

Date: 13 March 2024
Our ref: 462330
Your ref: TR030008

The Planning Inspectorate
Major Applications & Plans
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BY EMAIL ONLY

Dear Inspector,

NSIP Reference Name / Code: TR030008
User Code: 20047066

Title: Natural England's comments in respect of the Immingham Green Energy Terminal Project, promoted by Associated British Ports (Deadline 1).

Examining Authority's submission deadline with a date of 13 March 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 Elen Squires at ██████████@naturalengland.org.uk and copy to consultations@naturalengland.org.uk.

Yours faithfully

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Natural England's Written Representations Version 1.1.

PART I: Summary and conclusions of Natural England's advice.

PART II: Natural England's detailed advice (starting on page 9)

PART III: Natural England's response to the Examining Authority's (ExA's) first written questions (starting on page 35)

PART IV: Natural England's detailed comments on the Development Consent Order (DCO) (starting on page 44)

Summary of Natural England's advice

Natural England's advice is that, in relation to identified nature conservation issues within its remit, there is no fundamental reason of principle why the project should not be permitted. However, Natural England considers that the applicant has provided insufficient evidence and is not yet satisfied that the following issues have been resolved:

- **Internationally Designated Sites**
 - Lighting effects on coastal waterbirds (construction and operation phase) ('amber')
 - In-combination assessment at screening stage (construction and operation phase) ('amber')
 - Direct loss of qualifying intertidal habitat (construction phase) ('amber')
 - Effects of airborne noise and visual disturbance to birds during construction (construction phase) ('amber')
 - Airborne noise and visual disturbance to birds during construction – Programming of works (construction phase) ('amber')
 - Airborne noise and visual disturbance to birds during construction – Proposed mitigation (construction phase) ('amber')
 - Air quality impacts from traffic (construction and operation phase) ('amber')
 - Air quality impacts from marine vessels (construction phase) ('amber')
 - Air quality impacts – saltmarsh critical load (operation phase) ('amber')
 - Air quality impacts – marine vessels (operation phase) ('amber')
 - Consideration of combined effects (construction phase) ('amber')
 - In-combination assessment at appropriate assessment stage general comments (construction and operation phase) ('amber')
 - Cumulative underwater noise disturbance and barrier effects to grey seal (construction and operation phase) ('amber')
 - In-combination assessment – visual and noise disturbance to SPA birds (construction phase) ('amber')
 - Air quality – in combination assessment ('amber')
 - HRA – conclusions ('amber')
 - HRA – cumulative assessment (construction and operation phase) ('amber')
- **Nationally Designated Sites**
 - In-combination air quality impacts from traffic for Hatfield Chase Ditches SSSI (construction phase) ('amber')

Natural England has also noted a number of 'yellow' issues. We would ideally like these to be addressed, but we are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process.

- **Internationally Designated Sites**
 - Underwater noise and vibration during marine piling on qualifying species of marine mammals (construction phase) ('yellow')
 - Introduction of non-native species during operation (operation phase) ('yellow')
 - Air quality impacts – overall comments ('yellow')
 - Chapter 10 Ornithology – Assessed sensitivity of ornithology receptors ('yellow')

We welcome the further information provided by the applicant since submission of our Relevant Representations (RR-019) (dated 04 December 2023) and consider that the following issues have

now been resolved, subject to the completion of agreed revisions to the Habitats Regulations Assessment (HRA) for internationally designated sites issues, and subject always to the appropriate requirements being adequately secured for all relevant issues:

- **Internationally Designated Sites**
 - Direct loss of qualifying subtidal habitat (construction phase) ('green')
 - Assessment of SPA qualifying features (construction and operation phase) ('green')
 - Changes to waterbird foraging and roosting habitat as a result of the presence of marine infrastructure during operation (operation phase) ('green')
 - Comment on benthic assessment (construction phase) ('green')
 - Changes to qualifying habitats as a result of the removal of seabed material during maintenance dredging (operation phase) ('green')
 - Effects of airborne noise and visual disturbance to birds during operation (operation phase) ('green')
 - Underwater noise and vibration during marine piling on qualifying species of fish (construction phase) ('green')
 - In-combination assessment – underwater noise and vibration during marine piling on qualifying species of marine mammals (construction phase) ('green')
- **Soils and Best and Most Versatile Agricultural Land**
 - ALC survey coverage ('green')
 - ALC survey report comments ('green')
 - Sustainable soil management ('green')

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

- 1.1 Natural England's advice in these Written Representations is based on information submitted by Associated British Ports (ABP) in support of its application for a Development Consent Order ('DCO') in relation to Immingham Green Energy Terminal (IGET) (*the project*).
- 1.2 Please note that the below advice does not relate to the *Applicant's request for ExA advice on scope of consultation re proposed changes to DCO Application (AS-020)* submitted on 08 March 2024. Natural England will respond to the proposed changes when consulted.
- 1.3 Part I of these Written Representations provides a summary 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-019).
- 1.4 Part II of these Written Representations updates and where necessary augments Part II of the Relevant Representations (RR-019). It expands upon the detail of all the significant issues ('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 have been agreed since our Relevant Representations (RR-019) (subject always to the appropriate requirements being secured adequately).
- 1.5 Part III of these Written Representations details Natural England's response to the Examining Authority's (ExA's) first written questions.
- 1.6 Part IV of these Written Representations details Natural England's comments on the draft Development Consent Order (DCO), Deemed Marine Licence (DML) and associated documents.

- 1.7 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
 - Biodiversity net gain
 - Protected species
- 1.8 Our comments are flagged as red, amber or green:
- **Red** 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.
 - **Yellow** are those where Natural England does not agree with the Applicant's position or approach. We would ideally like this to be addressed but are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. However, we reserve the right to revise our opinion should further evidence be presented. It should be noted by interested parties that whilst these issues/comments are not raised as significant concerns in this instance, it should not be understood or inferred that Natural England would be of the same view in other cases or circumstances.
 - **Green** are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured).
 - **Grey** are notes for Examiners and/or competent authority.
- 1.9 Natural England has been working with Associated British Ports (ABP) to provide advice and guidance on the IGET project since 2022 through Natural England's Discretionary Advice Service. We have engaged on the draft Statement of Common Ground (SoCG).
- 1.10 Natural England will continue discussions with ABP to seek to resolve these concerns throughout the examination. Natural England advises that the matters indicated as 'amber' will require continued consideration by the Examining Authority during the examination.

2. The natural features potentially affected by this application

2.1 Internationally designated sites

- 2.1.1 Natural England's position regarding internationally designated sites **has** changed since submission of our Relevant Representations (RR-019) for a number of key issues.
- 2.1.2 Our updated advice regarding impacts on internationally designated sites on the basis of further information submitted is set out below. Further detail on our reasoning for this is given against each impact pathway within Part II.
- 2.1.3 Natural England is not yet satisfied for 'amber' issues identified in the text below that it can be ascertained beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity (AEoI) of the following internationally designated sites:
- Humber Estuary Special Area of Conservation (SAC).

- Humber Estuary Special Protection Area (SPA).
- Humber Estuary Ramsar.

2.1.4 Further information is required to assess the following impact pathways:

- Lighting effects on coastal waterbirds (construction and operation phase) ('amber') (NE2)
- In-combination assessment at screening stage (construction and operation phase) ('amber') (NE3)
- Direct loss of qualifying intertidal habitat (construction phase) ('amber') (NE4)
- Effects of airborne noise and visual disturbance to birds during construction (construction phase) ('amber') (NE19)
- Airborne noise and visual disturbance to birds during construction – Programming of works (construction phase) ('amber') (NE20)
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation (construction phase) ('amber') (NE21)
- Air quality impacts from traffic (construction and operation phase) ('amber') (NE30)
- Air quality impacts from marine vessels (construction phase) ('amber') (NE31)
- Air quality impacts – saltmarsh critical load (operation phase) ('amber') (NE32)
- Air quality impacts – marine vessels (operation phase) ('amber') (NE33)
- Consideration of combined effects (construction phase) ('amber') (NE35)
- In-combination assessment at appropriate assessment stage general comments (construction and operation phase) ('amber') (NE36)
- Cumulative underwater noise disturbance and barrier effects to grey seal (construction and operation phase) ('amber') (NE38)
- In-combination assessment – visual and noise disturbance to SPA birds (construction phase) ('amber') (NE39)
- Air quality – in combination assessment ('amber') (NE40)
- HRA – conclusions ('amber') (NE41)
- HRA – cumulative assessment (construction and operation phase) ('amber') (NE52)

2.1.5 Natural England has also noted a number of 'yellow' issues in relation to the Humber Estuary designated sites. As stated in section 1, we would ideally like these to be addressed, but we are satisfied that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. Please find a summary of each 'yellow' issue below, and refer to Table 1 for further details:

- Underwater noise and vibration during marine piling on qualifying species of marine mammals (construction phase) ('yellow') (NE23)
- Introduction of non-native species during operation (operation phase) ('yellow') (NE29)
- Air quality impacts – overall comments ('yellow') (NE34)
- Chapter 10 Ornithology – Assessed sensitivity of ornithology receptors ('yellow') (NE42)

2.1.6 Natural England is satisfied that 'green' issues are unlikely to result in adverse effects on the integrity (AEoI) of the Humber Estuary designated sites, subject always to the appropriate mitigation / compensation as outlined in the application documents being secured adequately. For a full list of 'green' issues please see NE1, NE5, NE9, NE10, NE11, NE14, NE15, NE16, NE17, NE18, NE26, NE27, NE28 and NE50 of our Relevant Representations (RR-019). Please find a summary of each new 'green' issue below, and refer to Table 1 for further details:

- Direct loss of qualifying subtidal habitat (construction phase) ('green') (NE6)

- Assessment of SPA qualifying features (construction and operation phase) ('green') (NE7)
- Changes to waterbird foraging and roosting habitat as a result of the presence of marine infrastructure during operation (operation phase) ('green') (NE8)
- Comment on benthic assessment (construction phase) ('green') (NE12)
- Changes to qualifying habitats as a result of the removal of seabed material during maintenance dredging (operation phase) ('green') (NE13)
- Effects of airborne noise and visual disturbance to birds during operation (operation phase) ('green') (NE22)
- Underwater noise and vibration during marine piling on qualifying species of fish (construction phase) ('green') (NE25)
- In-combination assessment – underwater noise and vibration during marine piling on qualifying species of marine mammals (construction phase) ('green') (NE37)

2.1.7 Natural England has also included a 'grey' issue, which includes notes for Examiners and/or competent authority. Please find a summary of each 'grey' issue below, and refer to Table 1 for further details:

- South Humber Gateway Mitigation Strategy ('grey') (NE43).

2.2 Nationally designated sites

2.2.1 Natural England's position regarding nationally designated sites **has** changed since submission of our Relevant Representations (RR-019). Our updated advice regarding impacts on nationally designated sites on the basis of further information submitted is set out below. Further detail on our reasoning for this is given against each impact pathway within Part II.

2.2.2 On the basis of the information submitted in relation to these sites, Natural England is not yet satisfied that the project is not likely to damage features of interested of the following nationally designated sites:

- Humber Estuary SSSI.
- North Killingholme Haven Pits SSSI.
- Hatfield Chase Ditches SSSI.

2.2.3 Further information is required to assess the following impact pathways:

- Air Quality impacts from traffic for Hatfield Chase Ditches SSSI ('amber') (NE44).

2.2.4 We note that the Humber Estuary SSSI (and North Killingholme Haven Pits SSSI, where relevant) nationally designated site features that are affected by this proposal are broadly the same as the internationally designated site features. Please refer to the points in the 'Internationally designated sites' section above for all 'amber', 'yellow' and 'grey' issues, that also apply to the Humber Estuary SSSI (and North Killingholme Haven Pits SSSI, where relevant).

2.2.5 Please refer to 'Internationally designated sites' section above and Table 1, for 'green' issues that Natural England consider are unlikely to damage or destroy the interest features for which the relevant nationally designated sites have been notified, subject to the appropriate mitigation as outlined in the application documents being secured adequately.

2.3 Protected species

2.3.1 Natural England is not providing bespoke advice on the protected species information provided in the Environmental Statement (ES) for this project. Please refer to Table 1 for a summary of our standing advice ('grey') (NE49).

2.4 Biodiversity Net Gain Provision

2.4.1 Natural England's position regarding provision of biodiversity net gain **has not** changed since submission of our Relevant Representations (RR-019).

2.4.2 Our position regarding biodiversity net gain provision is as set out in our Relevant Representations (RR-019). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

2.4.3 Although BNG is not yet a mandatory requirement for NSIPs, we strongly recommend that BNG provision is secured through this development ('grey') (NE51).

2.5 Soils and best and most versatile agricultural land

2.5.1 Natural England's position regarding soils and the best and most versatile agricultural land **has** changed since submission of our Relevant Representations (RR-019).

2.5.2 Our updated advice regarding impacts on soils and the best and most versatile agricultural land on the basis of further information submitted is set out in the paragraphs below. Further detail on our reasoning is given in Part II.

2.5.3 Natural England is satisfied that 'green' issues regarding soils and best and most versatile agricultural land have been adequately resolved, subject to the appropriate measures as outlined in the application documents being secured. Please find a summary of each new 'green' issue below, and refer to Table 1 for further details:

- ALC survey coverage ('green') (NE46)
- ALC survey report comments ('green') (NE47)
- Sustainable soil management ('green') (NE48)

2.6 Ancient Woodland

2.6.1 Natural England is not providing bespoke advice on the ancient woodland information provided in the Environmental Statement (ES) for this project. Please refer to Table 1 for a summary of our standing advice ('grey') (NE53).

Natural England's Written Representations

3. Part II: Natural England's detailed advice

- 3.1 Part II of these Representations updates and where necessary augments Part II of the Relevant Representations. It expands upon the detail of all the significant issues ('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 have been agreed since our Relevant Representations (RR-019) (subject always to the appropriate requirements being secured adequately).
- 3.2 Natural England's advice is that there are a number of matters which have not been resolved satisfactorily since the submission of our Relevant Representations (RR-019), as summarised in Part 1, Section 2 above and outlined in further detail in Table 1 below.
- 3.3 Some of these matters are important enough to mean that if they are not satisfactorily addressed it would not be lawful to permit the project due to its impacts on the SAC, SPA, Ramsar and SSSI interests. However, Natural England's advice is that all of these matters are capable of being overcome. The specific concerns in relation to each are detailed in Table 1.
- 3.4 Natural England advises that, if approved, the project must be subject to all necessary and appropriate requirements which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated.
- 3.5 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 'amber' will require consideration by the Examining Authority during the examination.

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

Table 1: Natural England’s detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE6	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar 	HRA - The potential effects of the direct loss of qualifying subtidal habitat (C)	Natural England welcomes the additional information provided in ABP’s draft response to relevant representations [TR030008/EXAM/9.2]. We consider that this matter can be agreed, based on the information provided, subject to relevant updates to the shadow HRA.	No further information required.	‘Green’
NE7	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA 	HRA – SPA qualifying features (C and O)	Natural England welcomes the additional information provided in ABP’s draft response to relevant representations [TR030008/EXAM/9.2], and agrees that these points in relation to bird data have been addressed. Natural England welcomes the commitment to update the shadow HRA with this information.	No further information required.	‘Green’

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE8	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	HRA - The potential effects due to changes to waterbird foraging and roosting habitat as a result of the presence of marine infrastructure during operation on qualifying species (O)	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2], and agrees this point in relation to roosting and foraging habitat for SPA waterbirds have been addressed.	No further information required.	'Green'
NE12	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC 	HRA – comment on benthic assessment (C)	Natural England is now satisfied that this issue has been resolved with the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2].	No further information required.	'Green'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE13	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar 	HRA - The potential effects of changes to qualifying habitats as a result of the removal of seabed material during maintenance dredging (O)	Natural England is now satisfied that this issue has been resolved with the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2].	No further information required.	'Green'
NE22	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	Effects of airborne noise and visual disturbance to birds during operation (O)	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2], and agrees that this point in relation to effects of noise and visual disturbance during operation has been addressed. Natural England welcomes the commitment to update the shadow HRA with this information.	No further information required.	'Green'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE25	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar 	HRA - Underwater noise and vibration during marine piling on qualifying species of fish (C)	Natural England welcomes the additional information provided and the commitment to extending the night-time restrictions to include vibro-piling. We consider that this matter can be agreed, subject to relevant updates to the shadow HRA, draft DML and associated documents.	No further information required.	'Green'
NE37	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar 	HRA – In-combination assessment - Underwater noise and vibration during marine piling on qualifying species of marine mammals (C)	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. Natural England are satisfied with the screening distance used and consider that this matter can be agreed.	No further information required.	'Green'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE46	Soils and Best and Most Versatile Agricultural Land	ALC survey coverage	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. We consider that this matter can be agreed, based on the information provided.	No further information required.	'Green'
NE47	Soils and Best and Most Versatile Agricultural Land	ALC survey report comments	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. We consider that this matter can be agreed, based on the information provided.	No further information required.	'Green'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE48	Soils and Best and Most Versatile Agricultural Land	Sustainable soil management	Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. We consider that this matter can be agreed, based on the information provided.	No further information required.	'Green'
NE2	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	HRA – screening comments - Lighting effects on coastal waterbirds (C and O)	<p>Natural England welcomes the further information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2].</p> <p>Natural England advises that we are content that impacts on SPA birds using intertidal areas has been addressed. However, we advise that additional information on impacts on waterbirds using open water such as shelduck is provided.</p> <p>Discussions regarding the potential impacts of the flare stacks on SPA birds are ongoing.</p>	Further information required to determine requirement for mitigation.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE3	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar • Greater Wash SPA • The Wash and North Norfolk Coast SAC 	HRA screening comments – In-combination assessment at screening stage (C and O)	<p>At this stage, Natural England's position broadly remains as set out in NE3 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the commitment to update the Shadow HRA and will review the information when submitted.</p>	Further information required to determine requirement for mitigation.	'Amber'
NE4	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar 	HRA - The potential for an AEoI due to the direct loss of qualifying intertidal habitat (C)	Natural England welcomes the additional information provided by the Applicant in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. However, we advise that further information is required to determine whether a conclusion of no AEoI from direct loss of intertidal habitat can be reached (Table 7 in the shadow HRA). As the feature is currently not achieving its conservation objectives and the aim is to restore the extent and distribution of the habitat, the appropriate assessment should provide clear reasons why a further loss of habitat can be considered ecologically inconsequential. The loss of habitat may	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>be considered small, however scale/area is not the only factor to consider when examining integrity. We advise that the appropriate assessment should consider the ecological impacts of the habitat loss in more detail; in particular it should consider how the area affected contributes to the structure and function of the wider habitat (e.g. how would the habitat loss impact the abundance and diversity of species of the habitat?).</p> <p>At this stage, Natural England's position broadly remains as set out in NE4 of our Relevant Representations (RR-019).</p>		
NE19	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction (C)	<p>At this stage, Natural England's position broadly remains as set out in NE19 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2], however due to the limited time to review the information, we aim to comment further on this issue for Deadline 2.</p>	Further information required to determine requirement for further mitigation.	'Amber'
NE20	International designated sites	Airborne Noise and Visual Disturbance to	At this stage, Natural England's position broadly remains as set out in NE20 of our Relevant Representations (RR-019).	Further information required to	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
	<ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	<p>birds during construction – Programming of works</p> <p>(C)</p>	<p>Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2] on this point, however due to the limited time to review the information, we aim to comment further on this issue for Deadline 2.</p>	<p>determine requirement for further mitigation.</p>	
NE21	<p>International designated sites</p> <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	<p>Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation</p> <p>(C)</p>	<p>At this stage, Natural England's position broadly remains as set out in NE21 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2] on this point, however due to the limited time to review the information, we aim to comment further on this issue for Deadline 2.</p>	<p>Further information required to determine requirement for further mitigation.</p>	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE23	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary Ramsar 	HRA - Underwater noise and vibration during marine piling on qualifying species of marine mammals (C)	Natural England is of the opinion that the production of an MMMP would be useful as the project includes non-standard mitigation i.e. cease piling if marine mammals are observed in the mitigation zone. However, this was intended to be a suggestion rather than a condition and would not result in a material difference to the assessment outcome. Therefore, we have re-categorised this as a yellow issue.	Further information welcomed.	'Yellow'
NE29	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary Ramsar 	HRA – introduction of non-native species during operation (O)	Natural England agree with the Applicant's conclusions that there will be no adverse effect on integrity from the potential introduction and spread of non-native species during operation, subject to securing and implementation of ABP's existing biosecurity management procedures (Table 32 of the shadow HRA). However, we would encourage that an overall biosecurity management plan including the operational facility is produced and we welcome further discussion.	Further information welcomed.	'Yellow'
NE30	International designated sites	HRA - Air quality impacts from traffic - (C and O)	Natural England welcomes the further information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2] and confirmation that guidance document NEA001 has been used in the assessment. However, the shadow	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
	<ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 		<p>HRA [APP-238] states that 'there are no designated nature conservation receptors within 200m of a road that exceeds the IAQM and EPUK screening guidance on local roads', whereas in ABP's draft response to relevant representations [TR030008/EXAM/9.2] states that 'there are no European sites within 200m of an affected road'.</p> <p>Therefore, we request clarification on whether there are no European sites within 200m of any road used by Project-related traffic, or whether there are just no European sites within 200m of a road that exceeds the screening guidance.</p>		
NE31	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 	Air quality impacts from marine vessels (C)	Natural England notes that potential air quality impact of emissions from marine vessels used during construction have been screened out based on a 3km distance between vessels and sensitive features of the Humber Estuary SAC; the number of vessels; and the operational duration. There are not any widely recognised screening distance thresholds of material impacts from marine vessels and therefore there is uncertainty as to whether the 3km distance is sufficient for impacts to be insignificant. As phase 1 of the construction period may have a two year duration, there is the potential for impacts from construction vessels to be sustained for two years. Dispersion modelling of vessels used during construction is therefore considered necessary to establish	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>whether there could be a significant impact on habitats. It is recommended that a modelled grid over 10km is modelled with discrete receptors to represent the nearest sensitive ecological receptors and to understand the extent of impacts from construction vessels.</p> <p>To clarify, Natural England recommends that a 10km screening distance is used, in line with the Environment Agency's <u>Air emissions risk assessment for your environmental permit - GOV.UK (www.gov.uk)</u> advice that European designated sites within 10km of the site are assessed. We note, however, that there is no planning and assessment guidance specifically for vessels. In the absence of further evidence to justify an alternative approach, we consider this to be the most suitable screening distance. However, we welcome further discussions with the Applicant regarding existing evidence that may inform an alternative approach.</p>		
NE32	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC 	Air quality impacts – saltmarsh critical load (O)	Natural England notes from 4.7.15 to 4.7.22 of the HRA that nitrogen deposition impacts are insignificant within Humber Estuary saltmarsh habitats against the critical load of 20kg/ha/yr, which is at the higher scale of the Critical Load range provided for this habitat by APIS (10-20kg/ha/yr). Whereas, when comparing to the lower critical load of 10kg/ha/yr (6.8.61 and 6.8.62 of ES	Further information required to determine requirement for mitigation.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
	<ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 		<p>chapter 6), the vessel project contribution to nitrogen deposition is over 1% and the total concentration over 100% of the CL at two receptors (O_E1, O_E2) within the saltmarsh habitats.</p> <p>The report cites the importance of frequency and duration of inundation by seawater as the reasoning for the selection of the critical load of 20 kg//ha/yr for saltmarsh areas of the lower estuary. Many areas of the Humber Estuary are regularly inundated; however, Natural England advises that further information is required to determine whether 20 kg//ha/yr is the most appropriate critical load to use in this case.</p> <p>Natural England generally advises that the upper CL is acceptable for areas of pioneer/lower saltmarsh, whereas the lower CL should be used for areas of upper saltmarsh. This is in line with APIS advice and essentially is because of how inundated/vegetated the habitat is. The justification for the selection of the critical load should consider the sensitivity of individual botanical species or assemblage found within the Humber Estuary saltmarsh habitats to impacts from nitrogen deposition. From the assessment, it is unclear whether there are species or the botanical assemblage within saltmarsh that are more sensitive to nitrogen deposition than the 20kg N/ha/yr critical load stated. Therefore, Natural England advises that further information should be provided on the</p>		

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>species present in these areas of saltmarsh to inform whether the saltmarsh at the receptor location is likely to be upper or lower saltmarsh.</p> <p>We recommend that the assessment refers to further sources of information, such as aerial photography; the Environment Agency's mapping project of saltmarsh types; and/or vegetation records on NBN Atlas, to determine the extent of vegetation of these areas and determine whether the appropriate CL has been applied.</p>		
NE33	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	Air quality impacts – marine vessels (O)	<p>Natural England welcomes the further information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2], regarding the amount of time that vessels could be docked and the confirmation that this represents a precautionary assessment.</p> <p>However, we reiterate that it should be determined whether there is a requirement to secure the maximum number of vessel movements in the DCO, as these values are relied upon in the HRA conclusions.</p>	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>Therefore, clarification should be provided on whether future vessel movements may increase, or whether this is constrained by other factors.</p> <p>Natural England would welcome a Vessel Management and Monitoring Plan, to ensure that vessel movements remain within the assessed limits. Discussion is ongoing regarding this issue.</p>		
NE34	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	Air quality impacts – overall comments	<p>Natural England welcomes the commitment in ABP's draft response to relevant representations [TR030008/EXAM/9.2], to provide the source apportionment of site and vessel emissions to the Project pollutant contributions, as reported in the Environmental Statement, in a Technical Note, and will review the information when submitted.</p> <p>Natural England notes and accepts the justification provided regarding flare stack modelling. We re-highlight that information on potential emissions from the flare stacks should also be incorporated into the HRA.</p> <p>Natural England note and accept the correction of the typographical errors.</p>	Further information welcomed.	'Yellow'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE35	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	HRA – consideration of combined effects (C)	<p>At this stage, Natural England's position broadly remains as set out in NE35 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the commitment to update the shadow HRA and will review the information when submitted.</p>	Further information required to determine requirement for further mitigation.	'Amber'
NE36	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 	HRA - In-combination assessment at appropriate assessment stage general comments (C and O)	<p>At this stage, Natural England's position broadly remains as set out in NE36 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the commitment to update the shadow HRA and will review the information when submitted. We agree with the statement in ABP's draft response to relevant representations [TR030008/EXAM/9.2] that '<i>marine based mitigation... including those identified for relevant projects screened into the in-combination assessment, typically reduce potential residual effects to an acceptable level rather than completely avoiding/removing a potential impact on a receptor.</i>' However, we highlight that if there is a residual effect after an appropriate assessment has been carried out of the project alone, then there is a need for that appropriate assessment to further consider the impact of this residual effect in-combination with other plans and projects. We highlight that the in-combination</p>	Further information required to determine requirement for further mitigation.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			assessment should therefore assess whether these residual effects may combine/interact with those associated with other relevant plans/projects to produce an effect that is greater than the effect of the project alone. Therefore, the assessment should determine whether there is an adverse effect on site integrity in-combination for the relevant impact pathways.		
NE38	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary Ramsar 	HRA – Cumulative underwater noise disturbance and barrier effects to grey seal (C and O)	At this stage, Natural England's position broadly remains as set out in NE38 of our Relevant Representations (RR-019). We welcome that further information has been provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. We aim to comment further on this at Deadline 2.	Further information required.	'Amber'
NE39	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA 	HRA – In-combination assessment – Visual and noise disturbance to SPA birds (c)	At this stage, Natural England's position broadly remains as set out in NE39 of our Relevant Representations (RR-019). Natural England welcomes the commitment to update the shadow HRA and will review the information when submitted.	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
	<ul style="list-style-type: none"> Humber Estuary Ramsar 				
NE40	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 	Air quality – in combination assessment	As highlighted in NE30, Natural England request that clarification should be provided regarding whether there are no European sites within 200m of any road used by Project-related traffic, or whether there are just no European sites within 200m of a road that exceed the screening guidance. We will review the information provided in more detail once this is confirmed.	Further information required to determine requirement for mitigation.	'Amber'
NE41	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC 	HRA – conclusions	<p>At this stage, Natural England's position broadly remains as set out in NE41 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the commitment to update the shadow HRA and will review the information when submitted.</p>	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
	<ul style="list-style-type: none"> Humber Estuary Ramsar Humber Estuary SPA 				
NE42	International designated sites <ul style="list-style-type: none"> Humber Estuary Ramsar Humber Estuary SPA 	Chapter 10 Ornithology – Assessed sensitivity of ornithology receptors	<p>At this stage, Natural England's position broadly remains as set out in NE42 of our Relevant Representations (RR-019).</p> <p>Natural England welcome the additional information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2] on this point, however due to the limited time available to review the information, we aim to comment further on this issue for Deadline 2</p>	Further information welcomed.	'Yellow'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE43	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	South Humber Gateway Mitigation Strategy	<p>Natural England reiterates that the development falls within the South Humber Gateway Mitigation Zone. Policy 9 of the North East Lincolnshire Local Plan states <i>“Development proposals on greenfield land within the Mitigation Zone will be required to make contributions towards the provision and management of the mitigation sites identified on the Policies Map.”</i></p> <p>Whilst we acknowledge that 1.4.40 of the HRA describes the limited habitat suitability of the West Site area for SPA birds and refers to wintering bird survey results that recorded no SPA birds within this area, Natural England considers that the South Humber Gateway Mitigation Strategy is intended to apply to all relevant developments within this zone to address the adverse impacts of development at a strategic level, irrespective of whether the individual development site is determined to be functionally linked land in further bird surveys.</p> <p>Therefore, the requirement to contribute to the scheme should be determined by the relevant authority.</p>		‘Grey’

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE44	Nationally designated sites <ul style="list-style-type: none"> Hatfield Chase Ditches SSSI 	Air Quality impacts from traffic – construction phase (C)	<p>At this stage, Natural England's position broadly remains as set out in NE44 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the further information provided in ABP's draft response to relevant representations [TR030008/EXAM/9.2]. However, we highlight that whilst <i>'APIS indicates that background nitrogen deposition at this SSSI is on an improving (reducing) trajectory'</i>, if the site is over its critical load then any forecasted decrease that is taken up again by additional inputs would "retard" the restoration of notified features. Therefore, we advise that further information is provided in the assessment, such as consideration of "retardation time" on pollutant reduction.</p>	Further information required.	'Amber'
NE49	Protected Species	Protected species - General	<p>Natural England has adopted standing advice for protected species, which includes guidance on survey and mitigation measures. Natural England is not providing bespoke advice on the protected species information provided in the ES for this project.</p> <p>A separate protected species licence from Natural England or Defra may be required. Applicants should refer to the guidance at Wildlife licences: when you need to apply to check to see if a mitigation licence is required. Applicants can also make use of Natural England's charged service Pre Submission Screening</p>	Requirement for mitigation not assessed by Natural England.	'Grey'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>Service for a review of a draft wildlife licence application. Natural England can then review a full draft licence application to issue a Letter of No Impediment (LONI) which explains that based on the information reviewed to date, that it sees no impediment to a licence being granted in the future should the DCO be issued. See Advice Note Eleven, Annex C – Natural England and the Planning Inspectorate National Infrastructure Planning for details of the LONI process.</p>		
NE51	Biodiversity Net Gain (BNG)	Biodiversity Net Gain (BNG) - no BNG provision (c)	<p>The Environment Act 2021 includes NSIPs in the requirement for BNG. The biodiversity gain objective for NSIPs is defined as at least a 10% increase in the pre-development biodiversity value of the on-site habitat.</p> <p>It's the intention that BNG should apply to all terrestrial NSIPs accepted for examination from November 2025. This includes the intertidal zone but excludes the subtidal zone.</p> <p>Although BNG is not yet a mandatory requirement for NSIPs, we strongly recommend that net gain provision is secured through this</p>		'Grey'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p>development. This will reflect the important role NSIPs must play in delivering the government's environmental targets.</p> <p>Early engagement with Natural England on BNG proposals will help maximise outcomes and reduce risks.</p> <p>The biodiversity baseline should include all land contained within the site's red line boundary and proposals can be iteratively refined over time and throughout detailed design.</p> <p>We encourage developers to:</p> <ul style="list-style-type: none"> • develop their BNG proposals in adherence with well-established BNG principles. To encourage best practice, we can also direct developers to the following: <ul style="list-style-type: none"> ○ BS 8683:2021 Process for designing and implementing Biodiversity Net Gain ○ CIEEM/IEMA/CIRIA good practice principles (2016) and guidance (2019). • We recommend that developers use the latest version of the Defra biodiversity metric to calculate BNG (currently 		

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
			<p><u>version 4.0</u>) and adhere to the rules and principles set out within the metric guidance.</p> <p>Biodiversity gains should be secured for a minimum of 30 years and be subject to adaptive management and monitoring. BNG plans should be secured by a suitably worded requirement in the DCO.</p>		
NE52	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar • Humber Estuary SAC 	HRA - Cumulative assessment (C and O)	<p>At this stage, Natural England's position broadly remains as set out in NE52 of our Relevant Representations (RR-019).</p> <p>Natural England welcomes the commitment to update the Shadow HRA and will review the information when submitted.</p>	Further information required.	'Amber'

Table 1: Natural England's detailed advice					
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	Natural England commentary and advice on the further information required to enable assessment	Natural England comment on the mechanism for securing mitigation/ compensation measures in the DCO/ deemed marine licence	Risk (RAG)
NE53	Ancient woodland		Natural England has adopted standing advice for ancient woodland, which should be referred to. Natural England is not providing bespoke advice on the ancient woodland information provided in the ES for this project.	Requirement for mitigation not assessed by Natural England.	'Grey'

Natural England's Written Representations

4. PART III: Natural England's response to the Examining Authority's (ExA's) first written questions with a deadline of 13 March 2024

ExA question ref	Question addressed to	Question	Answer
Q1.4.1.3	North East Lincolnshire Council Natural England	<p>Design Assessment</p> <p>a) Do you agree with the assessments within the application [APP-226, Section 4.3] [APP-233] and are you satisfied that there is sufficient information contained within the application to secure design outcomes that would be compatible with the surrounding area should the Proposed Development be granted Development Consent?</p> <p>b) Are there Local Design Policies that would be important and relevant to the design outcomes of the Proposed Development? Explain how these have been taken into account by the Applicant in either the Design Evolution document [APP-233] or elsewhere in the Application?</p> <p>c) Applicant, may also respond.</p>	Natural England has no comments to make on the Design Assessment as this does not fall within our remit on designated landscapes as set out in <i>Advice Note 11, Annex C – Natural England and the Planning Inspectorate</i> .
Q1.5.1.2	Natural England	<p>Spatial Scope</p> <p>ES [APP-052, Paragraph 10.8.5] states that the Killingholme Haven Pits Site of Special Scientific Interest (SSSI), located 6km from the site boundary, could be functionally linked to the mudflat habitat present on site with local populations of species such as Dunlin and Black-tailed Godwit potentially utilising both areas. However, it further explains that the Killingholme Haven Pits SSSI is considered too distant to be impacted directly by the Proposed Development and has been scoped out of the Ornithology Assessment.</p>	Natural England notes that there is connectivity between the Humber Estuary and North Killingholme Haven Pits SSSI in terms of bird usage. Impacts to the Humber Estuary therefore have the potential to indirectly impact birds associated with North Killingholme Haven Pits SSSI. Therefore, we advise that North Killingholme Haven Pits SSSI remains scoped in until the assessment of bird disturbance impacts on the Humber designated sites is updated, and any outstanding issues are resolved. Black-tailed godwit are a non-breeding feature of this SSSI, and if the project is determined to have

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		Does NE agree that the Proposed Development would not directly or indirectly impact the Killingholme Haven Pits Site of Special Scientific Interest (SSSI) and are they content that it has been scoped out of Assessment?	<p>an overall negative impact on Humber Estuary SPA/Ramsar, indirect impacts to this SSSI will need to be considered.</p> <p>Due to the distance of the proposed development from North Killingholme Haven Pits SSSI, Natural England agree that direct impacts can be ruled out.</p>
Q1.5.2.6	<p>Natural England</p> <p>Marine Management Organisation</p> <p>North East Lincolnshire Council</p>	<p>Mitigation</p> <p>Confirm that you are satisfied with the proposed mitigation measures in respect to Marine Ecology that are set out in [APP-223].</p>	Apart from our outstanding comments detailed above in NE23 and NE29, and as detailed in our Relevant Representations (RR-019), Natural England are satisfied with the mitigation measures proposed for impacts to marine ecology.
Q1.5.2.8	<p>Natural England</p> <p>Marine Management Organisation</p> <p>Environment Agency</p>	<p>Assumptions and limitations</p> <p>The assumptions and limitations in ES [APP-051, Paragraph 9.4.31] relate to baseline surveys and assessment scenarios and states that the surveys used to inform the fish assessment do not overlap specifically with the site but are considered representative of the fish assemblage that could be present within the dredge footprint and surrounding local area.</p> <p>Are you satisfied that the fish survey data used to inform the baseline conditions for the fish assessment are representative of the fish assemblage present in the area?</p>	Natural England is of the opinion that the fish survey data used to inform the baseline conditions for the fish assessment are representative of the fish assemblage present in the area.
Q1.5.3.5	Natural England	Cumulative Impacts	<u>Does NE agree that terrestrial ecology impacts are limited to within the site boundary?</u>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		<p>ES [APP-221, Section 1.5] states that the terrestrial ecology assessment did not identify any impacts to receptors beyond the site boundary. Accordingly, Paragraph 1.5.1 concludes that there is no potential for the construction or operation of the Proposed Development to give rise to significant cumulative effects on terrestrial ecology receptors. Paragraph 1.5.2 states that impacts to terrestrial habitats or species from IERRT are also limited. As a result, it states that the Proposed Development would not interact cumulatively with the IEERT in respect of terrestrial ecology.</p> <p>Does NE agree that terrestrial ecology impacts are limited to within the site boundary and that the Proposed Development would not give rise to any cumulative effects on terrestrial ecology receptors with any of the other developments identified within the short list?</p>	<p>Natural England cannot agree that terrestrial ecology impacts are limited to within the site boundary at this stage. We note that 8.1.3 of the Environmental Statement Chapter 8 (APP-050) states that <i>'the interrelationships related to the potential effects on terrestrial ecology'</i> are discussed in Chapters 6, 7, 9 and 10. Natural England advises that these chapters therefore need to be considered when concluding whether terrestrial ecology impacts are limited to within the site boundary.</p> <p>Based on the Environmental Statement Chapter 6 (APP-048) Natural England advises that further information is required to determine whether air quality impacts on terrestrial ecology are limited to within the site boundary. Please refer to NE30 and NE44 in Table 1 above for further detailed advice.</p> <p>Natural England note that issues relating to marine ecology receptors, including <i>'intertidal and coastal terrestrial habitats'</i> are addressed in the Environmental Statement Chapter 9 (APP-051). Therefore, we have not provided comments regarding these in answer to this question.</p> <p>Natural England is not providing bespoke advice on the protected species information provided in the Environmental Statement for this project. Therefore, we are not in a position to comment on whether terrestrial ecology impacts associated with protected species are limited to within the site boundary. Please refer to Table 1 of our Relevant Representations (RR-019) for a summary of our standing advice.</p>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
			<p><u>Does NE agree that the... Proposed Development would not give rise to any cumulative effects on terrestrial ecology receptors with any of the other developments identified within the short list?</u></p> <p>Natural England cannot confirm that the Proposed Development would not give rise to any cumulative effects on terrestrial ecology receptors with any of the other developments identified within the short list at this stage. As stated above in NE44 (Table 1), discussions are ongoing regarding impacts on Hatfield Chase Ditches SSSI.</p>
Q1.5.3.6	North East Lincolnshire Council Natural England	<p>Decommissioning Proposals ES [APP-222] provides details of the proposed decommissioning works to the landside elements. Do you agree with the proposed Mitigation Measures in respect of Table 4?</p>	<p>Natural England is broadly satisfied that the mitigation measures proposed in Table 4 of the Outline Decommissioning Environmental Management Plan (APP-222) are appropriate for the impact pathways identified, with these being in line with the impact pathways identified in Table 8-6 of the Environmental Statement Chapter 8 (APP-050).</p> <p>Natural England highlight that potential decommissioning impacts have not been assessed in the HRA. We note that reference is provided to Appendix C in the shadow Habitats Regulations Assessment (APP-238), which contains a summary table of impact pathways considered in the HRA, with it recommended that this is undertaken for each phase of the project, including decommissioning. Decommissioning impacts have not been included. We therefore advise that potential impacts resulting from decommissioning, and any mitigation measures proposed, should be considered in the HRA.</p>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
Q1.5.4.6	Applicant North East Lincolnshire Council Natural England	<p>Existing Woodland in East Area (Ammonia Storage) Plans show that Work Nos. 3 and 3a [APP-013] would require the loss of all existing woodland on this part of the site, generally noted as Cat B trees in the Arboricultural Impact Assessment [APP-185], although [APP-052, Paragraph 10.6.54] notes that the area has been surveyed and found to be of low value. Whilst it is understood that this area of woodland is not protected, it has a contiguous border with the southern section of Long Strip and as such might contribute to the habitat provision on the site.</p> <p>a) Applicant: explain the discrepancy between the Arb report (Cat B trees) and the ornithology report (low value).</p> <p>b) NELC and NE: Are you content that this area has been properly assessed in relation to the potential fragmentation of the woodland area and the losses of potential habitats?</p> <p>c) NELC: Do you consider that the RPA of the South Long Strip TPO is correctly drawn on Tree Constraints Plan sheet 2 in the arb report [APP-185]</p>	<p>Natural England is not providing bespoke advice on the ancient woodland information provided in the ES for this project as this does not fall within our remit on designated landscapes as set out in <i>Advice Note 11, Annex C – Natural England and the Planning Inspectorate</i>. The assessment of this area in relation to the potential fragmentation of the woodland area and the losses of potential habitats has not been assessed by Natural England.</p> <p>Natural England has adopted <u>standing advice</u> for ancient woodland. Please refer to this advice for further information.</p>
Q1.6.2.1	Applicant Natural England	<p>Greater Wash SPA [APP-238, Table 2] concludes that the qualifying features of the Greater Wash SPA would not be relevant to the assessment, suggesting that it is outside of the scope of the HRA. However, Paragraph 3.3.3 states that Greater Wash SPA was screened out of Stage 2.</p> <p>a) Applicant - Confirm whether the Greater Wash SPA has been included in Stage 1: Screening of the HRA or whether it is outside the scope of the assessment?</p>	<p>Natural England refers to NE1 of our Relevant Representations (RR-019), which states that we agree with the information provided in Table 2 of the shadow HRA (APP-238) regarding the qualifying features relevant to the screening assessment.</p> <p>Natural England confirms that the Greater Wash SPA can be screened out from further assessment.</p>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		b) Natural England - Are you satisfied that the Applicant has correctly identified and assessed the relevant European sites and qualifying features /criteria in its HRA Report? Please confirm whether you consider that the Greater Wash SPA is of relevance to the assessment (to be included in Stage 1: Screening for LSE).	
Q1.6.3.1	Applicant Natural England Marine Management Organisation	<p>Assessment Methodology [APP-238, Paragraph 4.14.3] states that proposed plans or projects in the Humber Estuary which have the potential to cause potential cumulative/ in-combination effects with the Proposed Development are described in detail in the ES [APP-067]. [APP-238, Tables 3, 4 and 5] state that there is no potential for LSE for a number of impact pathways from the Proposed Development alone. Also, there is no evidence of any consideration in the screening assessment of the potential for LSE arising from the Proposed Development in combination with other plans and projects.</p> <p>a) Applicant – Provide a further column which considers in-combination effects for the impact pathways where no LSE are identified for the Proposed Development alone [APP-238, Tables 3, 4 and 5].</p> <p>b) NE – Aside from the concerns raised in your RR related to the screening distances applied for the in-combination assessment of underwater noise on grey seal (NE Issue 37) are you satisfied with the projects and plans that have been included within the in-combination assessment in Stage 2: Appropriate Assessment of the Shadow HRA report?</p>	<p>As stated in NE3 of our Relevant Representations (RR-019), Natural England welcomes the request for the Applicant to consider in-combination effects at the screening stage.</p> <p>As detailed above (NE37), Natural England has now agreed to the screening distance for the in-combination assessment of underwater noise on grey seal. However, Natural England advises that the current shadow HRA (APP-238) does not provide a sufficient in-combination assessment for all relevant impacts, as detailed in NE36 of our Relevant Representations (RR-019). We advise that this table should identify where impacts have been fully avoided through mitigation and where there is still a residual impact that could act in combination. This assessment should consider the residual effects of developments together.</p> <p>Natural England welcomes the commitment to update the in-combination assessment in the shadow HRA and will review the information when submitted.</p>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		c) MMO – Are you satisfied with the projects and plans that have been included within the incombination assessment in Stage 2: Appropriate Assessment of the shadow HRA report, noting in particular the issue raised by NE relating to the scope of the in-combination underwater noise assessment (see NE Issue 37 in RR [RR-019])?	
Q1.6.4.3	Natural England	<p>Compensatory Measures Does NE consider that the Applicant's proposed compensatory measures, presented in [APP-235, Section 4], would be sufficient to deal with the scale of potential harm to European Sites?</p>	<p>Natural England advises that the suitability of the proposed compensatory measures cannot be determined until the impacts from the project have been assessed in more detail and it has been determined whether the proposed mitigation will be sufficient.</p> <p>Natural England does not consider there to be a 'typical' ratio for compensatory habitat provision where there has been loss from marine protected sites, as it is necessary for uncertainties with compensatory measures to be reflected in the scale of compensation delivered. However, in this case we agree that 3:1 is appropriate.</p> <p>We acknowledge that the compensation would be delivered outwith the IGET project due to OtSMRS being subject to a separate pre-existing consent. However, we consider it would be appropriate for the Applicant to be required to submit confirmation demonstrating compensation delivery once the habitat has been established.</p> <p>Natural England note that the proposed compensatory measures do not currently include measures for other impacts, for example bird disturbance. Clarity is required regarding whether the compensatory measures would be appropriate, in the event that a conclusion of no adverse</p>

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
			effect on integrity cannot be reached, or whether additional compensatory measures would be required.
Q1.16.1.2	Local Planning Authorities (LPAs) Natural England	Long and Short List of Projects Are you content that both the Cumulative Effects Assessment Long List [APP-219] and Cumulative Assessment Short List [APP-220] identifies all relevant projects and that the information contained within them is correct and up to date. If not, identify what additional information is required.	We do not have any specific recommendations regarding what should be included in the Cumulative Assessment Long List or Short List.
Q1.18.3.1	Applicant Environment Agency Internal Drainage Boards Lead Local Flood Defence Authorities Natural England Affected Persons	Article 3 – Application, disapplication and modification of legislative provisions a) This Article does not appear to be appropriately titled given the Article only seeks to disapply various statutes (or elements of them) and there is no specific “application” or “modification”. b) Are there any elements of the disapplication in Article 3(1) that overlap with approvals that you are seeking through Protective Provisions in Schedule 14? Highlight those overlaps. If you were to secure the Protective Provisions, then do you still need to disapply the relevant elements of the legislation? Provide justification for each case. You can tabulate this information for ease. c) EA and other Statutory Bodies, do you have any concerns regarding the disapplication of consents under Article 3? Explain with reasons. d) Do Affected Persons have any concerns regarding the disapplication of the provisions of the Neighbourhood	Natural England has no comments to make on <i>Article 3 – Application, disapplication and modification of legislative provisions</i> as this does not fall within our remit as set out in <i>Advice Note 11, Annex C – Natural England and the Planning Inspectorate</i> .

Table 2: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		Planning Act 2017 relating to the temporary possession of land as proposed in Article 3(1)(e)?	

Natural England's Written Representations

5. PART IV: Natural England's detailed comments on the Development Consent Order (DCO), Deemed Marine Licence (DML) and associated documents

5.1 Part IV of these Representations provides Natural England's detailed comments on the draft DCO Order and draft DMO.

Natural England's Relevant Representations, Part IV, Table 3

Page	DCO/DML or Omission ref	Natural England's comments
10	Article 3 – Application, disapplication and modification of legislative provisions	Natural England has no comments to make on Article 3 – Application, disapplication and modification of legislative provisions as this does not fall within our remit as set out in Advice Note 11, Annex C – Natural England and the Planning Inspectorate.
18	Article 18 Discharge of water	Natural England supports the advice provided by the Environment Agency in their Relevant Representations (RR-010) dated 01 December 2023.
19	Article 19 Authority to survey and investigate the land	Natural England highlights that any operations outside of red line boundary (order limits) should require appropriate permissions, including consent/assent from Natural England for any planned activity that's likely to damage the Humber Estuary SSSI or land near the site's boundary - i.e. survey work, intrusive site investigations (boreholes etc).
58	Article 6 Construction Environmental Management Plan	Natural England welcomes the commitment to secure the Construction Environmental Management Plan (CEMP) (APP-221), however we refer to our outstanding comments regarding the assessment of impacts and required mitigation measures. Therefore, we may have additional comments on the CEMP, as discussions on proposed mitigation measures progress.
37	Article 45 Powers to dredge	This Article appears to contradict the DML Article 4(3) that <i>'It is acknowledged that pursuant to section 75 of the 2009 Act the undertaker does not need a marine licence to carry out maintenance dredging within the statutory harbour authority area of the</i>

Page	DCO/DML or Omission ref	Natural England's comments
		<i>Port of Immingham and that the disposal of dredged arisings for such maintenance dredging is permitted in accordance with the existing marine licence.</i> Please clarify.
N/A	N/A	Natural England advises that, in addition to construction mitigation measures secured in the CEMP, any operational mitigation measures relied upon in the conclusions of the shadow HRA should be appropriately secured in the DCO. Natural England has outstanding comments on a number of operational impacts (alone and in-combination) We welcome further discussion on these topics and highlight that any mitigation measures required should be appropriately secured in the DCO.
N/A	N/A	As detailed above (NE33), Natural England considers that it should be determined whether there is a requirement to secure the maximum number of vessel movements in the DCO, as these values are relied upon in the HRA conclusions. Natural England would welcome a Vessel Management and Monitoring Plan, to ensure that vessel movements remain within the assessed limits. Discussions with the Applicant are ongoing on this topic.

Table 3: Natural England's comments on the Deemed Marine Licence.

Page	DCO/DML or Omission ref	Natural England's comments
69 and 70	Articles 8 and 14 Construction Environmental Management Plan	Natural England welcomes the commitment to secure the Construction Environmental Management Plan (APP-221), however we refer to our outstanding comments regarding mitigation measures.
70	Article 15 Piling and marine construction works	Natural England welcomes the commitment to secure the marine piling mitigation measures as outlined in the shadow Habitats Regulations Assessment (APP-238). We advise, however, that the condition should be amended to include the maximum hammer energy that will be used to pile. This is a key impact parameter and should be restricted to the maximum scope assessed in the Environmental Statement to ensure the impacts remain within those assessed and approved through consent.