

Date: 14 April 2016
Our ref: 180359



[REDACTED]
National Infrastructure Consents
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BY EMAIL ONLY

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Dear [REDACTED]

Planning consultation: Keadby II Power Station variation of consents

Location: Keadby, North Lincolnshire

Thank you for your consultation on the above dated 01 March 2016.

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.

**WILDLIFE & COUNTRYSIDE ACT 1981 (AS AMENDED)
CONSERVATION OF HABITATS & SPECIES REGULATIONS 2010 (AS AMENDED)**

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Humber Estuary Special Protection Area (SPA) and Special Area of Conservation which is a European site. The site is also listed as the Humber Estuary Ramsar site¹ and also notified at a national level as the Humber Estuary Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that the Department of Energy and Climate Change (DECC), as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have². The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

¹ Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

² Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

Natural England has reviewed the applicant's 'Information to Inform Habitats Regulations Assessment' (Annex E4 of the Environmental Statement). We provide this advice on the assumption that DECC intends to adopt this HRA to fulfil your duty as competent authority.

Natural England agrees with the conclusions in Section E4.7.2 of the report that a likely significant effect on river and sea lamprey can be avoided by including an appropriate intake screen in the development design. We also agree that there is not likely to be a significant effect on bird species which are qualifying features of the Humber Estuary SPA / SAC, as stated in Section 4.7.3.

We note that likely significant effects on the qualifying habitats of the Humber Estuary SAC as a result of nitrous oxide emissions and nitrogen deposition cannot be ruled out, and therefore need to be taken forward to Appropriate Assessment. Section 10.4.3. states that effects on vegetation from nitrous oxides are only likely to occur at concentrations above 400 ug m⁻³. However, this figure is based on studies of visible injury only, which did not consider effects on growth, photosynthesis and metabolism, and so the critical load of 30 ug m⁻³ (annual mean) or 75ug m⁻³ as stated on the [Air Pollution Information System](#) website should be used as the threshold for significant impacts. We therefore do not agree with the conclusion in Section 10.4.3 that adverse effects on the integrity of the Humber Estuary SAC / Ramsar site resulting from nitrous oxide emissions can be ruled out.

We note from Section E4.8.2 that the assessment has been carried out using a worst case scenario of both the proposed development and Keadby I operating at maximum capacity. We advise that the applicant carries out further modelling to assess likely impacts on the Humber Estuary SAC / Ramsar site based on a more realistic scenario of short term use to meet peak demand (as referenced in Section E4.8.2). Natural England would be happy to consider the results of a revised assessment and comment further if required.

SSSI

Our concerns regarding the potential impacts upon the Humber Estuary SSSI coincide with our concerns regarding the potential impacts upon the Humber Estuary SAC / SPA / Ramsar as detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the advice relating to the Humber Estuary SSSI contained in this letter, we refer you to Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your Authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published [Standing Advice](#) on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

We would be happy to comment further should the need arise but if in the meantime you have any queries, please contact [REDACTED] on 0300 060 [REDACTED]. For any new consultations or issues, please contact consultations@naturalengland.org.uk.

Yours sincerely

[REDACTED]
Yorkshire & Northern Lincolnshire Team

