

## **Application by Cleve Hill Solar Park Ltd for Cleve Hill Solar Park**

### **The Examining Authority's Further Written Questions and requests for information (FWQ)**

**Issued on Friday 9 August 2019**

The following table sets out the Examining Authority's Further Written Questions and requests for information (FWQ).

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex B to the Rule 6 letter of 18 April 2019<sup>1</sup>. Questions have been added to the issues set out there as they have arisen from representations, meetings and hearings and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties and other persons each question is directed to. The Examining Authority would be grateful if the named parties could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by persons to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number starting with 2 (indicating that it is from FWQ), followed by an issue number and a question number. For example, the first question on Biodiversity and Nature Conservation issues is identified as question 2.1.1. When you are answering a question, please start your answer by quoting its unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the Examining Authority if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [CleveHillSolarPark@planninginspectorate.gov.uk](mailto:CleveHillSolarPark@planninginspectorate.gov.uk) and include 'Cleve Hill Solar Park' in the subject line of your email.

Responses are due by **Deadline 4: Friday 30 August 2019**.

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-000510-20190418%20EN010085%20CLEVE%20Rule%206%20Letter.pdf>

## Abbreviations used

<b>ALC</b>	<i>Agricultural Land Classification</i>	<b>NPPF</b>	<i>National Planning Policy Framework</i>
<b>CEMP</b>	<i>Construction Environmental Management Plan</i>	<b>NPS</b>	<i>National Policy Statement</i>
<b>CL:AIRE</b>	<i>Contaminated Land: Applications in Real Environments</i>	<b>PA2008</b>	<i>The Planning Act 2008</i>
<b>CTMP</b>	<i>Construction Traffic Management Plan</i>	<b>PINS</b>	<i>Planning Inspectorate</i>
<b>DCO</b>	<i>Development Consent Order</i>	<b>PRoW</b>	<i>Public right of way</i>
<b>dDCO</b>	<i>Draft DCO</i>	<b>PV</b>	<i>Photovoltaic</i>
<b>DNO</b>	<i>Distribution Network Operator</i>	<b>RIAA</b>	<i>Report to Inform Appropriate Assessment</i>
<b>ES</b>	<i>Environmental Statement</i>	<b>RVA</b>	<i>Residential Visual Amenity Assessment</i>
<b>ExA</b>	<i>Examining Authority</i>	<b>SPA</b>	<i>Special Protection Area</i>
<b>HRA</b>	<i>Habitats Regulations Assessment</i>	<b>SSSI</b>	<i>Site of Special Scientific Interest</i>
<b>HCV</b>	<i>Heavy Goods Vehicle</i>	<b>TCPA1990</b>	<i>The Town and Country Planning Act 1990</i>
<b>LBMP</b>	<i>Landscape and Biodiversity Management Plan</i>	<b>UXO</b>	<i>Unexploded ordnance</i>
<b>LVIA</b>	<i>Landscape and Visual Impact Assessment</i>	<b>ZTV</b>	<i>Zone of theoretical visibility</i>
<b>MEASS</b>	<i>The draft Medway Estuary and Swale Strategy</i>		
<b>NETS</b>	<i>National Electricity Transmission System</i>		

## The Examination Library

References in square brackets (e.g. '[APP-203]') are to documents catalogued in the Examination Library. These should be used when citing submitted documents in answers. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010085/EN010085-000472-Examination%20Library%20Cleve%20Hill%20Solar%20Park%20PDF%20Version.pdf>

It will be updated as the Examination progresses.

## Citation of Questions

Questions in this table should be cited as follows:

ExQ[reference].[issue reference].[question number]. (E.g. 'ExQ2.0.1.' when referring to the first question in this table.)

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
<b>2.0.</b>	<b>General, Cross-topic and Miscellaneous Questions</b>	
2.0.1	The Applicant	When updating documents, including the Mitigation Schedule, please can the Applicant provide 'tracked changes' and 'clean' versions?
2.0.2	The Applicant	At 4.31 of its Local Impact Report [REP1-004], Kent County Council requests a Minerals Assessment to assess the safeguarding issues of the economic geologies and the impact that the scheme will have. The Applicant's response [REP2-034] suggested that Kent County Council has requested a separate document and that this can be dealt with procedurally by converting the comments set out in the Planning Statement [APP-254], Appendix A, Section 6.1.10 into a separate document. Please can the Applicant provide an update that considers the Scoping Opinion requirement for the document to describe the impacts on mineral resources and a prediction on whether any significant effects are likely? Is the Applicant able to confirm that Deadline 4 submissions will provide a conclusion to this issue?
2.0.3	Kent County Council	At 4.31 of its Local Impact Report [REP1-004], Kent County Council requests a Minerals Assessment to assess the safeguarding issues of the economic geologies and the impact that the scheme will have. How relevant is this if the Project was limited to a 40-year time limit? Would the MEASS managed realignment proposals ultimately facilitate mineral extraction or potentially cause a permanent sterilisation?
2.0.4	The Applicant Kent County Council	A minor difference between Kent County Council and the Applicant is reported in the Applicant's response to Kent County Council's Local Impact Report at paragraph 4.29 [REP2-034] in relation to the Flood Risk Assessment and areas with a concentration of flow. Has this difference been resolved and, if so, where is the agreement set out?
2.0.5	The Applicant	We heard representations at the Open Floor Hearing from Dr Bruno Erasin that he felt there are flaws in the ALC survey and report. He was supported by the representation from A Bowles. The Applicant's response stated that it stands by the conclusions of the report and that a more detailed response to the specific points raised by Dr Erasin will be provided by Deadline 4. Could

ExQ2	Question to:	Question:
		the Applicant provide an interim update and confirm that the detailed issues raised by Dr Erasin will be addressed fully at Deadline 4.
2.0.6	National Grid	Is the Applicant's assertion correct, that by entering into a connection agreement for the Cleve Hill Solar Park, National Grid has assessed that " <i>connection is possible without detriment to the rights of other users of the system</i> " [REP3-030 - section 8.2] having regard to the National Grid ESO/UK Power Networks project which aims to create a new reactive power market for distributed energy resources and generate additional capacity on the network? Also, could the connection of the Cleve Hill Solar Park to the NETS at Cleve Hill substation adversely affect the potential for any local community energy projects to be brought forward at the local distribution level [REP3-030 - section 8.6]?
2.0.7	The Applicant	In its response to ExQ1.0.9 [REP2-056], Swale Borough Council suggested that it would be sensible for the CEMP to include a need for the Applicant or its contractor to notify the Council of any exceptional situations or breaches of approved working hours within 48 hours of these occurring. Has this been considered, and will the next version of the Outline CEMP be updated accordingly?
2.0.8	The Applicant	In its response to ExQ1.0.10 [REP2-006], the Applicant said that Appendix A of the Outline CEMP (Site Waste Management Plan) will be updated to include reference to the CL:AIRE Code of Practice, in response to issues raised by the Environment Agency. Could the Applicant advise if this has been done?
2.0.9	The Applicant	The ExA has previously questioned and heard responses from the Applicant about the extent and nature of works likely to be undertaken and for which powers are sought in relation to the existing coastal defences; the provision of a permissive path; the Freshwater Grazing Marsh Habitat Management Area; and the Lowland Grassland Habitat Management Area. During the Accompanied Site Inspection, we were shown a concrete sluice of the type that the Applicant may install in the Freshwater Grazing Marsh Habitat Management Area and, potentially, the Arable Reversion Habitat Management Area. Nonetheless, the ExA invites the Applicant to provide additional, more detailed information about the extent and nature of the works, and the

ExQ2	Question to:	Question:
		reasoning behind their inclusion in the dDCO, to assist our consideration and recommendation as to whether or not the intended works are 'development', 'Associated Development' and if they satisfy the Compulsory Acquisition tests.
2.0.10	Defra The Applicant	<p>The site of the proposed NSIP is located within an area of land proposed for managed re-alignment within the consultation draft of the Medway Estuary and Swale flood and coastal risk management strategy (MEASS). It is understood that the strategy will be finalised and published 'during summer 2019'. Could Defra update the ExA on the progress towards approval of the MEASS and confirm whether or not the anticipated publication timescale remains current.</p> <p><a href="https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy">https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy</a></p> <p>The Applicant is requested to continue to liaise with Defra.</p>
<b>2.1.</b>	<b>Biodiversity and Nature Conservation (including HRA)</b>	
2.1.1	Swale Borough Council The Applicant	<p>At Deadline 3, Swale Borough Council submitted an email representation [REP3-056] following up its oral submission at the Biodiversity Issue Specific Hearing on Thursday 25th July. This relates to the updated guidance on environmental net gain in the Natural Environment section of Planning Practice Guidance released on the 21st July 2019.</p> <p>Could Swale Borough Council and the Applicant provide an opinion on the weight that the ExA and Secretary of State should place on this given the Government response to net gain set out in "Net gain: Summary of responses and government response" (Defra, July 2019):</p> <p><i>"Consultation proposals for a mandatory requirement did not include nationally significant infrastructure or marine projects. Whilst many respondents told us that these types of development should be in scope of the mandatory requirement, following careful consideration the government believes that further work and engagement with industry and conservation bodies is required to establish approaches to biodiversity net gain for both marine and nationally significant infrastructure projects, which can have fundamentally different characteristics to other</i></p>

ExQ2	Question to:	Question:
		<p><i>development types. Government will continue to work on exploring potential net gain approaches for these types of development, but nationally significant infrastructure and net gain for marine development will remain out of scope of the mandatory requirement in the Environment Bill."</i></p> <p><a href="https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planning-requirements?utm_source=ea420b59-d39c-4214-8490-0d39d5c8768a&amp;utm_medium=email&amp;utm_campaign=govuk-notifications&amp;utm_content=immediate">https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planning-requirements?utm_source=ea420b59-d39c-4214-8490-0d39d5c8768a&amp;utm_medium=email&amp;utm_campaign=govuk-notifications&amp;utm_content=immediate</a></p>
2.1.2	Canterbury City Council	<p>In its Local Impact Report [REP1-002], Canterbury City Council reserves its position in relation to possible impacts on ecology and designated nature conservation sites pending the outcome of a review by Natural England and Kent County Council. The ExA notes that Canterbury City Council was not present at the Biodiversity Issue Specific Hearing, so could an update on its position be provided please.</p>
2.1.3	The Applicant	<p>Could the Applicant provide an update on discussions with the Habitat Management Steering Group and especially its proposals to provide further detail on monitoring the key mitigation measures and the triggers for remedial actions where inadequate performance is identified? For example, paragraph 351 of the Deadline 3 Outline LBMP [REP3-005] states that wintering bird surveys will take place between September and March in years 1, 2, 3, 5, 10 and 20 to review the efficacy of the implemented measures and adaptive management. Can the Applicant explain the triggers for establishing whether the implemented measures are sufficient for Brent geese, lapwing and golden plover?</p>
2.1.4	The Applicant	<p>Can the Applicant explain where in the Deadline 3 Outline CEMP [REP3-006] or Outline LBMP [REP3-005] the mitigation measure listed at paragraph 144 (section 10.5.1.2) of Chapter 10 of the ES [APP-040] which includes pre-construction sowing is secured? Can the Applicant provide a plan showing the affected areas?</p>

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.1.5	Natural England Kent Wildlife Trust	The Applicant has provided a schedule for the sowing and establishment of the Arable Reversion Habitat Management Area grassland at section 16 of the Deadline 3 Outline LBMP [REP3-005]. Does the Outline LBMP now include sufficient information about methods, monitoring, triggers and adaptive management to satisfy your previous concerns over this, and does the Outline LBMP now properly secure the early sowing of grass that was considered necessary to avoid an adverse effect on integrity of The Swale SPA and Ramsar site [REP3-082]?
2.1.6	Natural England Kent Wildlife Trust	The Applicant has provided more information about grazing management in the Arable Reversion Habitat Management Area and the inter-array grassland in the Deadline 3 Outline LBMP [REP3-005]. Does this allay your previous concerns over the lack of detail about this?
2.1.7	Natural England Kent Wildlife Trust	In the Deadline 3 Outline LBMP [REP3-005], the Applicant has provided more information about how the establishment and condition of the Arable Reversion Habitat Management Area and the inter-array grassland will be monitored. Do you believe there is sufficient detail about monitoring, triggers and adaptive management now, and that the outline monitoring proposals are sufficient?
2.1.8	Natural England Kent Wildlife Trust	Overall, does your view remain that the LBMP could be an appropriate means of securing the monitoring of the Habitat Management Areas and any adaptive management necessary? Considering the Deadline 3 updated version of the Outline LBMP [REP3-005], do you believe that there is now sufficient detail in relation to the monitoring, targets and triggers for remedial action? Is there now sufficient detail about water level management across the whole site, wetland management, and on the SSSI enhancement proposals?
2.1.9	The Applicant	Further to ExQ1.1.9 and the response [REP2-006], is the Applicant able to provide an update on discussions around the approach to the assessment and mitigation of noise effects on birds from the 23 August Habitat Management Steering Group meeting and confirm a timescale for incorporation of the outcome in the relevant Statements of Common Ground and outline management plans?

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.1.10	Natural England	Does the Deadline 3 revised SPA CNMP [REP3-008] provide the additional information that you were seeking in relation to the 55dB contour, and do you have any other comments about the Deadline 3 Outline SPA CNMP?
2.1.11	Natural England The Applicant	Natural England's Deadline 3 letter dated 31st July 2019 [REP3-082] followed up discussions at the Biodiversity Issue Specific Hearing about avoiding the use of fertiliser within 10m of the ditch system, and if this has any effect on the carrying capacity of the Arable Reversion Habitat Management Area for Brent geese. The Applicant suggested at the Hearing that non-application of fertiliser close to the ditches makes a difference of 300 goose-days. Natural England wished to receive the supporting calculations in writing: given this was set out at Table 2.17 of the Applicant's responses to Written Representations [REP3-020], is there any progress on agreement, and will it be included in the Statement of Common Ground?
2.1.12	The Applicant Natural England	At Table 2.17 (refs 32 and 33) of the Applicant's responses to Written Representations [REP3-020] there is additional information about combining golden plover and lapwing days in response to questions, including one from Natural England in its Written Representation [REP2-096] and Deadline 3 submission. Could Natural England please comment on whether this resolves any of the uncertainties regarding lapwing and golden plover, as set out? Can the Applicant please submit to the Examination the communication with Dr Gillings that confirms he considers it appropriate to combine the lapwing and golden-plover days?
2.1.13	The Applicant	Could the Applicant clarify the reason for references to inter-array grassland and triggers associated with marsh harrier monitoring within Appendix J of the Deadline 3 version of the Outline LBMP [REP3-005]?
2.1.14	The Applicant	At paragraph 51 of the Deadline 3 Outline LBMP [REP3-005], the Applicant states that an ecologist will visit the site in late spring (May) in Years 2, 3, 5, 10 and 20. The same paragraph states that use of the inter-array grassland by marsh harriers will be monitored, though the frequency of the monitoring (monthly) appears to be incompatible with this single visit a year in late spring. Can the Applicant expand on the commitment to monitoring marsh harrier behaviours within the Grazing Marsh Grassland Habitat Management Area?



ExQ2	Question to:	Question:
2.1.15	The Applicant	<p>Can the Applicant provide a calculation for the carrying capacity of the Order area for marsh harriers before and after the implementation of the proposal, and define the amount of prey is likely to be provided by the different parts of the Order area, with a view to demonstrating how the change in habitat quality across the site will influence how much food will be provided in the different parts?</p> <p>Can the Applicant also confirm the width of the corridors through the solar array along ditches and paths at the northern part of the site and comment on whether they would be sufficiently wide that marsh harriers would not be deterred from entering the solar array from the existing favoured habitat along the borrow dyke?</p>
2.1.16	The Applicant	<p>In its answer to ExQ1.1.42 [REP2-006], the Applicant noted that measures may need to be put in place to protect new hedgerows and trees that have been planted from construction activities, and that this would be secured and controlled through the LBMP, under Requirement 4 of the dDCO. Could the Applicant clarify where and how this is achieved in the Deadline 3 Outline LBMP [REP3-005]?</p>
2.1.17	Natural England	<p>At paragraph 3.2.6 of its Written Representation [REP2-096], Natural England raised concern that the Outline Breeding Bird Protection Plan stated that construction in the areas near the Swale SPA will be avoided "<i>where practicable</i>" during the bird breeding season and that "<i>This may not be fully achievable</i>". After further discussions, Natural England acknowledged that the Applicant's intention around '<i>where practicable</i>' was to avoid restricting construction activities that do not exceed the threshold. Now that the Deadline 3 Outline Breeding Bird Protection Plan [REP3-006] has been provided, is Natural England content that the revised wording provides greater clarity and certainty?</p>
2.1.18	Natural England	<p>In its Relevant Representation [RR-826], Natural England sought the addition of measures to the LBMP to promote more extensive reedbed development. The Deadline 3 Outline LBMP [REP3-005] includes measures for the creation of reedbeds at 13.6.1. Is Natural England content with these proposals?</p>

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.1.19	The Applicant	During the Biodiversity Issue Specific Hearing on 25th July 2019, an Interested Party raised the question of whether noise disturbance from construction traffic using the northern access route had been factored into the assessments undertaken for the EIA and RIAA. The Applicant stated that this would be addressed in the Deadline 3 updates to the SPA CNMP. Please could the Applicant confirm that this is the case, that the noise from construction traffic has been taken into account on all access roads and haul routes and indicate where in the Deadline 3 updated Outline SPA CNMP [REP3-008] this is evidenced?
2.1.20	The Applicant	The Applicant has stated an intention to design the culverts needed to cross watercourses in accordance with the Environment Agency guidance on elver and eel passes that was previously submitted into the Examination [REP2-016]. Could the Applicant explain how this intent is demonstrated in the Outline LBMP and the Outline CEMP, and how it could be secured through any DCO?
2.1.21	Environment Agency Matthew Hatchwell	Do the Environment Agency and Mr Hatchwell believe that any additional information is required in the Outline LBMP or Outline CEMP to ensure that the necessary mitigation for European eel can be secured through any DCO?
2.1.22	The Applicant	Please could the Applicant provide an update on discussions with CPRE Kent in relation to its records for hazel dormouse at the site, and if there is an intention to explore licensing requirements with Natural England. If so, please provide an update on the projected schedule for a draft licence and letter of no impediment. Is there an intention to add corresponding actions and controls to the Outline LBMP for this species as is included for other protected species?
2.1.23	The Applicant	At the Biodiversity Issue Specific Hearing held on 25th July 2019, an issue around possible misidentification of native amphibians and unintentional harm by site staff looking for marsh frog was discussed. The Applicant agreed to mitigate this through the role of the Ecological Clerk of Works. Could the Applicant please add this proposed mitigation to the list of specific roles of the Ecological Clerk of Works to the next version of the Outline LBMP?

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.1.24	The Applicant	In the Applicant's submission [REP2-006] in relation to ditch and culvert maintenance, the Applicant refers to the Outline LBMP, Appendix H, section 13.9 [APP-203] and predicts no significant effects. However, the timing of management of vegetation is not defined at 13.9 of Appendix H of Outline LBMP [APP-203]. Could the Applicant confirm that it would be in accordance with 13.5.2 of the Deadline 3 Outline LBMP [REP3-005]?
<b>2.2.</b>	<b>Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>	
2.2.1	The Applicant	Please could the Applicant provide an update on negotiations with land and rights owners in relation to the alternative options for the southern or northern access route, your intentions going forward with the dDCO and Book of Reference, and a timescale to complete any decision?
2.2.2	The Applicant	In our first round of Written Questions (ExQ1:1.2.3) [REP2-006], and at the Compulsory Acquisition Hearing, the ExA asked the Applicant to provide an update on efforts and enquiries to establish interests identified in the Book of Reference as 'unknown'. The Applicant is asked to provide a further update. The ExA would also appreciate an update to ExQ1:1.2.7 – 1.2.9 [REP2-006] in relation to the negotiations to agree the acquisition of land or rights over land outside the optioned area; in relation to engagement with The Crown Estate; and around negotiations for Protective Provisions.
<b>2.3.</b>	<b>Cultural Heritage</b>	
2.3.1	Kent County Council	In its Deadline 3 updated Outline LBMP [REP3-005], the Applicant has modified the proposals for the use of the World War II pill box on the Proposed Development site as a bat roost. Are Kent County Council's concerns around the cultural heritage impacts of these proposals now satisfied?
2.3.2	The Applicant	We heard from Dr Paul Wilkinson and others about the archaeological potential around the former Nagden Hill, its possible use for burial and the claim that a watching brief is not sufficient and that it needs pre-determination evaluation (i.e. trenching and risk assessment). Could the Applicant comment on such likelihood and the alleged need for further evaluation and investigative field work?

ExQ2	Question to:	Question:
2.3.3	The Applicant	In our previous Written Questions (ExQ1.3.2) [REP2-006] the ExA asked what plans there were to identify and deal with Unexploded Ordnance (UXO) on the Application Site and how this would integrate with the proposed archaeological Written Scheme of Investigation. Although the update to the Outline Written Scheme of Investigation for a Programme of Archaeological Works indicates that all staff will be provided with a UXO briefing, could the Applicant clarify the form that the pre-construction UXO risk review will take and how it will be secured?
2.3.4	Kent County Council	Historic England [REP2-087] indicates that: " <i>The site of the proposed development has archaeological potential for a range of non-designated assets of different periods and deposits/site types but they are unlikely to be of national significance, such that they might have a level of significance comparable to a scheduled monument. Therefore, Historic England does not wish to engage with non-designated archaeological matters and we defer to Kent Council's Heritage Conservation Team</i> ". The Applicant's Responses to Written Representations received at Deadline 2 [REP3-020] indicates that it will continue to engage with Kent County Council (page 104). Is Kent County Council satisfied with the terms of the updated Outline Written Scheme of Investigation for a Programme of Archaeological Works [REP3-007] and the manner in which it is intended to be secured through Requirement 9 of the updated dDCO [REP3-003], and does it have any outstanding concerns around archaeology?
<b>2.4.</b>	<b>Draft Development Consent Order (dDCO)</b>	
2.4.1	The Applicant	Please could the Applicant further review and clarify the drafting of Articles 5, 35, 36 and 39 of the dDCO [REP3-003] and the proposed provisions for arbitration and resolution of disputes. This was discussed at the dDCO Issue Specific Hearing, when the Applicant suggested similar circumstances arose at the Hornsea DCO Examination, and that the approach would not fetter the Secretary of State. Nonetheless, in relation to Article 5, could the Applicant explain why the exercise of the Secretary of State's powers to determine an application for consent to transfer benefits of the

ExQ2	Question to:	Question:
		DCO to another party should, if consent is refused, or if the Secretary of State fails to make a decision, be subject to arbitration rather than recourse to public law?
2.4.2	The Applicant	<p>Article 35 (1) states "<i>Any difference under any provision of this Order, <u>unless otherwise provided for</u>, (ExA underlining) shall be referred to and settled in arbitration in accordance with the rules at Schedule 9 of this Order .....</i>". Could the Applicant clarify the circumstances in which the mechanism for arbitration would be triggered given that Article 36 contains express appeal provisions?</p> <p>Could the Applicant also explain why Article 39 does not have any equivalent provision and, if there were to be a dispute in this regard, which procedure would apply?</p> <p>Overall, is it correct that the arbitration provision is intended to apply solely for Article 5 or is it intended to have wider application?</p>
2.4.3	The Applicant	<p>Article 36 provides that any refusal, non-determination or grant subject to (unacceptable) conditions should be dealt with using the s78 procedure. So, in addition to the question of whether it is appropriate for the Secretary of State's decision to be subject to arbitration, it is unclear where the arbitration provision would actually apply (other than in draft Article 5 where it is specifically applied). In relation to the review and clarification of draft Article 39, this, in essence, requires the Secretary of State to approve funding or guarantees for compensation provisions – it is not clear whether that is also intended to be subject to arbitration; and if it is, then the wording appears inconsistent with that in draft Article 5 where there is an express provision. Could the Applicant provide clarification?</p>
2.4.4	The Applicant	<p>At the dDCO Issue Specific Hearing, the Applicant agreed to review Article 36(1), which seeks to require a different Secretary of State to decide an appeal other than the Secretary of State who made the appealed decision. It was highlighted that this could lead to the decision of a Secretary of State with competence in a particular area being over-ruled by a Secretary of State with no competence in that area, and it was therefore unlikely to be acceptable. Could the Applicant provide the outcome of that review, as no change appears to have been made to the Deadline 3 dDCO? If no change is intended, could the Applicant explain how other Secretaries of State might</p>

ExQ2	Question to:	Question:
		deal with DCO matters in the absence of any organisational and procedural framework. Further, could the Applicant explain why remedy should not be sought by recourse to public law?
2.4.5	The Applicant	<p>Article 36(1) also seeks to apply s78 of the 1990 Act to the local planning authority and the Secretary of State but does not change s78(1)(b) to apply to refusals/grants subject to conditions by the Secretary of State – it only refers to ‘any consent, agreement or approval of that authority’ (i.e. the local planning authority). While this issue was discussed at the dDCO Hearing, please could the Applicant further clarify the intention and indicate whether a revised form of words is required.</p> <p>The Applicant is asked to review the drafting of Article 36 in that it would appear that at ‘c’ (1) A should be (1A); the ‘or’ after (b) appears misplaced; and the inserted text should be identified as a new sub-section ‘(ba)’. The ExA wonders whether Article 36 would benefit from redrafting to include the wording of s78 as amended rather than having to refer to s78 to understand the amendments?</p>
2.4.6	The Applicant	In answer to our previous question ExQ1.4.6 [REP2-006], the Applicant agreed to review the references to Regulations 40 and 44 in draft Requirement 13 and to determine whether these should now be to Regulations 42 and 46. What was the outcome of this review as there is no apparent change to the Deadline 3 dDCO?
2.4.7	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to review Article 33(1) in relation to Tree Preservation Orders. While the agreed change has been made, the ExA notes that the new proposed wording now relates to Tree Preservation Orders made before, on or after 16 November 2018 - in other words, all Tree Preservation Orders. Could the Applicant therefore remove the wording “ <i>which was made on, before, or after 16 November 2018</i> ”, as it is superfluous.
2.4.8	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to review draft Requirements 7, 9 and 13 to determine whether specific terms such as ‘commence’ in the phrase ‘The term commence’ should be in quotes. Could the Applicant explain why only one of several potential changes has been made to the Deadline 3 dDCO?

ExQ2	Question to:	Question:
2.4.9	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to undertake a full review of the draft DCO for the use of the word 'shall'. The ExA notes that this is contrary to drafting guidance issued by the Office of the Parliamentary Counsel which applies to statutory instruments, including DCOs. It should generally be replaced by 'must', 'is/are to', or just the present tense. Could the Applicant explain why only one of numerous potential changes has been made to the Deadline 3 dDCO?
2.4.10	Swale Borough Council Environment Agency	The Applicant has proposed a revised Requirement 16 [REP3-003] relating to the mechanism and timescales for decommissioning of the development insofar as it relates to land required for managed realignment. Are the relevant parties content with the Requirement as drafted subject to the comments below at ExQ2.4.12? In particular, could the Environment Agency confirm whether or not the proposed arrangements would provide sufficient flexibility, yet certainty, and adequately safeguard and facilitate managed realignment?
2.4.11	Environment Agency	Requirement 16 (12)(c) of the dDCO [REP3-003] sets out that the decommissioning and restoration plan to be submitted in accordance with Requirement 16 (11) must not require the undertaker to decommission the flood defence located within the Order limits (i.e. the area intended for energy storage or solar panels). Would the retention of the flood defence bund be acceptable to the Agency?
2.4.12	The Applicant	<p>Could the Applicant review the following drafting from draft Requirement 16 (Decommissioning) in the Deadline 3 update to the dDCO [REP3-003]:</p> <ul style="list-style-type: none"> <li>• Requirement 16(2) has an 'and' between (b) and (c), and an 'or' between (a) and (b). This is recommended against in the Office of Parliamentary Counsel's guidance on the drafting of SIs.</li> <li>• Requirement 16(11) needs to be expressed as 'within 3 months of the earlier of' the following options, to avoid confusion where several apply.</li> </ul>
2.4.13	The Applicant	The Applicant previously undertook to add the Environment Agency as a consultee for the discharge of the final Decommissioning and Restoration Plan and to amend draft Requirement 15 accordingly [REP2-006]. This is now part of draft Requirement 16 after amendments at Deadlines

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		2 and 3. Could the Applicant please advise where in the dDCO this undertaking is captured and secured.
2.4.14	The Applicant	<p>Further to the Applicant's responses to ExQ1.5.8, ExQ1.4.32, ExQ1.4.33, ExQ1.4.36, ExQ1.4.37, ExQ1.4.39 and ExQ1.4.40 [REP2-006], and the updated Outline Design Principles provided at Deadline 3 [REP3-010], please could the Applicant advise how the ExA and Secretary of State can be sure that any made DCO could not authorise a development that had not been fully assessed in the ES and RIAA? Given the approach taken, is it not the case that the Outline Design Principles need to reflect what has been assessed in the ES (i.e. the Candidate Design), and that the applicable parameters need to be included in to the Outline Design Principles document if draft Requirement 2 is to provide effective control?</p> <p>Could the Applicant use the proposed flood protection bund to provide a detailed, worked example that demonstrates how the full process would work in practice should a DCO be made, showing how the dimensions of the bund could be properly secured in accordance with those that were used in the impact assessments. In doing so, and for this specific example, could the Applicant identify how an upper limit on the height of the bund has been secured, and in turn an upper limit for the height of the energy storage facility?</p>
2.4.15	The Applicant	Additional parameters have been added to the Outline Design Principles [REP3-010] in respect of the solar PV mounting structures and piles for Work No 1, but not for the corresponding option for Work No 2. Could the Applicant explain why and make any necessary changes to the next version of the Outline Design Principles?
2.4.16	The Applicant	The Applicant responded to ExQ1.4.37 about the proposed mounds of site-won materials in the Deadline 3 Outline LBMP [REP3-005] through minor additions to the Lowland Meadow Grassland Habitat Management Area management plan. Please can the Applicant confirm that such mounds will be restricted to the proposed Lowland Meadow Grassland Habitat Management Area and add the proposed locations to Figure A1.5, as they appear to be missing? Could the Applicant additionally confirm that the maximum dimensions set for these mounds are 3m x 3m x 1.5m (length x height x width) as they do not appear in the Outline Design Principles [REP3-010].



<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		The Applicant suggests that these grassed mounds of surplus soil will provide effective hibernacula for wildlife. Could the Applicant explain the range of species that would benefit and provide a source reference relating to this design that would support this assertion.
2.4.17	Natural England	At the Biodiversity Issue Specific Hearing, the ExA asked Natural England whether it believed that draft Requirement 13 in the dDCO was necessary, given the existence of the statutory protection and licensing schemes for European protected species, or whether it was considered duplication. As a follow-up question, the ExA asked that, if Natural England considered such a Requirement to be necessary, whether it should be extended to species protected under domestic legislation. Natural England offered to take these questions away and to respond at Deadline 3. This does not seem to form part of Natural England's Deadline 3 response, so could an opinion be provided please?
<b>2.5.</b>	<b>Environmental Statement, general</b>	
2.5.1	The Applicant	In previous Written Questions (ExQ1.5.5) and during Issue Specific Hearings, the ExA has stressed the importance of a comprehensive and transparent mitigation route map. The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] still appears to be missing some measures that are included in the ES and on which the assessment therefore relies. Some examples are provided in the following questions. In addition, please could the Applicant review the Mitigation Schedule again and ensure that the route map for each individual mitigation measure relied upon in the ES is listed and that, in each case, a clear route to securing each measure is set out? (For example, the single line entry 'Hydrology' and 'Implementation of the CEMP, via the Outline CEMP' does not set out each of the measures that are relied upon in relation to hydrology and water quality, and, as such, it would not therefore be possible for any party with responsibility for ensuring that all necessary measures are properly secured at discharge of Requirements to do so without recourse to a detailed examination of the ES).
2.5.2	The Applicant	In its answer to ExQ1.1.31 [REP2-006], the Applicant agreed to produce a clear diagram in each of the relevant documents such as the Outline CEMP and the Outline LBMP to demonstrate the

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		hierarchy between the mitigation plans that support the ES and the route map for ensuring that mitigation measures are translated from the ES into DCO Requirements and implementation. Could the Applicant please indicate where these are?
2.5.3	The Applicant	In its answer to ExQ1.10.3 [REP2-006], the Applicant suggested that the CEMP will include a Pollution Prevention Plan that sets out measures to be employed to avoid or mitigate potential pollution and an Incident Plan to be followed should a pollution event occur. The Environmental Statement suggests that the proposed measures have been relied upon in the assessment to ensure no adverse effects. However, the Deadline 3 Outline CEMP [REP3-006] still has no reference to a Pollution Prevention Plan or an Incident Plan. Could the Applicant advise how the inclusion of these in the final CEMP can be guaranteed if they are not included at least in principle and scope in the Outline CEMP?
2.5.4	The Applicant	Further to its answer to ExQ1.10.9 [REP2-006], the Applicant suggested at the dDCO Issue Specific Hearing held on 18th July 2019 that the route map for securing mitigation measures to prevent any battery leakage or failure polluting the land and groundwater would be clarified in the Deadline 3 updates to the various outline management plans. In the absence of a Pollution Prevention Plan or any apparent detail in the Deadline 3 Outline CEMP [REP3-006], could the Applicant advise further?
2.5.5	The Applicant	The ES suggests that buffer zones between the built development and watercourses have been assumed in the assessment (5m for non-IDB maintained ditches and 8m for IDB maintained ditches). In its answer to ExQ1.10.6 [REP2-006], the Applicant suggested that these buffers will form part of the Pollution Prevention Plan in the Outline CEMP and will be secured through Requirement 10 of the dDCO. In the absence of a Pollution Prevention Plan in the updated Outline CEMP [REP3-006], could the Applicant advise how adherence to these buffers can be secured?
<b>2.6.</b>	<b>Landscape and Visual Impact Assessment (LVIA), including RVAA and Glint and Glare</b>	

ExQ2	Question to:	Question:
2.6.1	The Applicant	<p>At Appendix 1 to Deadline 3 document 11.1.5 [REP3-016], the Applicant has provided some information about the issue of scale and cropping discussed at the LVIA Issue Specific Hearing on 23rd July 2019. This seems to acknowledge that the baseline photographs and the photomontages are at different scales but does not say why, and how this relates to the SNH guidance that was followed. The conclusion that <i>"All existing viewpoints for the suite of photomontages are produced at the same scale to ensure accurate comparison of baseline view and proposed views as set out above"</i> seems to contradict this acknowledgement. Please could the Applicant clarify further?</p>
2.6.2	The Applicant	<p>During the LVIA Issue Specific Hearing the ExA requested, and the Applicant agreed to provide into the Examination, cross-sectional drawings to show in detail the extent of screening that would be provided by the existing coastal defences from certain key viewpoints. The Applicant has provided Deadline 3 document 11.4.7 [REP3-027] in response. The ExA notes that one of the requested views has been excluded, that being one from the west of the Proposed Development site. Please could an additional cross-section drawing be provided from a suitable location, such as the existing coastal defences on the western bank of the Faversham Creek due east of Harty Ferry Cottages?</p> <p>Further, the ExA notes that the cross-section provided from Harty Church is inadequate for a full appreciation of the potential views of the Proposed Development from that viewpoint. Please could the cross-section be realigned to run from the Church to a point 250m due east of Nagden Cottages and be extended to the full extent of the Proposed Development at its southern boundary? In addition, paragraph 174 of Chapter 11 of the Environmental Statement (Cultural Heritage and Archaeology) [APP-041] states: <i>"At 1.8 km from the Church to the nearest point of the Core ASA boundary, the Development (at least largely screened as it will be behind the sea wall) is not considered to cause a significant change in how the wider landscape is read from the Church"</i>: could the Applicant indicate, in plan form, the areas of the development which it believes will be screened by the sea wall and those parts of the site which will not be so screened?</p>

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.6.3	The Applicant	<p>Could the Applicant comment on the independent review of the LVIA commissioned by Kent County Council and submitted to the Examination at Deadline 3 [REP3-054], and in particular the following statements from section 2.15:</p> <p>i) <i>"Assessment of magnitude of change in the LVIA text appears to be focussed on the extent of the landscape receptor that the development would cover rather than effect on character and susceptible characteristics. In our opinion this has the effect of underestimating impacts."</i></p> <p>ii) <i>"Simply because the development only affects a small proportion of these large areas is not a reason to state that effects are not significant. It is not the extent of the national area that covers but effect on its character."</i></p> <p>iii) <i>"It is not clear why the sensitivity is high for the CLS area and low for the majority of the AHLV. The sensitivity should be the same for the entire AHLV – although the effects may vary with distance from the development."</i></p>
2.6.4	The Applicant	<p>Could the Applicant comment on the Deadline 3 submission dated 31st July 2019 from Kent County Council relating to the recent updates to the Natural Environment section of Planning Practice Guidance released on 21st July 2019 [REP3-054]?</p> <p>The Council suggests that the new guidance reflects a change of emphasis with regard to local landscape designations, and that this has importance for this Examination.</p>
2.6.5	The Applicant	<p>In its Deadline 3 submission [REP3-063], CPRE Kent questions whether any expert opinion has been obtained by the Applicant in relation to glare from the solar arrays affecting aircraft and airports. Does the Applicant have anything further to add to the Glint and Glare Study report [APP-246] in this respect?</p>
<b>2.7.</b>	<b>Noise</b>	
2.7.1	The Applicant	<p>The response by the Applicant to ExQ1.0.7 is noted [REP2-006]. It would appear that the worst case would be the operation of three gensets for up to one hour, at or near full load, once a month, and that the likely emissions have not been included in the noise and air quality assessments. Could the Applicant support its claim that the emissions from the three gensets</p>

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		would not result in any significant effects beyond those assessed in the Environmental Statement and the RIAA with particular reference to noise emissions of other operational plant within the electrical compound?
2.7.2	Swale Borough Council	In our Written Questions the Applicant was asked to explain how the operational noise mitigation commitments would be secured in the dDCO and to explain the confidence that could be placed in the delivery of proposed noise mitigation measures given the use of qualifying terms in the Environmental Statement. Could the Council confirm whether or not the responses by the Applicant would provide the Council with appropriate controls with particular reference to precision, reasonableness, necessity and enforceability.
<b>2.8.</b>	<b>Socio-economics</b>	
2.8.1	Kent County Council	At paragraph 4.22 of the Local Impact Report [REP1-004], the Council suggests that the Public Right of Way network connectivity relies on roads to provide connections in places and that the increase in Heavy Goods Vehicles during construction introduces safety concerns and may deter people from using the Public Right of Way network. Please could the Council highlight the particular stretches of road where this concern exists?
2.8.2	The Applicant	At paragraph 4.25 of its Local Impact Report [REP1-004], Kent County Council states that its request for a new off-road footpath between Public Footpaths CW90 and CW55 has not been included. It is said that this new path would be a valuable off-road walking route for the public, providing an alternative to the Faversham Road and addressing safety concerns. In the Applicant's response [REP2-034], it is noted that the landowner was amenable in principle to the idea. Please can the Applicant provide an update and an indication of the course of action and timetable in relation to this?
2.8.3	The Applicant	During the July Issue Specific Hearings, the Applicant agreed to submit an Outline Safety Management Plan as part of the suite of management plans to ensure adequate mitigation is secured through draft requirement 2 of the dDCO. While 'safety management' has been added to

ExQ2	Question to:	Question:
		<p>the list of plans under draft Requirement 2, no outline plan seems to have been submitted at Deadline 3. Could the Applicant advise?</p> <p>In addition, the Deadline 3 Outline Design Principles [REP3-010] specify (under Work No.2) that “<i>the energy storage facility will incorporate fire suppression measures</i>”, but there is no mention of the fire detection measures described in ES Chapter 17 [APP-047] at paragraph 168. Could the Applicant clarify and make any necessary additions to the next version of the Outline Design Principles?</p>
2.8.4	The Applicant	<p>The Faversham Society in the second Open Floor Hearing on 22nd July 2019, and in its related summary [REP3-071], drew attention to guidance for the Insurance industry (<i>Technical Guidance Note from Allianz Risk Consultancy entitled Battery Energy Storage Systems (BESS) Using Li-ion Batteries</i>) with reference to incidences of ‘thermal runaway’ and the lack of guidelines, gaps in knowledge, and associated hazards. The Faversham Society notes that the Applicant has not responded to such concerns about safety and the management and protection of such assets. Could the Applicant provide further evidence in this regard?</p> <p>Representations were also made by Dr Bruno Erasin around the modelled release and dispersion of toxic gases including hydrogen fluoride. Could the Applicant clarify whether it has considered the potential implications of an outbreak of fire in the energy storage compound and the predicted effects of water suppression measures and the likely effects on air quality and related health and safety impacts?</p> <p>Additionally, The Faversham Society refers to the 3-year “<i>HSE Shared Research Programme: Energy Storage</i>” [REP3-071]. Is the Applicant able to obtain further detail on the progress of this study and how its outcome might inform the design and management of the proposed energy storage facility?</p>
2.8.5	The Applicant	<p>During the Accompanied Site Inspection, concerns were raised that Figure 13.1 of the ES [APP-060] might not accurately represent the detailed disposition of Public Rights of Way and the National Cycle Route on the ground in the area around Nagden. Please could the Applicant check</p>

ExQ2	Question to:	Question:
		Figure 13.1, as to whether the actual routes marked on the ground reflect the definitive rights of way map and provide an update if necessary?
2.8.6	The Applicant Kent County Council	The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] states the mechanism for securing the proposed permissive path, however this is yet to be determined. It is noted that this is 'mitigation' but rather an enhancement. Nevertheless, please can the Applicant confirm the proposed route to securing this? Can Kent County Council also provide comment as to whether a 'Permissive Path Agreement' would be their preferred option?
2.8.7	The Applicant	Following up on the Applicant's response to ExQ1.8.2 [REP2-006] and with regard to the Outline Public Rights of Way Management Plan contained within the Outline CTMP, will the operation of the gates across the spine road (both during construction of the spine road itself and during transportation of solar panels etc to sites to the west of the path) provide priority for users of the path rather than users of the spine road?
2.8.8	The Applicant	In its Written Representation at Deadline 2 [REP2-052], Kent County Council requested a " <i>hierarchy of intervention</i> " in terms of closure of Public Rights of Way. Please can the Applicant confirm how this is to be implemented?
2.8.9	The Applicant	The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] states that information will be provided to the public where construction is taking place within the site and this will be updated on a month to month basis and that this would be secured by dDCO Requirement 11. Please can the Applicant confirm where in the Outline CTMP this matter is dealt with?
2.8.10	The Applicant	Appendix G of the updated Outline CTMP submitted at Deadline 3 [REP3-009] refers to a Public Rights of Way Management Plan. However, the content of Appendix G is the Outline Travel Planning Statement. Please can the Applicant advise whether any amendments have been made to the Public Rights of Way Management Plan following the submission of the initial Outline CTMP [APP-245] with the application documents?

ExQ2	Question to:	Question:
2.8.11	The Applicant	Please can the Applicant advise how the Travel Planning Statement and Traffic Incident Management Plan detailed within the updated Outline CTMP, submitted at Deadline 3 [REP3-009], would be secured within the dDCO?
2.8.12	The Applicant Kent County Council	Paragraph 2.1.1 of the Outline CTMP submitted at Deadline 3 [REP3-009] states that “ <i>during peak construction activity up to 400 members of staff could be working on site</i> ”. Please can the Applicant confirm whether this is a maximum daily figure, or will the figure vary due to factors such as shift patterns for example? Please can Kent County Council also provide an opinion on this matter? In addition, Kent County Council, in their Local Impact Report [REP1-004], state “ <i>no figures have been provided to give an indication of the traffic profile associated with staff movements throughout the construction period</i> ”. Please can the Applicant provide an estimation of such movements during construction?
2.8.13	The Applicant	During the Issue Specific Hearing on Need on 17 <sup>th</sup> July 2019, the Applicant confirmed that they are liaising with Kent Fire & Rescue Service and would share battery installation designs with them. This was later confirmed within the Written Summaries of Oral Submissions Issue Specific Hearing on Need submitted at Deadline 3 [REP3-014]. Please can the Applicant provide an update regarding the discussion with Kent Fire & Rescue Service and also how the sharing of battery installation designs would be secured within the dDCO?
2.8.14	The Applicant	Paragraph 49 of Environmental Statement Chapter 13 [APP-043] states that the South East Local Enterprise Partnership is in the process of updating its Strategic Economic Plan with a preliminary release date scheduled for early 2018. Please can the Applicant give an update on the progress of this plan and, if published, whether the update has any implications for the Project?
2.8.15	The Applicant	Paragraph 86 of Environmental Statement Chapter 13 [APP-043] provides 2017 visitor figures from Visit Kent, End of Year Barometer Report. Please can the Applicant confirm whether the 2018 figures have been released and, if so, how these compare to the 2016 and 2017 figures?



<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.8.16	The Applicant	Paragraphs 87 and 88 of Environmental Statement Chapter 13 [APP-043] provide 2015 figures relating to day trips to both Swale and Canterbury. Please can the Applicant advise if more up to date figures are available and, if so, how these compare to the 2013 and 2015 figures.
2.8.17	Natural England	Please can the Applicant provide an update regarding the progress of the proposed England Coast Path?
2.8.18	The Applicant	Requirement 15 in the dDCO [REP3-003] refers to a Skills, Supply Chain and Employment Plan. Please can the Applicant provide a fully scoped, Outline Skills, Supply Chain and Employment Plan?
<b>2.9.</b>	<b>Traffic and Transport</b>	
2.9.1	Kent County Council	<p>Following up on the Applicant's response to ExA1.9.1 [REP2-006], could the Council please confirm that they are content that the spread of vehicles arriving at the site following ferry arrivals can be controlled through the proposed CTMP in accordance with the Applicant's response that:</p> <p><i>"The equipment will be off-loaded from the cargo vessel(s) either into a holding area at the port or directly onto vehicles for onward transport to the site.</i></p> <p><i>It is envisaged that multiple vehicles can be loaded simultaneously and released from the port in a controlled manner. The remaining goods/equipment will be held at the port until collected and transported to the site in a similar manor at a later stage.</i></p> <p><i>It is expected that the routing, timing and management of vehicles to/from the site will be controlled via the Construction Traffic Management Plan which is required by Requirement 11 of the draft DCO."</i></p>
2.9.2	The Applicant	Further to the Applicant's response to question ExQ1.9.2 [REP2-006], please can the Applicant highlight where on the Works Plan the ExA can see the parking area designated within the site for those arriving by vehicle? Also, the previous question requested the assumptions that were made about the numbers of staff and visitor cars in the construction traffic assessment in Environmental Statement Chapter14 [APP-044]. Please could the Applicant provide the data that

ExQ2	Question to:	Question:
		were used and the contribution these make to the overall construction traffic figures and assessment?
2.9.3	The Applicant	<p>In its Local Impact Report at paragraph 6.5.4, Swale Borough Council [REP1-005] mentions the Heavy Goods Vehicle delivery route in relation to cycling:  <i>"The fact that the route is relatively flat, and that it acts as a safe route between Faversham and Whitstable and is connected with the National Cycle Route means that it is very, very popular with cyclists. It does not appear that this issue has been recognised by the applicant in the CTMP, and there is a real danger that the additional traffic will affect either the attractiveness of the route to, or the safety of, the increasing number of cyclists using this route. There can be no doubt that use of this route by such a volume of construction traffic over an extended period on the proposed access route will be nothing but harmful to road traffic, road safety and amenity considerations."</i></p> <p>Does the Applicant believe that the Outline CTMP [REP3-009] has sufficient regard for cyclists, and are any further mitigation measures necessary to reduce any safety or amenity impacts for cyclists along the route?</p>
2.9.4	The Applicant Kent County Council	<p>At the second Open Floor Hearing on 22nd July 2019, Mr Tom King [REP3-087] raised a concern relating to Table 14.6 of Chapter 14 of the ES [APP-044], which sets out 2018 Baseline Annual Average Daily Traffic Flows. Mr King suggested that Table 14.6 overestimated Heavy Goods Vehicle flows and, as such, Kent County Council may have based its views on unreliable data. Could the Applicant comment on this suggestion and clarify whether the difference between the parties relates to the incorporation of growth factors and translation of counts into future scenarios?</p> <p>We note that the Applicant provided the relevant raw traffic data at Deadline 3 [REP3-024]. Please could Kent County Council confirm whether the Highway Authority is satisfied that Table 14.6 of Chapter 14 of the ES [APP-044] provides an accurate picture of HGV flows?</p>
2.9.5	The Applicant	In its Local Impact Report Kent County Council [REP1-004] states that it may be appropriate for the proposed highway condition surveys to be secured as a Requirement within the dDCO, to

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
		ensure that the surveys are not omitted from the final CTMP. Please can the Applicant provide comment on this suggestion?
2.9.6	The Applicant	Paragraph 224 of ES Chapter 14 [APP-044] states that " <i>HGV drivers travelling to and from the site will be instructed to give priority to oncoming traffic to reduce delay</i> ". Please can the Applicant confirm how this will be enforced, with reference to the Outline CTMP or other mechanism?
<b>2.10.</b>	<b>Water, Flooding and Coastal Defence</b>	
2.10.1	The Applicant	<p>The Applicant's answers to ExQ1.10.1 and ExQ1.10.2 [REP2-006] refer the ExA to its Statement of Common Ground with the Lower Medway Inland Drainage Board for answers to the questions. This Statement of Common Ground had not been submitted into the Examination at this time, and indeed the Applicant's Statement of Common Ground Tracker submitted at Deadline 3 [REP3-018] suggests that this Statement of Common Ground is not now expected to be submitted until Deadline 4 at the earliest. Please could the Applicant supply any answers to these ExQ1 questions that are not fully addressed in the Deadline 3 submissions without the ExA needing recourse to a document that is not yet completed or submitted.</p> <p>The ExA has seen Appendices C and D to the Deadline 3 Outline CEMP but notes that there is no overall map of the Proposed Development site to show the location of the drains and other surface water management features such as culverts and sluices, as requested. The identity of the Inland Drainage Board managed watercourses remains unclear. While the updates to Appendices C and D provide some information, can the Applicant plot these on the overall map requested above and clarify: why crossings at the locations that are not on the access road or spine road are required; if the intention is to provide a single new box culvert for crossings C11 and C12 (one being noted in the figure title box as an Inland Drainage Board drain and the other not); why the nature and construction of the existing crossings C5, C15, C20, C21, C22 and C23 is not provided; at what stage it is intended to make a decision on whether each of the 14 existing crossings in Appendix D will be upgraded through the Works, as each is currently allocated as 'possible' or 'not likely'?</p>

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>
2.10.2	The Applicant	ExQ1.10.4 asked the Applicant if the Proposed Development could affect existing abstractions in the vicinity. In response [REP2-006], the Applicant re-states that they have been identified, but does not provide an opinion about whether the proposal will affect these abstractions. Could the Applicant clarify please?
2.10.3	The Applicant	<p>In response to ExQ1.10.5 [REP2-006], the Applicant suggests that Figure 5.8 [APP-053] shows a cross section of the proposed flood protection bund including the access track as it rises diagonally across the bund. In fact, Figure 5.8 appears to show an indicative design rather than an accurate cross section. Could the Applicant provide clarification, including a scaled plan that indicates where the cross-section is aligned?</p> <p>The Applicant's response also states that the road will cross over the top of the flood protection bund. This does not appear to be reflected in Figure 5.8. Please could the Applicant provide further clarification?</p>