

MEMO

**North
Lincolnshire
Council**

To: Rebecca Leggott, Development Management
From: Andrew Taylor, Place Planning & Housing
Your Ref: PA/2023/421
Date: 02 May 2023

Subject: Planning permission for the construction & operation of a post-combustion carbon capture plant, including carbon dioxide compressor & metering, cooling equipment, stacks, substations, internal roads, partial ditch realignment, new & modified services, connections, internal roads, accesses, maintenance & laydown areas
VPI Power Station, Rosper Road, South Killingholme, DN40 3DZ

Summary

- Saved Policy LC20 allows for off-site provision of landscaping in the South Humber Gateway.
- More evidence is required before we can produce the necessary Habitats Regulations Assessment (HRA).
- Protected and priority birds, butterflies and foraging bats are present, with potential for water voles.
- The submitted Biodiversity Net Gain (BNG) Report reveals a net loss of habitat units on-site of >99% plus a net loss of river units of nearly 39%. We need to see the biodiversity metric spreadsheet.
- There are no alternatives to the proposal, given the need for carbon capture.
- Off-site BNG is proposed and will need to be secured.

Thank you for consulting Place Planning & Housing on the above application.

Landscape

We routinely advise that, "Landscape and visual impacts need to be considered in terms of the adopted Landscape Assessment and Guidelines and the Countryside Design Summary. I also recommend the use of the Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3, 2013), produced by the Landscape Institute and the Institute of Environmental Management & Assessment."

The submitted LVIA is in accordance with this advice. The assessment notes moderate adverse landscape and visual impacts on residents of Marsh Lane and users of public footpaths in that vicinity, including the England Coast Path. Impacts on other receptors are less significant and should be considered in the context of an industrial landscape that already has a number of visual detractors.

Options for on-site landscaping and mitigation are limited due to the large scale and land-take of the development. However, Saved Policy LC20 also allows for off-site provision of landscaping in the South Humber Gateway:

LC20 - South Humber Bank - Landscape Initiative

It is proposed that the following measures will be undertaken throughout the South Humber Bank Landscape Initiative area:

- i) softening - provision of stepped-back security fences, fringed with shrubs and trees;
- ii) screening - establishment of mixed broad-leaf and conifer belts;
- iii) habitat conservation - maintenance of wet areas and other existing features, such as woods and hedges, to provide a good framework for future improvements;
- iv) habitat creation - introduction of lakes, ponds and marshes;
- v) field boundary management – careful management of existing hedges to increase height;
- vi) tree and hedge planting - new planting, carefully positioned for maximum effect, with minimum impact on farm management industry's operational needs and sites of archaeological importance.

If possible, offsite, landscape enhancements should be provided within the LC20 policy area, potentially in conjunction with proposals for off-site biodiversity enhancements to deliver a measurable net gain in biodiversity value.

Habitats Regulations

The application site is situated approximately 1.5 km to the west of the Humber Estuary Special Protection Area (SPA), Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI) and Ramsar site. Proposals could result in an increase in noise, visual and light disturbance of functionally linked land at and near Rosper Road Pools Local Wildlife Site, that is used by waterbirds associated with the Humber Estuary SPA and Ramsar site. There is also the potential for contaminated run-off to enter designated habitat or functionally linked land.

The applicants have provided some of the information reasonably required for a Habitats Regulations Assessment (HRA). The submitted report notes that, "The modelled noise levels at the nearest part of Rosper Road Pools are in the 60 – 65 dB LAeq,T range and <60 dB LAeq,T across the open lagoon habitat." It concludes that such noise levels would not have a likely significant effect on interest features of the Humber Estuary SPA or Ramsar site.

However, Natural England does not generally accept conclusions based on the noise and disturbance studies quoted in the report, so more work is likely to be needed before we, as Competent Authority could produce an acceptable HRA.

Protected and Priority Species

I have considered this application in accordance with Natural England's standing advice for protected species- <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>.

I have read the submitted Ecological Baseline Report. The survey methods used and the survey effort deployed are appropriate for the site in question.

The surveyors recorded evidence of:

- Small heath butterfly (priority species).
- Breeding little ringed plover (specially protected).
- Breeding lapwing, skylark, dunnock, sing thrush, linnet (priority species).
- Common pipistrelle, soprano pipistrelle, Nathusius' pipistrelle and noctule bats, foraging and commuting in low number and with low levels of activity overall.
- Drains with potential for water voles.

Despite standard methods surveys, no evidence was found of:

- Great crested newts (on or off-site).
- Reptiles.
- Bat roosts or bat roost potential.
- Badgers.
- Water voles.
- Otters.
- Hedgehog and brown hare.

The proposed development will result in the almost total loss of habitat for protected and priority species. Some sensitive working measures are proposed for these species in section 13.5 of the Ecology Chapter of the ES and will need to be secured via a planning condition for a species protection plan or a Construction Environmental Management Plan. Whilst the proposals for biodiversity net gain may be expected to generate a net increase in habitat value in the long term, they will not necessarily provide for the species affected by the development. However, where "like-for-like" habitat is created, this will increase the chances for supporting the affected species.

Existing Biodiversity Value

At present, the site supports the protected and priority species listed above, plus the following habitats:

- Open mosaic habitats on previously developed land (OMH- a priority habitat).
- Neutral grassland (semi-improved grassland) and modified grassland (poor semi-improved grassland).
- Bramble scrub and mixed scrub.
- Ditch

Evaluation

The submitted Biodiversity Net Gain (BNG) Report reveals a net loss of habitat units on-site of >99% plus a net loss of river units of nearly 39%, due to ditch diversion. This includes the loss around 4 hectares of priority habitat.

Applying the mitigation hierarchy, mitigation and biodiversity enhancement should be provided on-site as far as possible, with off-site delivery of habitat being a last resort to be taken only after on-site opportunities have been exhausted.

Part 4 of Policy CS17 describes, “Ensuring development retains, protects and enhances features of biological and geological interest and provides for the appropriate management of these features.” The proposed development does not follow that principle, and given that protected and priority habitats and species will be lost, this would ordinarily justify an objection to the planning application.

However, carbon capture and storage in the Humber Cluster is essential if we are to avoid the worst effects of climate change, which are predicted to cause much greater harm to habitats and species (see Planning Statement 4.0 “Need for Development, ES Chapters 3 & 5). Section 3.9 of the ES highlights and provides evidence that there are no suitable alternatives to constructing the carbon capture infrastructure in place of the existing habitat and that it is essential to use the whole site.

Given the need to provide habitat compensation and enhancement off-site, section 1.6 of the BNG report sets out how this could happen, though no firm proposals are available at the moment. Any section 106 agreement used to secure BNG will need to be carefully drafted to secure the delivery, monitoring and maintenance of habitat whilst leaving the flexibility to find and secure a suitable site or multiple sites.

It is estimated that 61.06 habitat units and 4.78 rivers units will be required offsite (not taking into account the baseline value of the offsetting site). The offsite habitat creation must include an adequate area of OMH, of appropriate condition, and should ideally include neutral grassland and scrub or woodland.

Biodiversity Enhancement

The National Planning Policy Framework states that:

“174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils [...]

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

[...]

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

[...]

and

“180 d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate..;”

I have seen a pdf of the applicant’s biodiversity metric, but we really need to see the spreadsheet.

Recommended Conditions

I can advise on planning conditions and a section 106 agreement once we have seen the additional information for the Habitats Regulations Assessment.

If you have any questions, please do not hesitate to contact me.

Andrew Taylor
Natural Environment Policy Specialist

Annex- Ecology and Legal Protection

Bats

All species of bat are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017 making all species of bat European Protected Species. Details of the legislation can be found at:

Wildlife and Countryside Act

<http://www.legislation.gov.uk/ukpga/1981/69/contents>

The Countryside and Rights of Way Act:

http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1q81

The Conservation of Habitats and Species Regulations 2017:

[The Conservation of Habitats and Species Regulations 2017](http://www.legislation.gov.uk/uksi/2010/20100490/en/1)

[http://www.legislation.gov.uk/uksi/2010/20100490_en_1](http://www.legislation.gov.uk/uksi/2010/20100490/en/1)

Nesting birds

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981(WCA 1981) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. The WCA 1981 also provides that all wild birds and their eggs are protected and cannot be killed or taken except under licence.

Water voles

The water vole is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Details of the legislation can be found at:

Wildlife and Countryside Act

<http://www.legislation.gov.uk/ukpga/1981/69/contents>

The Countryside and Rights of Way Act:

http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1q81