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Our ref: 478224
Your ref: EN010128



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BY EMAIL ONLY

Dear [REDACTED],

NSIP Reference: EN010128

Update of Natural England's Position on Air Quality

We apologise that we were not able to provide substantive advice to the Examining Authority in answer to their question Q1.1.0.3 at Deadline 3. In order to make our position on what further information is required clear, we have set out a number of questions below for the Applicant. It is our hope that the response to these questions should make the assessment process much clearer, allowing all parties to better understand the potential air quality impacts and the way these have been assessed.

Assessment methodology:

On the 13th of January we met with the Applicant and were able to get a better understanding of the assessment methodology.

In this case, the methodology used does not follow established methods due to its novel nature, and the fact that parts of the existing Riverside development are consented but not yet built. The assessment therefore compares the predicted impact of the proposal against the consented "baseline" only (as Riverside 2 is not currently operational), and not the current background pollutant levels (as identified on the Air Pollution Information System (APIS) which will include emissions from Riverside 1 in the modelled background data).

In order to understand whether the proposed development will cause harm to protected sites, the assessment should contain a consideration of the predicted impact of the proposal (alone and in-combination with other projects – including consented but not operational projects) against the current background. Use of a hypothetical baseline (assuming Riverside 1 and 2 are operating at full consented emissions) is not a precautionary approach to identifying the impact of the project on protected sites.

- Please set out the baseline data on Nitrogen, NOx and NH3.
- Please set out clearly the PC of Riverside 1 alone. If the assessment will consider that these emissions would cease to be generated once the proposed development is

operational, an assessment against the APIS background would also be acceptable as this should include Riverside 1 emissions in its values. Riverside 2 is not constructed/operational, so consented emissions would not form part of the current background and would not be “replaced” by emissions from the proposed scheme.

- The PC of Riverside 2 is based on modelled data. Caselaw is clear that assessments must be made in light of the existing environmental conditions of the site. Plans and Projects not yet operational / unimplemented portions of permissions should be considered in the cumulative/in-combination assessment. Please set out why the assessment methodology has deviated from this approach.
- Please clearly set out what has changed between the ES predicted emissions and the updated emissions in the Ammonia Emissions Limits technical note. i.e. is the change in data from the implementation of ELVs alone, or are there other factors which led to the reduced emission predictions?
- The methodology uses a screening distance of 2km for cumulative effects. The Environmental Statement says that a distance of 15km will be used. Please justify the use of the 2km assessment zone.

In combination assessment:

There is currently no in-combination assessment for Epping Forest SAC. We have historically advised that an in-combination assessment was necessary due to the original data in the ES demonstrating a PC of 0.75% of the relevant figure. As noted in Appendix B of the meeting minutes from 25th July 2024, the figure of 0.75% was deemed erroneous and revised down to 0.40%. The applicant argued that this figure was not practicable to factor into an in-combination assessment due to the distance from the site and size of the study area. Natural England agreed with this in our formal written representation.

However, this agreement was based on the Process Contribution in the ES/subsequent documents – which would be the difference between the emissions from the proposed scheme and Riverside 1&2 – not the Process Contribution as calculated by standard methods (emissions arising from the proposed scheme, regardless of baseline). Riverside 2 should be considered in the in-combination assessment – but it is accepted that if the proposed development goes ahead, it will not form part of pollution at Epping as Riverside 2 is an unimplemented consent.

- Given NE is no longer confident that the cited percentage from the Project alone is based on the true emissions from the proposed scheme itself, a reconsideration of the in-combination assessment should be made.

Emissions Limit Values (ELVs) as mitigation:

It is understood that the revised ELVs will form part of the DCO requirements and be incorporated in the environmental permit. Natural England therefore accepts there may be sufficient certainty, provided that the ELVs will be monitored and operate as intended, that the ELVs will limit emissions. If the Examining Authority has full confidence in these controls, we can be confident that the modelling using the revised emission limits, then an air quality assessment inclusive of ELVs could be considered fully precautionary and appropriate.

We understand there was an error with the engineering assumptions for the initial ELVs used in the ES (which assumed the same mass release rate as for Riverside 2). The Applicant

has stated that this was not a realistic assumption for ammonia, and did not reflect that the source of ammonia from the two scenarios would be different. Therefore, there was no realistic potential for the “with development” emissions to be as high as the initial ELVs would have permitted – not that the ELVs were reduced to mitigate an identified impact. They appear to be part of the operational parameters of the development.

For the purposes of assessment, we advise that ELVs should **not** be considered ‘mitigation’, as they do not appear to have been introduced purely to mitigate an identified environmental impact which would have been unacceptable without mitigation. It may be that the Applicant has referred to using ELVs as ‘mitigation’ per the Environmental Impact Assessment framework, where built-in elements of a design are considered ‘primary, secondary or tertiary mitigation’. This is different from how NE commonly use the term in relation to assessment under the Conservation of Habitats and Species or Wildlife and Countryside Act.

- Please clarify the legislative context of ELVs i.e. why can they be relied upon to be included in a precautionary impact assessment?
- Please clarify which kind of ‘mitigation’ terminology has been used when referring to the use of ELVs.

Natural England will continue to work with the Cory Decarbonisation team to progress our advice on the matter of air quality.

If you have any questions about this letter or wish to meet to discuss its contents, please let me know. We hope that you will be able to provide a written response to this and include it as a submission for Deadline 4. We have provided this letter directly to yourselves but expect it will be shared with the Planning Inspectorate in due course.

Yours sincerely,



Senior Officer – Major Infrastructure
Thames Solent Team
Natural England