

Date: 18 July 2025  
Our ref: 518225  
Your ref: EN070009



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**By email only, no hard copy to follow**

Dear Mr Wheadon

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010**

**Application by H2 Teesside Limited ("the Applicant") for an Order granting Development Consent for the proposed H2Teesside development ("the Proposed Development")**

**Natural England's response to Request for Information**

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.

You have requested Natural England's views on the proposed drafting of a new Requirement within Schedule 2. Natural England is pleased to provide our advice to your information request outlined in your letter dated 7<sup>th</sup> July 2025. We hope you find our responses in Appendix 1 helpful in your determination.

For any further advice on this consultation please contact the case officer, moving forward this will be [REDACTED] [@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk) and copy to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

[REDACTED]  
Senior Officer  
Northumbria Area Team

## **Appendix 1: Natural England's advice in response to information requested in letter dated 7<sup>th</sup> July 2025**

### **Nitrogen deposition requirement – NE, HBC, RCBC and STBC**

1. Natural England provided advice on air quality impacts on Teesmouth and Cleveland Coast SSSI throughout the Examination, during which we highlighted that in the absence of mitigation measures, harm as a result of nitrogen deposition on the SSSI cannot be ruled out. This is both for the project alone (1.1% of the critical load for nitrogen deposition (0.11 kg N/ha/yr)) and cumulatively with other projects (10.1% of the critical load for nitrogen deposition (1kg n/ha/yr))<sup>1</sup>. Natural England was unable to come to an agreement with the Applicant on this issue during the Examination, so this remained unresolved<sup>2</sup>. We are supportive of the SoS exploring this issue at the decision stage and the opportunity to advise SoS on the suggested requirement.
2. At close of examination, information had not been presented on mitigation measures that could be implemented and the effectiveness of such mitigation to reduce nitrogen emissions and/or the impact of the increased nitrogen deposition at the SSSI. Therefore, it is uncertain what measures, if any, could be implemented to fully mitigate for this impact. Natural England advised that this information should be provided during the Examination to ensure that appropriate mitigation could be identified and secured via requirement.
3. During the Examination we put forward mitigation suggestions to be explored by the Applicant, which we note have been included in the SoS's suggested requirement paragraph (3) wording. The Applicant did not present details of appropriate potential measures that they have considered, or any examples of mitigation measures which could be implemented, and which would be effective to mitigate air quality impacts to the SSSI. Therefore, Natural England do not hold evidence on whether such measures would be feasible or effective to fully mitigate for the nitrogen emissions from the project either alone or cumulatively. This lack of information means that it is unknown at this stage what measures a mitigation plan could implement to mitigate for the alone and cumulative air quality impacts.
4. We note that the wording of Paragraph 2 of the requirement only mentions nitrogen emitted from the project alone. We wish to highlight to the SoS that nitrogen deposition emissions from the project are above the threshold for requiring further consideration (i.e. 1%) both alone (1.1%) and cumulatively (10.1%) with other plans and projects. Therefore, we advise that both these issues require assessment and potential mitigation, which should be secured by any requirement if such an approach is to be taken.
5. The project will possibly require a permit as part of the Environment Agency's Environmental Permitting Scheme and operational emissions may be assessed as part of this. Whilst this process does consider impacts of air quality on SSSI's, including those from nitrogen deposition. Natural England do not have the discretion to decide the scope of the assessment under the CRow Act 2000 for such a permit, i.e. whether it would assess for cumulative impacts of air quality on SSSI's and what mitigation measures any permit could secure (for example, whether there are any limitations to mitigation options other than those provided by detailed design). As outlined in our advice both alone and cumulative air quality impacts on the SSSI should be assessed. We therefore advise the SoS to seek clarification from the Environment Agency on this.

6. We wish to highlight that the consideration of alone and cumulative impacts on the environment, which includes SSSI's, is referenced in Paragraph 4.1.5 of *Department for Energy Security & Net Zero Overarching National Policy Statement for Energy (EN-1)*, which states that:

*'In considering any proposed development, in particular when weighing its adverse impacts against its benefits, the Secretary of State should take into account: ...*

- its potential adverse impacts, including on the environment, and including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce, mitigate or compensate for any adverse impacts, following the mitigation hierarchy'.*

It is our advice that mitigation measures therefore need to be secured at this decision-making stage, and we agree in principle with the Secretary of State that any further assessment or mitigation measures should be secured in the wording of the DCO.

7. If the SoS is minded to secure mitigation and assessment measures via a requirement we would be happy to advise the SoS on a revised requirement.
8. With regards to the suggested wording of the requirement, we wish to provide the following comments:
- We note that Paragraphs (1),(2) and (4) states that measures must be undertaken in consultation with Natural England. We would be happy to be consulted further on these matters. Paragraph 2, as currently worded, reads as though the planning authority must approve the assessment (even if it did not demonstrate that the impacts could be fully mitigated) rather than requiring the planning authority to determine whether it should be approved or not. We would advise that the wording is amended slightly.
  - Paragraph (3) details measures which could be explored as part of a mitigation plan. We consider the wording of this requirement may not be sufficiently precise. As raised in our comments in Paragraph 3 of this letter, such measures have not been robustly explored yet and they may not be effective to fully mitigate the issues, or there may be feasibility concerns. This would not negate the need for robust evidence to be provided on the effectiveness of any mitigation measures and demonstration of how they adequately mitigate for the alone and cumulative impacts of the project on the SSSI. We therefore advise that this wording is amended to provide a suitable safeguard for this eventuality.
  - As outlined in Paragraph 4 of this letter, there is the potential for impacts on the SSSI as a result of emissions from the project alone and cumulatively with other plan/projects. We advise that the wording of the requirement is amended to reflect this.
9. We note that the Applicant provided a response to the SoS's question on 14/07/25. Due to the short timescales Natural England has not yet had time to fully consider the matters raised by the Applicant and provide a detailed response, but we have set out our overarching comments below to assist the SoS.
10. We note that the Applicant maintains that the requirement is not necessary as emissions will be controlled through an Environmental Permit issued by the Environment Agency. Our comments on this are in Paragraphs 5 and 6 above.
11. The Applicant includes a list of specific concerns on page 3 of their response, in which they state that *'Natural England's concerns have been in relation to the Proposed Development's contribution to a cumulative impact and the need for the cumulative*

*impact to be mitigated*'. This is incorrect. Throughout the Examination Natural England raised concerns about the project's air quality impacts to Teesmouth and Cleveland Coast SSSI as a result of increased nitrogen deposition both alone and cumulatively, as stated in our final Statement of Common Ground with the Applicant (February 2025).