



Immingham Green Energy Terminal

9.41 Applicant's Comments on D1 Submissions from
Natural England

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1. Introduction

Overview

- 1.1 This document has been prepared to accompany an application made to the Secretary of State for Transport (the "Application") under Section 37 of the Planning Act 2008 ("PA 2008") for a Development Consent Order ("DCO") to authorise the construction and operation of the proposed Immingham Green Energy Terminal ("the Project").
- 1.2 The Application is submitted by Associated British Ports ("the Applicant"). The Applicant was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information.
- 1.3 The Project as proposed by the Applicant falls within the definition of a Nationally Significant Infrastructure Project ("NSIP") as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 The Applicant is seeking to construct, operate and maintain the Immingham Green Energy Terminal, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the "Port").
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited ("Air Products"). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the UK's net zero agenda by helping to decarbonise the United Kingdom's (UK) industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [APP-044]**.

Purpose and Structure of this Document

- 1.7 The purpose of this document is to provide a summary position with respect to the information provided by Natural England at Deadline 1, including:
 - Written Representation **[REP1-087]**
 - Written Representation Summary **[REP1-086]**
 - Responses to the Examining Authority's First Written Questions **[REP1-087]**

2. Applicant's Comments on the Written Representation from Natural England

Marine Ecology
Response
<p>The Applicant is pleased to report continued positive engagement with Natural England. It is noted, for example, that a number of concerns that were raised within their Relevant Representation [RR-019] have now been resolved. The majority of the further information requested by Natural England in support of the remaining issues has been provided by the Applicant at Deadline 1 in the form of a response to their Relevant Representation [REP1-021], updated Shadow Habitats Regulations Assessment ("HRA") [REP1-012] and updated Without Prejudice Report to Inform HRA Derogation [REP1-008]. Any further outstanding information will be supplied as soon as it becomes available as part of the Applicant's ongoing dialogue with Natural England.</p>
Air Quality
NE30 and NE40
Response
<p>The Applicant can confirm that there are no European sites within 200m of any road used by Project-related traffic, the nearest road being Laporte Road, which is approximately 440m from the Humber Estuary Special Area of Conservation ("SAC"). The Shadow HRA will be updated at Deadline 3.</p>
Air Quality
NE31
Response

The Applicant does not agree that the 10km screening distance set out in the Environment Agency's *Air emissions risk assessment for your environmental permit* guidance is appropriate for construction phase vessel emissions.

That guidance is intended for permitted activities regulated by the Environment Agency. Such activities typically require high stacks, which mitigate local impacts but also disperse emissions over a greater area. It is the Applicant's opinion that the Environment Agency guidance is not intended for the consideration of smaller, transient emissions sources, such as construction vessels. Transport emissions have a much smaller dispersal distance, due to lower emission release heights, than activities that typically require an Environmental Permit to operate, for which the 10km screening distance is intended. While the zone of influence for construction vessel exhaust stacks will be greater than that for vehicle exhausts (for which the *Design Manual for Roads and Bridges* sets a zone of influence of 200m from the source), this has been allowed for in the precautionary use of a 3km zone of influence used in the **ES**.

It is agreed that there is no planning guidance with regards to the consideration of construction phase vessel emissions impacts. However, it is noted that the Department for Environment, Food and Rural Affairs ("Defra") does provide some guidance on the zone of influence of vessel emissions in its *Local Air Quality Management Technical Guidance (TG22)* ("*LAQM TG(22)*"). The guidance requires local authorities to consider emissions from vessels for the purpose of Local Air Quality Management only where there is relevant exposure within either 250m or 1km of the berths and main areas of manoeuvring, subject to the number of "large ship movements". It is noted that the construction vessels to be utilised for the construction of the Project do not fall under the definition provided in the *LAQM TG(22)* guidance for large ships, and indeed smaller construction vessels with less weight will not require the same energy demand as large ships and will therefore have lower emissions. The distance within which the Defra guidance suggests that air quality could be of concern is considerably less than the 3km referred to in **ES Chapter 6: Air Quality [APP-048]**.

NE32

Response

The Applicant's response to this request for further information was provided in its **Response to the Relevant Representations [REP1-021]** and the updated **Shadow HRA [REP1-012]** submitted at Deadline 1. These discuss a Natural England saltmarsh survey report for the Humber Estuary as the justification for the higher critical load. This is a better source of information than aerial photography or NBN Atlas which are referenced in Natural England's comment. The survey report indicates that the habitats present in the affected area are vegetation communities SM24 and SM6, neither of which are mid-upper saltmarsh communities for which the

more stringent critical load of 10kgN/ha/yr would be more appropriate. The Applicant will continue discussions with Natural England on this matter.

NE33

Response

As explained at **Paragraph 6.4.60 of ES Chapter 6: Air Quality [APP-048]**: “*at this stage, the actual vessels that will call at the facility are unknown. In the absence of this information, a number of assumptions have been made to inform the modelling of vessel emissions.*” Those assumptions include that:

- There will be up to 292 vessel calls to the facility each year as a theoretical maximum, which equates to 0.8 vessel calls as a daily average.
- There will be a single vessel docked at the facility at any one time for 7,008 hours (80%) of the year, based on 292 vessel calls assumed per year.

The reasonable worst case assumption of 292 vessels is a robust assumption of the maximum number of vessel calls to the jetty per year which takes into account a number of factors, including the likely size of vessels accessing the jetty, tidal constraints for access to the berth and the amount of time a vessel is expected to be on berth to offload cargo.

The Applicant does not consider that it is necessary to secure a restriction on the maximum number of vessels using the jetty in the DCO. Firstly, this is because of the constraining factors around the use of the jetty as noted above (such that the reasonable worst case number of vessel calls is considered highly conservative) and secondly because Air Products as first user of the jetty will only use up a minority of the available capacity of the jetty for the import of ammonia. The landside infrastructure (and potentially the marine topside infrastructure) associated with the use of the jetty for any other products will be subject to further applications for separate consents through the relevant approval processes in the future and will be subject to further environmental assessment at that stage as necessary. Notwithstanding this requirement for further separate consents associated with the use of the jetty for the handling of other products (other than ammonia), the Applicant has nevertheless assessed the impacts of the full theoretical capacity of the jetty and assessed the resulting residual air quality impact of the Project from the marine side vessel emissions to be negligible (not significant). For all of these reasons, it is therefore not necessary to restrict the number of vessel calls to the jetty within the DCO.

A Vessel Management and Monitoring Plan is also not necessary as the theoretical maximum number of vessel visits will not be exceeded for the transport of ammonia and further consents will be required for the use of the jetty for any other products.

NE34

Response

The Applicant confirms that a Technical Note will be shared with Natural England as stated in its **Response to Relevant Representations [REP1-021]**.

The Applicant notes that Natural England accepts the justification provided at Deadline 1 regarding the approach to flare stack modelling. This hasn't been included in the **Shadow HRA [REP1-012]** because the **Shadow HRA** does not set out the details of the air quality modelling methodology which are instead provided in **ES Chapter 6: Air Quality [APP-048]**. However, the text on potential emissions from flare stacks can be added into a further update to the **Shadow HRA** at Deadline 3.

NE44

Response

The Applicant notes Natural England's request for further information as part of the assessment on Hatfield Chase Ditches Site of Special Scientific Interest ("SSSI") which the Applicant notes differs from the approach Natural England has taken recently on consideration of the Immingham Eastern RoRo Terminal application and other recent DCO applications. The Applicant will discuss this further with Natural England in order to understand specifically what further information Natural England require on this point and will update the Examining Authority at the appropriate time.

3. Applicant's Comments on Natural England's Responses to the Examining Authority's First Round of Written Questions

Q1.5 Biodiversity	
Q1.5.1.2	
Question	Interested Party's Response
<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> <p>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>	<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 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>
Applicant's Comment	

It is acknowledged that Killingholme Haven Pits Site SSSI, which is located approximately 6km from the Project, could be functionally linked to the mudflat habitat in the Project footprint with local populations of species such as dunlin and black-tailed godwit potentially utilising both areas. However, Killingholme Haven Pits is considered too distant to be impacted directly by the Project (such as through direct disturbance effects or due to the footprint of habitat loss or change). The zone of influence of indirect habitat changes as a result of changes to hydrodynamic or sedimentary processes will also not overlap with the SSSI. With respect to potential indirect effects of bird disturbance on the SSSI (e.g. changes in local population levels resulting from changes in distribution or mortality), based on the predicted magnitude of potential effects and proposed mitigation, black-tailed godwit and other waterbirds populations that occur at Killingholme Haven Pits SSSI would not be expected to disperse out of the Immingham area and would continue to use both the SSSI and the foreshore in the Immingham area. Furthermore, population level consequences (at both a local and fly way level) in terms of mortality or changes in breeding success are considered highly unlikely through the implementation of the proposed mitigation for the Project (**Section 10.9 of ES Chapter 10 [APP-052]**). On this basis, the numbers of black-tailed godwit and other waterbirds utilising Killingholme Haven Pits would not be expected to change as a result of both direct and indirect effects due to the Project, and the impact on this designated site is considered insignificant.

Q1.5.3.5

Question	Interested Party's Response
<p>Cumulative impacts</p> <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. Does NE agree that terrestrial ecology impacts are limited to within the</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 'the interrelationships related to the potential effects on terrestrial ecology' 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. 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</p>

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?

for further detailed advice. Natural England note that issues relating to marine ecology receptors, including 'intertidal and coastal terrestrial habitats' are addressed in the Environmental Statement Chapter 9 (APP-051). Therefore, we have not provided comments regarding these in answer to this question. 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. 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? 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.

Applicant's Comment

The Applicant notes Natural England's request for further information as part of the assessment on Hatfield Chase Ditches Site of Special Scientific Interest ("SSSI") which the Applicant notes differs from the approach Natural England has taken recently on consideration of the Immingham Eastern RoRo Terminal application and other recent DCO applications. The Applicant will discuss this further with Natural England in order to understand specifically what further information Natural England require on this point and will update the Examining Authority at the appropriate time.

Q1.5.4.6	
Question	Interested Party's Response
<p>Existing Woodland in East Area (Ammonia storage)</p> <p>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. a) Applicant: explain the discrepancy between the Arb report (Cat B trees) and the ornithology report (low value).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? 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 Advice Note 11, Annex C – Natural England and the Planning Inspectorate. 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. Natural England has adopted standing advice for ancient woodland. Please refer to this advice for further information.</p>
Applicant's Comment	

The Applicant highlights that the woodland within the Long Strip is not Ancient Woodland, *contra* to the inference in Natural England's response. In the Preliminary Ecological Appraisal (**ES Appendix 8.B: Preliminary Ecological Appraisal Report [APP-181]**), the Multi-Agency Geographic Information for the Countryside ("MAGIC") website (www.magic.gov.uk) was reviewed to determine the presence of notable habitats including ancient woodland within a search area of the Project and within 2km of the Project. No ancient woodlands were identified within the search area.

In **Annex E** of the **ES Appendix 8.B [APP-181]**, the Lincolnshire Wildlife Trust criteria used to determine whether a site qualifies as a Local Wildlife Site were applied to Long Strip woodland. This identified that Long Strip woodland is not listed in Natural England's Ancient Woodland Inventory nor is it listed in the Inventory as a plantation of ancient woodland site. It was concluded that Long Strip woodland did not meet the criteria for a Local Wildlife Site.

Natural England's standing advice for Ancient Woodland is therefore not relevant to the woodland loss from the Long Strip.

Q1.6 HRA

Q1.6.4.3

Question	Interested Party's Response
<p>Compensatory Measures</p> <p>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. 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. We acknowledge that the compensation would be delivered outwith the IGET project due to OtSMRS being</p>

	<p>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. 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 effect on integrity cannot be reached, or whether additional compensatory measures would be required.</p>
<p>Applicant's Comment</p>	
<p>A Without Prejudice Report to Inform HRA Derogation was submitted as part of the application [APP-235] and updated at Deadline 1 [REP1-008]. This report identified the Outstrays to Skeffling Managed Realignment Scheme ("OtSMRS") as a means to provide compensation for intertidal habitat loss on a without prejudice basis should this be required. The Applicant remains confident that all other pathways, including bird disturbance, can be effectively mitigated, and as such will not result in an Adverse Effect On Integrity, thereby negating the need for compensation.</p>	