their proximity, these receptors may experience changes to air quality due to the project.</p> <p>Where Ancient Woodland and Ancient/Veteran Trees do not form part of a SSSI, Natural England will only provide bespoke advice in exceptional circumstances. As a result, our advice in this instance is limited to the Natural England and Forestry Commission ‘Standing Advice’ for ancient woodland, ancient trees and veteran trees.</p> | No further information required. | Green | No |
| NE19 | Connecting people with nature | Opportunities to connect people with nature | <p>Natural England’s position remains unchanged since our Relevant Representations:</p> <p>Transport schemes such as the A46 Newark Bypass have the potential to generate positive impacts regarding connecting people with nature, for example by creating new access routes such as footpaths, cycle paths and bridleways, and reducing route</p> | No further information required. | Green | No |

| NE key issue ref | Topic | Issue summary and phase (Construction/ Operation/ Decommissioning) | Natural England commentary and advice on: <ul style="list-style-type: none"> • Further details about the project to enable assessment • Further evidence or assessment work required | Natural England comment on the mechanism for securing mitigation/ compensation measures | Risk Red/ Amber/ Green | Any updates since Relevant Reps? |
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| | | | <p>fragmentation. There is also potential for adverse impacts, for example route severance, closures and diversions during construction works and operational phases.</p> <p>Natural England welcomes the proposals for new walking, cycling and horse-riding provision, including a new combined footway/ cycleway at Winthorpe, and new connections between existing severed routes (ES Chapter 2: The Scheme, para. 2.5.58 to 2.5.65).</p> <p>It is also noted that the applicant proposes a number of diversions and control measures to minimise adverse effects on walking, cycling and horse-riding routes during construction (ES Chapter 2, Table 2-7).</p> <p>Natural England welcomes the measures to improve and increase people’s connectivity with nature. The applicant should continue to consider connectivity with nature throughout the planning, construction and operational stages of the project.</p> | | | |

Natural England's Written Representations

PART III: Natural England's response to the Examining Authority's (ExA's) first written questions and requests for information (ExQ1) with a deadline of 12 November 2024

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
|---|---|--|---|
| ExA ref. | Addressed to | Question | Natural England Response |
| Q3.1.1 | The Applicant, Natural England, Forestry Commission, Environment Agency, NSDC | <p><u>Biodiversity Net Gain Approach:</u></p> <p>ES Chapter 8 [APP-052] and the First Iteration EMP [APP-184] detail the mitigation and compensation strategy for the approach to BNG. This includes offsite compensation at Doddington Hall and reference to a bespoke agreement for the loss of lowland meadow to be agreed with Natural England.</p> <p>Given the comments from NE [RR-044], the EA [RR-020] and FC [RR-023] relating to river units, opportunity for fry refuge and habitat severance has sufficient mitigation and compensation been provided for within the Order Limits.</p> <p>Finally, can the Applicant confirm that the offsite planting at Doddington Hall is a separate compensatory method than that to be agreed with NE for the loss of lowland meadow and please explain how the offsite compensation will be achieved through the DCO.</p> | <p>Biodiversity Net Gain (BNG) is not mandatory for NSIPs until November 2025, therefore Natural England's comments at this stage should be considered as advisory only.</p> <p>Natural England has reviewed the Biodiversity Net Gain Technical Report (Appendix 8.14 to the ES), and our advice is provided in Part II, Table 2 (NE12) of this document. Natural England has no further comments at this stage.</p> |
| Q3.1.2 | The Applicant | <p><u>Biodiversity Net Gain Calculation:</u></p> <p>In NE's response [RR-044] it confirms that the proposal does not meet the suggested 10% BNG. What weight should be applied to not achieving this non-mandatory target?</p> | <p>As set out in Part II, Table 1 (NE12) of this document, Biodiversity Net Gain (BNG) is not mandatory for NSIPs until November 2025, therefore Natural England's comments at this stage should be considered as advisory only.</p> <p>The project demonstrates achievement of measurable net gain (4.99% net gain in habitat units, 8.17% net gain in hedgerow units, 36.93% net gain in river units). Whilst the measurable net gain is noted and welcomed, the project does not achieve</p> |

| Table 2: Natural England’s response to Examiner’s initial questions (ExQ1) | | | |
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| ExA ref. | Addressed to | Question | Natural England Response |
| | | | <p>the recommended minimum 10% net gain – it is suggested that a commitment could be included within the DCO to achieve a minimum of 10% net gain. This is expected to become mandatory from November 2025.</p> <p>As stated in the National Networks National Policy Statement (para. 4.23-4.26), <i>'The Environment Act 2021 contains provisions for a mandatory biodiversity net gain requirement for NSIPs. A government Biodiversity Gain Statement will set out the concept and policy requirements for biodiversity net gain for Nationally Significant Infrastructure Projects (NSIPs). When these provisions are commenced, the Secretary of State will need to be satisfied that the biodiversity gain objective in any relevant Biodiversity Gain Statement has been met'</i>.</p> <p>Given that BNG is not mandatory for NSIPs until November 2025, and that there is currently no biodiversity gain objective available to measure BNG against, this falls outside of Natural England’s statutory remit for NSIPs (as set out in Nationally Significant Infrastructure Projects - Advice on working with public bodies in the infrastructure planning process, Annex C: Natural England and the Planning Inspectorate - GOV.UK). Therefore, Natural England are unable to comment regarding the weight that should be applied to projects not achieving the non-mandatory target.</p> |
| Q6.2.2 | The Applicant, NSDC, NCC, LCC, NE, EA | <p><u>Requirement 3 – Second Iteration EMP:</u></p> <p>a) R3(1) currently refers to the Local Planning Authority. Does this need to be defined?</p> <p>b) R3(1) includes the phrase “substantially in accordance with”. Justify why this is sufficiently certain and precise to ensure essential mitigation is secured.</p> | <p>Natural England considers that there are measures in the First Iteration EMP that must also form part of the Second Iteration EMP. Natural England will be consulted on the Second Iteration EMP and will therefore have confidence that these measures will be appropriately secured.</p> |

| Table 2: Natural England’s response to Examiner’s initial questions (ExQ1) | | | |
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| ExA ref. | Addressed to | Question | Natural England Response |
| | | <p>c) R3(2) fourth line ‘...method statements and method statements...’ there is a duplication of words is this a typing error?</p> <p>d) R3(2) states the Second Iteration EMP ‘must ‘reflect’ the mitigation measures...’ the term ‘reflect’ is imprecise and could lead to watering down of the requirement and the required mitigation, please reconsider the use of this phrase</p> | |
| Q6.2.3 | The Applicant, NSDC, NCC, LCC, NE, EA | <p><u>Requirement 3 – Second Iteration EMP:</u></p> <p>The EA has requested that it is identified as a consultee in relation to the discharge of this requirement and that the EMP includes a Dewatering Plan.</p> <p>a) Given the breadth of management plans and method statements, should other consultees not be identified including NCC, EA, NE?</p> <p>b) Are there any other management plans or method statements that should be included in the list in R3(2)?</p> | <p>Natural England has been added as a statutory consultee for the Second Iteration EMP in the Draft DCO (Rev 2, October 2024), which is welcomed.</p> <p>Natural England is not aware of any other management plans or method statements that should be included in the list in R3(2).</p> |
| Q6.2.5 | The Applicant, NSDC, NCC, LCC, NE, EA | <p><u>Requirement 4 – Third Iteration EMP:</u></p> <p>Other consultation bodies should be included given the context of Q6.2.5. If you consider this should not be the case, please explain your response. (The EM at paragraph 5.5(c) refers in relation to the EMP to consultation with the relevant LPA and the EA, but this is not secured in the wording of the Requirement).</p> | <p>Natural England has been added as a statutory consultee for the Second Iteration EMP in the Draft DCO (Rev 2, October 2024), which is welcomed, and we note that the Environment Agency have been added as a statutory consultee for the Third Iteration EMP. Natural England consider this is sufficient to ensure the functioning of relevant mitigation measures during the operational phase. The contents of the Third Iteration EMP are otherwise unlikely to be directly related to Natural England’s statutory remit.</p> |
| Q6.2.7 | The Applicant | <p><u>Requirement 6 – Landscaping:</u></p> <p>Should the EA and NE not be included as consultees on landscaping given the interrelationship with BNG and</p> | <p>Given that BNG is not mandatory for NSIPs until November 2025, and that the landscaping scheme is unlikely to impact nationally or internally designated sites, this falls outside of Natural England’s statutory remit for NSIPs (as set out in Nationally Significant Infrastructure Projects - Advice on</p> |

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
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| ExA ref. | Addressed to | Question | Natural England Response |
| | | ecology effects? If not, please explain and justify your response. | working with public bodies in the infrastructure planning process, Annex C: Natural England and the Planning Inspectorate - GOV.UK). Therefore, Natural England has no further comments to make. Please refer to our Written Representations regarding BNG (NE12) for more information. |
| Q6.2.13 | The Applicant, NSDC, EA, NE | <p><u>Requirement 10 – Protected Species:</u></p> <p>Should the written scheme for protection and mitigation measures to be prepared by the Ecological Clerk of Works not be agreed with the LPA, Natural England or some other independent body? If not, explain and justify your response.</p> <p>Are NSDC, EA and NE content that this Requirement provides sufficient protection for protected species?</p> | <p>Natural England are content with the wording of Requirement 10, which includes the need for necessary licences to be obtained. Natural England will engage and advise upon protection and mitigation measures through the licencing process. It is the responsibility of the developer to identify the need for any protected species licences, as required.</p> <p>It should be noted that Natural England are unlikely to have capacity to review all avoidance, protection and mitigation measures proposed where a licence is not required.</p> |
| Q6.2.20 | All Ips | <p><u>Requirement 17 – Pre-commencement Works:</u></p> <p>Are the details of the pre-commencement plan [APP-188] sufficient and address any concerns? If not, detail the particular parts and matters with which you have concerns and explain and justify your response.</p> | Natural England notes that the outline Soil Management Plan (oSMP) will be developed into a full Soil Management Plan (SMP) prior to construction. It is requested that the SMP is also adopted in relation to pre-commencement activities, as there may be possible impacts related to soil handling and soil resources during this phase of works. |
| Q6.2.21 | The Applicant, NSDC, NSS, EA, NE | <p><u>Requirement 18 – Highway Lighting:</u></p> <p>18(1) refers to consultation with the relevant local authority, this isn't defined. Moreover, the lighting is recognised as potentially affecting landscape, visual, biodiversity etc. Wider consultation to include NSDC, NCC, EA, NE would appear to be appropriate. If not, please explain and justify why not.</p> | As set out in Part II, Table 1 (NE4) of this document, the Applicant has confirmed (via Teams meeting 16/09/2024) that there is no existing lighting over Nether Lock Viaduct and Windmill Viaduct and the scheme will not introduce any new operational lighting in closer proximity to the River Trent than is currently present. Assuming this remains the case, Natural England has no further comment to make regarding operational lighting. |
| Q9.0.1 | The Applicant | <p><u>Drainage Strategy Report (Construction Phase):</u></p> <p>In their response NE [RR-044] highlights that the Drainage Strategy Report [APP-179] does not include any measures</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE1) of this document. |

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
|---|---------------------|---|--|
| ExA ref. | Addressed to | Question | Natural England Response |
| | | <p>to prevent silt and water quality impacts during construction, as the document relates to the operational phase only. This contradicts the contents of Table 8-9 of ES Chapter 8: Biodiversity [APP-052] which states "temporary drainage and silt management techniques are outlined in Appendix 13.4 (Drainage Strategy Report)". The First Iteration EMP Table 3-2 (REAC) [APP-184] makes a similar statement. The HRA report [APP-185] (p30-31) includes reference to embedded construction mitigation measures for works close to the River Trent, namely silt fencing and protective fencing.</p> <p>Please provide further details on temporary drainage and silt management techniques to assess the likely impact of construction works on international designated sites (Humber Estuary SAC and Humber Estuary Ramsar) and their qualifying features.</p> | |
| Q9.0.2 | The Applicant | <p><u>Loss of Lamprey Individuals:</u></p> <p>NE comments [RR-044] that page 39 of the HRA report (Stage 1: Screening) [APP-185] refers to the possibility for likely significant effects (LSEs) "through the loss of lamprey individuals". There is no other reference to direct loss of lamprey individuals in the report and it is not discussed further. Please provide a justification for this potential direct loss of lamprey including how and why this might come about.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE2) of this document. |
| Q9.0.3 | The Applicant | <p><u>Loss of Lamprey Individuals:</u></p> <p>The First Iteration EMP Table 3-2 (REAC) [APP-184] reference B9 states "Electro-fishing will be undertaken as part of fish rescue prior to sheet piling at Windmill Viaduct and works to Slough Dyke to mitigate injury and death of fish. The screening aperture across the abstraction pump inlets during dewatering works at Slough Dyke would be</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE2) of this document. |

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
|---|---------------------|---|--|
| ExA ref. | Addressed to | Question | Natural England Response |
| | | <p>small enough to prevent access of European eel (yellow eel life stage) (no greater than 3mm)." These works have not been discussed in the HRA yet the EA advise [RR-020] that this may have the potential to cause direct loss of lamprey individuals and thus a likely significant effect to lamprey associated with the Humber Estuary.</p> <p>Further clarity on this impact pathway is required. If there is any possibility of direct harm or loss to be caused to lamprey individuals this needs to be clearly set out within the report, along with associated prevention measures.</p> | |
| Q9.0.4 | The Applicant | <p><u>De Minimis Level Impact:</u></p> <p>NE comments [RR-044] that the HRA report (Stage 1: Screening; p37) [APP-185] refers to a potential "de-minimis level impact upon resting lamprey or larval lamprey (if present)" due to daytime piling works. "De-minimis", as defined in the HRA report glossary, relates to "effects considered to be 'trivial' and those that have no appreciable effect on the site", and these effects are excluded from further assessment (para. 3.2.7). Please provide a further explanation as to how the conclusion of de minimis was reached.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE3) of this document. |
| Q9.0.5 | The Applicant | <p><u>Effects of Light Spill:</u></p> <p>NE comments [RR-044] that the HRA [APP-185] does not refer to operational light spill and its possible effects on migrating lamprey. NE consider that the changes to the highway lighting scheme could introduce additional light spill and subsequently have a likely significant effect on migrating lamprey. Please provide a comment on the operational effects of highway lighting on migrating lamprey or provide justification for not including it within the HRA.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE4) of this document. |

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
|---|---------------------|---|---|
| ExA ref. | Addressed to | Question | Natural England Response |
| Q9.0.6 | The Applicant | <p><u>In-combination Effects:</u> The HRA [APP-185] in-combination assessment table lists projects by distance from the SAC/ Ramsar. However, it is considered that distance from the River Trent is also an important factor given the functional linkage to the Humber Estuary.</p> <p>Please provide an updated in-combination assessment considering the functional linkage of the River Trent to the Humber Estuary. This should also provide a justification as to not including non-NSIP projects, or should be updated to include them.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE5, NE6) of this document. |
| Q9.0.7 | The Applicant | <p><u>Light Spill Impact on Migrating Lamprey (Construction phase):</u></p> <p>NE comments [RR-044] that the HRA [APP-185] report identifies "temporary severance of migratory routes along the river for breeding (as a result of artificial light spill)" as a likely significant effect which is taken through to Stage 2: Appropriate Assessment. As noted in Section 5.3, bridge beam installation is planned during May 2026, which is within the lamprey migration season as noted within the HRA report. This may contravene conservation objectives associated with maintaining the population and distribution of qualifying species (river and sea lamprey) of the Humber Estuary SAC/ Ramsar.</p> <p>Review NE's comments and provide a response applying the mitigation hierarchy to the bridge beam installation.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE7) of this document. |
| Q9.0.8 | The Applicant | <p><u>Terminology:</u></p> <p>In their response [RR-044] NE points out that the terminology used within the HRA Appropriate Assessment Section 5.3.7 [APP-185] is incorrect. It is concluded that an</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE7) of this document. |

| Table 2: Natural England's response to Examiner's initial questions (ExQ1) | | | |
|---|---------------------|---|--|
| ExA ref. | Addressed to | Question | Natural England Response |
| | | LSE can be ruled out after considering the effect of mitigation. Any mitigation required must be considered in the Appropriate Assessment to demonstrate "no Adverse Effect on Integrity". Please review Section 5 of the HRA to ensure impacts are considered with regard to site integrity. | |
| Q9.0.9 | The Applicant | <p><u>Mitigation to Prevent Entrapment/Isolation of Lamprey During Flooding:</u></p> <p>The wording at Reference B9 in the Register of Environmental Actions and Commitments (REAC) within the First Iteration EMP [APP-184] says "Following consultation with the Environment Agency...". Please provide a justification as to why this is not worded to include agreement with the EA.</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE8) of this document. |
| Q9.0.10 | The Applicant | <p><u>Fish Escape Passage Design:</u></p> <p>NE [RR-044] has commented that the wording within HRA [APP-185] section 5.2.3 states that the EA's recommendations regarding the fish escape passage design would be incorporated "where possible". The use of imprecise language such as this may introduce uncertainty around the implementation of these mitigation measures. NE also note that the design of these measures must include consideration for changes to flood events caused by climate change. Please provide a detailed response to this comment and an explanation as to why the EA's recommendations [RR-020] will only be incorporated "where possible".</p> | For Natural England's updated position on this topic, please refer to Part II, Table 1 (NE8) of this document. |

Natural England's Written Representations

PART IV: Natural England's detailed comments on the Development Consent Order (DCO) and associated documents

Part IV of these Representations provides Natural England's detailed comments on the Development Consent Order and detailed comments on issues not addressed in the DCO (omission comments).

| Table 3: Natural England's detailed comments on the DCO and associated documents | | | |
|--|---|--|--------------------------|
| Page | DCO or Omission ref | Natural England's comments | Risk (Red/ Amber/ Green) |
| 61 | Requirement 3 – Second Iteration EMP: Register of Environmental Actions and Commitments (REAC) | Natural England notes the inclusion of Table 3-2 within the First Iteration EMP, the REAC (Register of environmental actions and commitments), which sets out all of the required actions and commitments to avoid environmental harm, along with how these have been secured through the DCO. Natural England has been added as a statutory consultee for the Second Iteration EMP in the Draft DCO (Rev 2, October 2024), which is welcomed. | Green |
| 61 & 65 | Requirement 3 – Second Iteration EMP & Requirement 13 – Surface and Foul Water Drainage: Construction surface water management | Natural England refers to our comments at NE1, regarding the need for construction surface water management to avoid impacts to Lamprey associated with the Humber Estuary SAC/Ramsar. The DCO sets out at requirement 3 the need for production of a Pollution prevention Plan (also committed to within REAC ref RDWE2) and an Erosion & Sediment Management Plan (also committed to within REAC ref RDWE3). Requirement 13 also specifies that no development shall commence until such time as ' <i>...means of pollution control</i> ' have been submitted and approved. Natural England welcomes the commitment to the production of these plans and consider that they have been suitably secured through the DCO. We raise no issue with the wording of the DCO with regard to these plans. Natural England will be consulted on these plans as part of the Second Iteration EMP; therefore, we have no further comments to make at this stage. | Green |

| Table 3: Natural England's detailed comments on the DCO and associated documents | | | |
|---|--|--|--|
| Page | DCO or Omission ref | Natural England's comments | Risk (Red/ Amber/ Green) |
| 61 | Requirement 3 – Second Iteration EMP: Piling Works Method Statement | <p>The wording of requirement 3 including the need for the piling works method statement is welcomed. Natural England refers to our comments at NE3, regarding the conclusion of no LSE from piling works on Lamprey associated with the Humber Estuary SAC/Ramsar. The HRA relies upon the piling methods as embedded mitigation to avoid this impact; as such it is important that the piling works method statement is secured within the DCO.</p> <p>As noted in our comments at NE3, clarity has been sought on the rationale behind the conclusion of no LSE from piling works, and an updated HRA is expected to provide additional details. However, we raise no issue with the wording of the DCO with regard to this method statement.</p> | Green |
| 61 | Requirement 3: Second Iteration EMP: Biodiversity Net Gain | <p>Natural England welcomes the commitment in requirement 3 to produce the Biodiversity Net Gain Management and Monitoring Plan and Biodiversity Net Gain Audit Report.</p> <p>With reference to our comments at NE12, whilst there is not mandatory requirement, Natural England would encourage the commitment to the delivery of a minimum of 10% Biodiversity Net Gain.</p> | As BNG is not yet a mandatory requirement on the project Natural England has not assigned a RAG category and our comments at this stage should be considered as advisory only. |
| 61 | Requirement 3: Second Iteration EMP Soil Management Plan | <p>Natural England welcomes the commitment in requirement 3 to produce the Soil Management Plan.</p> <p>With reference to our comments at NE15 and NE16, Natural England would welcome further clarity on these points being included within the oSMP, or REAC, to ensure they are reflected in the detailed SMP. It is also requested that the detailed SMP is adopted in relation to pre-commencement activities as well as construction. We are otherwise content that this plan is secured appropriately in the DCO.</p> | Green |
| 64 | Requirement 10: Protected Species | Natural England welcomes the inclusion of requirement 10. We also welcome the wording specifying that work must cease if any protected species are found beyond those identified in the environmental statement, and work must not re-commence until any necessary licences are obtained. | Green |

| Table 3: Natural England's detailed comments on the DCO and associated documents | | | |
|--|---|--|--------------------------|
| Page | DCO or Omission ref | Natural England's comments | Risk (Red/ Amber/ Green) |
| 65 | Requirement 14: Flood Compensation Storage | <p>Natural England references our comments on NE8. Flood Compensation works may have a likely significant effect to Lamprey Associated with the Humber Estuary SAC/Ramsar, and detailed design of the Flood Compensation Areas (FCAs) is key to ensuring this impact is avoided. Natural England is currently engaging with the Applicant, project team and the Environment Agency regarding the design of fish escape passages associated with the Farndon FCAs.</p> <p>Requirement 14 secures the production of the Flood Compensation Scheme and includes wording to ensure the Environment Agency are consulted, which is welcomed. Nonetheless, Natural England consider this wording could be strengthened to reference the need for this scheme to include fish escape passages and refuge areas, and/or to require <u>agreement</u> with the Environment Agency and Natural England regarding the detail of the Flood Compensation Scheme.</p> | Amber |
| 66 | Requirement 18: Highway Lighting: | <p>Natural England refers to our comments at NE4. Natural England's Relevant Representations noted that the HRA does not reference to operational light spill and its possible effects on migrating lamprey. The Applicant has since confirmed (via Teams meeting 16/09/2024) that there is no existing lighting over Nether Lock Viaduct and Windmill Viaduct and the scheme will not introduce any new operational lighting in closer proximity to the River Trent than is currently present. Natural England accepts this explanation.</p> <p>Requirement 18 includes the need for the highway lighting scheme to reflect the relevant mitigation measures included in Chapter 8 (Biodiversity), which is welcomed.</p> | Green |
| N/A | Omission: Construction Lighting Strategy | <p>Natural England refer to our comments at NE7. Crane slewing could cast lighting on the water during night shifts during construction.</p> <p>Currently, the ES documents and DCO make no reference to a specific lighting strategy for construction. Whilst reference is made to construction light spill mitigation measures in REAC ref. B9, Natural England requests that the text is amended as follows within the First Iteration EMP (and duplicated in the Second Iteration EMP):</p> <p><i>"The following measures are also required to minimise effects on lamprey migratory routes:</i></p> | Amber |

| Table 3: Natural England's detailed comments on the DCO and associated documents | | | |
|--|---------------------|---|--------------------------|
| Page | DCO or Omission ref | Natural England's comments | Risk (Red/ Amber/ Green) |
| | | <ul style="list-style-type: none"> • <i>Night working will be restricted along the majority of the working width along the River Trent to minimise the requirement for artificial lighting to be used where possible, thereby avoiding disturbance effects of artificial lighting on sensitive ecological features.</i> • <i>Where this is not possible, static, task lighting with cowls will direct light towards the areas of works and avoid direct illumination of the River Trent. The only exception to this would be during crane slewing, where the lighting on the boom may cast across the water before coming to rest on the beam lift, which would be temporary and short-term (taking place over four 30-minute intervals during a night shift)."</i> | |