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Our ref: 432779
Your ref: TR050007



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Dear Sir/Madam

NSIP Reference: TR050007

Natural England's comments in respect of the Hinckley National Rail Freight Interchange

Examining authority's submission deadline: 23rd June 2023

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 Robbie Clarey [REDACTED] and copy to consultations@naturalengland.org.uk.

Yours faithfully

Robbie Clarey

Lead Adviser - East Midlands Area Delivery

Natural England's Relevant Representations

PART I: Natural England's Advice on matters relevant to the Natural Environment. (Page 2-15)

PART II: Natural England's detailed comments on the Development Consent Order (DCO) (Page 16-17).

Part I: Natural England's Advice on matters relevant to the Natural Environment

1. Summary of Natural England's Advice

Overall, Natural England are satisfied that the proposals address the majority of potential impacts to the natural environment. The only areas of concern we consider require further assessment and/or information to enable the examining authority to make an informed decision are: Nationally Designated Sites, Protected Species Licencing and Biodiversity Net Gain.

The key concerns we have regarding Nationally Designated Sites are:

- Omission of measures within the CEMP to avoid impacts to Burbage Wood and Aston Firs during construction (Dust and Root Compaction/encroachment)
- A lack of rationale provided to discount potential impact to Narborough Bog SSSI.

The key concerns we have regarding protected species licencing are:

- The requirement for protected species licences for Bats and Badgers

The key concerns we have regarding Biodiversity Net Gain are:

- The absence of certainty regarding the delivery of Biodiversity Net Gain

Natural England's advice in these relevant representations is based on information submitted by Tritax Symmetry (Hinckley) Limited in support of its application for a Development Consent Order ('DCO') in relation to the development of a Rail Freight Interchange ('the project').

Part I of these representations details what Natural England considers the main issues¹ to be in relation to the DCO application and indicates the principal submissions that it wishes to make at this point. It then sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by West Burton Solar Project Limited and the Examining Authority as part of the examination process to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority to properly undertake its task or where further work is required to determine the effects of the project.

¹ PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf

Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.

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

- Internationally designated sites
- Nationally designated sites
- Protected species
- Biodiversity Net Gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees
- Connecting people with nature (National Trails, open access land and England Coast Path)
- Other valuable and sensitive habitats and species, landscapes and access routes

Our comments are flagged as red, amber or green:

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

Part II of these representations contains our detailed comments on the draft Development Consent Order (DCO).

Natural England has been engaged by the applicant via our Discretionary Advice Service (DAS) for this project. We provided advice on the possible impacts of the proposals in 2018. Since then, Natural England have responded to the EIA Scoping consultation and two Section 42 consultations, building on our initial DAS advice.

Natural England has also recently been engaged by the applicant with regard to the production of a statement of common ground (SoCG). This statement is as yet to be finalised, however, initial comments on the draft SoCG have been provided. Following submission of relevant representations, Natural England will continue to work with the applicant to clarify any matters of disagreement and finalise the SoCG.

Natural England have not received submission of any draft protected species licences and as such have not been engaged regarding the production of a Letter of No Impediment for protected species licencing. This is discussed within the Protected Species Section of our response.

The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

2. Detailed Advice on the natural features potentially affected by this application

Internationally Designated Sites – GREEN

Our position regarding impacts on internationally designated sites is set out below.

Impacts to internationally designated sites are discussed within ES Chapter 12 (Ecology and Biodiversity) and it is noted at paragraph 12.88 that these designations are specifically dealt with at Appendix 12.3: Shadow Habitats Regulation Assessment (sHRA), which contains a more detailed assessment of potential impacts to these sites.

The sHRA (paragraph 1.60) concludes that no significant effects are likely to occur to internationally designated sites as a result of the development, both alone and in combination. Natural England concur with this conclusion; our further comments are set out below.

The sites identified to be within the ZOI are the River Mease SAC and Ensor's Pool SAC. No other sites lie within 30km of the development site, with the next closest Internationally designated site being Rutland Water, approximately 40km to the east. As such, Natural England consider the scope of the site search to be appropriate.

River Mease SAC

Paragraphs 1.44 – 1.56 of the sHRA discuss the possible impact to the River Mease SAC. These are broken down into:

- Pollution: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river.
- Drainage: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river.
- Inappropriate weirs, dams and other structures: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river, and the fact that the proposal does not include any structures within a watercourse.
- Invasive Species: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river, and a significant distance from the SAC. It is also stated that should invasive species be identified within the DCO Site, TSH will have a legal obligation to prevent their spread during construction and operation.
- Siltation: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river.
- Water Abstraction: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment of the river.

Ensor's Pool SAC

Paragraphs 1.57 – 1.58 of the sHRA discuss the possible impact to Ensor's Pool SAC. This is limited to:

- Changes in species distribution: Where a Likely Significant Effect is ruled out as the development site lies outside the catchment and a significant distance from the SAC.

Whilst no standalone in combination assessment is included within the sHRA, it is concluded that likely significant effects alone and in combination can be ruled out. It is Natural England's advice that an in-combination impact can be ruled out. This is due to the fact that, as shown above, no impact pathways exist between the proposed development site and the SACs. As such, the proposal cannot add to the impacts of any other proposals on these sites.

Nationally Designated Sites - AMBER

Natural England's position regarding nationally designated sites is set out below.

ES Chapter 12 provides an assessment of effects to Nationally designated sites. Natural England's advice regarding impacts to Nationally designated sites are provided below.

Burbage Wood and Aston Firs SSSI - AMBER

Natural England's advice regarding potential impacts to Burbage Wood and Aston Firs SSSI are set out below, categorised by possible impact pathways.

Air Quality - AMBER

Construction – Dust - AMBER

Due to the proximity of the development site to Burbage Wood and Aston Firs SSSI, there is potential for impacts to occur as a result of dust created during construction. Dust, or particles, falling onto plants can physically smother the leaves affecting photosynthesis, respiration, transpiration and leaf temperature. Larger particles can also block stomata. There may also be toxicity issues (caused by heavy metals particles) and potential changes in pH (particularly if the dust is alkaline (e.g. cement dust)). Lichens can be directly affected by the dust (shading, chemical effects) or by changes in bark chemistry.

Possible impacts from construction dust are assessed within EA Chapter 9: Air Quality. Table 9.16 shows that the SSSI's sensitivity to dust has been upgraded to 'high' and this is welcomed. Table 9.17 sets out that there is a high risk of dust impacts from demolition, earthworks, construction and trackout. As a result, mitigation is required to ensure there will be no significant effects on the notified features of the SSSI.

Paragraph 9.124 states that table 9.38 shows the dust mitigation measures to be used, however, this table shows: '*Predicted nitrogen deposition ranges at the designated ecological sites in 2026 Opening year scenarios With and Without the proposed back-up CHP – 30% operation sensitivity test*'. It is assumed this is a mistake, and that paragraph 9.124 should in fact reference tables 9.40 and 9.41, which set out the construction mitigation measures for a 'high risk' site and mitigation measures specific for demolition, earthworks, construction and trackout, respectively.

Natural England welcome the intention for all of these mitigation measures to be implemented on site during the construction phase. Paragraph 9.179 notes that the measures in tables 9.40 and

9.41 will be included in the CEMP, which will be secured by a DCO requirement. Paragraph 9.202 then concludes that *'with the implementation of these mitigation measures the impact of construction phase dust emissions is considered to be 'not significant' in accordance with IAQM guidance'*.

Whilst the above is noted, Natural England have concerns that all of the measures set out in tables 9.40 and 9.41 have not been included within the draft CEMP (document ref 17.1). Paragraphs 1.77 to 1.79 of the CEMP set out a list of examples of dust mitigation measures, but this list does not contain all of the measures previously described in tables 9.40 and 9.41. In addition, paragraph 1.79 of the CEMP states that *'not all of these will be necessary or feasible for this particular construction project'*; whilst Natural England acknowledge that not all of the measures listed will be possible, the assessment of impacts from dust during construction relies upon the implementation of all of the mitigation measures set out in tables 9.40 and 9.41. As a result, Natural England advise that all of the 'highly recommended' measures set out within tables 9.40 and 9.41 should be included in the CEMP.

In-Combination impacts from construction dust have been considered at paragraph 9.193. It is stated that there are no other committed developments within 700m of the development site. As such, in line with IAQM guidance, cumulative impacts during construction are unlikely. Natural England consider this approach to be appropriate.

Construction – road traffic - **GREEN**

Road traffic creates significant emissions of Nitrogen Oxides (NOx), which can lead to adverse effects on habitats and species. Raised levels of NOx can lead to direct impacts on plant growth, and also give rise to increased Nitrogen Deposition, which can lead to nutrient enrichment and acidification.

ES Chapter 9 has assessed the likely air quality impacts from road traffic during construction by using traffic modelling software ADMS, in accordance with IAQM, EPUK and DEFRA guidance. The results of the assessment, at tables 9.21 and 9.22, show that at Burbage Wood and Aston Firs SSSI NOx levels and Nitrogen Deposition will not rise significantly (i.e. more than 1% of the site relevant critical level² or Load³). As such, Natural England concur that air quality changes are unlikely to cause a significant impact on Burbage Wood and Aston Firs SSSI.

In-combination impacts from construction road traffic have been considered at paragraph 9.195. As there are no other committed developments nearby that are expected to be constructed at the same time, cumulative construction road traffic impacts are unlikely. Natural England consider this approach to be appropriate.

² the atmospheric concentration of a pollutant in the atmosphere above which adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge. Source:

³ A quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge. Source:

Operation – Road Traffic - **GREEN**

Similarly to the above, due to the nature of the development and its likely effect on road traffic, there is potential for air quality impacts to arise during operation. ES Chapter 9 has also assessed the likely air quality impacts from road traffic during construction by using traffic modelling software ADMS, in accordance with DRMB LA105, with reference to IAQM, EPUK, DEFRA guidance, and National Policy Statement for National Networks. The results of this assessment, at tables 9.28, 9.29 and 9.30, show once again that at Burbage Wood and Aston Firs SSSI NO_x levels and Nitrogen Deposition will not rise significantly (i.e. more than 1% of the site relevant critical level⁴ or Load⁵). This is the case at both the 2026 opening year scenario, and 2036 future year scenario. As such, Natural England concur that air quality changes during operation are unlikely to cause a significant impact on Burbage Wood and Aston Firs SSSI.

Despite the absence of significant effects, mitigation measures have been proposed to ensure the development has as minimal impact on the environment as possible. These are set out at paragraphs 9.182 – 9.185; are welcomed by Natural England.

In-combination road traffic impacts have been considered within the operational road traffic modelling; as such, no further assessment has been undertaken (paragraph 9.196). Natural England consider this approach to be appropriate.

Operational – Rail Emissions - **GREEN**

An assessment of Rail Emissions has been undertaken according to DEFRA guidelines. It is determined that the proposed development would not give rise to exceedances of any of DEFRA's screening criteria, as set out at Table 9.33. As a result, no further assessment has been carried out and impacts from rail emissions have been deemed negligible and 'not significant'. Natural England consider air quality impacts to Burbage Wood and Aston Firs SSSI as a result of rail emissions to be unlikely.

Operational – Combined Heat and Power - **GREEN**

The proposed development includes a CHP plant, which itself creates NO_x emissions. As such, an assessment of possible impacts from the CHP plant has been undertaken using ADMS modelling. The results of this assessment, at tables 9.35, 9.36 and 9.37, show that at Burbage Wood and Aston Firs SSSI NO_x levels and Nitrogen Deposition will not rise significantly (i.e.

⁴ the atmospheric concentration of a pollutant in the atmosphere above which adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge. Source:

⁵ A quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge. Source:

more than 1% of the site relevant critical level⁶ or Load⁷). This is the case at both the 2026 opening year scenario, and 2036 future year scenario. This assessment was carried out on the basis that the CHP plant will be operated for 10% of the year.

Tables 9.38 and 9.39 then illustrate that the CHP plant would have to be operated for a minimum of 30% of the year before any significant rises in nitrogen deposition were to occur, illustrating a level of precautionality in the event the CHP plant is used abnormally.

As such, Natural England concur that air quality changes caused by the CHP plant during operation are unlikely to cause a significant impact on Burbage Wood and Aston Firs SSSI.

In-combination impacts from CHP emissions are considered at paragraph 9.197. As the CHP plant is intended only for temporary use, and the absence of any other industrial emissions sources within the vicinity of the HNRFI, in-combination effects have been ruled out. Natural England consider this approach to be appropriate.

Cumulative Operational Air Quality Impacts - GREEN

Natural England raised within our pre-application communication with the applicant that cumulative assessment of air quality impacts should be undertaken, specifically of the operational impacts of road traffic and CHP emissions from the proposed development, as these two may occur at the same time, thus their impacts would cumulate. This assessment has been undertaken at Appendix 9.17.

The results of the cumulative assessment, at tables 17.3, 14.4, 17.5 and 17.6, show that when considered together, Operational Road Emissions and CHP emissions will not give rise to a significant increase in NO_x levels and Nitrogen Deposition at Burbage Wood and Aston Firs SSSI (i.e. more than 1% of the site relevant critical level⁸ or Load⁹). This is the case at both the 2026 opening year scenario, and 2036 future year scenario. As such, Natural England concur that cumulative air quality changes during operation are unlikely to cause a significant impact on Burbage Wood and Aston Firs SSSI.

⁶ *the atmospheric concentration of a pollutant in the atmosphere above which adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge. Source:*

[REDACTED]

⁷ *A quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge. Source:*

[REDACTED]

⁸ *the atmospheric concentration of a pollutant in the atmosphere above which adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge. Source:*

[REDACTED]

⁹ *A quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge. Source:*

[REDACTED]

Natural England would also like to note that no significant air quality impacts have been identified at any other SSSIs within proximity to the development site, or within 200m of the Affected Road Network.

Recreational Disturbance - GREEN

Burbage Wood and Aston Firs SSSI currently suffers from extensive recreational pressure which, if worsened, could result in an adverse impact on the SSSI. This impact was raised in Natural England's pre-application advice to the applicant. It is acknowledged that the recreational pressure likely to result from the large commercial development is significantly less than that of a residential development of the same size, however, this is not to say further recreational pressure will not be created at all. This is acknowledged at ES paragraph 12.190, which notes that the recreational pressure may be worsened by the displacement of recreational users of the development site through the SSSI. There is also potential for an increase in recreational users of the SSSI as a result of staff and users of the HNRFI using the SSSI i.e. during lunch breaks or as a commuting route.

ES paragraph 12.224 outlines the mitigation proposed to prevent additional recreational pressure on the SSSI. This includes:

- Provision of an Access Management Plan, to include:
 - o details of the location and routes of proposed and existing access points and permitted routes for walking within the development site as an alternative to the SSSI
 - o Measures to be implemented to restrict access to the more sensitive areas of the SSSI
 - o Encourage responsible use of the SSSI through provision of information and signage.
 - o Monitoring of the measures to ensure no further recreational pressure impacting the SSSI
- Funding/responsibility for ongoing management and monitoring

Natural England are working collaboratively with the applicant to ensure the management plan is fit for purpose and will prevent adverse impacts on the SSSI. We note the inclusion of a DCO requirement (draft DCO requirement 33) for the provision of the Woodland Access Management Plan (WAMP) in accordance with the principles of the draft WAMP, as well as the inclusion of clause 33 (3), stating the necessity for the plan to be reviewed at yearly intervals during establishment, then at 5 yearly intervals for the lifetime of the development. Natural England consider that where the WAMP is implemented successfully, significant impacts to the notified features of the SSSI are unlikely.

Natural England's comments on the draft WAMP (appendix 12.4) are provided below:

- Natural England welcome the habitat creation and enhancements that are outlined within the plan.
- Natural England welcome outline management principles for woodland management within the DCO site (at WAMP paragraph 4.4). It is considered that the outline management and maintenance prescriptions set out in WAMP paragraphs 4.12 to 4.47 represent a good example of woodland management to benefit biodiversity. The management of woodland within the DCO site is important in ensuring the site is a welcoming place to travel through. This will further ensure footpath users will make use of the footpaths and bridleways through the site, thus preventing further recreational pressure within the adjacent SSSI.

- Natural England welcome the planting mixes noted in Tables 4.1, 4.2 and 4.3, however note the omission of Wych Elm. This species was discussed at the pre-application stage due to its importance for White Letter Hairstreak butterfly; as such, we would be pleased to see Wych Elm included in the proposed planting.
- Natural England acknowledge the proposed measures at WAMP paragraph 4.9, specifically designed to direct visitors away from sensitive habitat features and provide alternative recreational opportunities. Appendix 11.2: Public Rights of Way Appraisal and Strategy provides further detail regarding the design of Public Rights of Way and permissive routes to prevent additional recreational impacts to the SSSI. Figure 11.14: Public Rights of Way strategy illustrates the changes made to the PRow network through the site. Natural England welcome the provision of the bridleway along the south-eastern portion of the site; consider this likely to promote access along the main footpath through the SSSI (footpath A50). This was a point Natural England raised within our pre-application consultation responses. The bridleway also provides connection from the east of the development site to Burbage Common and Woods to the west, without necessitating the use of the permissive routes through the SSSI.

Root Compaction and Direct Habitat Loss - **AMBER**

Due to the proximity of the development site to Burbage Common and Aston Firs SSSI, there is potential for adverse effects via direct habitat loss and root compaction.

ES paragraph 12.142 states that a buffer area of 25m will be established between any built development and the SSSI. It is also noted that this buffer will extend to 50m along the majority of the woodland edge. This exceeds the minimum 15m buffer recommended within Natural England and the Forestry Commission's standing advice for Ancient Woodland. Nonetheless, the same paragraph notes that a low risk remains that the SSSI may be impacted during construction by soil compaction, encroachment and localised pollution incidents. Natural England consider that in addition to the 25m built development buffer, a minimum 15m construction buffer, in line with Natural England and the Forestry Commission's standing advice, should be established and fenced prior to construction, to prevent any encroachment, root compaction or pollution incidents from impacting the SSSI during construction. This should be included within the CEMP.

Water Quality - **GREEN**

Despite its proximity, Burbage Wood and Aston Firs SSSI is not within the surface water catchment of the development site. The direction of surface water conveyance is from South to North; as such, it is considered that changes to water quality are unlikely to impact this SSSI.

Light Spill - **GREEN**

Burbage Wood and Aston Firs SSSI is notified only for its woodland interest. As such, light pollution from the proposed development is unlikely to cause an impact on the notified features of the SSSI. Nonetheless, the SSSI woodland supports an array of other wildlife, which could be significantly impacted by light pollution. As such, the Lighting Strategy provided at Appendix 3.2 is welcomed by Natural England. This should be secured by a DCO requirement.

Noise & Vibration - **GREEN**

Burbage Wood and Aston Firs SSSI is notified only for its woodland interest. As such, noise and vibration are considered unlikely to cause an adverse impact on the notified features of the SSSI. Nonetheless, similarly to lighting, noise and vibration have the potential to have an adverse impact on wildlife using the SSSI woodland. ES chapter 10: Noise and Vibration assesses the possible impacts noise and vibration could have on a variety of sensitive receptors. Tables 10.65 and 10.66 provide a summary of effects and mitigation to be included within the development. The CEMP also includes measures to be implemented to avoid excessive construction noise (CEMP paragraphs 1.71 – 1.76). The identified mitigation measures should be secured through the DCO, to avoid unnecessary noise pollution during both construction and operation.

Narborough Bog SSSI - AMBER

Natural England have previously raised the point that part of the proposed development site lies within the surface water catchment of Narborough Bog SSSI; as such, pollution from the site may reach the SSSI and cause an adverse effect. Table 12.4 states that impacts to Narborough Bog SSSI have been scoped out as it is sufficiently distant from the proposed development site.

Despite the absence of assessment of potential impacts, Natural England advise that as a result of measures embedded into the proposal, impacts to Narborough Bog SSSI are unlikely. Nonetheless, Natural England advise that the below advice should be reflected within the ES Chapter 12, to ensure transparency within the assessment of impacts to Nationally designated sites.

Impacts during construction:

- As the proposed development site lies within the catchment of the SSSI, any pollutants from the construction process, e.g. sediment, fuels/oils etc, may reach the SSSI and cause an adverse effect. Whilst the distance between the site and the SSSI is acknowledged, Natural England consider that a precautionary approach should be taken and measures put in place to prevent any pollutants from leaving the site.
- The proposals include a requirement for a Construction Environment Management Plan (CEMP). The ES is accompanied by an outline CEMP, which sets out at paragraphs 1.96 -1.107 the measures to be implemented to prevent adverse effect to the environment via surface water and hydrogeology. Natural England consider these measures, which include those specific to preventing pollution of watercourses by sediment and fuel/oil, to be suitable in removing any likelihood of impacts to Narborough Bog during construction.

Impacts during operation:

- As the proposed development site lies within the catchment of the SSSI, there is potential for oil spills and other pollutants from the operation of the site to enter the surface water environment and cause an adverse effect. Whilst the distance between the site and the SSSI is acknowledged, Natural England consider that a precautionary approach should be taken and measures put in place to prevent any pollutants from leaving the site.
- Appendix 14.2: Sustainable Drainage Statement sets out the proposals for surface water drainage from the proposed development; Natural England welcome the design of this drainage system being guided by CIRIA C753 The SuDS Manual. The surface water drainage scheme is

illustrated within Figure 14.4: Main HNRFI Site Concept Surface Water Drainage Strategy. The scheme includes the use of oil interceptors, swales, ponds and permeable paving. Natural England consider the drainage design to be suitable in preventing any likelihood of impacts to Narborough Bog during operation.

- Section 4 of the Sustainable Drainage Statement sets out the outline maintenance requirements, which are to be developed at the detailed design stage prior to operation. Natural England advise that the maintenance of the SuDS for the lifetime of the development should be made a commitment of the project, to ensure it functions in perpetuity.

Other Nationally Designated Sites

NE would like to note that we do not consider any impacts to other SSSI's likely as a result of the development.

Protected Species - AMBER

Natural England's position regarding European Protected Species is set out below.

As it stands, ES Chapter 12 indicates protected species licences are required from Natural England, namely for Badgers (ES 12.176) and Bats (ES 12.219).

As there appears to be a requirement for protected species licences from Natural England, we would like to flag this within our representations. At this stage, Natural England have not been engaged regarding the production of a Letter of No Impediment (LoNI) for protected Species Licences. Where this is required, submission of draft protected species licence applications would be required for review. Information relating to wildlife licencing and NSIPs is provided within the Planning Inspectorate's [Advice Note 11, Annex C – Natural England and the Planning Inspectorate](#). Specifically, at the bottom of page 6 and within Appendix I.

In the absence of draft protected species licences, Natural England are unable to determine whether a licence is likely to be granted.

Aside from these comments, our advice at this stage is limited to our [Standing Advice](#).

Biodiversity Net Gain - AMBER

Natural England's position regarding provision of Biodiversity Net Gain is set out below.

Biodiversity Net Gain is a demonstrable gain in biodiversity assets as a result of a development project that may or may not cause biodiversity loss, but where the final output is an overall net gain. The Environment Act has set out that Biodiversity Net Gain will be mandatory for the majority of new development from November 2023 and mandatory for NSIPs in 2025. Whilst Biodiversity Net Gain is not yet mandatory, it is considered best practise to deliver a measurable net gain through any new development.

Natural England acknowledge the production of Appendix 12.2 (Biodiversity Impact Assessment Calculations), which illustrates via use of the Biodiversity Metric 3.1 that the proposal will give rise to gains for biodiversity in the magnitude of 5.50% for habitat units and 11.70% for hedgerow units. It also

shows an 8.78% net loss for river units. This is a shortfall of the 10% (in each of the three areas) that will become mandatory for NSIPs in 2025. It is also noted that the Biodiversity Metric's Headline Results (Appendix 12.2 Annex 1) currently show that the trading rules have not been satisfied. At this stage, this is likely to be caused by the net loss in river units, however, Natural England would like to note that in order to successfully achieve a Biodiversity Net Gain, all the trading rules must be satisfied, notwithstanding where off-site provision or an offsetting scheme is used.

The Biodiversity Net Gain calculations include off site enhancements, however, these have not been discussed within the body of the Biodiversity Impact Assessment Calculations report (Appendix 12.2), nor has a plan been provided to illustrate the location or enhancement in this off-site area. As the calculations indicate a shortfall in biodiversity units, paragraphs 1.32 and 1.34 indicate that contribution to an offsetting scheme may be required, but this has not been confirmed. Natural England advise that the full details of Biodiversity Net Gain delivery, on site, off site, and via offsetting schemes should be provided in full before any consent is granted.

Despite the above, as previously stated, Biodiversity Net Gain is not yet a mandatory requirement for NSIPs. In addition, the applicant has included a DCO requirement that specifies that no development shall commence until a Biodiversity Net Gain strategy to achieve a 10% Biodiversity Net Gain has been submitted and approved by the relevant planning authority (draft DCO requirement number 30). As such, provision of finalised details of net gain delivery may not be considered by the Planning Inspectorate to be required at this stage in the development process. Nonetheless, Natural England must advise that the information provided to date would not be sufficient to discharge a requirement for Biodiversity Net Gain.

Natural England also has concerns regarding the wording at ES Chapter 12 paragraph 12.245 (regarding cumulative effects) which states '*the BIA calculations (see Appendix 12.2, document reference 6.2.12.2) show that the Proposed Development is capable of providing a 10% net gain in biodiversity*'. As described above, the BIA does not show that a 10% net gain in biodiversity can be met; as such, this paragraph should be amended to reflect this.

Nationally Designated Landscapes - GREEN

Natural England's position regarding nationally designated landscapes is set out below.

The proposed development is not located within, or within the setting of, any nationally designated landscapes. As a result, Natural England has no specific comments to make on the landscape implications of this development. The examining authority should have regard for the landscape character of the area; we welcome the reference to Natural England's National Character Areas and other Local Landscape Character Assessments within ES Chapter 11 (Landscape and Visual Effects).

Soils and best and most versatile agricultural land - GREEN

Natural England's position regarding soils and the best and most versatile agricultural land is set out below.

A detailed ALC survey has been undertaken at the site (included at Appendix 11.3), and discussed within ES chapter 16: Geology, soils and contaminated land. Natural England are satisfied that the ALC survey methodology used is appropriate. The results indicate that the site only contains approximately 2.9ha of Best and Most Versatile Agricultural land.

As a result, we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' (BMV) agricultural land.

For this reason, we do not propose to make any detailed comments in relation to agricultural land quality and soils, although sustainable soil management should aim to minimise risks to the ecosystem services which soils provide, through appropriate site design / masterplan / Green Infrastructure. Natural England would advise that any grant of consent should be made subject to conditions to safeguard soil resources. Natural England note that soil management is included within document 17.3: Site Waste and Materials Management Plan, which is secured by DCO requirement 23. It is recommended that this plan references the Defra guidance [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#).

Further guidance is available in The British Society of Soil Science Guidance Note [Benefitting from Soil Management in Development and Construction](#) which we recommend is followed in order to safeguard soil resources as part of the overall sustainability of the development.

Ancient woodland and ancient/veteran trees - GREEN

Natural England's position regarding ancient woodland and ancient/veteran trees is set out below.

Natural England advise that impacts on ancient woodland and ancient and veteran trees should be considered in line with paragraph 180 of the NPPF. Natural England and the Forestry Commission have also produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. We note that there is no Ancient Woodland or ancient/veteran trees within the development site; as such no direct loss of this irreplaceable habitat is likely. It is noted that there are a number of parcels of ancient woodlands directly south-west of the site. This includes Aston Firs, Freeholt Wood and Sheepy Wood. There are also a number of Ancient Woodlands within 200m of the 'Affected Road Network' (ARN).

The Majority of Burbage Wood and Aston Firs SSSI is comprised of Ancient Woodland; Natural England's advice regarding potential impacts to this site can be found within the Nationally Designated Sites section of these representations. The consideration of the numerous other Ancient Woodlands in proximity to the site and ARN throughout the ES is acknowledged; whilst Natural England have no specific comments to make on this, the air quality modelling within ES Chapter 9 has shown that the proposed development will contribute more than 1% of the site relevant critical levels/loads at a number of Ancient Woodlands within 200m of the ARN. Consideration must be given to the rationale provided by the applicant to rule out potential significant impacts to these irreplaceable woodlands.

Connecting people with nature – GREEN

Natural England's position regarding access is set out below.

National Trails, Open Access Land and Coast paths

There are no National Trails, Open Access Land or Coast paths within the order limits. However, Burbage Common (Access Land) lies directly adjacent to the western 'amenity areas' of the site. The proposals included in the development for this area are likely to complement the existing access land areas at Burbage Common.

Public Rights of Way

The development site currently contains a number of Public Rights of Way (ProW), which will be lost as a result of the development. Appendix 11.2: Public Rights of Way Appraisal and Strategy considers the potential impacts of the proposal on ProW and Informal Open Space on site and in the immediate vicinity.

Appendix 11.2 notes that the development would give rise to the stopping up of a number of Public Rights of Way. It also evidences that the existing ProW network on the site is subject to a low level of usage (Table 1.3) and could therefore benefit from increased connectivity and maintenance. As such, the ProW strategy includes a number of recommendations that have been included within the development proposal (See Appendix 11.2 paragraph 1.97). Natural England concur with the overall conclusion of the appendix, stating that although the development is likely to reduce the amenity of some of the diverted ProW routes through the site, the provision of alternative footpaths, bridleways and informal open space mean that the overall Public Right of Way network, and associated public benefit, are unlikely to be significantly affected.

Natural England also note the Woodland Access Management Plan intended to reduce recreational impacts on Burbage Wood and Aston Firs SSSI. Our comments on this management plan are included within the Nationally designated Sites section of these representations.

3. Natural England's overall conclusions

The main issues raised by this application relate to Nationally Designated Sites, Protected Species Licencing and Biodiversity Net Gain.

Natural England consider that:

- additional measures must be included within the CEMP to avoid impacts to Burbage Wood and Aston Firs SSSI
- further justification is required to rule out impacts to Narborough Bog SSSI;
- further information is required regarding potential protected species licences required from Natural England. In the absence of draft protected species licences, Natural England are unable to determine whether a licence is likely to be granted;
- further work is required to ensure the delivery of 10% Biodiversity Net Gain.

Natural England's concerns regarding impacts to other elements of the natural environment have been addressed within the ES submission and, subject to the appropriate use of DCO requirements, we consider impacts to these elements can be ruled out.

Natural England does not intend to make oral representations regarding this examination but is happy to work with the applicant and examining authority to ensure the development will not have adverse impacts on the natural environment.

Natural England's Relevant Representations

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

Page	DCO or omission ref	Natural England's comments	Risk (Red/Amber/Green)
49	Requirement 7 – Construction Environment Management Plan	Natural England welcome the inclusion of this requirement, as well as the inclusion of details of what this must include. The measures in the CEMP are required to prevent impacts to Nationally Designated Sites.	GREEN
51	Requirement 13 – Sustainable Drainage	Natural England welcome the inclusion of this requirement. Effective drainage during construction is important to prevent pollution events during construction from damaging the environment.	GREEN
52	Requirement 14 – Surface Water	Natural England welcome this requirement, and the inclusion of requirements for the long-term maintenance of the surface water drainage system, to ensure it functions in perpetuity. This is important to ensure drainage from the site does not damage the natural environment during its operation.	GREEN
53	Requirement 20 – Landscape Ecological Management Plan	Natural England welcomes this requirement. It is required to ensure the proposed biodiversity enhancements on the site are established and maintained for the lifetime fo the development. The inclusion of requirement to review the LEMP at 5 yearly intervals is also welcomed.	GREEN
54	Requirement 21 – Ecological Mitigation Management Plan	Natural England welcomes this requirement. It is necessary to ensure the correct implementation of ecological mitigation measures – including the timing of their implementation.	GREEN
54	Requirement 23 – Site Waste and Materials Management Plan	Natural England welcomes this requirement. The plan is necessary to ensure the sustainable handling of soils on site.	GREEN

55	Requirement 26 – Public Rights of Way Strategy	Natural England welcomes this requirement. It is necessary to ensure public rights of way are closed or diverted without disruption and in accordance with the Public Rights of Way Appraisal and Strategy.	GREEN
55	Requirement 30 – Biodiversity Net Gain	Natural England welcomes this requirement. Whilst the current DCO application lacks detail regarding the biodiversity enhancements created by the proposed development, this requirement ensure this clarity must be sought prior to commencement.	GREEN
56	Requirement 31 - Lighting	Natural England welcomes this requirement. The lighting scheme is essential to prevent light spill into nearby woodland habitats.	GREEN
56	Requirement 33 – Woodland Access Management Plan	Natural England welcomes this requirement. The successful implementation of the WAMP is required to prevent recreational impact to Burbage Wood and Aston Firs SSSI. The requirement for review at specified intervals is also welcomed.	GREEN

