



Meeting note

File reference	EN010082
Project	Tees CCPP
Status	Final
Author	Ewa Sherman
Date	6 September 2017
Meeting with	Sembcorp Utilities (UK) Limited
Venue	Temple Quay House (Teleconference)
Attendees	The Planning Inspectorate: Kay Sully- Case Manager Tracey Williams – Case Manager Ewa Sherman – Case Officer Emma Cottam – EIA and Land Rights Advisor Lucy Hicks - EIA and Land Rights Advisor Sembcorp Utilities (UK) Limited: Scott Taylor (Sembcorp) Dave Sigsworth (Sembcorp) Katy McPhie (Bond Dickinson) Rod Ellison (ERM) Kevin Murphy (ERM)
Meeting objectives	Project update
Circulation	All attendees

Summary of key points discussed and advice given:

Welcome and Introductions

The Applicant and the Planning Inspectorate (the Inspectorate) introduced themselves and their respective roles. The Inspectorate outlined its openness policy and ensured that those present understood that any issues discussed and advice given would be recorded and placed on the Inspectorate's website under section 51 of the Planning Act 2008 (PA2008). Further to this, it was made clear that any advice given did not constitute legal advice upon which the Applicant (or others) can rely.

Due to the reallocation of projects within the wider Energy Sector team, it was confirmed that Tracey Williams will replace Kay Sully as the Case Manager for this project.

Project update

The Applicant confirmed that statutory consultation has now concluded and that it is currently working on drafting the various application documents, such as the Development Consent Order (DCO), developers' documents and associated drawings. The review process is ongoing.

Consultation update

Public consultation events have been held at three venues: Lazenby Village Hall, Whale Hill Community Centre and Westfield Farm, with two venues covering the area to the south of the proposed development and one to the north-east. The events were attended by 66 people in total, although one lady attended two public exhibitions. The Applicant received 40 feedback forms from the public during statutory consultation - during the events, and also through the website and direct email. The prevalent subjects raised by respondents were: the creation of jobs; emissions / air quality; noise problems. Some members of the public were in favour of relocating of the plant to a different site.

The Applicant confirmed that they will describe the alternative sites that they considered and the main reasons for selecting this particular site (taking into account the effects of the development on the environment) in the 'Alternatives' chapter of the Environmental Statement.

The Applicant explained that the Parish Councils within Redcar and Cleveland Borough Council have been consulted; however none have provided a response. The Applicant received 30 responses in total from other statutory parties.

Draft documents and submission date

In order for the Inspectorate to plan resources the Applicant agreed to confirm by 15 September 2017 the submission date for the draft document review by the Inspectorate, as well as the project timeline.

The Inspectorate advised that it should take two to three weeks to review the draft Consultation Report; however, this depends on the number of other draft documents submitted. It is important to prioritise the submission of the draft Consultation Report in light of the Acceptance test when the DCO application is submitted. The time taken to review the document will not preclude the Applicant to submit further draft documents. The Applicant confirmed that it will shortly submit an updated draft HRA report to the Inspectorate for review. *(This was received on 15 September 2017)*

The Inspectorate advised that a new Advice Note ([Advice Note eighteen: The Water Framework Directive](#)) has recently been published on the Inspectorate's website. The Inspectorate also suggested looking at the document called 'Guide to the Application' which has been provided by National Grid for the Richborough Connection Project and was updated at each Examination deadline. The Inspectorate has been advising Applicants' at pre-application stage to produce and include a 'Guide to the Application' with the application documents at submission, and to be updated at every examination deadline. This document will shortly be included in the list of 'good examples documents' once the judicial review period for the Richborough project has

passed. Other good example documents can be found on our website at the link below;

<https://infrastructure.planninginspectorate.gov.uk/application-process/example-documents/>

Post meeting: The Inspectorate's comments on the Applicant's draft HRA are appended to this note.

AOB

The Inspectorate will provide further information regarding the practicalities ahead of submission of the DCO application as soon as the Applicant confirms the submission date, which is currently late October / early November 2017.

The parties agreed that the next meeting will be a teleconference in early October 2017. Due to the time constraints, it was agreed that the draft documents feedback meeting would be via telecon and not be a face-to-face meeting as is the standard practice.

Tees CCPP: Comments on the draft Habitats Regulations Statement - No Significant Effects Report (NSER)

These queries relate solely to matters raised by the drafting of the NSER, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration.

<i>Point no.</i>	<i>NSER reference</i>	<i>Extract from NSER</i>	<i>Question/Comment</i>
1	Section H1 (Introduction)	n/a	The NSER should provide a brief description of the site and surrounding area. This could be supported by a figure illustrating the red line boundary of the Proposed Development (at a smaller scale than Figure H.1).
2	Section H2.6 (Consultation and Key Issues)	Consultation with Natural England	<p>The Applicant should seek to agree a Statement of Common Ground (SoCG) with Natural England and submit this with the DCO application. In respect to the NSER, the SoCG should confirm agreement on:</p> <ul style="list-style-type: none"> • The 15km study area; • The European sites scoped into the screening assessment; • The scope of impacts considered in the screening assessment; • The conclusions of the screening assessment – ie. that there would be no LSE, either alone or in combination, on any of the European sites screened into the assessment; and • That an appropriate assessment is not required. <p>Providing evidence of agreement on these issues with the DCO application may reduce the need for the Examining Authority to ask questions in this regard.</p>

3	Section H2.7 (European sites)	<p>Impacts considered</p> <p><i>'No European sites will be directly affected by the Project. In line with the guidance, European sites which could be affected by air pollutants from the Project were identified as those which fell within the Project Area of Influence (Aol), based on the air quality modelling presented in Chapter 7 Air Quality'.</i></p>	<p>It is confirmed in this section that there will be no direct impacts on the European sites considered, and that only effects from changes in air quality will be considered in the assessment.</p> <p>The NSER should briefly describe why other potential impacts have been scoped out of the assessment. For example:</p> <ul style="list-style-type: none"> • Disturbance from noise; • Changes in water quality. Section H1.2 states that <i>'There will be no direct abstraction from, or discharges to, natural water bodies'</i>. The NSER should clarify whether there would be potential for any pollutants to enter watercourses which are hydrologically connected to European sites (for example, through ground water or surface run off).
4	n/a	n/a	<p>The NSER should confirm (in accordance with the requirements of Regulation 61(1) (b) of The Conservation of Habitats and Species Regulations 2010 (as amended) whether or not the Proposed Development is connected with or necessary to the management for nature conservation of any of the European sites considered in the report.</p>
5	Section H2.8	<p>Referencing</p> <p><i>'Details about the [air dispersion] model and its input data can be found in Chapter 7 Air Quality'.</i></p>	<p>To assist the Examining Authority in locating the relevant information in the NSER and the ES, and therefore in understanding how the conclusions of the assessments have been reached, it is recommended that:</p> <ul style="list-style-type: none"> • Each individual paragraph of the NSER is numbered (rather than each section); • Where the NSER refers to information in the ES, it should provide references to specific paragraphs of the ES (rather than references to whole chapters of the ES, as in the example here).

6	Section H3.3	<p>In combination effects</p> <p>In its response to the PEIR, NE questioned the Applicant's approach to in-combination assessment, noting that the absence of significant effects from the project alone does not mean that there is no potential for in-combination effects with other relevant plans and projects. A detailed commentary has been provided in the updated NSER with the aim of addressing NE's comments on the PEIR:</p> <p><i>'The information provided in this updated HRA seeks to explain why in the Applicant's view it is acceptable to use the 1% threshold in assessing likely significant effects from air pollutants on habitats for in-combination assessments'.</i></p>	<p>The Inspectorate does not object to the Applicant's methodology employed to establish the point at which a Likely Significant Effect (LSE) may occur (the 1% threshold). The Inspectorate considers that the concerns raised by statutory consultees are in respect of the Applicant's approach to the assessment process taking into account the requirements of the legislation. The Inspectorate considers that the Wealden judgement¹ demonstrates that it is an unacceptable position (in execution of the legislation²) to rely on the absence of a LSE 'alone' in determining the need for Appropriate Assessment (AA) without also considering the combined effects with other plans and projects (in-combination assessment). Therefore, the Inspectorate considers that the inclusion of an in-combination assessment to establish the absence of a LSE or the need for AA is of paramount importance to ensure that the legislative requirements are met.</p> <p>The Inspectorate also accepts that background levels and the current conservation status of a European site are influenced by other existing sources including those that are not directly subject to the planning process e.g. agriculture. Consequently, the Applicant may put forward that these activities are appropriately accounted for with reference to background levels and use this for determining no LSE. However, the Applicant should consider the suitability of this position particularly where the background levels are already in exceedance of a feature's critical load and any increase, even a very small one, could be detrimental to the conservation status of that feature and/or the conservation objectives for the site. The Inspectorate considers that the approach in this regard should be discussed and agreed with Natural England.</p> <p>The Inspectorate also recognises some of the difficulties the Applicant has in preparing a quantitative assessment for reasonably foreseeable projects. The Inspectorate refers the Applicant to its Advice Note 17 on Cumulative Effects Assessment, which provides advice on how you may wish to approach this issue.</p>
---	--------------	--	--

¹ Wealden v SSCLG [2017] EWHC 351 (Admin)

² Regulation 61 of The Conservation of Habitats and Species Regulations (2010) (as amended)

7	Screening matrices	<i>'As noted in Section H3.3, there is no potential for in-combination effects and this column has been removed from the screening matrices below'.</i>	Notwithstanding the conclusion reached in Section H3.3 of the draft NSER that there is no potential for significant in-combination effects, in accordance with the points made above the screening matrices should be updated to include the Applicant's consideration of in-combination effects. This is necessary to reflect and support the explanation provided in Section H3.3.
8	Tables H3.2 and H3.6 (screening matrices for Teesmouth and Cleveland Coast SPA; and the North York Moors SPA)	Qualifying features considered	<p>The relevant information is largely present but should be presented in a slightly different format. The matrices for the SPAs should list the qualifying features of the SPA as specified on the conservation objective for each site (i.e. the different bird species/assemblages) and then consider the effects on each of these features. Each qualifying feature should be listed on a separate row. The current matrices present the habitat types under the 'European site features' column, which are not themselves the qualifying features of the SPAs. For example, the matrix for the North York Moors SPA should list each qualifying feature for the site (merlin and European golden plover) on a separate row, and consider the effects on each of these species.</p> <p>Information on the habitat types which support the qualifying bird species should be reflected in the footnotes to the matrices. It appears that potential air quality effects on the qualifying bird species would be indirect, as a result of any changes to the habitat types which support these species. The footnotes should explain whether any of the qualifying features are reliant/dependent on habitat types which are sensitive to air quality changes, and explain why no LSE on each qualifying feature is predicted.</p>
9	Table H3.3 (screening matrix for Teesmouth and Cleveland Coast pSPA)	Qualifying features considered	<p>The comments as set out in the row above also apply to the matrix for the pSPA.</p> <p>As well as the existing qualifying features for the SPA, the matrix for the pSPA should also list the proposed new qualifying features (common tern and avocet) on separate rows and consider the potential effects on these.</p>

10	Screening matrices	n/a	Footnotes: Where required, the footnotes to the matrices should cross-reference to the specific paragraph numbers of the ES which contain the supporting evidence (for example, where the footnotes refer to negligible impacts from traffic emissions, a reference should be added to where this has been assessed in the ES).
11	Screening matrices	n/a	Please provide a separate Word version of the screening matrices with the application documents.