



Fosse Green Energy

Preliminary Environmental Information Report

VOLUME

3

**Appendix 8-K: Habitat Regulations
Assessment Pre-Screening**

October 2024



Prepared for:

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Prepared by:

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1. Introduction

1.1 Overview

- 1.1.1 This report forms a technical appendix to the Preliminary Ecological Information (PEI) Report, specifically to accompany **PEI Report Volume 1, Chapter 8: Ecology and Nature Conservation**. This Habitat Regulations Assessment pre-Screening Report has been prepared for Fosse Green Energy (hereafter referred to as the Proposed Development) to determine the position of the Proposed Development with respect to a Habitat Regulations Assessment (HRA).
- 1.1.2 Further information on the Proposed Development is included within **PEI Report Volume 1, Chapter 3: The Proposed Development**.

1.2 Site Description

- 1.2.1 The Proposed Development is located 9km to the south and south west of Lincoln City Centre, Lincolnshire and lies within the administrative district of North Kesteven.
- 1.2.2 The Proposed Development comprises two distinct parcels:
- a. the Principal Site, which is where ground mounted solar PV panels, electrical sub-stations and Battery Energy Storage System (BESS) will be installed; and
 - b. the Cable Corridor, which comprises the underground electrical infrastructure required to connect the Principal Site to the National Grid.
- 1.2.3 The location of the Proposed Development is centred at Ordnance Survey (OS) Grid Reference SK 90388 62514 and is presented in **PEI Report Volume 2, Figure 1-1**.

1.3 Legislative and Policy Context

- 1.3.1 As part of the environmental assessment, 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).
- 1.3.2 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.

- 1.3.3 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 187 of the National Planning Policy Framework (NPPF) (Ref 5) in England and paragraph 5.4.5 of the Overarching National Policy Statement for Energy (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.
- 1.3.4 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.
- 1.3.5 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"*.
- 1.3.6 In the case of the Proposed Development, the competent authority is the Secretary of State for the Department for Energy Security and Net Zero.

1.4 Purpose of This Document

- 1.4.1 The purpose of this document is a pre-screening 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.
- 1.4.2 The scope and extent of this document has been determined by a combination of comments received in the Scoping Opinion (included as **PEI Report Volume 3, Appendix 1-B**) 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 This pre-screening assessment 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).
- 2.1.2 **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. pre-screening.

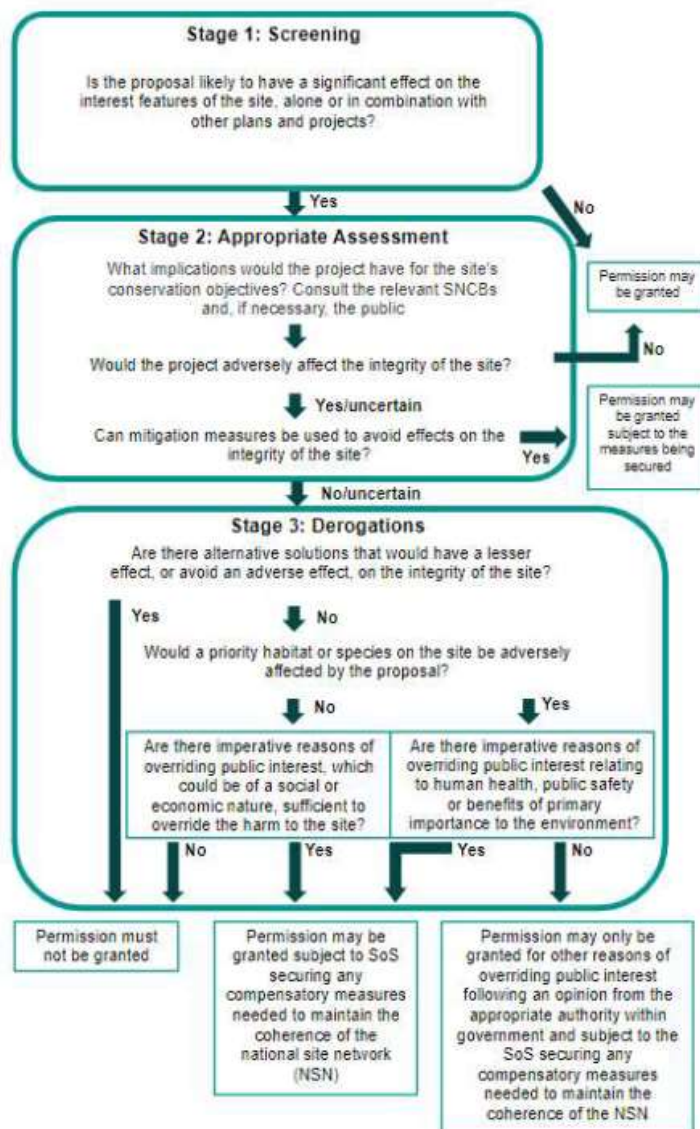


Plate 1: Four Stage Approach to HRA of Projects

- 2.1.3 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 15 km should be used when identifying relevant European sites which may be affected by a development. **PEI Report Volume 1, Chapter 8: Ecology and Nature Conservation** has included a distance of 10 km from the Proposed Development as being appropriate (the Study Area), 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 20 km from the Site where birds (e.g. Pink-footed Goose *Anser brachyrhynchus* or Golden Plover *Pluvialis apricaria*) are noted as a qualifying feature and 30 km for any European site for which bats are a qualifying feature. In addition, a search beyond these distances was undertaken to determine whether the 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's 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 Site and no European sites are designated for birds (within 20 km) or bats (within 30 km). The nearest European site to the Site is Birklands and Bilhaugh SAC, which is located approximately 23 km to the west of the Site (see **Figure 8-K-1 Statutory Designated Sites**) 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 Site and this SAC (there are settlements and roads separating this SAC from the Site). Conversely, there are settlements and roads separating this SAC from the 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 Site is not hydrologically connected to any European sites within the 30km search area. Beyond the 30 km Study Area, 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 70 km downstream of the Proposed Development. At this distance, there are no potential impacts arising and the Proposed Development will not have a likely significant effect upon these sites. Additionally, the design of the Proposed Development is such that there is a buffer 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 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.

3.2.2 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 decommissioning of the Proposed Development as described within **PEI Report Volume 1, Chapter 3: The Proposed Development**. As such, this HRA pre-screening report has concluded that there are no European sites that necessitate undertaking Stage 1 – Screening for Likely Significant Effects of the HRA process.
- 4.1.2 Therefore:
- a. the Proposed Development is not directly connected with or necessary for the conservation management of a European site; and
 - b. 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 decommissioning of the Proposed Development or in combination with other plans and projects.

5. References

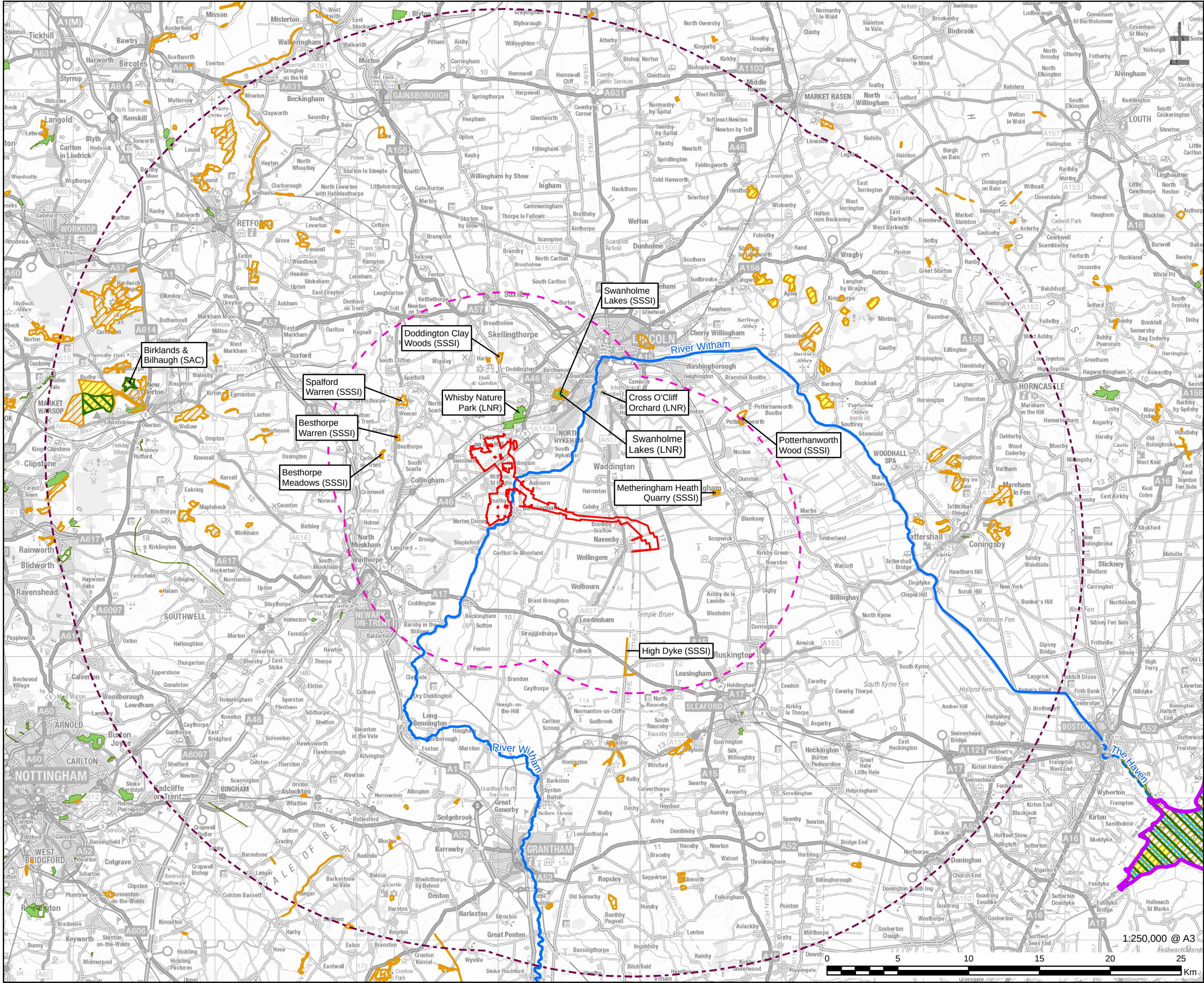
- Ref 1 His Majesty's Stationery Office (HMSO). (2008). The Planning Act 2008. Available at: https://www.legislation.gov.uk/ukpga/2008/29/pdfs/ukpga_20080029_en.pdf.
- Ref 2 HMSO. (2018). The Conservation of Habitats and Species Regulations 2017 (as amended). HMSO, London. Available at: <http://www.legislation.gov.uk/uksi/2017/1012/contents/made>.
- Ref 3 HMSO. (2018). European Union (Withdrawal) Act 2018. Available at: <https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>.
- Ref 4 HMSO. (2019). The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. HMSO, London. Available at: <https://www.legislation.gov.uk/ukdsi/2019/9780111176573>.
- Ref 5 Ministry of Housing, Communities and Local Government. (2024). National Planning Policy Framework [online]. Available at: https://assets.publishing.service.gov.uk/media/66acffddce1fd0da7b593274/NPPF_with_footnotes.pdf. [Accessed August 2024]
- 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 August 2024]
- 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 October 2024]
- 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). Appropriate Assessment. Available at: <https://www.gov.uk/guidance/appropriate-assessment>.
- Ref 10 Environment Agency. (2016). Air emissions risk assessment for your environmental permit. Available at: <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit>.
- 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. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408465/transboundary_guidelines.pdf.

- Ref 12 Defra, Multi-Agency geographical information for the countryside (MAGIC) map. Available at: <https://magic.defra.gov.uk/MagicMap.aspx>
- Ref 13 JNCC website: <https://jncc.gov.uk/our-work/uk-protected-area-datasets-for-download/>.
- Ref 14 Ramsar Sites Information Service [online]. Available at: <https://rsis.ramsar.org/>
- Ref 15 Natural England Designated Sites View [online]. Available at: <https://designatedsites.naturalengland.org.uk/>

Annex A Figures

PEI Report Volume 3, Figure 8-K-1 Statutory Designated Sites



PROJECT

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LEGEND

- Site Boundary
- 10km Study Area
- 30km Study Area
- International Sites within 30km of Site
 - Special Areas of Conservation (SAC)
 - Special Protection Area (SPA)
Note, none within 30km of the site
 - Ramsar
Note, none within 30km of the site
- Statutory Sites within 10km of Site
 - Site of Special Scientific Interest (SSSI)
 - Local Nature Reserve (LNR)
 - National Nature Reserve (NNR)
Note, none within 10km of the site
 - River Witham

NOTES

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ISSUE PURPOSE

PEI Report

PROJECT NUMBER

60664324

FIGURE TITLE

Statutory Designated Sites

FIGURE NUMBER

Figure 8-K-1