

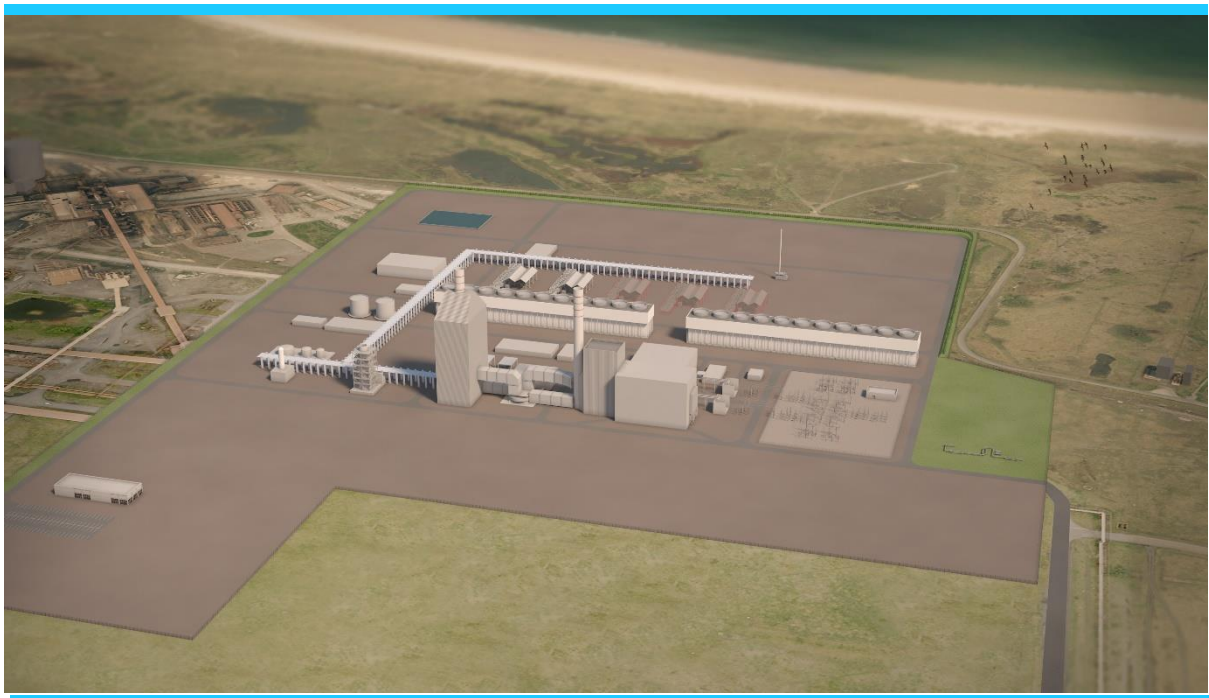
Net Zero Teesside Project

Planning Inspectorate Reference: EN010103

Land at and in the vicinity of the former Redcar Steel Works site, Redcar and in Stockton-on-Tees, Teesside

The Net Zero Teesside Order

Document Reference: 8.6 – Statement of Common Ground with Natural England



Applicants: Net Zero Teesside Power Limited (NZN Power Ltd) & Net Zero North Sea Storage Limited (NZNS Storage Ltd)

Date: ~~May~~ September 2022

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GLOSSARY

| Abbreviation | Description |
|----------------------------------|--|
| AD Guidance | Guidance on associated development applications for major infrastructure projects' (April 2013) |
| AGI | Above Ground Installation |
| Applicants | Together NZT Power and NZNS Storage |
| Application (or DCO Application) | The application for a DCO made to the SoS under Section 37 of PA 2008 in respect of the Proposed Development, required pursuant to Section 31 of the PA 2008 because the Proposed Development is a NSIP under Section 14(1)(a) and Section 15 of PA 2008 by virtue of being an onshore generating station in England or Wales of electrical capacity of more than 50 megawatts, and which does not generate electricity from wind, and by the Section 35 Direction |
| Associated Development | Defined under S.115(2) of PA 2008 as development which is associated with the principal development and that has a direct relationship with it. Associated development should either support the construction or operation of the principal development or help address its impacts. It should not be an aim in itself but should be subordinate to the principal development |
| BEIS | Department for Business, Energy, and Industrial Strategy |
| CCP | Carbon capture plant |
| CCGT | Combined cycle gas turbine |
| CCUS | Carbon capture usage and storage |

| Abbreviation | Description |
|--|--|
| CEMP | Construction and Environmental Management Plan |
| CROW | Countryside and Rights of Way Act 2000 |
| DCO | A Development Consent Order made by the relevant Secretary of State pursuant to the PA 2008 to authorise a NSIP. A DCO can incorporate or remove the need for a range of consents which would otherwise be required for a development. A DCO can also include powers of compulsory acquisition |
| EIA | Environmental Impact Assessment - the assessment of the likely significant environmental effects of a development, undertaken in accordance with the EIA Regulations |
| EIA Regulations | Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) setting out how the environmental assessment of NSIPs must be carried out and the procedures that must be followed |
| Electricity Generating Station (or CCGT / Low Carbon Electricity Generating Station) | A new electricity generating station fuelled by natural gas and with a gross output capacity of up to 860 megawatts |
| EPC Contractor | Engineering, Procurement and Construction contractor who will undertake the detailed engineering design, procurement and deliver the construction of the Proposed Development |
| ES | Environmental Statement, documenting the findings of the EIA |
| ExA | Examining Authority |
| Land Plans | The plans showing the land that is required for the Proposed Development, and the land over which interests or rights in land are sought as part of the Order |
| Limits of Deviation | The limits shown on the Works Plans within which the Proposed Development may be built |
| NSIP | Nationally Significant Infrastructure Project that must be authorised by the making of a DCO under PA 2008 |
| NZT Power | Net Zero Teesside Power Limited |
| NZNS Storage | Net Zero North Sea Storage Limited |
| NZT | Net Zero Teesside - the name of the Proposed Development. |
| Open Space Land | The parts of the Order Land which are considered to be open space for the purposes of section 132 |

| Abbreviation | Description |
|-------------------------------------|--|
| | of the PA 2008 and as shown hatched blue on the Land Plans |
| Order | The Net Zero Teesside Order, being the DCO that would be made by the Secretary of State authorising the Proposed Development, a draft of which has been submitted as part of the Application |
| Order Land | The land which is required for, or is required to facilitate, or is incidental to, or is affected by, the Proposed Development and over which powers of compulsory acquisition are sought in the Order |
| Order Limits | The limits of the land to which the Application relates and shown on the Land Plans and Works Plans within which the Proposed Development must be carried out and which is required for its construction and operation |
| PA 2008 | The Planning Act 2008 which is the legislation in relation to applications for NSIPs, including preapplication consultation and publicity, the examination of applications and decision making by the Secretary of State |
| PCC Site | Power, Capture and Compression Site - the part of the Site that will accommodate the Electricity Generating Station, along with the CCP and high-pressure compressor station |
| Proposed Development (or Project) | The development to which the Application relates and which requires a DCO, and as set out in Schedule 1 to the Order |
| Requirements | The 'requirements' at Schedule 2 to the Order that, amongst other matters, are intended to control the final details of the Proposed Development as to be constructed and to control its operation, amongst other matters to ensure that it accords with the EIA and does not result in unacceptable impacts |
| Site (or Proposed Development Site) | The land corresponding to the Order Limits which is required for the construction and operation of the Proposed Development |
| SoCG | Statement of Common Ground |
| Section 35 Direction | The direction under section 35 of the PA 2008 dated 17 January 2020 from the SoS that the Specified Elements together with any |

| Abbreviation | Description |
|--------------------|---|
| | matters/development associated with them should be treated as development for which development consent under the PA 2008 is required |
| SoS | The Secretary of State - the decision maker for DCO applications and head of Government department. In this case the SoS for the Department for Business, Energy, and Industrial Strategy |
| Specified Elements | Those elements of the Proposed Development that, by virtue of the Section 35 Direction, are to be treated as development for which development consent under the PA 2008 is required being: the CO2 gathering network, including the CO2 pipeline connections from the proposed CCGT Electricity Generating Station and industrial facilities on Teesside to transport the captured CO2 (including the connections under the tidal River Tees), a high-pressure carbon dioxide compressor station to receive captured CO2 from the CO2 gathering network, and a section of the CO2 transport pipeline for the onward transport of the captured CO2 to a suitable offshore geological storage site |
| STDC | South Tees Development Corporation |
| Work No. | Work number, a component of the Proposed Development, described at Schedule 1 to the Order |
| Works Plans | Plans showing the numbered works referred to at Schedule 1 to the Order and which together make up the Proposed Development |

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1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This Statement of Common Ground (Document Ref. 8.6) has been prepared by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the 'Applicants') in conjunction with Natural England in respect of the Net Zero Teesside Project (the 'Proposed Development').
- 1.1.2 The SoCG sets out the matters of agreement between the Applicants and Natural England and also explains those matters which, at the time of writing, remain unresolved between the parties.
- 1.1.3 The agreements to date have been reached through consultation and continuing discussions between the parties, including interface meetings and regular face to face discussions.

1.2 The Role of Natural England

- 1.2.1 Natural England is a non-departmental public body. Its 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.
- 1.2.2 Natural England's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the Act. The roles and responsibilities of Natural England under PA 2008 are outlined as follows:
- Natural England is a consultee under section 42 of the PA 2008, meaning applicants must consult with Natural England before submitting a Nationally Significant Infrastructure Project (NSIP) application;
 - NE is the statutory nature conservation body under the Conservation of Habitats and Species Regulations 2019 ('Habitats Regulations') in respect of the Habitats Regulation Assessment ('HRA') process; and
 - Natural England is the consenting and licensing authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (WCA 1981) and in relation to European protected species under the Habitats Regulations.
- 1.2.3 In more general terms aside from its responsibilities under PA 2008, Natural England is responsible for:
- promoting nature conservation and protecting biodiversity, conserving and enhancing the landscape;
 - securing the provision and improvement of facilities for the study, understanding and enjoyment of the natural environment;
 - promoting access to the countryside and open spaces; and

- encouraging open-air recreation and contributing in other ways to social and economic well-being through management of the natural environment.

1.3 The Purpose and Structure of this Document

- 1.3.1 The purpose of this document is to summarise the agreements reached between the parties on matters relevant to the Examination of the Application and to assist the Examining Authority ('ExA'). It also explains the matters which remain unresolved at the time of writing, but which both parties are working positively toward resolving. As such, it is expected that further iterations of the SoCG will be submitted to the ExA throughout the Examination and prior to the making of any Development Consent Order ('DCO') for the Proposed Development.
- 1.3.2 The SoCG has been prepared with regard to the guidance in 'Planning Act 2008: examination of application for development consent' (Department for Communities and Local Government, March 2015).
- 1.3.3 The SoCG is structured as follows:
- Section 2 – sets out consultation and related discussions held between the Applicants and Natural England.
 - Section 3 – sets out the matters discussed and agreed to date.
 - Section 4 – sets out matters to be agreed and the proposed way forward.

2.0 SUMMARY OF CONSULTATION AND DISCUSSIONS

2.1 Overview

2.1.1 This section provides a summary of how the Applicants have consulted Natural England on the Proposed Development and also sets out the discussions and correspondence that have taken place between the parties – see Table 2.1.

Table 2.1: Summary of Consultation

| Consultation Stage/Date | Natural England Response |
|--|---|
| July 2017 (Pre-Application engagement meeting) | Following the agreement of a Natural England discretionary advice service (DAS) contract, an introductory meeting was held with Natural England. The purpose was to introduce the Proposed Development, identify key milestones, provide an overview of key site constraints and the technical approach to HRA. |
| August 2017 (Circulation of Ecological technical note) | A preliminary constraints assessment was provided to Natural England, alongside a proposed ecological scope of work. |
| September 2017 (Methodology and scope review) | Following receipt of Natural England feedback on the ecological scope of work, a further technical note was provided to Natural England summarising how feedback had been actioned. This correspondence also confirmed appointment of ornithological surveyors for the 2017/2018 season. |
| March 2019 (EIA Scoping) | <p>PINS consulted with Natural England on the Scoping Report prepared by the applicant Applicants in March 2019.</p> <p>Key topics raised in PINS Scoping Opinion included:</p> <ul style="list-style-type: none"> • Need to assess the extension to the Teesmouth and Cleveland Coast Ramsar, SPA and SSSI as well as the NNR and RSPB Reserve • 15 km study area for aerial emissions • Phase 1 Habitat Survey data should be collected for the entirety of the application site. Species surveys should be sufficient to support a robust assessment and justified in the ES • Marine surveys should be undertaken if there is a potential for significant effects. • Methodology for assessing noise disturbance on birds should be agreed with NE and mitigation identified if necessary. • Traffic, vibration and visual impacts should also be considered where significant effects likely. |

| Consultation Stage/Date | Natural England Response |
|--|---|
| | <ul style="list-style-type: none"> • Air quality assessment should include dust impacts on designated sites. • Quantification of temporary and permanent habitat gains and losses by type (including functionally linked land). • Invasive species surveys should be undertaken and any eradication/control measures detailed in the ES. • Impacts on trees/woodland within/adjacent to the site should be assessed and any mitigation proposed. |
| <p>April 2019 (Pre-Application engagement meeting)</p> | <p>Technical progress on survey activity (as well as EIA) together with planned surveys and ecological assessments and an indicative timeline of key next-steps for the Proposed Development.</p> <p>Key points raised by NE:</p> <ul style="list-style-type: none"> • NE to provide GIS data and information on designated sites that the Tees Estuary Partnership has identified for opportunities for BNG • Non-standard emissions (e.g. nitrosamines) to be included in ES/HRA • Noise impact on bird thresholds to be evaluated. Piling should avoid overwintering period if possible. • Consider potential UXO presence at South Gare • Updating the wintering birds information is not a concern north of Tees. For land north of Tees existing INCA/RSPB/WeBS bird data sufficient if within existing corridors. • Phase 1 Habitat Survey to be completed and shared with NE. • Separate discussions on marine data collection and surveys to be held with NE. |
| <p>February 2020 (Pre-Application engagement meeting)</p> | <p>Survey progress was discussed, alongside the planned scope of further surveys for the Proposed Development Site and surrounds. The Applicants' Marine, Aquatic, Terrestrial and Ornithological specialists attended the meeting and provided technical updates to Natural England. An update on progress with the HRA was also provided.</p> |
| <p>April 2020 (email update from AECOM to NE regarding the survey scope in</p> | <p>The Applicants presented the progress on ecological surveys to-date and the remaining survey suite planned for completion ahead of DCO submission.</p> |

| Consultation Stage/Date | Natural England Response |
|--|--|
| light of COVID-19; circulation of survey scope technical memo) | |
| July 2020 (Stage 2 consultation – Preliminary Environmental Information (PEI) Report) | <p>Natural England were consulted as part of the Stage 2 formal consultation, including upon the PEI Report prepared by the Applicants.</p> <p>Natural England provided a range of feedback; key topics raised included:</p> <ul style="list-style-type: none"> • Nationally and internationally designated sites (the Teesmouth and Cleveland Coast SSSI, SPA and Ramsar) • Protected Species • Landscape • Habitat Enhancement • Ongoing Engagement |
| October 2020 (Natural England assent/consent application for water surveys) | An assent/consent application was made to Natural England and granted for a limited series of surface water surveys/sampling within the Coatham Sands area. |
| November 2020 (Natural England assent/consent application for unexploded ordnance surveys) | An assent/consent application was made to Natural England and granted for a limited series of drone-based magnometer surveys within the Coatham Sands area. |
| December 2020 (Pre-Application engagement meeting) | Detailed feedback from Stage 2 consultation was discussed, as well as the Applicants’ responses. Updated review of survey progress (and planned surveys) and the general sufficiency of surveys to-date and planned was agreed with NE. |
| December 2020 (Air Quality technical memo) | An update on HRA progress included agreement of key topics surrounding the HRA, including appropriate noise thresholds for the Teesside area and the nitrogen deposition thresholds. |
| January 2021 (Natural England assent/consent application for intertidal sampling) | A detailed technical discussion was undertaken with Natural England regarding air quality; this included the approach to cumulative effects assessment. |
| January 2021 (Pre-application) | A technical memo was circulated to Natural England to help inform the appraisal of emissions to air arising from the Proposed |

| Consultation Stage/Date | Natural England Response |
|--|--|
| engagement meeting; technical memo related to cumulative effects) | Development. The memo also set out key areas that were agreed between the parties as being important to reach agreement on. |
| March 2021 (Natural England assent/consent application for geotechnical investigation) | An assent/consent application was made to Natural England and granted for a limited series of intertidal sampling within the Coatham Sands area. |
| April 2021 (Technical meeting ahead of DCO submission) | Update on progress and technical discussion related to air quality. Neighbouring third-party development proposals, including combustion plant(s), were discussed regarding cumulative effects with the Proposed Development and an approach was agreed between the parties on how to consider the cumulative effects on the Coatham Sands area. |
| May 2021 (HRA Review) | The HRA Appropriate Assessment was submitted for review and comments were received. |
| December 2021 (Publication of Natural England's Relevant Representation) | Summarised all formal consultation and technical engagement to-date. The findings from key EIA workstreams, including noise and air quality, were presented and discussed. |
| March 2022 | Meeting to discuss Natural England's Relevant Representation. |
| May 2022 | Email exchange regarding the contents of the SoCG. |
| June 2022 | Email exchange regarding the contents of the SoCG. |
| <u>July 2022</u> | <u>Meeting to discuss updating the HRA to include the appropriate assessment of LSE for effects of rock armour in Tees Bay (e.g. scouring) and for the effects of HDD operations (e.g. bore failure and drilling fluid leakage) – in Coatham Dunes and Tees Bay</u> <u>Meeting to discuss the results of preliminary discharge modelling</u> |
| <u>August 2022</u> | <u>Email exchange regarding the review of the draft nutrient discharge modelling report and proposed SOCG updates relating to the updated HRA.</u> |
| <u>September 2022</u> | <u>Meeting to close out address NE comments on rock armour, HDD bore failure and UXO detonations and introduce the Applicants approach to nutrient nitrogen with regard to nutrient neutrality.</u> |

3.0 MATTERS AGREED

3.1.1 Table 3.1 below contains a list of matters agreed along with a concise commentary of what the item refers to.

Table 3.1: List of Matters Agreed between the ~~Applicant~~Applicants and Natural England

| Matter Agreed | Natural England Response |
|--|---|
| <p>General Adequacy of the Environmental Statement and other relevant documents submitted with the DCO application</p> | <p>The Impacts on ecology are considered in ES Volume I, Chapter 12: Terrestrial Ecology and Nature Conservation [APP-094]; Chapter 13: Aquatic Ecology [APP-095]; Chapter 14: Marine Ecology and Nature Conservation [APP-096]; and Chapter 15: Ornithology [APP-097]. These chapters summarise the ecological surveys undertaken and provide an assessment of the effects of the Proposed Development on ecological receptors. The survey reports are provided in ES Volume II, Appendices 12C to 12J [APP-301 to APP-312] and [AS-030], 14A to 14D [APP-315 to APP-320], and 15A and 15B [APP-322, APP-323, APP-325, APP-326 and AS-031]. A Landscaping and Biodiversity Strategy is included within the draft DCO application documents [REPS-011APP-079].</p> <p>The assessments made in Chapters 12, 13, 14 and 15 have been informed by the results of the following ES chapters:</p> <p>Chapter 8: Air quality [APP-090] Chapter 9: Surface Water, Flood Risk and Water Resources [APP-091] Chapter 10: Geology and Contaminated Land [APP-092] Chapter 11: Noise and vibration [APP-093]</p> <p>It is agreed that the baseline surveys and assessment methods used to inform the assessment of effects upon protected species and habitats (with exception of those which further information has been requested for and referenced with Section 4.0 of this Statement of Common Ground) and presented in the ES are appropriate, adequate and follow current guidance.</p> |
| <p>The assessment of effects on Onshore Ecology</p> | <p>It is agreed that, in line with the conclusions of ES Volume I, Chapter 12: Terrestrial Ecology and Nature Conservation [APP-094] subject to the specific points listed below, the proposed control and mitigation measures for construction and operational effects will provide effective protection to designated sites and protected species, that no significant effects are likely and therefore that the effects are acceptable.</p> |
| <p>The assessment of effects on Ornithology</p> | <p>It is agreed that, in line with the conclusions of ES Volume I, Chapter 15: Ornithology [APP-097] subject to the specific points listed below, the proposed control and mitigation measures for construction and operational effects will provide effective protection to designated sites and protected species, that no</p> |

| Matter Agreed | Natural England Response |
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| | significant effects are likely and therefore that the effects are acceptable. |
| The assessment of effects on Aquatic and Marine Ecology | It is agreed that, in line with the conclusions of ES Volume I, Chapter 13: Aquatic Ecology [APP-095] and Chapter 14 Marine Ecology and Nature Conservation [APP-096] subject to the specific points listed below, the proposed control and mitigation measures for construction and operational effects will provide effective protection to designated sites and protected species, that no significant effects are likely and therefore that the effects are acceptable. |
| Habitats Regulations Assessment and Effects on Internationally and Nationally Designated Sites | <p><i>Teesmouth and Cleveland Coast SPA/Ramsar/SSSI</i> The application is accompanied by a Habitats Regulations Assessment Report {(Document Ref. 5.13) -AS 194} which contains sufficient information required by the competent authority to undertake an ‘Appropriate Assessment’ under the terms of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the ‘Habitats Regulations’), including identifying and considering all potentially relevant protected sites. <u>As introduced in the meeting of 15 September 2022, further information regarding discharge modelling will be submitted at Deadline 9.</u></p> <p><i>Noise and Vibration Disturbance (Construction and Decommissioning)</i> Potential effects on the qualifying species of the Teesmouth and Cleveland Coast Special Protection Area (SPA)/ Ramsar/ Site of Special Scientific Interest (SSSI) as a result of noise and vibration have been addressed ES Volume I Chapter 11 Noise and Vibration [APP-093] and ES Volume II, Appendices 11A [APP-296] and 11B [APP-297].</p> <p>Natural England have confirmed that they consider a 70 dB threshold to be an appropriate disturbance metric for the SPA / Ramsar, based on research undertaken in the Humber Estuary. It is agreed that through the proposed control and mitigation measures, to be secured through Requirement 23 (Piling and penetrative foundation design) that during construction there will be no adverse effect on integrity resulting from the installation of bored piles at the PCC Site.</p> <p>It is agreed that the wording of draft DCO Requirement 23 adequately secures the control of construction piling (with regards to noise effects on waterbirds). The wording of Requirement 23 is as follows, with the amended wording to be included at Deadline 2:</p> |

| Matter Agreed | Natural England Response |
|---------------|--|
| | <p><i>“23.—(1) No part of the authorised development comprised within Work Nos. 1 or 7 may commence, save for the permitted preliminary works, until a written piling and penetrative foundation design method statement, informed by a risk assessment, for that part, has been submitted to and, after consultation with the Environment Agency and Natural England, approved by the relevant planning authority.</i></p> <p><i>(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.”</i></p> <p>The construction works for the CO₂ export pipeline will involve trenchless techniques, whilst the replacement outfall if required would involve construction of a micro-bored tunnel. Noise levels are predicted to be below the 70 dB threshold agreed with Natural England during these construction works. This pipeline traverses part of the Teesmouth and Cleveland Coast SPA / Ramsar at Coatham Dunes and Sands but would be installed many metres below the surface with no open cut works and no loss of habitat. The only works within the dunes would be non-intrusive surveillance by a contractor.</p> <p>Notwithstanding this, it is agreed that, if construction occurs during November to March, simultaneous vantage point bird monitoring will be undertaken in order to confirm the absence of disturbance events. There will therefore be no adverse effect on the integrity of the Teesmouth & Cleveland Coast SPA and Ramsar site during construction of the CO₂ export pipeline.</p> <p>The CO₂ Gathering Network corridor runs to the north of the Saltholme Reserve (part of the Teesmouth and Cleveland Coast SPA / Ramsar), before crossing the River Tees and reaching the PCC Site. As predicted construction noise levels for the CO₂ Gathering Network remain below 70 dB at the nearest waterbodies used by birds within the SPA, a conclusion of no adverse effect on the integrity of the Teesmouth & Cleveland Coast SPA/Ramsar is agreed.</p> <p>Preparation of a Construction Environmental Management Plan (CEMP) including construction noise and vibration control measures is to be secured by Requirement 16 (Construction Environmental Management Plan). In addition, Requirement 21 secures appropriate controls on construction noise and vibration.</p> |

| Matter Agreed | Natural England Response |
|---------------|---|
| | <p>Based on the above, it is agreed that the effects of noise and vibration disturbance on the Teesmouth and Cleveland Coast bird species and harbour seals during construction have been adequately assessed and controlled and that construction of the Proposed Development will not result in any adverse effects on ecological receptors.</p> <p><i>Atmospheric Pollution (Operational emissions)</i> Potential operational atmospheric pollution effects of the Proposed Development were screened in for Appropriate Assessment in the HRA, primarily due to the extent of additional nitrogen deposition predicted to result from emissions of Nitrogen Dioxide (NO₂) and Ammonia (NH₃), on avocet and tern nesting habitats from emissions from the carbon capture absorber stack (part of Work No. 1). It is agreed that based on the predicted effects and their location an adverse effect on the integrity of the SPA/Ramsar via this impact pathway would not arise.</p> <p>A number of potential cumulative schemes have been considered as part of the EIA. It is also agreed that cumulative effects of the Proposed Development with other committed or proposed schemes will not give rise to any adverse effect on the integrity of the SPA/Ramsar. Similarly, it is also agreed that cumulative effects of the Proposed Development together with other committed or proposed schemes will not give rise to any adverse effect on the Teesmouth and Cleveland Coast SSSI, in particular Coatham Dunes.</p> <p><i>Water Quality (Construction, Operation and Decommissioning)</i> Considering the specific mitigation measures identified in Chapters 13 (Aquatic Ecology) and 14 (Marine Ecology) ([APP-095 and APP-096]), some of which are part of the inherent development design, it is concluded that construction, operation and decommissioning of the Proposed Development will not result in adverse effects on the Teesmouth and Cleveland Coast SPA / Ramsar regarding water quality. The Proposed Development will also not result in adverse effects on interest features in the Teesmouth and Cleveland Coast SSSI, namely harbour seals and habitats in Coatham Dunes.</p> <p><i>North York Moors SAC / SPA</i> Due to the distance between the Proposed Development and the North York Moors SAC/SPA there are no construction effects associated with noise and vibration, air quality (including dust) or water. There are also no effects associated</p> |

| Matter Agreed | Natural England Response |
|---------------|--|
| | <p>with atmospheric pollution arising from the operation of the Proposed Development on the North York Moors SAC/SPA. A conclusion of no adverse effect on integrity can therefore be drawn.</p> <p><i>Southern North Sea SAC</i> It is concluded that there will be no adverse effects on the integrity of the Southern North Sea SAC regarding disturbance in any functionally linked habitat either due to construction or operation of the Proposed Development. This included the potential effects of UXO detonations, whereby <u>the requirements of conditions 23 of Schedules 10 and 11 of the DCO are appropriate to discharge requirements associated with UXO clearance</u>the Proposed Development will require a marine licence and any marine licence will require mitigation measures to ensure no mortality or significant disturbance to designation features.</p> <p><i>Rock Armour</i> <u>The potential impacts of installing rock armour protection at the the end-exit of the replacement water outfall has been integrated-screened in for Appropriate Assessment into in the Habitats Regulations Assessment Report (Document Ref. 5.13 [REP6X-0XX004]) (Document Ref. 5.13 Rev 4)(Document Ref. 5.13, Rev 5)and demonstrates no Likely Significant Effect.</u></p> <p><i>HDD Collapse</i> <u>Natural England raised a concern regarding the potential for “HDD collapse” (i.e. bore failure) in their-its Written Representation [REP2-065]. The Habitats Regulations Assessment Report (Document Ref. 5.13, Rev 4) (Document Ref. 5.13 [REP6-0XX04]) (Document Ref. 5.13, Rev 5)-has been updated to screen in HDD failure and drilling mud leakage for Appropriate Assessment and demonstrates no Likely Significant Effecta. A requirement for d-mitigation for borehole-collapse HDD failure and drilling mud leakage has been included in the fFramework CEMP [REP5-0143], Table 5A3: Surface Water, Water Resources and Flood Risk and Table 5A8: Marine EcologyREF]reflect the inclusion of this assessment and include mitigation. Further information regarding how the HDD is planned has been included as part of the response to question GH 2.6 presented in Applicants’ Response to the Examining Authority’s Second Written Questions (REP6-121). An example of the contractor’s drilling-method statement for pollution control has also been included as Appendix GH 2.6 (Document 9.27[REP6-121]).</u></p> |

| Matter Agreed | Natural England Response |
|---|---|
| | <p><u>The Applicant proposes to update the CEMP and submit to the examination at Deadline 9 to include HDD contingency planning.</u></p> <p><u>Natural England confirm they would find it acceptable for the controls around HDD to be detailed in the final CEMP and discharged by Requirement 11 of the DCO [REP6-002137].</u></p> |
| Effects on Non-Statutory Nature Conservation Designations | <p>Chapter 12: Terrestrial Ecology and Nature Conservation [APP-094]; Chapter 13: Aquatic Ecology [APP-095]; and Chapter 15: Ornithology [APP-097] include an assessment of potential effects on Local Wildlife Sites. No likely significant effects have been identified on Local Wildlife Sites.</p> |
| Construction Environmental Management Plan | <p>It is agreed that the Framework CEMP [APP-246REP5-0134] includes the necessary principal controls to effectively manage environmental risks associated with the construction of the Proposed Development.</p> <p>The Framework CEMP will be updated at Deadline 2 to include the requirement for the Construction CEMP to include <u>the prevention of mitigation for cases of HDD bore collapse failure as referenced assessed in the Habitats Regulations Assessment (Document Ref. 5.13 [REP6-004PX-0XX]) (Document Ref 5.13 Rev (Document Ref 5.13 Rev 5 [REF].</u></p> <p>The CEMP will also be amended at <u>include the mitigation proposed in the response to Written Question BIO 1.50 (Applicants Responses to the Examining Authority's Written Questions [REP2-016] regarding what actions would to be taken to address the effects of disturbance. The Applicant Applicants notes that HDD is a low impact methodology and disturbance will be as low as reasonably practicable, however, as a precautionary approach monitoring will be carried out from one or more locations (as required and to be determined by the ecological clerk of works (ECoW) in consultation with an ornithological expert if necessary) simultaneously to detect bird responses and to determine the level of such responses to artificial stimuli resulting from construction activities occurring within 250m of birds for which the Teesmouth and Cleveland Coast Ramsar, SPA and SSSI are notified.</u></p> <p><u>There is no specific guidance or thresholds on what constitutes disturbance, therefore this would be based on the professional judgement of the ECoW and/or specialist ornithologist. In the unlikely event that a disturbance events was considered to have occurred, there would first be a judgment taken as to whether such disturbance was significant and was triggered by any aspect of the works. This is because a single disturbance event would not constitute an adverse effect on the integrity of the SPA/Ramsar site; it would require a pattern such as:</u></p> |

| Matter Agreed | Natural England Response |
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| | <ul style="list-style-type: none"> • <u>Repeated temporary cessation of feeding</u> • <u>Complete cessation of feeding (one off or occasional temporary short-lived cessation of feeding accompanied by a “heads up” response would be acceptable)</u> • <u>Birds abandoning a feeding area or being flushed in any way from a feeding area</u> • <u>Birds abandoning a roost</u> • <u>Birds showing alarm or distress behaviours (including but not restricted to alarm calling, anti-predator display or physically moving away from the source of the stimulus)</u> <p><u>If necessary, consideration would be given to changing the plant used as necessary (e.g. for quieter plant), further enhancing the mitigation such as through use of additional shielding to reduce noise and visual impact or temporary cessation of the noisiest work activity. The appropriate course of action would be decided in consultation between the client, the contractor(s) and the appointed ECoW.</u></p> <p>Deadline 2 to specify any required mitigation which would result from construction disturbance to bird species being detected through vantage point bird monitoring between November to March.</p> <p>It is also agreed that Requirement 16 (Construction Environmental Management Plan) of the draft DCO is appropriate for controlling the environmental effects of construction. The wording of Requirement 16 is agreed as follows:</p> <p><i>“16. (1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority. (2) The plan submitted and approved must be in accordance with the framework construction environmental management plan and the indicative landscaping and biodiversity strategy and incorporate -</i></p> <ul style="list-style-type: none"> <i>(a) a code of construction practice, specifying measures designed to minimise the impacts of construction works;</i> <i>(b) a scheme for the control of any emissions to air;</i> <i>(c) a soil management plan;</i> <i>(d) a sediment control plan;</i> <i>(e) a scheme for environmental monitoring and reporting during the construction of the authorised development, including measures for undertaking any corrective actions;</i> <i>(f) a scheme for the notification of any significant construction impacts on local residents and for handling any complaints</i> |

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| | <p><i>received from local residents relating to such impacts during the construction of the authorised development.; and;</i> <i>(g) the measures outlined in paragraphs 15.7.4, 15.8.12 to 15.8.16, 15.8.19 and 15.9.1 in Appendix B: Ornithology in the Environmental Statement Addendum – Volume I of the ES addendum or such other measures to achieve the same maximum noise levels as are set out in paragraphs 15.8.13 to 15.8.16 of Appendix B: Ornithology in the Environmental Statement Addendum – Volume I of the ES addendum. (3) All construction works associated with the authorised development must be carried out in accordance with the relevant approved construction environmental management plan unless otherwise agreed with the relevant planning authority.”</i></p> |
| <p>Biodiversity Protection, Mitigation and Enhancement</p> | <p>Measures to protect biodiversity during construction are set out in the Landscape and Biodiversity Strategy [Document 4.15, Rev 3 [REP6-036]APP-079]. This includes:</p> <ul style="list-style-type: none"> • Use of an Ecological Clerk of Works, as required; • Adoption of precautionary Protected and Invasive Species Working Methods, focussed on nesting birds, common lizard, invasive, non-native plant species, and animal welfare requirements; • updated terrestrial invasive non-native plant species survey(s) and preparation of an Invasive Species Management Plan (ISMP); • Should any building demolition be required, if bat roosts are found then a Bat Low Impact Class Licence or a European Protected Species Mitigation Licence (depending on the magnitude of the bat constraint identified) would be applied for from Natural England to permit demolition works to proceed. Demolition would only proceed once all necessary licences were in place, and associated mitigation requirements (e.g. provision of replacement roosts) have been met’; • no mature trees would be affected by the Proposed Development; • construction temporary lighting would be arranged so that glare is minimised outside the Site as far as reasonably practicable. Measures to minimise the impact of lighting are detailed in the Indicative Lighting Strategy [AS-017] and Framework CEMP [REP5-013APP-246]; • habitats that would be temporarily lost or damaged during construction, mainly comprising species-poor grassland, would be reinstated on a like-for-like basis in accordance with the requirements of the relevant |

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| | <p>landowner (see Chapter 5: Construction Programme and Management [APP-087] Second Change ES Addendum (Document Ref 7.11.</p> <p>It is agreed that the biodiversity protection, mitigation and enhancement measures provided within the Landscape and Biodiversity Strategy [REP5-011APP-079] are appropriate and comply with the policy in NPS EN-1 on biodiversity including paragraphs 5.3.15 and 5.3.18. These measures are secured by DCO Requirement 4 (Landscaping and Biodiversity Protection Management and Enhancement).</p> <p>To seek to achieve biodiversity net gain for the Proposed Development, use has been made of the calculator tool and metric published by Natural England for this purpose (Natural England, 2019). The assessment of habitat losses and gains has been based on the provision of the identified habitat creation measures in all of the indicative areas within the PCC Site. Not all of this land would be required to achieve the stated gain (total available area = 20.57 ha, total land currently required to achieve net gain = 18.99 ha) and therefore the indicative Landscape and Biodiversity Strategy provided at this stage includes a degree of conservatism. The location and extent of land for biodiversity enhancement will be subject to detailed design and will be confirmed in the final Strategy. However, the relative level of biodiversity gain to be provided would remain as committed in the indicative Landscape and Biodiversity Strategy. These matters are adequately secured by paragraphs (4) to (8) of Requirement 4.</p> |
| The wording of Requirement 4 | <p>The wording of Requirement 4 is agreed as follows:</p> <p><i>4.—(1) No part of the authorised development may commence until a landscaping and biodiversity protection plan for that part has been submitted to and approved by the relevant planning authority.</i></p> <p><i>(2) The plan submitted and approved pursuant to sub-paragraph (1) must include details of—</i></p> <p><i>(a) measures to protect existing shrub and tree planting that is to be retained;</i></p> <p><i>(b) details of any trees and hedgerows to be removed; and</i></p> <p><i>(c) biodiversity and habitat mitigation and impact avoidance.</i></p> <p><i>(3) The plan submitted and approved pursuant to sub-paragraph (1) must be implemented as approved throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.</i></p> |

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| | <p><i>(4) No part of Work Nos. 1 or 7 may be commissioned until a landscaping and biodiversity management and enhancement plan for that part has been submitted to and approved by the relevant planning authority.</i></p> <p><i>(5) The plan submitted and approved pursuant to sub-paragraph (4) must include details of—</i></p> <p><i>(a) implementation and management of all new shrub and tree planting;</i></p> <p><i>(b) measures to enhance and maintain existing shrub and tree planting that is to be retained;</i></p> <p><i>(c) measures to enhance biodiversity and habitats;</i></p> <p><i>(d) an implementation timetable; and</i></p> <p><i>(e) annual landscaping and biodiversity management and maintenance.</i></p> <p><i>(6) Any shrub or tree planted as part of the approved plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise agreed with the relevant planning authority.</i></p> <p><i>(7) The plan submitted and approved pursuant to sub-paragraph (4) must be in accordance with the principles of the indicative landscaping and biodiversity strategy.</i></p> <p><i>(8) The plan must be implemented and maintained as approved during the operation of the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.</i></p> |
| Landscape | <p>The effects of the Proposed Development on landscape character are assessed in ES Volume I, Chapter 17: Landscape and Visual Amenity [APP-099]. It is agreed that there are no identified significant landscape effects associated with the Proposed Development.</p> |
| Access land | <p>It is agreed that areas of ‘access land’ are identified (in beige shading) on the Access and Rights of Way Plans (Document Ref. 4.5) and are where the public has a right of open air recreation pursuant to section 2(1) of the Countryside and Rights of Way Act 2000 (‘CROW’).</p> <p>Article 13 in the Draft Development Consent Order {(Document No. 2.1 Rev—7[REP6-002AS-136]} includes power for the Applicants to be able to stop up areas of the access land where required in relation to the construction of the Proposed</p> |

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| | <p>Development (in particular the connections which cross under the beach and dunes, being the CO₂ Export Pipeline and (if required) the Water Discharge Connection). The works to install those pipelines are subterranean (as set out above) and any activities by the Applicants and restrictions on the access land would be limited in scope and time. These are set out at paragraph 3.4.12 onwards of the Explanatory Memorandum ({AS-137Document No. 2.2, Rev 5.0[REP6-005]).</p> <p>Natural England must be consulted pursuant to article 13(10) before any restrictions on the access land are imposed, and Requirement 5 adequately secures the submission, approval and implementation of a management plan in relation to any public rights of way and access land which is to be temporarily stopped up.</p> <p>Given the limited nature of the restrictions on the access land, no impacts are predicted.</p> |
| The wording of Requirement 5 | <p>The wording of Requirement 5 is agreed as follows:</p> <p>5.—(1) No public rights of way may be temporarily diverted or stopped up and access to any access land must not be temporarily prevented until a management plan for the relevant section of public rights of way or access land has been submitted to and approved by the relevant planning authority.</p> <p>(2) The plan must include details of—</p> <p>(a) measures to minimise the length of any sections of public rights of way and the area of any access land to be temporarily closed; and</p> <p>(b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed or diverted and access land to be temporarily closed.</p> <p>(3) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.</p> |
| Approach to nutrient assessment | <p>Based on discussions with NE (15 Sept 2022), it is agreed that while consideration must be given to nutrient loading within the Tees Bay part of Teesmouth and Cleveland Coast SPA/Ramsar for completeness, the area of concern for Natural England is the effect of nutrient loading on the intertidal area and the estuary, particularly Seal Sands.</p> |

4.0 MATTERS TO BE AGREED

4.1 Overview

4.1.1 This section sets out matters to be agreed between the parties and the proposed way forward.

4.1.2 Following Natural England's Relevant Representation dated 17th December 2021, Natural England has requested further clarification regarding the following matters:

- Natural England consider that the potential for process water discharges (particularly nitrogen) to have adverse effects on site integrity of the adjacent Teesmouth and Cleveland Coast Ramsar, SPA and SSSI designated sites needs to be assessed further. In particular the impacts of nutrient nitrogen on the Tees Estuary need to be assessed. The Applicants are undertaking confirmatory modelling to understand the impacts of nitrogen from both atmospheric deposition and effluent discharges. This will include the effects of other existing discharges into the same controlled waters. The confirmatory modelling will be based on a series of appropriate assumptions, because the final design and technologies for process water treatment will not be known until a contractor is appointed. The Applicants are working with both Natural England and the Environment Agency to develop the modelling assumptions and approach so that all parties can have confidence in the results. The Applicants' modelling methodology was shared with Natural England in May-July and August 2022. The Applicants and Natural England will continue to discuss this matter and the Applicants will provide the results of this modelling during the examination process; an initial draft of the report has been shared with Natural England in a meeting in July 2022 with August and comments were received from Natural England ~~is targeted to be issued to Natural England by~~at the end of June-August 2022.
- ~~Natural England consider that the potential impacts of installing rock armour protection at the end of the Water Discharge Connection (Work No. 5A or 5B) have not been considered in the Habitats Regulations Assessment Report (Document Ref. 5.13 [APP-080]). The Applicants will update the Habitats Regulations Assessment Report to include explicit reference to the rock armour and this will be submitted during the examination process an initial draft of the updated report is targeted to be issued to Natural England by mid July 2022. The installation of rock armour protection at the end of the Water Discharge Connection was considered in Chapter 14 Marine Ecology and Nature Conservation (Document Ref. 6.2.14 [APP-096]) and was concluded to result in a not significant effect.~~

4.1.3 The parties are committed to taking forward discussions on the matters above as necessary, so whilst they are not yet agreed, both parties hope to reach agreement in the near future.