



Fosse Green Energy

EN010154

7.13 Habitats Regulations Assessment Report

VOLUME

7

Planning Act 2008 (as amended)

Regulation 5(2)(g)

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009 (as
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7.13 Habitats Regulations Assessment Report

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Table of Contents

1.	Introduction	1
1.1	Overview	1
1.2	Site Location.....	1
1.3	Proposed Development	1
1.4	Legislative and Policy Context.....	2
1.5	Purpose of This Document	3
2.	Method	3
2.1	Approach	3
2.2	Designated Sites Scoped into HRA.....	5
3.	Baseline Evidence	6
3.2	In Combination Effects with Other Plans or Projects	6
4.	No Significant Effects Statement.....	8
5.	References.....	9

Plates

Plate 1: Four Stage Approach to HRA of Projects	4
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1. Introduction

1.1 Overview

- 1.1.1 This Habitats Regulations Assessment (HRA) Report has been prepared on behalf of Fosse Green Energy Limited (the 'Applicant') in relation to an application for a Development Consent Order (DCO) for the construction, operation and maintenance, and decommissioning of Fosse Green Energy (hereafter referred to as the Proposed Development) to determine the position of the Proposed Development with respect to a Habitats Regulations Assessment (HRA).

1.2 Site Location

- 1.2.1 The Proposed Development is located 9km to the south and south west of Lincoln City Centre, Lincolnshire in proximity to the villages of Thorpe on the Hill, Witham St Hughs, Haddington, Thurlby and Bassingham, extending towards Navenby. The location of the Proposed Development is centred at Ordnance Survey (OS) Grid Reference SK 90388 62514 and is presented in **Figure 1-1 Proposed Development Location** of the ES [EN010154/APP/6.2].

1.3 Proposed Development

- 1.3.1 The Proposed Development will comprise the installation of solar PV panels, an onsite BESS, an Onsite Substation, and other associated infrastructure including but not limited to: access provision, underground cabling between different areas of solar PV arrays and landscaping and biodiversity enhancement measures. The Proposed Development will export and import electricity to the national electricity transmission network via a buried 400 kilovolt import and export cable circuit of approximately 10km in length, connecting to the national electricity transmission network at the proposed National Grid substation near Navenby, which is being promoted by National Grid under the Town and Country Planning Act 1990.
- 1.3.2 The Proposed Development comprises two distinct parcels of land, collectively defined as the 'DCO Site', which are:
- a. the 'Principal Site', covered by the ground-mounted solar PV panels, Solar Stations, BESS, Onsite Substation, planting and mitigation areas, an Interconnecting Cable Corridor (comprising interconnecting cables between solar PV areas), and associated infrastructure, comprising approximately 1,070 hectares (ha) of land; and
 - b. the 'Cable Corridor', in which the 400 kilovolt (kV) and associated cables (the Grid Connection Cables) will be installed between the Onsite Substation and the proposed National Grid substation near Navenby. As explained above, the proposed National Grid substation near Navenby is

subject to a separate planning application by National Grid and does not form part of the Proposed Development. The Cable Corridor is approximately 10km in length and partially overlaps the Principal Site and is approximately 351 ha.

- 1.3.3 A more detailed description of the Proposed Development is included in **Chapter 3: The Proposed Development** of the ES [EN010154/APP/6.1]. An overview of the Proposed Development and its environmental impacts is provided in the Environmental Statement **Non-Technical Summary** [EN010154/APP/6.4].
- 1.3.4 The Applicant for the Proposed Development is a partnership between Windel Energy Limited and Recurrent Energy (a subsidiary of Canadian Solar), who are both experienced developers of renewable energy projects.
- 1.3.5 Subject to obtaining the necessary consents, construction of the Proposed Development is anticipated to commence in 2031 and would be completed for operation in 2033. The Proposed Development will have a 60-year lifetime, with decommissioning therefore expected around 2093 (based on a 2033 commissioning).
- 1.3.6 The Proposed Development is located within the administrative area of North Kesteven District Council and Lincolnshire County Council.

1.4 Legislative and Policy Context

- 1.4.1 As part of the Environmental Impact Assessment (EIA) (Ref 1), it is necessary to determine whether the Proposed Development is likely to have a significant effect on European sites designated for their biodiversity value, which include Special Protection Areas (SPA), Special Areas of Conservation (SAC), potential SPAs (pSPA) and possible SACs (pSACs).
- 1.4.2 European sites are protected under The Conservation of Habitats and Species Regulations 2017 (Ref 2). The UK left the EU on 31 January 2020 under the terms set out in the European Union (Withdrawal Agreement) Act 2020 ("the Withdrawal Act") (Ref 3). However, the most recent amendments to the Habitats Regulations, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Ref 4), make it clear that the need for HRA, with regards to European sites, continues to apply. Whilst the Habitat Regulations made changes to the Habitats regime and terminology (e.g., by introducing the term 'national site network'), this document continues to use the term 'European sites' to refer to all former Natura 2000 sites in line with current standard practice (comprising SAC and SPA) potentially affected by the Proposed Development.
- 1.4.3 Additionally, Ramsar sites and proposed Ramsar sites, which are designated under international convention are also included. Although Ramsar sites are not part of the network of designated sites, paragraph 194 of the National Planning Policy Framework (NPPF) (Ref 5) in England and paragraph 5.4.5 of the Overarching National Policy Statement for Energy (EN-1) (Ref 6) extends to Ramsar sites (and proposed Ramsar sites) the same level of protection as

European sites. As such, any reference to European sites within this document should be considered to also include Ramsar and proposed Ramsar sites.

- 1.4.4 The term HRA has come to describe the overall process set out in the Habitats Regulations, from the screening for Likely Significant Effects (LSEs) through to identification of Imperative Reasons of Overriding Public Interest (IROPI). This has arisen in order to distinguish the overall process from the individual stage of Appropriate Assessment. Throughout this report, the term HRA is used for the overall process and restricts the use of Appropriate Assessment to the specific stage of that name.
- 1.4.5 The legislative basis for Appropriate Assessment is the Habitats Regulations (Ref 2). Regulation 63 of the Habitats Regulations states that: *“A competent authority, before deciding to ... give consent for a plan or project which is likely to have a significant effect on a European site ... must make an appropriate assessment of the implications for the plan or project in view of that site’s conservation objectives ... The competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site”*.
- 1.4.6 In the case of the Proposed Development, the competent authority is the Secretary of State for the Department for Energy Security and Net Zero.

1.5 Purpose of This Document

- 1.5.1 The purpose of this document is an exercise to determine whether the Proposed Development would be subject to HRA. This assessment considers:
- a. whether the Proposed Development is directly connected with or necessary for the conservation management of a European site or sites; or
 - b. risks having a significant effect on a European site or sites on its own or in combination with other proposals.
- 1.5.2 The scope and extent of this document has been determined by a combination of comments received in the Scoping Opinion (included as **Appendix 1-B: EIA Scoping Opinion** of the ES [EN010154/APP/6.3]), through statutory consultation (see **Table 8-2 in Chapter 8: Ecology and Nature Conservation** of the ES [EN010154/APP/6.1]) and professional judgement. Regard has also been given to the Planning Inspectorate’s Advice Note on Habitats Regulations Assessments relevant to NSIPs (September 2024) (Ref 7).

2. Method

2.1 Approach

- 2.1.1 The assessment presented within this appendix has been undertaken with reference to the general European Commission guidance on HRA (Ref 8),

general guidance on HRA published by the UK government in July 2019 (Ref 9), and the Planning Inspectorate's Advice Note (Ref 7).

Plate 1 outlines the stages of HRA according to the Planning Inspectorate's Advice Note (Ref 7). Note that whilst **Plate 1** shows all the stages of the HRA process, this document only discusses whether or not there is a need to undertake Stage 1, i.e. Screening.

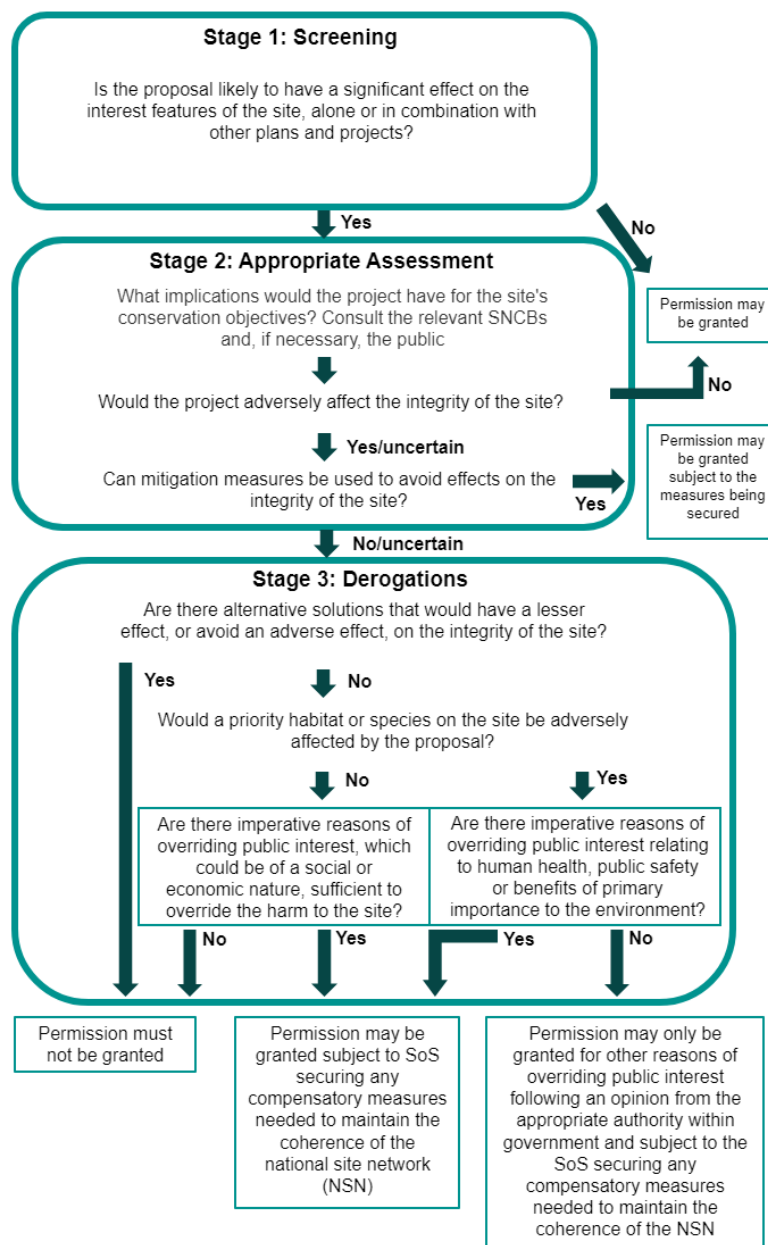


Plate 1: Four Stage Approach to HRA of Projects

2.1.2 Whilst the HRA decisions must be taken by the competent authority (in this case the Secretary of State), the information needed to undertake the necessary assessments must be provided by the Applicant. Therefore, the information needed for the competent authority to establish whether there are

any Likely significant Effects on a European site or sites, arising from the Proposed Development, is provided in this document.

2.2 Designated Sites Scoped into HRA

- 2.2.1 There is no guidance that dictates the general physical scope of an HRA document. Guidance published by the Environment Agency (Ref 10) recommends that for large power generation developments greater than 50MW, a radius search of 15km should be used when identifying relevant European sites which may be affected by a development. **Chapter 8: Ecology and Nature Conservation** of the ES [EN010154/APP/6.1]) has included a distance of 10km from the Proposed Development as being appropriate (the Study Area). Whilst this is a smaller Study Area than that proposed in the Environment Agency Guidance, it is considered appropriate in this case based on the likely impacts during construction, operation and decommissioning of a solar farm, compared with other large power generation developments, such as coal and gas fired power stations. For example, the latter have the potential to impact on air quality and as a result degrade sensitive habitats at greater distances.
- 2.2.2 The Applicant has extended the search area to 20km from the DCO Site Boundary where birds (e.g. Pink-footed Goose *Anser brachyrhynchus* or Golden Plover *Pluvialis apricaria*) are noted as a qualifying feature and 30km for any European site for which bats are a qualifying feature. These species have extensive foraging ranges, that may extend well beyond the designated site boundary. As such, consideration needs to be given as to whether areas occurring outside of a European site are important in sustaining the qualifying species population, i.e., these areas may be 'functionally linked' to the European site. In addition, a search beyond these distances was undertaken to determine whether the DCO Site is hydrologically connected to any European site or sites.

3. Baseline Evidence

- 3.1.1 Online data resources that were reviewed to determine the location of European sites within the relevant Study Area include:
- a. Multi-Agency Geographic Information Centre (MAGIC) (Ref 12), to identify the location (and details) of sites statutorily designated for their biodiversity value;
 - b. Joint Nature Conservation Committee (JNCC) website (Ref 13), for site information and designation details of SACs and SPAs (including pSPAs and pSACs) identified within the relevant Study Areas (see **Section 2.2**);
 - c. Ramsar Sites Information Service (RSIS) website (Ref 14) for site information and designation details of any Ramsar Sites identified within the relevant Study Areas (see **Section 2.2**); and
 - d. Natural England website (Ref 15) for information on sites statutorily designated for their biodiversity value and to confirm reasons for designation and their condition.
- 3.1.2 No European sites are present within 10km of the DCO Site Boundary and no European sites are designated for birds (within 20km) or bats (within 30km). The nearest European site to the DCO Site is Birklands and Bilhaugh SAC, which is located approximately 24km to the west of the DCO Site Boundary (see **Figure 8-1: Sites Statutorily Designated for Biodiversity Value** of the ES [EN010154/APP/6.2]) and is designated for its old acidophilous oak woods. There are no functional ecological connections, including hydrological connections, e.g. there are no connecting watercourses, between the DCO Site and this SAC. Conversely, there are settlements and roads separating this SAC from the DCO Site. Whilst it is acknowledged that the Birklands and Bilhaugh SAC is likely to support roosting bats as it is a woodland habitat, these are not a qualifying feature of the SAC.
- 3.1.3 The River Witham and minor watercourses connected to it are linked to the Wash SPA/Ramsar and along the River Witham, The Wash and North Norfolk Coast SAC is approximately 70km downstream of the Proposed Development. At this distance, there are no potential impact pathways, and the Proposed Development is not likely to have a significant effect upon these sites. Additionally, the design of the Proposed Development is such that there is an undeveloped buffer, consisting of grasslands, between it and the River Witham, avoiding any adverse impacts to this watercourse and in turn any European sites connected at any distance to this watercourse.

3.2 In Combination Effects with Other Plans or Projects

- 3.2.1 The Planning Inspectorate's Advice Note on Habitat Regulations Assessment relevant to NSIPs (Ref 7) states that if the effect from a proposed development alone is not significant, the Applicant must still consider the effects of other

plans or projects affecting the same European site or sites and qualifying feature or features. If, in combination with other plans or projects, the proposed development could have a likely significant effect, an appropriate assessment will be required.

3.2.2 The Advice Notes states that in assessing in combination effects between the Proposed Development and any European sites, the following projects should be considered:

- a. projects that are under construction;
- b. permitted application(s) not yet implemented;
- c. submitted application(s) not yet determined;
- d. all refusals subject to appeal procedures not yet determined;
- e. projects on the National Infrastructure's programme of projects; and
- f. projects identified in relevant development plans and emerging development plans, recognising that much information on relevant proposals will be limited and the degree of uncertainty which may be present.

3.2.3 As no relevant European sites have been identified in this document, no in-combination effects have been identified.

4. No Significant Effects Statement

- 4.1.1 The baseline evidence gathered has not identified any European sites within a search area which may be impacted by the construction, operation and maintenance and decommissioning of the Proposed Development as described within **Chapter 3: The Proposed Development** of the ES [EN010154/APP/6.1]. As such, this HRA report has concluded that there are no European sites relevant within the Study Area that necessitate undertaking Stage 1 – Screening for Likely Significant Effects of the HRA process.
- 4.1.2 The Proposed Development is not directly connected with or necessary for the conservation management of a European site; and does not risk having a significant effect on a European site on its own or in combination with other proposals.
- 4.1.3 On this basis, it can be concluded that there will be no significant effects to any European site or sites either from the construction, operation and maintenance and decommissioning of the Proposed Development or in combination with other plans and projects.
- 4.1.4 In response to the HRA report submitted with the Preliminary Environmental Information (PEI) Report, Natural England agreed with this assessment and concurred, during statutory consultation, that the Proposed Development would not impact upon European sites and Lincolnshire County Council also agreed with the conclusion of the HRA report, as presented in **Table 8-2 of Chapter 8: Ecology and Nature Conservation** of the ES [EN010154/APP/6.1].

5. References

- Ref 1 His Majesty's Stationery Office (HMSO). (2008). The Planning Act 2008. [online] Available at: https://www.legislation.gov.uk/ukpga/2008/29/pdfs/ukpga_20080029_en.pdf. [Accessed February 2025]
- Ref 2 HMSO. (2018). The Conservation of Habitats and Species Regulations 2017 (as amended). HMSO, London. [online] Available at: <http://www.legislation.gov.uk/uksi/2017/1012/contents/made>. [Accessed February 2025]
- Ref 3 HMSO. (2018). European Union (Withdrawal) Act 2018. [online] Available at: <https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>. [Accessed February 2025]
- Ref 4 HMSO. (2019). The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. HMSO, London. [online] Available at: <https://www.legislation.gov.uk/ukdsi/2019/9780111176573>. [Accessed February 2025]
- Ref 5 Ministry of Housing, Communities and Local Government. (2024). National Planning Policy Framework [online] Available at: <https://assets.publishing.service.gov.uk/media/675abd214cbda57cacd3476e/NPPF-December-2024.pdf> [Accessed February 2025]
- Ref 6 Department for Energy Security and Net Zero (DESNZ) (November 2023). Overarching National Policy Statement for Energy (EN-1). [online] Available at: <https://assets.publishing.service.gov.uk/media/65a7864e96a5ec0013731a93/overarching-nps-for-energy-en1.pdf>. [Accessed February 2025]
- Ref 7 The Planning Inspectorate. (2024). Nationally Significant Infrastructure Projects: Advice on Habitats Regulations Assessments. [online] Available at: <https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-habitats-regulations-assessments> [Accessed February 2025]
- Ref 8 European Commission, Directorate-General for Environment (2002). Assessment of plans and projects significantly affecting Natura 2000 sites: methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. Publications Office, Luxembourg.
- Ref 9 Ministry of Housing, Communities & Local Government. (2019). Guidance: Appropriate Assessment. [online] Available at: <https://www.gov.uk/guidance/appropriate-assessment>. [Accessed February 2025]
- Ref 10 Environment Agency. (2016). Air emissions risk assessment for your environmental permit. [online] Available at:

<https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>. [Accessed February 2025]

- Ref 11 Department of Energy and Climate Change. (2015). Guidelines on the assessment of transboundary impacts of energy developments on Natura 2000 sites outside the UK. [online] Available at: https://assets.publishing.service.gov.uk/media/5a8048b7e5274a2e87db8ecf/transboundary_guidelines.pdf. [Accessed February 2025]
- Ref 12 Defra (2024). Multi-Agency geographical information for the countryside (MAGIC) map. [online] Available at: <https://magic.defra.gov.uk/MagicMap.aspx> [Accessed February 2025]
- Ref 13 JNCC (2022). UK Protected Area Datasets for Download. [online] <https://jncc.gov.uk/our-work/uk-protected-area-datasets-for-download/> [Accessed February 2025]
- Ref 14 Ramsar Sites Information Service [online]. Available at: <https://rsis Ramsar.org/> [Accessed February 2025]
- Ref 15 Natural England Designated Sites View [online]. Available at: <https://designatedsites.naturalengland.org.uk/> [Accessed February 2025]