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BY EMAIL ONLY

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Dear Adrian

Planning consultation: Construction of energy recovery facility with ancillary buildings/works incl. gatehouse & weigh-bridge, cable routes to ship berths and existing off-site electrical sub-station

Location: Portland Port, Castletown, Portland DT5 1PP

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.

OBJECTION FURTHER INFORMATION REQUIRED

The matters raised by Natural England in our advice of 30 November 2021 have been addressed by the submission of new information in an amended EIA. Information requested from the authority has not been forthcoming to date. Air Quality thresholds for Likely Significant Effects are exceeded at:

- Isle of Portland to Studland Cliffs Special Area of Conservation (SAC)
- Chesil and The Fleet SAC
- Chesil Beach and The Fleet Ramsar

Natural England is not able to advise the authority that there will not be adverse effects on the integrity of the designated sites. In particular this relates to matters around plans or projects to be screened in and the effects arising.

Portland ERF 2nd ES Addendum Appx 6.1 Replacement Drawing

This plan indicates an agreed path route and indicative fencing with agreement to cut back and maintain vegetation from the pathway but no additional bonded surfacing required. The principle is acceptable to Natural England but I advise the Council to require a planning condition which requires the detailed proposal, in the form of a method statement, to be submitted for agreement with the Council and Natural England prior to the commencement of the construction of the application.

Portland ERF 2nd ES Addendum Appx 5.1 Dioxins

Natural England has no comment on this information.

Portland ERF 2nd ES Addendum Appx 3.3 PM2.5

Natural England has no comment on this information.

Portland ERF 2nd ES Addendum Appx 9.1 MCZ Assessment

Natural England concurs with the conclusion that a Stage 1 is not required in relation to the four MCZ within 20km of the application site.

Portland ERF 2nd ES Addendum Appx 5.2 Metals

Natural England has no comment on this information.

Portland ERF 2nd ES Addendum 3.1 Diesel Generator

Portland ERF 2nd ES Addendum Appx 3.2 Modelling Uncertainty

Natural England has no comment on this information which was provided in relation to matters raised by the EA. The report provides additional useful clarity concerning the 1% Critical Level for NOx and the modelling parameters used.

ES Adden Appx3.3 Modelling discrete receptors Erratum

Natural England has no comment on this information which was provided in relation to matters raised by the EA.

Shadow Appropriate Assessment Jan 2022

There appear to be some miss-referencing to Appendix 3.1 when it appears 3.4 covers Air Quality in the document.

Plans and projects in-combination

Natural England note that the applicant and the Council have secured legal opinions concerning the scoping in of projects in-combination.

In addition to our advice previously, that the applicant and Harbour Authority should review the projects identified which will be determined by the Harbour Authority and where possible remove projects which have not been implemented and are unlikely to be so implemented to provide certainty, Natural England would draw the Councils attention to the guidance in the Planning Inspectorate Advice note 10 : Habitats Regulations Assessment relevant to nationally significant infrastructure projects (<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-ten/>). Paragraph 4.16/4.17 provides clear guidance on plans and projects that should be considered:

- *projects that are under construction;*
- *permitted application(s) not yet implemented;*
- *submitted application(s) not yet determined;*
- *all refusals subject to appeal procedures not yet determined;*
- *projects on the National Infrastructure's programme of projects); and*
- *projects identified in the relevant development plan (and emerging development plans – with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited and the degree of uncertainty which may be present.*

Natural England concur with this approach which is inclusive and comprehensive. It is further consistent with the guidance in Circular 06/05, paragraph 16:

16. In considering the combined effects with other proposals it will normally be appropriate to take account of outstanding consents that are not fully implemented, ongoing activities or operations that are subject to continuing regulation (such as discharge consents or abstraction licences) and other proposals that are subject to a current application for any kind of authorisation, permission, licence or other consent. Thus, the assessment is not confined to proposals that require planning permission, but includes all relevant plans and projects.

In this case the consideration of adverse effects is well defined to those arising from an impact pathway from traffic derived air pollution and this effect is consistent across all projects screened in at the original sHRA submitted. Thus whilst there might be reasonable discretion in screening out plans or projects where the precise causal mechanism of an adverse effect will only be determined at the application stage, for example sheet piling required may be placed using vibro piling or percussion piling dependent on detailed findings at an application. In this case Natural England

advise that all the projects identified will result in additional combustion engine transport movements in order to be implemented and so should reasonably form part of the assessment.

Natural England note that some projects listed eg

- The HRO facilitates permitted development rights for carrying out a harbour undertaking and B1/B2/B8 development on several areas of land at the Port that have yet to be developed (areas Port 2, Port 5, Port 6 and Port 7 on the attached map).

Are facilitated through permitted development rights and the project is as yet not specified in any detail. It would appear to Natural England that this could be subject to Reg 75-77 requiring a consultation with the Competent Authority and Natural England prior to implementation being authorised. the authority should consider this point as this element might be set aside.

Additional effects are identified in the amended sHRA for 12 projects listed in Table 4 and an additional 7 projects facilitated by the 19997 and 2010 Harbour Revision orders. Natural England seek confirmation from the authority that it is in agreement with the applicant that this comprises all the projects which should be scoped in. Natural England has, for example, recently advised on one other project (P/DCC/2021/04835 Planning Application for an Inert Landfill and Waste Management Facility) which has indicated an increase in HDV movements of 60 per day which will all pass along the A354.

The authority should note that the sHRA at Table 6 is indicating that modelling of traffic from 19 projects identified in the HRA (including the HRO projects) provide evidence that whilst APIS is indicating a background level of 8.48 kg/N/ha/yr the detailed modelling work indicates that both the lower and upper CL for N are deposition exceeded when additional projects are considered with a figure of 18.24 kg/N/ha/yr at the roadside. It strongly suggests that the CL (8-15 kg/N/ha/yr) is being quite significantly exceeded and would get worse with additional projects.

No information has yet been provided by the authority which would allow the current list of projects in Table 4 to be modified or to confirm the list of projects screened in by the applicant. Neither has Natural England seen any evidence or acknowledgement by the two competent authorities about the need to carry out Appropriate Assessments of the Air Quality impacts of the currently 19 projects listed in the amended sHRA.

In respect of the sHRA Natural England advise that whilst aware of legal opinions sought by the applicant and council neither have been made available to Natural England.

Natural England advice to the authority remains that the evidence submitted by the applicant leads to a conclusion of a Likely Significant Effect at the Isle of Portland to Studland Cliffs SAC and Chesil and the Fleet SAC because the 1% threshold for Critical Levels and Loads of is exceeded for NOx, Ammonia and Nitrogen deposition.

This has resulted in further investigation and assessment including the additional Air Quality modelling and DERC report reviewed below.

Natural England is able to advise that further consideration of the scope of the effects and habitat conditions at the Isle of Portland to Studland Cliffs SAC against the Conservation Objectives would allow the authority to reach a conclusion of no adverse effect on integrity.

Chesil & The Fleet SAC: further consideration of the likely effects of air pollution on the SAC show that the effects of the proposal and its traffic alone would allow the authority to reach a conclusion that the effects alone would not be likely to have an adverse effect on the sites integrity. However a number of matters need to be agreed with the authority, some are set out above and in our earlier advice.

In particular there is uncertainty about the authorities approach to projects screened into the in-combination assessment. The applicant indicates that all the projects within the Port facilitated by the HRO may be discounted and the authority has provided no advice confirming to Natural England

which projects it considers should be screened in including those out with the Port.

Taking the first sHRA as a worst case scenario, the effects of NO_x on an annual basis are at or approaching the Critical Level in the first up to 3m falling to 70% at 11m from the first sHRA. NO_x may reasonably be discounted. Ammonia similarly was above the 1% threshold but in-combination falls to 70% of the Critical Level by 9m.

This leaves Nitrogen deposition, the new Appendix 3.4 Dispersion Modelling provides some useful new data at Table 6. The current N deposition in the Do Nothing scenario exceeds the Critical Load of 8kg/ha/yr up to 200m from the road edge. At the road side deposition will exceed 18.4kg/ha/yr which is above the upper Critical Load threshold compared to 25kg/ha/yr in the original sHRA. The contribution from the application is clearly resulting in varying degrees of additional N deposition onto the SAC which is already exceeding its lower Critical Load threshold.

Set against this modelled data is the physical conditions at the SAC.

The area of the SAC most immediately adjacent to the A354 Portland Beach Road is a shingle dominated community with services running underground to the south of the road and a substantial flood management ditch before the typical landform of the bank is reached. Within this area there are plant species such as false oat grass, bramble etc which might be associated with enriched conditions. There are also large shingle pebbles with coastal lichen communities and the vegetation remains open in nature rather than a closed sward. The species present are consistent with the particular SD1b *Arrhenatherum* NVC community which forms part of the SAC community. Beyond the drainage ditch the shingle is clearly more mobile and reflective of the active bank with typical marine species widely spaced apart.

Towards the visitor centre carpark the vegetation communities become more closed however lichen species persist and conditions appear to be driven more by the effects of past land use, stabilisation and trampling by visitors rather than increased nutrient deposition.

In conclusion the effects of nutrient enrichment or toxic air pollutants are not apparent in the vegetation despite apparent current exceedances.

Natural England advise that the applicants consultant have considered carefully the particular conditions at Chesil Beach in Add Appendix 3.2 using a very low surface roughness which would appear to provide a suitable figure for the habitats and open conditions present on the bank.

Whilst Natural England have indicated some mitigation measures which the authority should consider as strategic measures required because of the traffic related air pollution no comments have been received by Natural England.

Summary of the status of Rare & Scarce Plants either side of Portland Beach Road: Chesil & The Fleet SAC DERC 2022

This report has provided some valuable background context to the situation at the A354. It is clear that the assessment of the vegetation along the road throws up a number of complex issues. The critical environmental factors are the over-riding maritime conditions of low natural fertility, wind exposure and generally open habitats with disturbance either natural processes or visitor pressures maintaining early successional habitat conditions. Here the natural physical processes of shingle movement have been stabilised for many years preventing the natural maintenance of early successional stages and concentrated visitor pressure is accompanied by discrete nutrient additions from dog faeces. The road, cycleway, former railway and numerous artificial influences such as drainage structures and underground services all contribute. In addition to these influences, vehicle access to and from Portland as well as material underpinning infrastructure has contributed a calcareous influence on the vegetation from dust and hard core in places.

The report does indicate the decline in some typical plant species and increase in others, some species are very transient in their nature occurring in low numbers and sporadically. Overall however it is apparent that the shingle is more stable than in a natural system leading to a build up

in soil structure which favours some species.

Conservation bodies have already taken some experimental action to push back vegetated areas to a bare shingle state which is aimed at many of the species requiring open habitats to establish. Elsewhere the population and location of some species requiring open habitats (Four-leaved Allseed) is consistent over time indicating that the impact of traffic derived nutrients is less than might be anticipated. A report prepared for a proposed cycleway in 2012 noted a number lichen species (Cladonia spp) which require open habitats and are sensitive to air pollution growing between 20-50m from the road edge.

In summary the report is considered a robust assessment of the rare and scarce plants which are important to both the national and international designations. The report does not indicate that current and past level of air pollution can be concluded to have had a significant effect on the range and abundance of the plants over and above the other factors outlined above.

Statement of Common Ground

The applicant has addressed some of the points raised previously and there is agreement about improving public access however Natural England advise that the Statement needs to be more explicit to confirm an annual contribution towards Conservation Projects on the Isle of Portland including control and management of invasive plant species. This should be in place for as long as the ERF is operational. It is advised that where Portland sheep are referenced this is expanded to include feral goats as an option and the provision of a suitable water supply for stock.

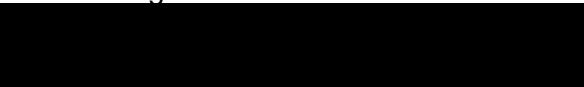
Conclusion

Natural England has raised a number of concerns relating to Air Quality as well as the in-combination assessment. At this time Natural England advise that the modelled levels of Nitrogen deposition predicted at Chesil and the Fleet SAC either in the original sHRA or the updated sHRA do not allow Natural England to advise the authority that there will not be an adverse effect on the integrity of the SAC in combination with other plans or projects. Natural England advice is that relevant projects that give rise to air pollution effects should be screened in accordance with the NSIP guidance.

Natural England maintain our **objection** to the proposal.

Yours sincerely

Nick Squirrell
Conservation and Planning Senior Advisor
Dorset Team
Wessex Area Team
Natural England



Annexe 1 Summary of Air Pollution modelling

Isle of Portland to Studland Cliffs SAC

The habitats site receives air pollution in two locations, around the Verne – primarily from the stack and adjacent to the port road from road traffic.

NOx around the Verne exceeds the 1% CL threshold over 5.19ha however for both the daily and annual means the PEC is below the Critical Level by some margin.

Ammonia around the Vern exceeds the 1% threshold at 2.5%, however the PEC is 73.5% of the CL.

The stack does not contribute to N deposition at the Verne.

NOx at the Port side (6.17) exceeds the CL threshold of 1% up to 12-15m from the road edge and the area of SAC receiving this level of NOx is very small and comprises scrub habitats.

Ammonia, the PEC exceeds the 1% CL threshold at either 7m from the road edge or 25m from the road edge depending on whether a greater level of sensitivity is required due to lichens or lower plants. Natural England advise that the scrub habitats present indicate that a higher threshold of 3 µg/m³ is appropriate. The impacted area is therefore very small and not a SAC feature.

Nitrogen deposition at the port is less than 1% of the CLo at 4m from the road edge, the scrub habitats are not a feature of the SAC and will not be affected by this load as the PEC falls below the CLo.

Air pollution impacts at the Verne and Port Road whilst exceeding the 1% threshold for some pollutants fall within the overall critical figures except for some minor areas of scrub habitat at the Port Road. These effects are not likely to have an adverse effect on the integrity of the SAC.

Chesil Beach and the Fleet SAC

NOx from the ERF and traffic alone exceeds 1% CL at 2m from the road edge, when other plans and projects are considered in combination the modelled traffic the 1% threshold extends to 45 m from the roadside.

The extent of the different zone of effects can be compared using the 70%CL value, for all development screened in by the first HRA the zone extends to 70% at 11m from the road and when the port HRO projects are screened out this drops to 70% within 4m of the road.

Ammonia from the ERF and its traffic exceeds 1% at 1m from the road edge, when other plans and projects are considered in combination the modelled 1% threshold extends to 30 m from the roadside. When projects in the port HRO are included as in the original ES air quality report the 1% threshold would extend further into the designated sites.

The extent of the different zone of effects can be compared using the 70% CL value, when all development is considered in combination this extends to 9m and when the port consents are excluded it falls to 4m.

Nitrogen deposition from the ERF and its traffic will result in more than 1% of the CLo (0.08kg/ha/yr) at 50m from the road in comparison to 100m in the first sHRA. With the other projects screened in (excluding the port) this rises to 200m of the designated sites exceeding the 1% threshold with the first 10m receiving over 13kg/ha/yr.