

MEMO

**North
Lincolnshire
Council**

To: Jennifer Ashworth, Development Management
From: Andrew Taylor, Place Planning & Housing
Your Ref: PA/2023/421
Date: 027 July 2023 2 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 Biodiversity Metric Assessment has been carried out fairly
- 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%.
- 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. I shall update my previous comments, following Natural England's advice and further submissions from the applicant.

Landscape

My previous comments still apply and have been acknowledged by the applicant's advisers (AECOM memo 12 July 2023).

Habitats Regulations

My previous comments still apply. Furthermore, Natural England has also requested, “Further assessment of potential operational phase air quality impacts.”

When I have received the applicants’ response on these matters, I should be able to complete the Habitats Regulations Assessment.

Protected and Priority Species

My previous comments still apply. The applicant has advised that, “We agree that a planning condition would be appropriate to secure the sensitive working measures for protected and priority species as set out in the Ecology chapter of the ES” (AECOM memo 12 July 2023).

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

Biodiversity Net Gain

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.

I have now seen the biodiversity metric spreadsheet, which has been completed accurately and thoroughly, including detailed assessor comments to justify habitat classification and condition assessments. Judging from the submitted Ecology Baseline document, some of the “modified grassland” recorded could qualify as “neutral grassland- other” (a habitat of higher distinctiveness). However, the recording of Open Mosaic Habitat (OMH) seems to have been carried out on a precautionary basis. Balancing the issues out overall, the assessment appears to have been carried out fairly, and I certainly would not dispute the findings, having not surveyed the site in detail myself.

My previous comments on the mitigation hierarchy still apply.

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.

The applicant's advisers have noted that, "We acknowledge that biodiversity enhancement will need to be secured, for example using a Section 106 agreement. We will engage with North Lincolnshire Council to prepare a Section 106 agreement in due course."

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-l1g81

The Conservation of Habitats and Species Regulations 2017:

[The Conservation of Habitats and Species Regulations 2017](http://www.legislation.gov.uk/uksi/2010/10490/1)

<http://www.legislation.gov.uk/uksi/2010/10490/1>

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-l1g81