

Date: 01 August 2024
Our ref: 482465
Your ref: TR030008



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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 6).

Examining Authority's submission deadline with a date of 02 August 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

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. Natural England has 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 – Proposed mitigation – The use of soft starts during piling (construction phase) ('yellow')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – Cold weather construction restriction (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')
- Air quality impacts – marine vessels – Vessel Management and Monitoring Plan (operation phase) ('yellow')
- Cumulative underwater noise disturbance and barrier effects to grey seal (construction and operation phase) ('yellow')
- Chapter 10 Ornithology – Assessed sensitivity of ornithology receptors ('yellow')

We welcome the further information provided by the applicant since submission of our Deadline 5 response (REP5-058) (dated 11 July 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**

- Airborne noise and visual disturbance to birds during construction – Effects of dispersive (flight) and sub dispersive responses (construction phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Programming of works (construction phase) ('green')
- Airborne noise and visual disturbance to birds during construction – Proposed mitigation – Cold weather construction restriction (construction phase) ('green')
- Introduction of non-native species during operation (operation phase) ('green')
- Air quality impacts – overall comments ('green')

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 This letter is intended to provide a response to the Examining Authority's written question HRA 3.3 which was issued on Wednesday 17 July 2024. This response also provides an update to our Deadline 5 response (REP5-058) (11 July 2024) on key issues where Natural England's position has changed in response to additional documents submitted at Deadline 5, or where more detailed advice is being provided.
- 1.3 Natural England welcomes the applicant's response to our comments on the draft DCO and draft Deemed Marine Licence (DML) (REP5-049). To ensure a cohesive position in response to the additional information provided, we will provide updated comments regarding the DCO and DML at Deadline 7.
- 1.4 Please refer to Natural England's advice provided on 23 April 2024 for our comments on the *Proposed Change Notification Report (REP2-024)*.
- 1.5 Please refer to Natural England's advice provided on 14 June 2024 for our comments on the *Proposed Further Changes Notification Report (AS-042)*.
- 1.6 Please note that our Written Representations (13 March 2024) (REP1-087), Deadline 3 response (03 May 2024) (REP3-112), Deadline 4 response (04 June 2024) (REP4-054) and Deadline 5 response (REP5-058) (11 July 2024) should be referred to for Natural England's advice on other issues within our remit.
- 1.7 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.
- 1.8 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.
- 1.9 Natural England will continue discussions with ABP to seek to resolve any outstanding concerns throughout the examination.

1.10 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 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)
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 acknowledges the justification provided in 4.10.27 of the shadow HRA regarding effects of sub-dispersive responses. However, we do not think that this adequately addresses our comments. We 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, and that the assessment should therefore consider the sub-dispersive responses in more detail. We consider, however, that the potential impacts will be adequately minimised through the provision of the agreed mitigation measures. Therefore, we consider that this comment has been adequately addressed.	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)
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 has previously 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). The applicant has confirmed that the most disturbing activities (including piling) will be avoided within 200m of Mean Low Water Springs Mark between October and March inclusive, which is considered suitably precautionary and will have the effect of avoiding the most sensitive wintering periods for waterbirds. Therefore, we consider that this comment has been adequately addressed.	No further information required.	Green
NE21B	International designated sites <ul style="list-style-type: none"> Humber Estuary SPA 	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation	<u>The use of soft starts during piling</u> 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.	No further comments.	'Yellow'

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	<ul style="list-style-type: none"> Humber Estuary Ramsar 	(C)	<p>Therefore, we do not consider that soft-start piling provides effective additional mitigation for disturbance to SPA birds.</p> <p>Natural England does not fully agree with the approach in the assessment but are satisfied with the overall approach to mitigation and consider that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process.</p>		
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 recommended that a more precautionary buffer distance should be used, for example 300m, during very severe weather. However, the applicant has confirmed that the most disturbing activities (including piling) will be avoided within 200m of Mean Low Water Springs Mark between October and March inclusive, which is considered suitably precautionary and will have the effect of avoiding the most sensitive wintering periods for waterbirds. Therefore, we consider that this comment has been adequately addressed.	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)
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)	<p><u>Cold weather construction restriction</u></p> <p>Natural England notes that <i>“it is proposed that a temporary cessation of all construction activity within 200 m of Mean Low Water Springs is implemented following seven consecutive days of freezing (zero or sub-zero temperature) weather conditions.”</i> Natural England welcome the confirmation that this would be based on records from a local weather station.</p> <p>With regard to Natural England's national guidance on the recommended approach to construction cessation during cold weather periods, this approach is still being developed and is not ready to issue for this project. However, at this stage, our advice for this project remains that a shorter period than 7 days of freezing conditions is used.</p> <p>Natural England does not fully agree with the approach in the assessment but are satisfied with the overall approach to mitigation and consider that for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process.</p>	No further comments.	‘Yellow’

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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)
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 4.10.32 of the updated shadow HRA (REP5-021) 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 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 reiterate our recommendation that further details should be provided regarding	Further information welcomed	'Yellow'

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			the role of the ECoW, such as how they will monitor and implement any required measures.		
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)	<p>Natural England remains of the opinion that the production of a Marine Mammal Mitigation Protocol (MMMP) would be useful as the project includes non-standard mitigation i.e. cease piling if marine mammals are observed in the mitigation zone.</p> <p>A MMMP acts as an easy-to-follow-in-the-field protocol to ensure mitigation is deployed on time and in the correct manner (for example, observations are carried out in enough time before piling commences). By having all the mitigation outlined and detailed in a standalone document will ensure relevant personnel are aware of their responsibilities and that measures are implemented correctly. This is particularly important as the mitigation measures are relied</p>	Further information welcomed.	'Yellow'

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			upon in the shadow HRA to conclude no adverse effects on the Humber Estuary SAC.		
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 welcomes the update provided by the applicant in REP5-050 regarding ABP Humber's Biosecurity Plan. Natural England agrees that this point, in relation to non-native species during operation, has been addressed.	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)
NE33B	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 Statement of Common Ground (REP3-052) and in the Applicant's reponse to Action Point 4 from ISH8 (REP5-050).</p> <p>Natural England would welcome a Vessel Management and Monitoring Plan, to ensure that vessel movements remain within the assessed limits.</p> <p>Our advice remains that it is the role of the Planning Inspector to determine whether the maximum number of vessel movements is adequately secured, as these values are relied upon in the HRA conclusions.</p>	Further information welcomed.	'Yellow'
NE34	International designated sites <ul style="list-style-type: none"> • Humber Estuary SAC • Humber Estuary SPA 	Air quality impacts – overall comments	Based on the updated information and Air Quality Technical Note provided by the applicant to Natural England, we can agree that our outstanding comments regarding the source apportionment of site and vessel emissions to Project pollutant contributions, and flare stack modelling, have been addressed, subject to agreed updates to the shadow HRA and submission of the Air Quality Technical Note.	No further information required.	'Green'

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	<ul style="list-style-type: none"> Humber Estuary Ramsar 				
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)	<p>Natural England note that the shadow HRA has been updated at Deadline 5, in line with the updated assessments provided by the applicant to Natural England prior to Deadline 5.</p> <p>However, Natural England maintain that more detail should be provided on the nature of the combined effects for <u>all</u> the projects together. The Applicant should examine the associated timings of the piling campaigns, of all the relevant projects together, to check whether any are scheduled to occur simultaneously in a month/year and to assess what the combined effects will be.</p> <p>Despite the methodological limitations of the assessment, based on the information provided, overall, Natural England concurs that</p>	Further information welcomed.	'Yellow'

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			cumulative underwater noise disturbance and barrier effects to seal will not have an adverse effect on the integrity of any European site, alone or in-combination.		
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 consider that the potential impacts will be adequately minimised through the provision of the agreed mitigation measures. We refer to NE21F for further advice regarding the Ecological Clerk of Works (ECoW).</p>	No further comments.	'Yellow'

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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)
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 “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.”</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'
NE49	Protected Species	Protected species - General	Natural England has adopted <u>standing advice</u> 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.	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>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 Advice Note Eleven, Annex C – Natural England and the Planning Inspectorate National Infrastructure Planning for details of the LONI process.</p>		

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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>		‘Grey’

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			<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 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>		

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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'