

Date: 03 May 2024
Our ref: 470776
Your ref: TR030008

The Planning Inspectorate
Major Applications & Plans
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Imminghamget@planninginspectorate.gov.uk

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 3).

Examining Authority's submission deadline with a date of 03 May 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 [REDACTED] [@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk) and copy to consultations@naturalengland.org.uk.

Yours faithfully

Elen Squires
Yorkshire and Northern Lincolnshire Area Team
Natural England



Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

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**

- In-combination assessment at screening stage (construction and operation phase) ('amber')
- Direct loss of qualifying intertidal habitat (construction phase) ('amber')
- Airborne noise and visual disturbance to birds during construction – Ambient noise levels (construction phase) ('amber')
- Airborne noise and visual disturbance to birds during construction – The use of a 200m disturbance buffer (construction phase) ('amber')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – Assessment of proposed mitigation (construction phase) ('amber')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – The use of GPS and markers to improve certainty about distances (construction phase) ('amber')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – Cold weather construction restriction (construction phase) ('amber')
- Air quality impacts – saltmarsh critical load (operation phase) ('amber')
- Air quality impacts – marine vessels (operation 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 – Accidental releases of ammonia ('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**

- Airborne noise and visual disturbance to birds during construction – Effects of dispersive (flight) and sub dispersive responses (construction phase) ('yellow')
- Airborne noise and visual disturbance to birds during construction – Programming of works (construction phase) ('yellow')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – The use of soft starts during piling (construction phase) ('yellow')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – The use of an Ecological Clerk of Works ('ECoW') (construction phase) ('yellow')
- 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 – marine vessels – Vessel Management and Monitoring Plan (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 Written Representations (REP1-087) (dated 13 March 2024) 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**

- Lighting effects on coastal waterbirds (construction and operation phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Presentation of monthly data (construction phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Potential effects on roosting birds during construction (construction phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Alternative feeding locations (construction phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Noise effects from terrestrial and marine noise (construction phase) ('green')
- Air quality impacts from traffic (construction and operation phase) ('green')
- Air quality impacts from marine vessels (construction phase) ('green')
- Consideration of combined effects (construction phase) ('green')
- Air quality – in combination assessment ('green')
- HRA – conclusions ('green')
- HRA – cumulative assessment (construction and operation phase) ('green')

- **Nationally Designated Sites**

- In-combination air quality impacts from traffic for Hatfield Chase Ditches SSSI (construction phase) ('green')

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

- 1.1 Natural England's advice 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 refer to Natural England's advice provided on 23 April 2024 for our comments on the *Proposed Change Notification Report (REP2-024)*.
- 1.3 This letter provides an update to our Written Representations (13 March 2024) (REP1-087) on key issues where Natural England's position has changed in response to additional documents submitted at Deadline 1 and 2, or where more detailed advice is being provided.
- 1.4 Please note that our Written Representations (13 March 2024) (REP1-087) should be referred to for Natural England's advice on other issues within our remit and outstanding comments on the draft DCO.
- 1.5 Our comments are flagged as red, amber, yellow, green or grey:
- **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.
- 1.6 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.
- 1.7 We have engaged with ABP on the revised draft Statement of Common Ground (SoCG) (May 2024). As stated in the Statement of Common Ground, we welcome the further information provided on issues NE19C, NE19D, NE21C, NE21F, NE32, NE33A, NE33B, NE44, NE54 and NE55. However, due to tight timescales between provision of the updated draft SoCG and Deadline 3, we have not been able to update our below representations in response to the information provided for all issues. Therefore, we will review the additional information provided and update our advice at Deadline 4, where relevant.
- 1.8 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.
- 1.9 Natural England is now 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.

Table 1A: 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)
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><u>Lighting effects</u></p> <p>Natural England welcomes the additional information provided in ABP's response to relevant representations (REP1-021). Natural England agrees that this point, in relation to lighting effects on coastal waterbirds, has been addressed.</p> <p><u>Potential effects of flare stacks</u></p> <p>Natural England welcomes the additional information provided in ABP's response to relevant representations (REP1-021). Natural England agrees that this point, in relation to the potential impact of flare stack on SPA birds has been addressed, on the basis that <i>'the flare stacks proposed as part of the Project will be much smaller, with the flame largely enclosed as a result of shrouding'</i>, as stated in the shadow HRA (REP1-012).</p>	No further information required.	'Green'
NE3	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 	HRA screening comments – In-combination assessment at screening stage (C and O)	<p>Natural England highlights that the in-combination requirement makes sure that the effects of numerous proposals, which alone would not result in a significant effect, are assessed to determine whether their combined effect would be significant enough to require more detailed assessment.</p> <p>Natural England welcomes the updates to Tables 3 to 5 of the shadow HRA (REP1-012). We note that whilst in combination impacts are now referenced, further clarification is required regarding how this assessment has been undertaken. We advise that the assessment should provide a clear distinction between where an in-combination assessment of small effects has been</p>	Further information required to determine requirement for mitigation.	'Amber'

Table 1A: 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"> Greater Wash SPA The Wash and North Norfolk Coast SAC 		<p>undertaken, and where one is not required where there is 'no effect at all' on that feature as a result of the specified risk. NE recommendation is that this would be most clearly presented as separate columns within the tables for likely significant effect 'alone' and 'in combination', rather than presenting them together. Where an in combination assessment of small effects has been undertaken it should be clear how the potential combined effects have been assessed and what the conclusion is.</p> <p>Discussions regarding this are ongoing, and Natural England welcomes the commitment to update the shadow HRA at Deadline 3.</p>		
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)	<p>At this stage, Natural England's position broadly remains as set out in our Deadline 1 Relevant Representations (RR-019). Natural England welcomes the additional information provided by the Applicant in ABP's response to Relevant Representations (REP1-021) and shadow HRA (REP1-012). Whilst the additional information provides further detail on intertidal habitat loss in the context of both the site's conservation objectives and relevant attributes/targets for the Humber Estuary SAC, we consider that further information, particularly regarding ecological impacts, is required to determine a conclusion of no AEoI. The current assessment concludes that the loss of intertidal habitat is 'de-minimis' and is considered ecologically negligible due to the scale of the loss being very small. However, we advise that spatial extent alone is not sufficient enough to support a conclusion of no AEoI, other factors such as the ecological integrity, functioning and</p>	Further information required.	'Amber'

Table 1A: 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>overall quality of the habitat that will be lost should be taken into account.</p> <p>As previously highlighted in RR-019, the intertidal mudflats and sandflats features has a restore objective for the 'extent and distribution of habitat' attribute, therefore this feature is not currently achieving its conservation objectives. We advise that the appropriate assessment should provide clear reasoning why a further reduction of this habitat can be considered ecologically inconsequential.</p> <p>We advise that further detail on the biological communities and characteristic components of the area affected should be set out and evaluated in the appropriate assessment. In particular, the assessment should consider how the affected area compares with the wider estuary. For example, does the area affected make an important contribution to the structure and function of the wider intertidal habitat feature? How would the area affected impact the abundance and diversity of species of this habitat?</p>		
NE19A	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><u>Presentation of monthly data</u></p> <p>Natural England previously recommended that the relevant bird survey results are collated and presented by month to demonstrate the pattern of usage across the year.</p> <p>Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021), and</p>	No further information required.	'Green'

Table 1A: 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)
			agrees that these points in relation to bird data have been addressed.		
NE19B	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)	<u>Potential effects on roosting birds during construction</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021), and agrees that this point, in relation to the location of roosting areas for black tailed godwit and turnstone, has been addressed. Please refer to NE19 C-E, NE20, NE21 A-F, NE39 and NE42 for our outstanding comments on other aspects of the assessment of impacts and proposed mitigation measures.	Further information required.	'Green'
NE19C	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary 	Airborne Noise and Visual Disturbance to birds during construction (C)	<u>Ambient noise levels</u> ABP have stated that project-specific ambient noise measurements will be collected within the order limits. This information will be incorporated into the updated shadow HRA and will be used in an updated assessment. Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.	Further information required.	'Amber'

Table 1A: 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)
NE19D	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary 	Airborne Noise and Visual Disturbance to birds during construction (C)	<p><u>The use of a 200m disturbance buffer</u></p> <p>Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) regarding the use of a 200m disturbance buffer. Overall, based on the information provided, the proposed disturbance buffer may be suitable in this case as part of the suite of construction disturbance mitigation measures, due to project-specific factors including the location of the works and the numbers and sensitivity of SPA bird species present. However, we advise that further information is required on how this buffer will be implemented and monitored. In particular, it would be beneficial to see further information regarding how the proposed disturbance buffer zones apply in different tidal states – e.g. diagrams showing how the 200m buffer will be implemented at low, mid and high tides and how works will progress during the day as the tidal state changes.</p> <p>In addition, whilst we acknowledge that habituation may occur, it is important to note that there is a threshold after which birds will not be able to tolerate any increased disturbance and it is not possible to accurately determine this threshold in advance of the works. Therefore, it is important that there is certainty around the effectiveness of the proposed suite of mitigation measures to enable a conclusion of no adverse effect on integrity to be reached. Discussions are ongoing regarding the proposed suite of mitigation measures (NE19 C-E, NE20, NE21 A-F, NE39 and NE42). We also advise that an Ecological Clerk of Works ('ECoW')</p>	Further information required.	'Amber'

Table 1A: 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>would be useful, as detailed in NE21F, to increase the certainty that mitigation will be effective.</p> <p>Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.</p>		
NE19E	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary 	Airborne Noise and Visual Disturbance to birds during construction (C)	<u>Effects of dispersive (flight) and sub dispersive responses</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) regarding the effects of dispersive (flight) and sub-dispersive responses. However, Natural England re-iterate that the behavioural studies cited in the ES should not be relied upon in the assessment of potential impacts on SPA birds from disturbance events. The assessment should therefore consider the sub-dispersive responses in more detail. However, we consider that the impact of sub-dispersive responses should be adequately addressed through the provision of suitable mitigation measures, which are currently under discussion.	Further information welcomed.	'Yellow'

Table 1A: 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)
NE19F	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary 	Airborne Noise and Visual Disturbance to birds during construction (C)	<u>Alternative feeding locations</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) regarding alternative feeding locations. Based on the information provided, including details of the relatively low numbers of birds identified using the intertidal area between the IOT jetty and the mudflat fronting North Beck Drain, and the fact that the EA Stallingborough 3 scheme will not take place during winter months, we agree that this point is resolved.	No further information required.	'Green'
NE19G	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary 	Airborne Noise and Visual Disturbance to birds during construction (C)	<u>Noise effects from terrestrial and marine noise</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) and agrees that this point, in relation to the potential for combined noise effects from terrestrial and marine noise, has been addressed.	No further information required.	'Green'

Table 1A: 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)
NE20	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Programming of works (C)	Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021). Natural England's advice remains that it is recommended that the most disturbing marine construction works (including approach jetty) are carried out in the summer and early autumn, with works that are less disturbing to the SPA birds taking place during the coldest months (December to February inclusive). However, we welcome ongoing discussions regarding the suitability of alternative proposed mitigation measures (NE19 C-E, NE20, NE21 A-F, NE39 and NE42) to determine whether a conclusion of no adverse effect on integrity can be reached.	Further information welcomed.	'Yellow'
NE21A	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<u>Assessment of proposed mitigation</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) regarding the assessment of the effectiveness of the proposed mitigation measures. Nature England notes that ABP have stated that the shadow HRA will be updated with project specific noise measurements from within the Order limits of the project. We advise that the assessment of proposed mitigation measures should be updated in line with this. Natural England highlight that discussions are ongoing regarding the suitability of proposed mitigation measures. Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at	Further information required to determine requirement for further mitigation.	'Amber'

Table 1A: 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)
			Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.		
NE21B	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<u>The use of soft starts during piling</u> Natural England notes the additional information provided in ABP's response to Relevant Representations (REP1-021) regarding soft starts during piling. However, Natural England re-iterate that soft start piling may reduce the 'startle effect' on birds when piling starts, but it is not generally used as a mitigation measure to reduce the impacts on SPA waterbirds. We advise that there is no robust evidence to suggest that soft start piling prevents disturbance caused by the noise. Therefore, we do not consider that soft-start piling provides effective additional mitigation for disturbance to SPA birds. However, we welcome ongoing discussions regarding the suitability of other proposed mitigation measures (NE19 C-E, NE20, NE21 A-F, NE39 and NE42) to determine whether a conclusion of no adverse effect on integrity can be reached.	Further information welcomed.	'Yellow'

Table 1A: 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)
NE21C	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<p><u>The use of GPS and markers to improve certainty about distances</u></p> <p>Natural England previously advised that a precautionary approach should be taken to setting the timing of works to ensure that there is sufficient distance between the piling site and exposed mudflats (being used by SPA birds) when piling starts. The winter marine construction restriction states that marine construction associated with the approach jetty can only be undertaken more than 200m from the foreshore. More information is needed about how this will be achieved, for example through the use of GPS to identify the location of piles and therefore distance from the foreshore. It may be possible to add markers on the mudflat to improve certainty about distances.</p> <p>With regards to the suggested use of GPS, Natural England welcomes the commitment in ABP's response to Relevant Representations (REP1-021) that the 'feasibility of this option will be explored further in consultation with Natural England'. If this approach is not considered to be feasible, we advise that further information is still required to determine how it will be ensured that marine construction associated with the approach jetty will only be undertaken more than 200m from the foreshore.</p> <p>Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.</p>	Further information required.	'Amber'

Table 1A: 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)
NE21D	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<u>Cold weather construction restriction</u> Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021). Whilst we concur that it is unnecessary to stop all marine construction activity as part of the cold weather construction restriction in this case, we advise that a more precautionary buffer distance should be used, for example 300m, during very severe weather.	Further information required.	'Amber'
NE21E	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<u>Cold weather construction restriction</u> ABP are proposing to use the JNCC guidance for wildfowling, which involves 7 days of freezing conditions. Natural England recommends a shorter period, and working restrictions should be triggered by data from local weather stations (not relying on the national JNCC voluntary restriction).	Further information required	'Amber'

Table 1A: 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)
NE21F	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation (C)	<u>The use of an Ecological Clerk of Works ('ECoW')</u> Natural England welcome the commitment in the Statement of Common Ground (May 2024) that a suitably qualified Ecological Clerk of Works (ECoW) will be present on site during the construction period to ensure that agreed mitigation measures are adhered to and therefore avoid disturbance to large flocks of SPA birds. Natural England advise that this is an important aspect of the suite of mitigation measures proposed and to increase the certainty that mitigation measures will be effective. We recommend that further details should be provided regarding the role of the ECoW, such as how they will monitor and implement any required measures.	Further information welcomed	'Yellow'
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'

Table 1A: 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)
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 <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	HRA - Air quality impacts from traffic - (C and O)	Natural England welcomes the additional information provided in the Applicant's Comments on D1 Submissions from Natural England (REP2-013). Natural England accepts that there are no European sites within 200m of any road used by project related traffic so the impact of traffic-derived air pollution (alone or in combination with other projects) does not need to be considered in the HRA. Natural England welcomes the commitment to update the shadow HRA with this information at Deadline 3, and considers that this point has been addressed.	No further information required.	'Green'

Table 1A: 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)
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 welcomes the further justification around the use of the 3km marine vessel screening distance, provided in the Applicant's Comments on D1 Submissions from Natural England (REP2-013). We note that the maximum 1km distance from 'berths and main areas of manoeuvring' required to be considered for the purpose of Local Air Quality Management (in LAQM TG 22) is cited. Although this does not consider emissions from ships in transit, it is accepted that emissions from comparatively low stack heights, as proposed in this project, would be more similar to the berthed/manoeuvring ships in the LAQM guidance than the Environment Agency 10km screening distance for permitted installations. Based on the information provided, the 3km screening distance is therefore considered suitable for the assessment in this case, and this issue is resolved.	No further information required.	'Green'
NE32	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	Air quality impacts – saltmarsh critical load (O)	<p>Natural England welcomes the further information provided in ABP's response to Relevant Representations (REP1-021). However, Natural England advises that further information is still required to determine whether 20 kg//ha/yr is the most appropriate critical load to use in this case. As discussed with the Applicant, we request that further clarification is provided on how the overall conclusion has been reached, including whether the habitats present are considered to be mid, upper, lower or pioneer species; the levels of tidal inundation at different heights/habitats within the relevant locations; and how this is informed by the evidence provided.</p> <p>Natural England welcomes the commitment in the Statement of Common Ground (May 2024) that ABP will provide information on</p>	Further information required to determine requirement for mitigation.	'Amber'

Table 1A: 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)
			inundation to Natural England and we will review this once received.		
NE33A	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 the Applicant's Comments on D1 Submissions from Natural England (REP2-013). However, we advise that further information is still required regarding how the assessment was undertaken in order to determine whether the maximum of 292 vessels is the most appropriate figure and it can be concluded that there is no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Humber Estuary designated sites.</p> <p>Natural England notes that further information has been provided in the Statement of Common Ground (May 2023). Due to the limited time to review this information prior to Deadline 3, Natural England will aim to comment further at Deadline 4.</p>	Further information required	'Amber'
NE33B	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA 	Air quality impacts – marine vessels (O)	<p>Natural England reiterate that it should be determined whether the maximum number of vessel movements is adequately secured, as these values are relied upon in the HRA conclusions.</p> <p>Natural England would welcome a Vessel Management and Monitoring Plan, to ensure that vessel movements remain within the assessed limits.</p> <p>Natural England notes that further information has been provided in the Statement of Common Ground (May 2023). Due to the</p>	Further information welcomed.	'Yellow'

Table 1A: 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 		limited time to review this information prior to Deadline 3, Natural England will aim to comment further at Deadline 4.		
NE34	International designated sites <ul style="list-style-type: none"> Humber Estuary SAC Humber Estuary SPA Humber Estuary Ramsar 	Air quality impacts – overall comments	Natural England welcomes the commitment in the Applicant's Comments on D1 Submissions from Natural England (REP2-013), to provide the source apportionment of site and vessel emissions to Project pollutant contributions, as reported in the Environmental Statement, in a Technical Note. We will review the information when submitted. It is noted that information on flare stack modelling will be included in the shadow HRA at Deadline 3.	Further information welcomed.	'Yellow'
NE35	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA Humber Estuary Ramsar 	HRA – consideration of combined effects (C)	Natural England welcomes the updated information provided in 4.13.7 of the shadow HRA (REP1-012) and agrees that this point regarding the potential for combined effects from terrestrial and marine construction noise to increase levels of disturbance to SPA birds has been addressed.	No further information required.	'Green'

Table 1A: 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)
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)	At this stage, Natural England's position broadly remains as set out in NE36 of our Relevant Representations (RR-019). Natural England re-iterates that 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 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.	Further information required to determine requirement for further mitigation.	'Amber'
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). Natural England welcomes the additional information provided by the Applicant, in ABP's response to the relevant representations document (REP1-021). Whilst further information on cumulative effects of noise and vibration has been provided for the Project and the IERRT scheme, we maintain that more detail should be provided on the nature of the combined effects for <u>all</u> the separate projects together. For example, the Applicant should consider the cumulative effect of piling from each of the different projects identified in the assessment in terms of their relative distances to each other. With this information, the Applicant should examine the associated timings of the piling campaigns to check whether any are scheduled to occur simultaneously in that month/year.	Further information required.	'Amber'

Table 1A: 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>When considering disturbance/barrier effects from all the projects together, we advise that the Applicant provide sufficient evidence to support their claim that impacts will be short-term and temporary</p> <p>Additionally, we would welcome further clarification on how the proposed cap of 196 hours of piling during a 4-week period, at certain months, would be beneficial for seals. As previously mentioned in our Relevant Representation (RR-019) the mitigation listed in the assessment is primarily aimed at reducing the risk of injury to grey seals and will have limited benefit to reducing barrier effects/disturbance. Therefore, it is not appropriate to rely on these mitigation measures to conclude that the in-combination disturbance impact will not be significant, and the potential for combined effect of any residual effects associated with the relevant projects should be assessed in more detail. We advise that separate assessments for injury and disturbance impact pathways to grey seals should be undertaken in the shadow HRA.</p> <p>Please refer to NE36 of our Relevant Representation (RR-019) for further advice on the in-combination assessment.</p>		

Table 1A: 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)
NE39	International designated sites <ul style="list-style-type: none"> • Humber Estuary SPA • Humber Estuary Ramsar 	HRA – In-combination assessment – Visual and noise disturbance to SPA birds (c)	<p>At this stage, Natural England's position broadly remains as set out in NE39 of our Relevant Representations (RR-019). Natural England will review the assessment once the outstanding issues detailed above have been addressed alone.</p> <p>Natural England welcomes the commitment to update the shadow HRA and will review the information when submitted.</p>	Further information required.	'Amber'
NE40	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	Air quality – in combination assessment	Natural England welcomes the additional information provided in the Applicant's Comments on D1 Submissions from Natural England (REP2-013). Natural England accepts that there are no European sites within 200m of any road used by project related traffic so the impact of traffic-derived air pollution (alone or in combination with other projects) does not need to be considered in the HRA. Natural England welcomes the commitment to update the shadow HRA with this information at Deadline 3, and considers that this point has been addressed.	No further information required.	'Green'

Table 1A: 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)
NE41	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary Ramsar • Humber Estuary SPA 	HRA – conclusions	<p>Natural England previously requested that a summary of each European site affected was provided, alongside a summary of mitigation measures, whether they will completely avoid or reduce impacts to an acceptable level, the certainty of this mitigation and a schedule of mitigation measures. Natural England welcomes the updates to Section 5 of the shadow HRA (REP1-012), including the provision of Table 38 which summarises the mitigation measures proposed, detailing their effectiveness, target features of the European sites effected and the confidence in the mitigation effectiveness. Natural England also welcomes the provision of the Mitigation Effectiveness Document (Appendix E), which provides further information regarding the schedule of proposed seasonal restrictions on construction activity. Therefore we consider that this point is resolved.</p> <p>However, Natural England highlights that discussions are ongoing regarding the remaining individual outstanding issues associated with the shadow HRA and its conclusions (NE3, NE4, NE23, NE29, NE36, NE38, NE39 and NE54).</p>	No further information required.	'Green'

Table 1A: 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)
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>Natural England note that whilst turnstone have a low sensitivity to disturbance, there is a threshold after which they will not be able to tolerate any increased disturbance, even of a type to which they appear to be habituated, and it is not possible to accurately determine this threshold in advance of works.</p> <p>However, we welcome ongoing discussions regarding the suitability of proposed mitigation measures (NE19 C-E, NE20, NE21 A-F, NE39 and NE42) to determine whether a conclusion of no adverse effect on integrity can be reached. Natural England welcomes ABP’s commitment that a suitably qualified Ecological Clerk of Works (ECoW) will be present on site during the construction period to ensure that agreed mitigation measures are adhered to and therefore avoid disturbance to large flocks of SPA birds. We refer to NE21F for further advice regarding this point.</p>	Further information welcomed.	‘Yellow’
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</p>		‘Grey’

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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)
			whether the individual development site is determined to be functionally linked land in further bird surveys. Therefore, the requirement to contribute to the scheme should be determined by the relevant authority.		
NE44	Nationally designated sites <ul style="list-style-type: none"> Hatfield Chase Ditches SSSI 	Air Quality impacts from traffic – construction phase (C)	Natural England welcomes the further information provided in the Statement of Common Ground (May 2024), and agrees that this point has been addressed, based on the information provided.	No further information required.	'Green'
NE49	Protected Species	Protected species - General	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. 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 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	Requirement for mitigation not assessed by Natural England.	'Grey'

Table 1A: 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)
			Advice Note Eleven, Annex C – Natural England and the Planning Inspectorate National Infrastructure Planning for details of the LONI process.		
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 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>		'Grey'

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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"> 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 version 4.0) and adhere to the rules and principles set out within the metric guidance. <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 	HRA - Cumulative assessment (C and O)	Natural England welcomes the additional information provided in ABP's response to Relevant Representations (REP1-021) and agrees that this point has been addressed, notwithstanding the outstanding individual issues (as detailed above).	No further information required.	'Green'

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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 				
NE53	Ancient woodland		Natural England has adopted <u>standing advice</u> 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'

Table 1A: 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)
NE54	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA • Humber Estuary Ramsar 	HRA – air quality – accidental releases of ammonia	<p>Natural England advises that the potential for accidental releases of ammonia needs to be assessed from an ecological perspective. Natural England advise that clarity is provided regarding whether this has been captured in the assessments, with the inclusion of mitigation as required.</p> <p>Natural England welcomes the commitment in the Statement of Common Ground (May 2024) that additional information will be provided in the shadow HRA at Deadline 3.</p>	Further information required.	'Amber'