

Date: 06 July 2022



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BY EMAIL ONLY

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Dear Mr Hanson

Teesmouth and Cleveland Coast Special Protection Area and Ramsar site – Natural England advice in relation to Nutrient Neutrality and the Seaton Carew Waste Water Treatment Works where discharges are to the long sea outfall to the North Sea

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.

On 16th March Hartlepool Borough Council received formal notice from Natural England that the Teesmouth & Cleveland Coast Special Protection Area (SPA) and Ramsar site is now considered to be in an unfavourable condition due to nutrient enrichment, in particular from nitrates.

The Teesmouth & Cleveland Coast SPA and Ramsar site includes areas of the River Tees channel, the Tees Estuary, and the Tees Bay. Natural England's advice is that qualifying bird species are being negatively affected by the growth of algal mats on their key foraging habitats within the Tees Estuary, particularly at Seal Sands, rather than within the Tees Bay. As such, Natural England's Nutrient Neutrality advice is that new developments should not result in additional nutrients entering the catchment of the River Tees upstream of the SPA and Ramsar site (i.e. they are nutrient neutral).

Subsequent to Natural England issuing its Nutrient Neutrality advice, research by Hartlepool Borough Council has confirmed that the Seaton Carew Wastewater Treatment Works (WwTW) discharges via a long sea outfall to the North Sea. This falls outside the part of the Teesmouth and Cleveland Coast SPA and Ramsar site subject to Nutrient Neutrality advice and the Teesmouth and Cleveland Coast SPA and Ramsar site Nutrient Neutrality Catchment as defined on the Catchment Plan ("*European protected sites requiring nutrient neutrality strategic solutions*") also issued with the Natural England advice of 16th March 2022.

Hartlepool Borough Council has asked Natural England for its advice on whether this evidence changes Natural England's advice on the requirement for Nutrient Neutrality for new development that discharges to the Seaton Carew WwTW. The purpose of this letter is to respond to that request by setting out our current advice in relation to this matter.

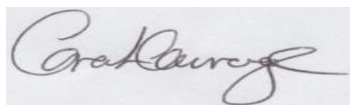
Natural England has reviewed the current available evidence and based on the information provided by the Council that Seaton Carew WwTW discharges via a long sea outfall to the North Sea, concludes that a significant effect on the Teesmouth & Cleveland Coast SPA and Ramsar site from discharges of nitrates from new development to the Seaton Carew WwTW, where discharges are via the long sea outfall to the North Sea, can be excluded. This is because Natural England's Nutrient Neutrality advice applies where there is a pathway or hydrological connection between the

nutrient source (e.g. WwTW) and the Habitats site. Any nutrient discharges directly into, or upstream of the site are therefore within the scope of this advice. Discharges downstream, or beyond the Habitats site, where there is no hydrological connection, in this case via a long-sea outfall to the North Sea can be excluded.

This advice is a working conclusion which is subject to the outcome of any future modelling or scientific evidence relating to offshore discharges which may demonstrate that there is a hydrological link to the areas of the Teesmouth & Cleveland Coast SPA and Ramsar site in unfavourable condition, due to nutrient enrichment, as this would indicate that discharge from Seaton Carew WwTW via the long sea outfall are likely to have a significant effect on the Teesmouth & Cleveland Coast SPA and Ramsar site in terms of nitrate pollution.

Natural England reminds Hartlepool Borough Council that Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) places an ongoing legal obligation on the Council to consider, in relation to each individual plan or project that it consents, permits or otherwise authorises, whether such plan or project is likely to have a significant effect on a European site or European offshore marine site.¹ In this regard, the Council must carry out its own assessment and take its own advice. Natural England has set out above its current advice in relation to new development that discharges to the Seaton Carew WwTW, in cases where the WwTW discharges to the long sea outfall in the North Sea. However, this is subject to change if new evidence or information becomes available and does not absolve the Council of its Regulation 63 duties. Where a likely significant effect on a site cannot be excluded on the basis of objective information,² the Council is under a duty to consult with Natural England.³ Natural England cannot fetter its discretion to provide statutory advice under Regulation 63(3) of the Habitats Regulations if asked and our advice will be based on all currently available evidence and information.

Yours sincerely



Cara Courage
Manager
Northumbria Area Team

¹ Where the plan or project is not directly connected with or necessary to the management of the site.

² See for example *Case C-127/02, Waddenzee*.

³ Regulation 63(3), Habitats Regulations.