

Portland Energy Recovery Facility
Portland Port, Castletown, Portland,
Dorset, DT5 1PP

LPA Reference: WP/20/00692/DCC
PINS Reference: APP/D1265/W/23/3327692

**PPF19 Proof of Evidence – Habitat
Regulations Assessment**

Powerfuel Portland Limited
November 2023

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1.0 Introduction

- 1.1 I am Jeff Picksley, an environmental consultant appointed by tor&co to prepare a shadow Habitat Regulations Assessment for the Portland ERF. I have over 20 years' experience of undertaking ecological surveys and assessing impacts of developments on ecological receptors.
- 1.2 I hold a BSc in Rural Environmental Studies and am a full member of the Chartered Institute of Ecology and Environmental Management. My experience in waste projects includes undertaking Habitat Regulations Assessments for Energy from Waste schemes, in-vessel composting and pyrolysis facilities.
- 1.3 I have undertaken Habitat Regulations Assessments for a wide range of other projects including renewable energy schemes, residential developments and commercial facilities in England, Scotland and Wales. As part of this work, I have provided both written and oral evidence to several inquiries on the potential impacts of schemes on interest features of SPAs, SACs and Ramsar sites.
- 1.4 I have worked on the Portland ERF scheme for over three years and was involved in the stakeholder consultations (in particular with Dorset Council and Natural England), initial stages of scoping out the potential impacts of the proposals on sites within the NSN and prepared the shadow Habitat Regulations Assessment that was submitted in support of the application to Dorset Council.
- 1.5 The evidence that I have prepared and provided for this appeal (APP/D1265/W/23/3327692) is true and has been prepared and given in accordance with the requirements of the professional body. I can confirm that the opinions expressed are my true and professional opinions.
- 1.6 This written statement has been prepared to set out the current position relating to the Habitat Regulations Assessments undertaken by Dorset Council [CD12.18] and the Environment Agency [CD12.19] for the Portland ERF project.
- 1.7 As the project required the consent, permission or other authorisation from more than one competent authority, Dorset Council agreed with the Environment Agency that the operation of the proposed plant and effects associated with the stack emissions and any permitted discharges to water would be subject to assessment by the Environment Agency as the relevant competent authority. It was envisaged that planning permission would be determined in parallel with the environmental permit application submitted to the Environment Agency.
- 1.8 At the time the planning application (WP/20/00692/DCC) was considered by the Strategic and Technical Planning Committee on 24 March 2023 Dorset Council had undertaken a Habitat Regulations Assessment of the elements of the project where it acted as competent authority. These impacts were pollution of marine environment during construction and operation, dust generation, and air pollution from emissions and associated traffic movements.
- 1.9 The officers' report [Para 8.1 CD5.1] prepared for the planning committee states *"In February 2023 the Appropriate Assessment (with regards to traffic emissions) was concluded and Natural England agreed with the conclusion that there would not be a Likely Significant Effect on the European sites"*. The

wording of the report is confusing, conflating the two different elements of a Habitat Regulations Assessment as set out in Paragraph 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

- 1.10 The first element of the Habitat Regulations Assessment for the competent authority to undertake is a consideration of whether the plan or project is likely to have a significant effect on a NSN site(s). If a likely significant effect is identified the competent authority must undertake an appropriate assessment; the test to be satisfied for an appropriate assessment is that the plan or project will not adversely affect the integrity of the NSN site(s).
- 1.11 Natural England confirmed in a letter dated 14 March 2023 that it agreed with the conclusion of the appropriate assessment but maintained a holding objection due to the fact the outcome of the appropriate assessment being undertaken by the Environment Agency was not known [letter appended to this document in appendix JP3].
- 1.12 Paragraph 14.114 of the officers' report [CD5.1] states that "*officers consider that the permitting regime is such that Powerfuel would need to address any issues arising from the EA's Appropriate Assessment, should any arise, prior to an Environmental Permit being issued. This will ensure that there is no risk that the project could be progressed if it is unable to rule out any likely significant effects. Therefore, in the event that the EA's Appropriate Assessment conclude that there are no likely significant effects, we would also anticipate that Natural England would withdraw their holding objection on this point, assuming they are satisfied with the conclusions of the EA's Appropriate Assessment*".
- 1.13 As already identified the imprecise wording of the committee report presents an inaccurate picture of the required outcome of the Environment Agency appropriate assessment. If the Environment Agency is undertaking an appropriate assessment the required conclusion to allow a permit to be issued is no adverse effect on the integrity of the NSN site (s), not a conclusion of no likely significant effects.
- 1.14 Since the application was refused the Environment Agency has concluded its appropriate assessment. The appropriate assessment undertaken by the Environment Agency concluded there would be no adverse effect on site integrity for the Isle of Portland to Studland Cliffs Special Area of Conservation associated with emissions from the ERF [CD12.19]. The conclusion of the appropriate assessment has been reviewed by Natural England who has provided written confirmation that it concurs with the outcome of the assessment [letter appended to this document in appendix JP3]. This written statement provides a summary of the conclusions of the appropriate assessment undertaken by the Environment Agency.
- 1.15 The appropriate assessments undertaken by both Dorset Council and the Environment Agency have concluded that the project passes the tests set out in paragraph 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). The project, both alone and in-combination with other plans and projects, will not result in an adverse effect on the integrity of any of the NSN sites assessed.
- 1.16 The findings of the two appropriate assessments should be compiled into a single document as a complete record of the assessment process. This is because the Environment Agency appropriate assessment only considers

emissions from the ERF and associated generators along with an in-combination assessment of emissions from other point-source emitters. The Dorset Council appropriate assessment covers the assessment of emissions from the ERF in-combination with emissions from traffic associated with the project alone and in-combination with other plans and projects. The Dorset Council appropriate assessment also covers dust and water pollution during construction.

- 1.17 Since the application was refused there have been two changes to the information published on the Air Pollution Information System (APIS) website. APIS provides a comprehensive source of information on air pollution and the effects on habitats and species. It has been developed in partnership by the UK conservation agencies, regulatory agencies and the Centre for Ecology and Hydrology.
- 1.18 The information on APIS forms part of the baseline information used by both Dorset Council and the Environment Agency when undertaking their appropriate assessments. The implications of these changes on the conclusions of the two appropriate assessments has been set out for the benefit of the Inspector.

Summary of HRA process and site relevant critical levels/loads

- 1.19 The application site lies within 10km of five statutory designated sites within the national site network (NSN). Four of these are terrestrial sites: The Isle of Portland to Studland Cliffs Special Area of Conservation (SAC), Chesil Beach and the Fleet Special Protection Area (SPA), Chesil and the Fleet SAC and Crookhill Brick Pit SAC. Chesil Beach and the Fleet is also a Ramsar site. Parts of the Studland to Portland SAC, a marine site, are also present within 10km of the application site (see figure 1 appended to this proof of evidence in appendix JP1).
- 1.20 The appropriate assessment undertaken by Dorset Council considered impacts on Chesil and the Fleet SAC, Chesil Beach and the Fleet SPA/Ramsar, Isle of Portland to Studland Cliffs SAC and Studland to Portland SAC. No credible impact pathways on Crookhill Brick Pit SAC were identified and assessed.
- 1.21 The appropriate assessment undertaken by the Environment Agency considered impacts on Chesil and the Fleet SAC, Chesil Beach and the Fleet SPA/Ramsar and Isle of Portland to Studland Cliffs SAC. No credible impact pathways on Studland to Portland SAC or Crookhill Brick Pit SAC were identified and assessed by the Environment Agency.
- 1.22 Natural England provided advice to Dorset Council regarding the site-specific critical levels and critical load ranges that should be applied to various habitats within the NSN network for assessment purposes. The critical levels and critical load ranges identified by Natural England are set out in Table 1. These values are reproduced directly from Table 6.9.2 of the DTA Report to Inform AA Portland [CD12.18].

Qualifying feature	NO _x (µg/m ³)	NH ₃ (µg/m ³)	N dep (kg/ha/yr)
Chesil and the Fleet SAC			
Annual vegetation of drift lines	30	Not sensitive	Not sensitive
Perennial vegetation of stony banks	30	3	10-15 (calcareous substrate)
Mediterranean and thermo-Atlantic halophilous scrubs (<i>Sarcocornetea fruitcosi</i>)	30	3	20-30
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)	30	3	20-30
Coastal lagoons	30	3	20-30
Isle of Portland to Studland Cliffs SAC			
Annual vegetation of drift lines	30	Not sensitive	Not sensitive
Vegetated sea cliffs of the Atlantic and Baltic coasts	30	3	No comparable load available
Semi-natural dry grassland and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>)	30	Not present in affected area	15-25
Early gentian (<i>Gentianella anglica</i>)	30	3	15-25

Table 1: Critical load and level values used by Dorset Council

1.23 The Environment Agency appropriate assessment has used the same critical loads as the Dorset Council assessment. It should be noted that, for the purposes of assessing emissions from the ERF, the Environment Agency has used a critical level (annual mean) of 1µg/m³ for ammonia for the semi-natural dry grassland and scrubland facies on calcareous substrates (*Festuco-Brometalia*) habitat found with the Isle of Portland to Studland Cliffs SAC. The Environment Agency appropriate assessment also covered hydrogen fluoride (HF), sulphur dioxide (SO₂) and acid deposition. The relevant critical levels used by the Environment Agency for these pollutants are shown in Table 2. This information has been derived from a review of the information contained with the appropriate assessment prepared by the Environment Agency as part of the permitting process [CD12.19].

Pollutant	Concentration (µg/m ³)	Measured as
Nitrogen oxides (NO _x) (as nitrogen dioxide (NO ₂))	75	Daily mean
Nitrogen oxides (NO _x) (as nitrogen dioxide (NO ₂))	30	Annual mean
Sulphur dioxide (SO ₂)	10	Annual mean for sensitive lichen communities and bryophytes and ecosystems where lichens and bryophytes are an important part of the ecosystem's integrity
Sulphur dioxide (SO ₂)	20	Annual mean for all higher plants
Hydrogen fluoride	5	Daily mean
Hydrogen fluoride	0.5	Weekly mean
Ammonia (NH ₃)	1	Annual mean*
Ammonia (NH ₃)	3	Annual mean**

Table 2: Pollutants and relevant critical levels used by the Environment Agency

*Used for assessment of impacts on semi-natural dry grassland and scrubland facies on calcareous substrates within Isle of Portland to Studland Cliffs SAC

** Used for assessment of impacts on habitats within Chesil and the Fleet SAC

Changes to the baseline information published on APIS since March 2023

- 1.24 Since the application was refused there have been two important updates to the Air Pollution Information System (APIS) website. This website provides information on background pollutant levels for protected sites and site-specific critical load and level information. On 25 May 2023 the database was updated with pollutant information for the mid-year 2020 (2019-2021) for all pollutants. On 10 July 2023 the critical load ranges for nitrogen were updated to reflect the revised values set out in Table 1 of the 'Review and revision of empirical critical loads of nitrogen for Europe' [CD12.17]. The relevance of these changes to the appropriate assessments undertaken for the project by Dorset Council and the Environment Agency are set out below.
- 1.25 The critical load ranges for nitrogen for five habitats have changed since the appropriate assessments were undertaken. For Chesil Beach and the Fleet SAC the critical load range for perennial vegetation of stony banks has been adjusted to 5-15kg/N/ha/yr. (previously 8-15kg/N/ha/yr.) and the critical load range for Mediterranean and thermo-Atlantic halophilous scrubs (*Sarcocornetea fruitcosi*), Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) and coastal lagoon has been adjusted to 10-20kg/N/ha/yr. (previously 20-30kg/N/ha/yr.). For the Isle of Portland to Studland Cliffs SAC the critical load range for semi-natural dry grassland and scrubland facies on calcareous substrates (*Festuco-Brometalia*) and early gentian has been adjusted to 10-20kg/N/ha/yr. (previously 15-25kg/N/ha/yr.)
- 1.26 There is no reason to assume that the change in the critical load range for perennial vegetation of stony banks will affect the site-specific advice previously provided by Natural England regarding the appropriateness of the 10-15kg/N/ha/yr. critical load for assessment purposes. Paragraph 6.9.6 of the DTA report notes that Natural England has confirmed that "*in the light of evidence from plant species present within the zone of influence around the A354 road, Natural England advises that the thin soil substrate present support a range of plants consistent with calcareous conditions and so a lower critical load value for nitrogen deposition of 10/kg/N/ha/yr. is suitable*" [CD12.18]. The APIS website states that "*where the critical load for stable dune grasslands is relevant for..... calcareous substrate use the 10-15 kg ha-1 yr-1 range*".
- 1.27 The previously prepared appropriate assessments will need to be updated to reflect the revised critical loads for these habitats. Critical levels for these sites have not changed since the original assessments were undertaken by Dorset Council and the Environment Agency.
- 1.28 The second change relevant to appropriate assessment is the availability of more recent data on pollutants for the mid-year 2020. Table 6.8.1 of the DTA report sets out the baseline levels of pollutants and nitrogen deposition to be used for the Council's appropriate assessment. This information has been reproduced in Table 3 with an additional column showing the 2020 mid-year values taken from the APIS website.

	DTA baseline	2020 mid-year baseline
Chesil and the Fleet SAC		
N dep (kg/ha/yr) (grid average)	7.8	6.4-7
NO _x (µg/m ³)	9.67	7.1-10.9
NH ₃ (µg/m ³)	1.3	0.9-1
Isle of Portland to Studland Cliffs SAC		
N dep (kg/ha/yr) (moorland)	11	9.1-9.2
NO _x (µg/m ³)	33.78	27.8-9.1
NH ₃ (µg/m ³)	1.1	0.9

Table 3: Baseline pollutant levels used in Dorset Council assessment and current baseline figures

- 1.29 Table 3 shows that across all pollutants assessed the background levels of pollutants are lower using the 2020 mid-year than the baseline used for the previous Dorset Council appropriate assessment. Table 3 also shows that the background deposition rates or concentrations used by the Environment Agency in its assessment of the impacts on the Isle of Portland to Studland Cliffs SAC are higher than the background rates modelled using the 2020 mid-year data.
- 1.30 To aid the Inspector in updating the Dorset Council and Environment Agency appropriate assessments, appendix JP2 provides a set of replacement figures, updated to reflect the most recent baseline figures presented on APIS. These replacement figures can be substituted for those present in the earlier appropriate assessments to update the baseline air quality data for assessment purposes. The appendix also provides (where relevant) updated tables which provide the most recent baseline figures presented on APIS; these can also be substituted directly into the relevant documents. Appendix JP2 also highlights where sections of text in the two appropriate assessments would need adjusting to reflect changes in background concentrations or deposition rates and revised critical load ranges.
- 1.31 I have reviewed the updated baseline figures provided on APIS and the changes in the critical load ranges with regard to the conclusions of no adverse effect on site integrity reached by Dorset Council and the Environment Agency after undertaking the respective appropriate assessments. It is my professional opinion that these updates would not lead to the overall conclusion of no adverse effect on site integrity reached by both competent authorities to be changed.

Air quality modelling

- 1.32 It is noted that the Environment Agency's appropriate assessment included an audit of the Air Quality assessment submitted in support of the application [CD12.19] by the Air Quality Assessment Unit (AQMAU). The Environment Agency permit states that *"with the exception of the 'cavity region' behind the proposed building (discussed in the Stage 2 assessment), they [AQMAU] confirmed that although we [the Environment Agency] could not reproduce the numerical prediction they [AQMAU] agreed with the overall conclusions of the assessments"*.
- 1.33 The Environment Agency's appropriate assessment considered the implications of uncertainty about the amount of pollution recirculation within the cavity region due to building downwash effects. It considers that exceedances of the daily NO_x critical level at the SAC is unlikely beyond the cavity region of the site

buildings. The Environment Agency notes that worst-case impacts in this area would only occur when the wind was blowing from the north-east (an infrequent occurrence). The Environment Agency also sought advice from Natural England to determine if there were any features present that could be sensitive to short-term NOx.

- 1.34 Natural England has advised the Environment Agency that within the cavity region *“the SAC and SSSI habitats consist of dense scrub which is a supporting habitat rather than a feature for which the site is designated. In addition this area, which has been scrub for many years, is not an area where Natural England would seek to secure restoration to calcareous grassland (A SAC feature) hence the proposal is not preventing a restoration objective. The applicant has provided information on the location of sensitive lichens and bryophytes and none are recorded from this area of the SAC. Therefore, Natural England can advise the EA that, whilst AQ thresholds are exceeded, there would not be an adverse effect on the SAC either in existing features or compromising the restoration of features in the future”*.
- 1.35 After considering the modelling provided by the applicant, and having consulted with Natural England in line with the requirements of Regulation 63, the Environment Agency has concluded no adverse effect on the integrity of the Isle of Portland to Studland Cliffs SAC [Page 43 CD12.19].

Assessment of in-combination effects

- 1.36 The Council appropriate assessment covered the in-combination effects of emissions from traffic and used a list of plans and projects set out in section 7 of the Shadow HRA submitted by the applicant [CD 2.32]. DTA has advised the Council that the approach to exclude some elements of development covered by extant Harbour Revision Orders is justified as it would not be practically feasible to attempt to include the potential development that may arise as there is insufficient information at this time to enable a sensible assessment to be undertaken (see paragraph 4.2.6 of the DTA report). The Council confirmed to DTA that it is satisfied that there are no other plans and projects which need to be included beyond those identified in the SHRA.
- 1.37 The DTA report notes that the exclusion of the Harbour Revision Orders from the scope of the in-combination assessment for this project does not mean potential future in-combination effects will be overlooked. If future development comes forward under the Harbour Revision Orders it would need to be accompanied by sufficient information to allow an assessment of potential effects to be assessed. The baseline traffic levels in any such assessment will include traffic from the Portland ERF. Paragraph 4.2.8 of the DTA report notes that this approach aligns with the decision of the UK Courts in the case of Forest of Dean FoE v Forest of Dean Council.
- 1.38 The Environment Agency appropriate assessment considered two projects when considering in-combination effects associated with emissions from the Portland ERF stack. These are the Sunseeker International Limited biomass boiler and the open cycle gas turbine operated by Chickerell Generation.

Summary of Dorset Council appropriate assessment

- 1.39 The appropriate assessment undertaken by Dorset Council covers impacts on four of the five sites listed in paragraph 1.18. The sites the impacts assessed are set out below:

Chesil and the Fleet SAC – Pollution of marine environment during construction. Air pollution from associated traffic movements.

Chesil Beach and the Fleet SPA/Ramsar - Pollution of marine environment during construction.

Isle of Portland to Studland Cliffs SAC - Pollution of marine environment during construction. Dust generation. Air pollution from associated traffic movements.

Studland to Portland SAC - Pollution of marine environment during construction.

- 1.40 Air pollution impacts were considered for Chesil and the Fleet SAC. The appropriate assessment concluded that, for concentrations of NO_x and NH₃ arising from traffic emissions, the predicted environmental concentration would not exceed the critical level in any location in the SAC. The appropriate assessment concluded no adverse effect on the integrity of Chesil and the Fleet SAC due to relevant critical levels not being exceeded.
- 1.41 Further assessment of the impacts of nitrogen deposition was undertaken as the in-combination process contribution exceeds 1% of the lower end of the critical load range for perennial vegetation of stony banks, leading to an exceedance of the lower end of the critical load range. This assessment is provided in the DTA report which concluded that predicted effects of the traffic emissions from the Portland ERF, in-combination with other plans and projects, will not undermine the achievement of the conservation objectives for the Chesil and the Fleet SAC. The appropriate assessment concluded no adverse effect on the integrity of Chesil and the Fleet SAC due to increased levels of nitrogen deposition arising from the proposals.
- 1.42 Air pollution impacts were also considered for Isle of Portland to Studland Cliffs SAC. The appropriate assessment concluded that, for concentrations of NO_x and nitrogen deposition arising from traffic emissions, there was no credible evidence of a real risk to the integrity of the SAC. The spatial scale of the predicted changes was not appreciable and there was no risk that the conservation objectives would be meaningfully undermined. Further consideration of site-specific factors was not required. The appropriate assessment concluded no adverse effect on the integrity of Isle of Portland to Studland Cliffs SAC.
- 1.43 The appropriate assessment concluded that, for concentrations of NH₃ arising from traffic emissions, the predicted environmental concentration would not exceed the relevant critical level for the habitat present in the SAC within 200m of the road. No credible evidence of a real risk to the SAC from NH₃ pollution arising from traffic emissions was identified and further consideration of site-specific factors was not required. The appropriate assessment concluded no adverse effect on the integrity of Isle of Portland to Studland Cliffs SAC.

- 1.44 The appropriate assessment also considered impacts related to changes in water quality and the effects of dust. The appropriate assessment concluded that the mitigation referred to in the outline CEMP is widely relied upon and all have associated industry standard construction-related approaches.
- 1.45 DTA Ecology advised Dorset Council that a conclusion of no adverse effect on site integrity in respect of water quality and dust can rely on the use of conditions or restrictions subject to which planning permission may be granted. A suitable condition to ensure that the detailed CEMP is submitted and agreed with the Council and (preferably) Natural England prior to work commencing on site should enable the Council to be satisfied that adverse effects to site integrity will be avoided for Chesil Beach and the Fleet SPA, Chesil and the Fleet SAC, Studland to Portland SAC and Isle of Portland to Studland Cliffs SAC.
- 1.46 The Appellant has proposed such a condition in the Statement of Common Ground [CD 11.5] which would satisfy the requirements identified above.

Summary of Environment Agency appropriate assessment

- 1.47 The Environment Agency appropriate assessment has screened out direct impacts on the NSN sites from the Portland ERF. The Environment Agency has also screened out the following impacts: changes in salinity regime, changes in thermal regime, disturbance, entrapment/impingement, physical damage, siltation, smothering and turbidity, concluding these would not occur as part of the proposals.
- 1.48 The Environment Agency has identified the effect of waste gases on the protected sites as requiring assessment and has screened in impacts arising from acidification, changes in nutrients, disturbance (noise only), habitat loss and toxic contamination for consideration. The Environment Agency appropriate assessment considers emissions from the emergency diesel generator and the stack.
- 1.49 The assessment of emissions covers the following pollutants: NO_x, NH₃, SO₂ and HF. Impacts arising from deposition of nutrient nitrogen and increased acidity have been assessed. The Environment Agency assessment notes that the permit conditions would propose a limit for ammonia of 8mg/m³.
- 1.50 The impacts from the testing and emergency operation of the emergency diesel generator in relation to annual mean assessment levels are not considered by the Environment Agency to be significant due to the limited period of operation (testing up to 26 hours per year, up to 30 minutes every time and emergency operations infrequent).
- 1.51 The first stage of screening for likely significant effects by the Environment Agency concluded there would be no impacts on two of the NSN sites: Crookhill Brick Pit SAC and Studland to Portland SAC. No further assessment of these site was required.
- 1.52 The assessment of the impacts of emissions from the ERF on the Isle of Portland to Studland Cliffs SAC found that there would be no likely significant effect related to increased acid deposition linked to emissions from the main stack and emergency diesel generator.

- 1.53 The Environment Agency noted that the maximum annual mean process contribution of nitrogen oxides, as nutrient nitrogen, is 0.168kg/N/ha/yr. This is above the significance screening threshold of 1% of the nutrient nitrogen critical load at 1.12%. Using a background figure of 11kg/N/ha/yr the PEC is calculated as 11.168kg/N/ha/yr which is 74.46% of the nutrient nitrogen critical load. As the PEC is more than 70% of the critical load it therefore cannot be considered 'not significant' alone and this impact is taken forward for consideration in the appropriate assessment.
- 1.54 The Environment Agency also identified likely significant effects from emissions of ammonia from the main stack (as the PECs are above 70% of the relevant environmental standard) and likely significant effects from short-term NOx emissions from the main stack and the testing of the emergency diesel generator as the PC from both operations is above 10% of the critical level. These impacts are also considered in the appropriate assessment.
- 1.55 The appropriate assessment concluded that there would be no adverse effect on the integrity of the site arising from short-term NOx emissions from the main stack. The Environment Agency also concluded that there would be no adverse effect on site integrity from the short-term NOx emissions associated with the testing of the emergency diesel generator.
- 1.56 The Environment Agency concluded that, as the critical load for nitrogen deposition (PEC) is not exceeded, there would be no adverse effect on site integrity in respect of nutrient nitrogen deposition.
- 1.57 The background ammonia concentration already exceeds the relevant environmental standard for the site. The process contribution accounts for 2.48% of the total PEC, meaning 97.52% is background. The Environment Agency concluded that, due to the small increase and the limited area of the site impacted, it was possible to conclude no adverse effect on the integrity of the Isle of Portland to Studland Cliffs SAC.
- 1.58 The EA conclusion is that SNCR is proposed to meet BAT requirements for emissions from the main stack. No specific further measures are proposed to reduce NOx emissions on the basis of the outcome of the Habitat Regulations Assessment. The conclusion of no adverse effect on integrity is not dependent on any mitigation measures or conditions.
- 1.59 The in-combination assessment considered two projects: a biomass boiler operated by Sunseeker International Limited and the open cycle gas turbine operated by Chickerell Generation.
- 1.60 Detailed assessment of the effects of NOx emissions related to the biomass boiler was undertaken during permit determination which showed effects were limited to a small area. There are no emissions of NH₃, HF or SO₂ associated with this facility. The Environment Agency concluded that the emissions from the biomass boiler are not likely to have a significant effect in-combination with the Portland ERF.
- 1.61 Emissions from the Chickerell open cycle gas turbine already form part of background emissions. The location of the site and the prevailing wind direction led the Environment Agency to conclude no adverse effects on the integrity of the SAC in-combination with the Portland ERF.

- 1.62 DTA Ecology advised Dorset Council that operational impacts associated with the discharge of uncontaminated surface run-off will be subject to an environmental permit issued by the Environment Agency and will be considered in the HRA they are undertaking.
- 1.63 The treatment of surface water runoff is covered by the submitted flood risk assessment [CD 2.11]. The surface water drainage strategy proposes the re-use of existing points of discharge in three separate locations to accommodate water from the roof and runoff from highways and paved areas.
- 1.64 The runoff from roofs will drain directly to Balaclava Bay through two existing outfalls. The drainage plans allow for approximately 40% of clean water from the site to be discharged via the existing surface water outfall into Balaclava Bay located at the southern end of the site. The remaining 60% of clean water will be discharged into Balaclava Bay via an existing surface water outfall at the northern end of the site.
- 1.65 The runoff from the yard areas and highway will be routed through a new SuDS swale and bypass separator to provide treatment of the surface water prior to discharge into Portland harbour. This will enable the removal of oil-based contaminants and silts.
- 1.66 During periods of exceedance runoff will be directed to the SuDS swale and a geo-cellular attenuation tank. These areas will provide additional storage for water prior to discharge.

Conclusion

- 1.67 All elements of the Portland ERF have now been assessed by the relevant competent authorities and Natural England has been consulted on the conclusions on both appropriate assessments. Natural England has confirmed with the relevant competent authorities that it agrees with the conclusions reached in both appropriate assessments. The documents demonstrate that the competent authorities have concluded that there would be no adverse effects on site integrity on any of the NSN sites within 10km of the Portland ERF, alone or in-combination with other plans and projects.
- 1.68 For this application it was agreed, in line with paragraph 67(2), that the Environment Agency were the competent authority for the environmental permit application and Dorset Council were the competent authority for assessing emissions from traffic and impacts related to changes in water quality and the effects of dust.
- 1.69 As noted in paragraph 11.3.3 of the DTA report "*The final HA conclusion is therefore dependent upon the outcome of the EA permit application and supporting HRA work. It is therefore the advice of DTA Ecology that, if the Council are minded to grant planning permission, any resolution to do so should be subject to receipt of the EA appropriate assessment and confirmation that it does not require the need for additional mitigation or compensation to be controlled under the planning regime*" [CD12.18].
- 1.70 The Environment Agency have now concluded the appropriate assessment of the project for the permit application and have concluded that there would be no adverse effect on site integrity. The appropriate assessment states that no

additional mitigation or compensation is required to allow the permit to be granted.

- 1.71 It is noted that since the appropriate assessments were undertaken the information on background pollutant levels relevant to the sites has been updated. The appropriate assessments should be updated to reflect the most up-to-date information. It is also of relevance that site specific critical loads for NSN sites have also been revised. These new critical load ranges should be used in any updated appropriate assessments.
- 1.72 The background concentrations and deposition rates shown on APIS for the mid-year 2020 are lower than those used by the competent authorities in the appropriate assessments.
- 1.73 For all practical purposes the documents prepared by the competent authorities represent a precautionary assessment of impacts as they are based on higher background levels of pollutants than the current situation.
- 1.74 The changes in critical load ranges for the habitats do not change the outcome of the assessment, as the lower end of the critical load ranges for the habitats are not exceeded, either alone or in-combination once the updated nitrogen deposition rates are accounted for.
- 1.75 The updating of the appropriate assessments is required to ensure that the competent authority is using the best available information at the time the appropriate assessment is undertaken. An assessment of the implications of the changes for the project has concluded that updating the documents will not change the conclusions reached. The competent authority would still be able to conclude no adverse effect on the integrity of the NSN sites after updating the relevant documents.