

# South Humber Bank Energy Centre Project

Planning Inspectorate Reference: EN010107

South Marsh Road, Stallingborough, DN41 8BZ

The South Humber Bank Energy Centre Order

**7.1- Statement of Common Ground with North East Lincolnshire Council  
Submitted at Deadline 4**



---

Applicant: EP Waste Management Ltd  
Date: February 2021

**DOCUMENT HISTORY**

<b>Document Ref</b>	Statement of Common Ground		
<b>Revision</b>	4.0		
<b>Author</b>	JS, CT		
<b>Signed</b>	JS	<b>Date</b>	February 2021
<b>Approved By</b>	CT		
<b>Signed</b>	CT	<b>Date</b>	February 2021
<b>Document Owner</b>	DWD		

**GLOSSARY**

<b>Abbreviation</b>	<b>Description</b>
ACC	Air-cooled condenser.
BMEP	Biodiversity Mitigation and Enhancement Plan
CCGT	Combined Cycle Gas Turbine.
CEMP	Construction Environmental Management Plan
CHP	Combined Heat and Power
CTMP	Construction Traffic Management Plan
CWTP	Construction Worker Travel Plan
DCO	Development Consent Order: provides a consent for building and operating an NSIP.
DSP	Delivery and Servicing Plan
EfW	Energy from Waste: the combustion of waste material to provide electricity and/or heat.
EIA	Environmental Impact Assessment.
EPUKI	EP UK Investments Ltd.
EPWM	EP Waste Management Limited ('The Applicant')
ES	Environmental Statement.
LIR	Local Impact Report.
mAOD	Metres Above Ordnance Datum.
MW	Megawatt: the measure of power produced.
NELC	North East Lincolnshire Council.
NELLP	North East Lincolnshire Local Plan
NPS	National Policy Statement.
NSIP	Nationally Significant Infrastructure Project: for which a DCO is required.
OMP	Operational Management Plans
PA 2008	Planning Act 2008.
PRoW	Public Right of Way
RDF	Refuse derived fuel.
SHIIP	South Humber Industrial Investment Programme
SHBPS	South Humber Bank Power Station.

EP Waste Management Ltd

7.1- Statement of Common Ground with North East Lincolnshire Council Submitted at Deadline 4

---

SoCC	Statement of Community Consultation: sets out how a developer will consult the local community about a proposed NSIP.
SoS	Secretary of State.

**CONTENTS**

**1.0 INTRODUCTION ..... 2**

1.1 Overview..... 2

1.2 The Applicant..... 2

1.3 The Proposed Development Site ..... 2

1.4 The Proposed Development ..... 3

1.5 Purpose of this Document..... 4

1.6 Status of this Version ..... 4

**2.0 THE ROLE OF NELC ..... 5**

**3.0 RELEVANT PLANNING HISTORY ..... 6**

**4.0 RELEVANT PLANNING POLICY ..... 10**

4.1 National planning policy ..... 10

4.2 Local development plan policy ..... 10

4.3 Local Planning Designations..... 11

4.4 Other NELC Policy..... 12

**5.0 THE NEED FOR THE PROPOSED DEVELOPMENT AND PRINCIPLE OF THE USE ..... 14**

**6.0 ADEQUACY OF CONSULTATION AND OTHER PRE APPLICATION ENGAGEMENT ..... 17**

**7.0 FLEXIBILITY AND DESIGN ..... 18**

**8.0 COMBINED HEAT AND POWER ..... 20**

**9.0 ENVIRONMENTAL STATEMENT CHAPTERS 7-19 ..... 21**

9.2 Chapter 7 – Air Quality..... 21

9.3 Chapter 8 - Noise and Vibration ..... 21

9.4 Chapter 9 - Traffic and Transport..... 23

9.5 Chapter 10 - Ecology ..... 25

9.6 Chapter 11 - Landscape and Visual Amenity ..... 26

9.7 Chapter 12 - Geology, Hydrogeology and Land Contamination..... 27

9.8 Chapter 13 - Cultural Heritage ..... 27

9.9 Chapter 14 - Water Resources, Flood Risk and Drainage..... 28

9.10 Chapter 15 - Socio-Economics..... 29

9.11 Chapter 16 - Waste Management ..... 30

9.12 Chapter 17 – Cumulative and Combined Effects..... 31

9.13 Chapter 18 – Human Health ..... 32

9.14 Chapter 19 – Sustainability and Climate Change ..... 33

**10.0 CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN ..... 34**

<b>11.0 TRANSPORT MANAGEMENT PLANS .....</b>	<b>35</b>
11.1 Construction.....	35
11.2 Operation.....	35
<b>12.0 LOCAL IMPACTS .....</b>	<b>36</b>
<b>13.0 THE BENEFITS OF THE PROPOSED DEVELOPMENT .....</b>	<b>37</b>
<b>14.0 DCO REQUIREMENTS AND PLANNING OBLIGATIONS.....</b>	<b>38</b>
14.1 Relationship with Consented Development Planning Conditions and Obligations .....	38
14.2 The Proposed Requirements in the draft DCO.....	38
<b>15.0 DCO ARTICLES.....</b>	<b>42</b>
15.1 Article 5.....	42
15.2 Articles 9-14 & 16.....	42
<b>16.0 MATTERS NOT YET AGREED.....</b>	<b>44</b>

**TABLES**

Table 3.1: Planning History .....	6
-----------------------------------	---

**FIGURES**

Figure 4.1: NELC Policies Plan Area.....	12
--	----

## 1.0 INTRODUCTION

### 1.1 Overview

- 1.1.1 This Statement of Common Ground with North East Lincolnshire Council (Document Ref. 7.1), Version 4.0, has been prepared on behalf of EP Waste Management Limited ('EPWM' or the 'Applicant'). It relates to the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of 'The Planning Act 2008' (the 'PA 2008').
- 1.1.2 EPWM is seeking development consent for the construction, operation and maintenance of an energy from waste ('EfW') power station with a gross electrical output of up to 95 megawatts (MW) including an electrical connection, a new site access, and other associated development (together 'the Proposed Development') on land at South Humber Bank Power Station ('SHBPS'), South Marsh Road, near Stallingborough in North East Lincolnshire ('the Site').
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under sections 14 and 15(2) of the PA 2008.
- 1.1.4 The DCO, if made by the SoS, would be known as the 'South Humber Bank Energy Centre Order' ('the Order').
- 1.1.5 Full planning permission ('the Planning Permission') was granted by North East Lincolnshire Council ('NELC') for an EfW power station with a gross electrical output of up to 49.9 MW and associated development ('the Consented Development') on land at SHBPS ('the Consented Development Site') under the Town and Country Planning Act 1990 on 12 April 2019. Since the Planning Permission was granted, the Applicant has assessed potential opportunities to improve the efficiency of the EfW power station, notably in relation to its electrical output. As a consequence, the Proposed Development would have a higher electrical output (up to 95 MW) than the Consented Development, although it would have the same maximum building dimensions and fuel throughput (up to 753,500 tonnes per annum (tpa)).

### 1.2 The Applicant

- 1.2.1 The Applicant is a subsidiary of EP UK Investments Limited ('EPUKI'). EPUKI owns and operates a number of other power stations in the UK and is a subsidiary of Energetický A Průmyslový Holding ('EPH'). EPH owns and operates energy generation assets in the Czech Republic, Slovak Republic, Germany, Italy, Hungary, Poland, Ireland, and the United Kingdom.

### 1.3 The Proposed Development Site

- 1.3.1 The Proposed Development Site (the 'Site' or the 'Order limits') is located within the boundary of the SHBPS site, east of the existing SHBPS, along with part of the carriageway within South Marsh Road. The principal access to the site is off South Marsh Road.

- 1.3.2 The Site is located on the South Humber Bank between the towns of Immingham and Grimsby; both over 3 km from the Site.
- 1.3.3 The Site lies within the administrative area of NELC, a unitary authority. The Site is owned by EP SHB Limited, a subsidiary of EPUKI, and is therefore under the control of the Applicant, with the exception of the highway land on South Marsh Road required for the new Site access.
- 1.3.4 The existing SHBPS was constructed in two phases between 1997 and 1999 and consists of two Combined Cycle Gas Turbine (CCGT) units fired by natural gas, with a combined gross electrical capacity of approximately 1,400 MW. It is operated by EP SHB Limited.
- 1.3.5 The Site is around 23 hectares ('ha') in area and is generally flat, and typically stands at around 2.0 m Above Ordnance Datum (mAOD).
- 1.3.6 A more detailed description of the Site is provided at Chapter 3: Description of the Proposed Development Site in the Environmental Statement ('ES') Volume I (Document Ref. 6.2).

#### **1.4 The Proposed Development**

- 1.4.1 The main components of the Proposed Development are summarised below:
- Work No. 1— an electricity generating station located on land at SHBPS, fuelled by refuse derived fuel ('RDF') with a gross electrical output of up to 95 MW at ISO conditions;
  - Work No. 1A— two emissions stacks and associated emissions monitoring systems;
  - Work No. 1B— administration block, including control room, workshops, stores and welfare facilities;
  - Work No. 2— comprising electrical, gas, water, telecommunication, steam and other utility connections for the generating station (Work No. 1);
  - Work No. 3— landscaping and biodiversity works;
  - Work No. 4— a new site access on to South Marsh Road and works to an existing access on to South Marsh Road; and
  - Work No. 5— temporary construction and laydown areas.
- 1.4.2 Various types of ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 of the DCO.
- 1.4.3 The Proposed Development comprises the works contained in the Consented Development, along with additional works not forming part of the Consented Development ('the Additional Works'). The Additional Works are summarised below:
- a larger air-cooled condenser (ACC), with an additional row of fans and heat exchangers;
  - a greater installed cooling capacity for the generator;
  - an increased transformer capacity; and
-

- ancillary works.

1.4.4 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the draft DCO and Chapter 4: The Proposed Development in the ES Volume I (Document Ref. 6.2) and the areas within which each of the main components of the Proposed Development are to be built is shown by the coloured and hatched areas on the Works Plans (Document Ref. 4.3). Three representative construction scenarios (timescales) are described within Chapter 5: Construction Programme and Management in the ES Volume I (Document Ref. 6.2) and assessed in the Environmental Impact Assessment ('EIA').

## **1.5 Purpose of this Document**

1.5.1 This document is intended to summarise clearly the agreements reached between the parties on matters relevant to the examination of the Application and assist the Examining Authority. It has been prepared with regard to the guidance in 'Planning Act 2008: examination of applications for development consent' (Department for Communities and Local Government, March 2015).

1.5.2 This post-submission version of the document summarises the agreements regarding matters such as the planning context, pre application engagement, statutory consultation, and the need and principle of the Proposed Development, based on the information available at this time, which principally comprises the DCO submission documents accepted by PINS on 4 May 2020 (including the Environmental Statement and Planning, Design and Access Statement, Document Ref 6.2 and 5.5 respectively.).

## **1.6 Status of this Version**

1.6.1 The pre-application SoCG was shared with NELC six weeks before the submission of the Application and subsequently was agreed as suitable to accompany the Application. A subsequent version (revision 2.0) was shared within NELC on 19 October 2020 and subsequently was agreed as suitable to be submitted at Deadline 1. Revision 3.0 was then shared with NELC on 15 January and subsequently agreed to be submitted at Deadline 3. The document was not signed but all matters were agreed at Officer level.

1.6.2 Following Issue Specific Hearing 1 a number of amendments to requirements were made. This version was shared with NELC on 12 February 2021 and was subsequently agreed as suitable to be submitted at Deadline 4.

1.6.3 Section 16 of this document confirms that there are no known matters that remain to be resolved between the parties.

## **2.0 THE ROLE OF NELC**

- 2.1.1 The Site is located wholly within the administrative area of NELC.
- 2.1.2 As a unitary authority NELC falls within the definition of a local authority ('LA') for the purposes of sections 43 and 56A of the PA 2008 and is the 'host local authority' for the purposes of the Application.
- 2.1.3 NELC submitted a Local Impact Report ('LIR') at Deadline 2, for the purposes of the Examination and determination of the Application.
- 2.1.4 It is agreed that NELC will be the relevant planning authority for the purposes of discharging the requirements that are contained within the draft DCO.
- 2.1.5 It is agreed that NELC is the relevant highway authority, referred to in articles 12, 13 & 16 of the draft DCO, for the purposes of discharging the requirements that are contained within the draft DCO.
- 2.1.6 It is agreed that NELC is the relevant street authority, referred to in articles 10, 11, 14 & 16 of the draft DCO, for the purposes of discharging the requirements that are contained within the draft DCO so far as they relate to adopted highways.

### 3.0 RELEVANT PLANNING HISTORY

3.1.1 It is agreed that the information in the following table correctly identifies the planning history relevant to the Site at the date of this document. This information has been based upon the NELC online planning search function and was agreed as part of the previous SoCG submitted as part of the application.

**Table 3.1: Planning History**

REFERENCE	DESCRIPTION	ADDRESS	DECISION
DM/0626/20/CND	Details in discharge of Part 2 of Condition 13 (Contamination - Investigation) pursuant to DM/1070/18/FUL	Land Rear of Power Station, Hobson Way, Stallingborough, North East Lincolnshire	Condition Part Complied With 17/09/2020
DM/1117/19/CND	Details in discharge of Condition 18 (Delivery and Servicing) pursuant to DM/1070/18/FUL	South Humber Bank Power Station, South Marsh Road, Stallingborough, Grimsby, North East Lincolnshire DN41 8BZ	Condition Complied With 31/01/2020
DM/0713/19/CND	Details in discharge of Condition 10 (Construction Management Plan - Phase 1) pursuant to DM/1070/18/FUL	South Humber Bank Power Station, South Marsh Road, Stallingborough, Grimsby, North East Lincolnshire DN41 8BZ	Condition Part Complied With 27/09/2019
DM/0664/19/FUL  (relevant only to the South Marsh Road internal access road for the SHBPS)	Development of a sustainable transport fuels facility, including various stacks up to 80m high, creation of new accesses, installation of pipe lines, rail link, associated infrastructure and ancillary works	Land at Hobson Way, Stallingborough, North East Lincolnshire	Approved 12/06/2020

<b>REFERENCE</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>DECISION</b>
DM/0486/19/CND	Details in discharge of Condition 13, Part 1 (Contamination - investigation) DM/1070/18/FUL	South Humber Bank Power Station, South Marsh Road, Stallingborough, Grimsby, North East Lincolnshire DN41 8BZ	Condition Part Complied With 12/06/2019
DM/1070/18/FUL	Construction of an energy from waste facility of up to 49.9MWe gross capacity including emissions stack(s), associated infrastructure including parking areas, hard and soft landscaping, the creation of a new access to South Marsh Road, weighbridge facility, and drainage infrastructure, on land at South Humber Bank Power Station   Land Rear Of Power Station Hobson Way Stallingborough North East Lincolnshire	Land Rear of Power Station, Hobson Way, Stallingborough, North East Lincolnshire	Approved 12/04/2019
DM/0575/18/SCO	Request for Scoping Opinion - Construction and operation of an energy from waste power station with a maximum gross electrical output of 49.9 MW	South Humber Bank Power Station, South Marsh Road, Stallingborough, Grimsby, North East Lincolnshire, DN41 8BZ	Opinion Issued 03/09/2018
DM/1184/16/FUL	Erection of new gatehouse/ induction centre	South Humber Bank Power Station, South	Approved 04/04/17

<b>REFERENCE</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>DECISION</b>
	with air conditioning units, installation of bio disk tank, security barriers, car parking, new fencing, new parking bays, relocation of flag poles and other associated works.	Marsh Road, Stallingborough, Grimsby, North East Lincolnshire DN41 8BZ	
DC/1088/10/IMM	Erect two storey portal framed storage building & transformer storage bund	South Marsh Road (South Humber Bank Power Station), Stallingborough, Grimsby, N E Lincolnshire, DN41 8BZ	Approved 14/02/11
DC/759/09/IMM	Erection of a parts storage building to existing power station in accordance with amended plans received on 16th December 2009	South Marsh Road (South Humber Bank Power Station), Stallingborough, Grimsby, N E Lincolnshire DN41 8BZ	Approved 22/12/09
DC/1001/05/IMM	Prior determination application to erect 12m high antenna	South Marsh Road (South Humber Bank Power Station), Stallingborough	Approved 11/10/05
DC/436/98/IMM	Erect complex of clad portal frame building to house power generation plant and equipment	STH Humber Bank Power Station, Hobson Way, Stallingborough	Approved 23/09/98
08950050	Application for approval siting and design of Power Station	South Marsh Road, Stallingborough	Approved 28/10/96
DC/835/98/IMM	Erection of storage buildings and gatehouse. Retention of car park area and	Land at South Marsh Road, STH Humber Bank Power Station, Hobson Way,	Approved 25/06/99

<b>REFERENCE</b>	<b>DESCRIPTION</b>	<b>ADDRESS</b>	<b>DECISION</b>
	associated access from Hobson Way	Stallingborough DN41 8BZ	
DC/190/96/IMM	Radio antennae to a pole at 12 metres above ground level	Marsh Road & Hobson Way, Stallingborough, Lincolnshire DN37 8JJ	Approved 17/06/96
08940461	Extension of the South Humber Bank Power Station site & creation of 2 temporary accesses from South Marsh Road & the South Humber Bank Link Road	South Marsh Road, Stallingborough	Approved 12/01/95
08930204	Extension of the South Humber Bank Power station site for the construction and operation of a continuous cooling water system plus ancillary works	South Marsh Road, Stallingborough	Approved 21/12/93
08910439	Construction and generation of combined cycle gas turbine power plant	Off South Marsh Road, Stallingborough	Approved 01/08/92
08900006	Construction of plant for the manufacture of straw pulp	South Marsh Road, Stallingborough, South Humberside	Approved 03/01/91

## 4.0 RELEVANT PLANNING POLICY

### 4.1 National planning policy

4.1.1 It is agreed that the following National Policy Statements ('NPSs') are particularly relevant to the Application:

- The Overarching NPS for Energy (EN-1); and
- The NPS for Renewable Energy Infrastructure (EN-3).

4.1.2 It is agreed that the policy in the National Policy Statement for Electricity Networks Infrastructure (EN-5) regarding Electric and Magnetic Fields (EMF) is also of potential relevance.

4.1.3 It is agreed that the above NPSs provide the primary basis for decisions by the SoS in relation to the Application pursuant to section 104(3) of the PA 2008, which states that the Application must be determined in accordance with them, unless one of the matters set out in sub-sections 104(4) to (8) applies.

4.1.4 It is agreed that the following planning policy and guidance documents may also be 'important and relevant' to the consideration of the Application:

- National Planning Policy Framework (February 2019);
- National Planning Policy for Waste (October 2014); and
- Planning Practice Guidance.

4.1.5 It is agreed that Section 104 of the PA 2008 requires consideration of other matters that the SoS considers are 'important and relevant' to the consideration of the Application, including other planning policies such as adopted local development plan documents. It is also agreed that EN-1 is clear that in the event of any conflict between a NPS and a local development plan document, the NPS prevails for the purpose of SoS decision-making given the national significance of the infrastructure concerned. No notable conflicts are considered to have arisen.

### 4.2 Local development plan policy

4.2.1 It is agreed that the recently adopted North East Lincolnshire Local Plan 2013 to 2032 (Adopted March 2018) is the most relevant NELC document.

4.2.2 It is agreed that the below policies are considered the most important and relevant to the Proposed Development. These policies are as identified within the Officer's Report for the Consented Development (Appendix 2 of Planning Design and Access Statement (Document Ref. 5.2)).

- Policy 1 - Employment land supply;
- Policy 5 - Development boundaries;
- Policy 6 – Infrastructure;
- Policy 8 - Existing employment areas;
- Policy 9 - Habitat Mitigation - South Humber Bank;
- Policy 22 - Good design in new developments;

- Policy 31 - Renewable and low carbon infrastructure;
- Policy 32 - Energy and low carbon living;
- Policy 33 - Flood risk;
- Policy 34 - Water management;
- Policy 36 - Promoting sustainable transport;
- Policy 38 – Parking;
- Policy 39 - Conserving and enhancing the historic environment;
- Policy 41 - Biodiversity and Geodiversity;
- Policy 42 - Landscape;
- Policy 47 - Future requirements for waste facilities; and
- Policy 48 - Safeguarding waste facilities and related infrastructure.

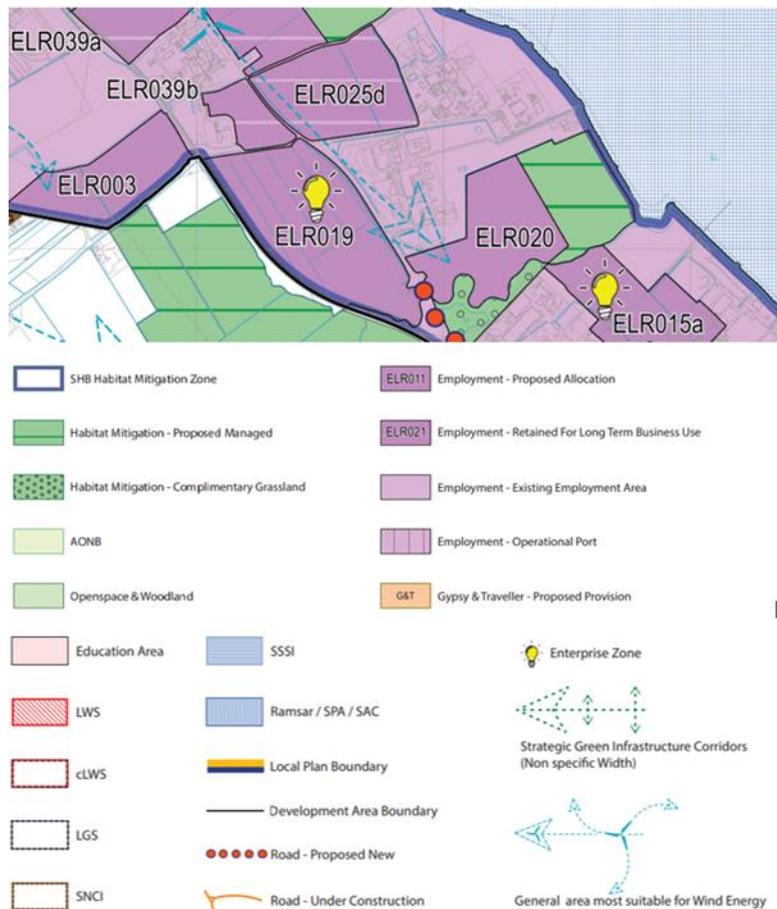
4.2.3 In addition to the above list of Local Plan policies, the following policies and objectives may also be of relevance to the need case and/ or assessment of the impacts of the Proposed Development:

- Strategic Objective 2 - Climate change;
- Strategic Objective 3 - Economy;
- Strategic Objective 10 - Minerals and waste;
- Policy 7 - Employment allocations; and
- Policy 49 - Restoration and aftercare (waste).

### **4.3 Local Planning Designations**

4.3.1 It is agreed that the Site is allocated as an 'Existing Employment Area' within the Local Plan Map (see Figure 4.1).

**Figure 4.1: NELC Policies Plan Area**



4.3.2 It is agreed that the local development plan policies relevant to the Proposed Development remain the same as for the Consented Development.

4.3.3 It is agreed that the Proposed Development is in accordance with the local development plan.

**4.4 Other NELC Policy**

4.4.1 It is agreed that the Proposed Development is consistent with the following NELC policies, which do not form part of the local development plan but may be of relevance to decision-making.

- NELC Energy Vision – seeks to support economic growth with renewable energy acting as a growth driver for the region by creating jobs and therefore enhancing the quality of life of its residents.
- South Humber Industrial Investment Programme (‘SHIIP’) – seeks to ensure that the right conditions for growth are provided and it can achieve one of its key priorities to create a stronger local economy.
- Yorkshire and Humber Waste Position Statement 2016 – sets out information about waste and waste planning in the subregion of relevance to preparation and review of waste local plans and which may affect more than one local authority area, and the benefits of planning for waste

facilities. The position statement is endorsed by Waste Planning Authorities (WPAs) in the area, including North East Lincolnshire Council.

## 5.0 THE NEED FOR THE PROPOSED DEVELOPMENT AND PRINCIPLE OF THE USE

- 5.1.1 Section 3.3 of Part 3 of NPS EN-1 (DECC, 2011) sets out a number of key reasons why there is an urgent need for new electricity generating infrastructure, including:
- meeting energy security and carbon reduction objectives;
  - the need to replace closing electricity generating capacity;
  - the need for new electricity capacity to back up the increased contribution of intermittent forms of renewable generation; and
  - future increases in electricity demand.
- 5.1.2 Paragraph 2.2.20 of EN-1 states that in order to manage the risks to achieving security of supply the UK needs sufficient electricity capacity to meet demand at all times including a safety margin of reserve capacity, reliable associated supply chains to meet demand as rises, and a diverse mix of technologies and fuels.
- 5.1.3 Paragraphs 3.3.15 – 3.3.24 of EN-1 deal with the urgency of the need for new electricity generating capacity. Paragraph 3.3.15 states that in order to secure energy supplies that enable the UK to meet its climate change obligations to 2050, there is an urgent need for new energy infrastructure to be brought forward as soon as possible, and certainly within the next 10-15 years (from 2011).
- 5.1.4 The role of Energy from Waste (EfW) in addressing the UK's energy needs is outlined in paragraphs 3.4.3 – 3.4.5 of NPS EN-1. Paragraph 3.4.3 explains that EfW is a type of renewable generation, as the principal purpose of the combustion of waste is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover useful energy from that waste. Paragraph 3.4.4 explains that EfW can provide 'dispatchable' power, constituting an increasingly important contribution to the security of UK electricity supplies. Paragraph 3.4.5 explains that it is necessary to bring forward new renewable electricity generating projects as soon as possible and that the need for new renewable electricity generation projects is therefore urgent.
- 5.1.5 Our Waste, Our Resources: A Strategy for England' (Defra, 2018) ('the Strategy') is the current waste strategy for England. Chapter 3 of the Strategy, entitled 'Recovering Resources and Managing Waste' states that: "we will work closely with industry to secure a substantial increase in the number of EfW plants that are formally recognised as achieving recovery status, and will ensure that all future EfW plants achieve recovery status." The Strategy also sets out projections for residual waste arisings and states "given our projections we continue to welcome further market investment in residual waste treatment infrastructure".
- 5.1.6 The Proposed Development will have recovery status, complying with the R1 Energy Efficiency formula in Annex II of the Waste Framework Directive 2008/98/EC. The Proposed Development would, once consented, represent
-

- a 5.8% increase over the current England wide capacity of permitted recovery facilities, measured by throughput (R1 facility list dated 14 July 2020, Environment Agency).
- 5.1.7 It is agreed that EN-1 and 'Our Waste, Our Resources' individually and together establish a substantial need for projects of the same type as the Proposed Development, and that they do not direct the location of such developments.
- 5.1.8 It is agreed that the principle of EfW use at this location is well established due to the existence of a valid, implementable, EfW consent namely the Planning Permission, which was determined by NELC to be acceptable in relation to Local Plan Policies 1 'Employment land supply' and 5 'Development boundaries' and the NPPF in terms of the principle of development. Further, as set out at paragraph 7.5.3 of the Planning, Design and Access Statement (Document Ref. 5.5) it would use processed residual waste otherwise sent to landfill while recovering energy, complying with NELC Local Plan Strategic Objective SO10 'Minerals and Waste'.
- 5.1.9 The principle of EfW use at this location is also consistent with the position recognised in the Yorkshire and Humber Waste Position Statement 2016, which recognises the twin regional and national role of the region's waste management facilities and the considerable flows of waste into and out of the region.
- 5.1.10 It is agreed the Site is suitable for the proposed use for the same reasons set out in NELC's report relating to the Planning Permission, namely:
- the Site forms part of a larger 'development area' within the Applicant's control;
  - the location makes effective use of existing employment land under Policy 7 'Employment allocations';
  - alternative sites have been appropriately considered;
  - the location is suitable against Policy 36 'Promoting sustainable transport' and 47 'Future sites for waste facilities' and would not affect sites safeguarded under Policy 48 'Safeguarding waste facilities and related infrastructure';
  - the Proposed Development broadly supports Policy 32 'Energy and low carbon living'; and
  - within the Local Plan the justification for Policy 49 'Restoration and aftercare (waste)' identifies that waste disposal through means such as landfill is the least desirable waste management option available.
- 5.1.11 It is agreed that the principle of the use is acceptable with regards to the impact on neighbours and character of the area due to the Site's industrial location and the Proposed Development's design consistency with the Consented Development.
- 5.1.12 It is agreed that the Consented Development represents a 'fallback position' in planning terms which is available and can be implemented by the Applicant.
-

This is relevant not only to the need for the Proposed Development and the principle of the use, but also to the environmental effects which arise.

## **6.0 ADEQUACY OF CONSULTATION AND OTHER PRE APPLICATION ENGAGEMENT**

- 6.1.1 It is agreed that the Applicant has carried out good quality pre-application consultation, having undertaken its statutory consultation on the Proposed Development in line with the Statement of Community Consultation ('SoCC') and using a variety of methods, and providing an appropriate level of information, for a period in excess of the statutory minimum of 28 days required pursuant to section 45 of the PA 2008 and also the minimum period of 30 days required by the 2017 EIA Regulations. .
- 6.1.2 NELC has confirmed the Applicant's consultation was adequate in statutory terms, as confirmed within its 'adequacy of consultation response' sent to PINS on 20 April 2020.
- 6.1.3 It is agreed that the quality and amount of other pre-application engagement by the Applicant with NELC has been good, and has included regular update meetings and calls and engagement with NELC highways, ecology, and environmental health officers on technical methodologies and detailed consideration by the Applicant of issues raised. Engagement between the Applicant and NELC in relation to the Proposed Development has taken place since summer 2019, and in relation to the Consented Development since spring 2018.

## 7.0 FLEXIBILITY AND DESIGN

- 7.1.1 The approach taken to the design of the Proposed Development, and how it was influenced by the Site's context, functional requirements, design principles and consultation feedback has been set out within Section 4 of the submitted Planning, Design and Access Statement (Document Ref. 5.5).
- 7.1.2 It is agreed that large-scale industrial buildings and structures and transport corridors located within the Study Area are characteristic features in the landscape. As such the construction of the Proposed Development will not introduce new uncharacteristic elements into the landscape. It is also considered that the local landscape has a low susceptibility to the Proposed Development due to the adjacent structures associated with the existing SHBPS and large-scale infrastructure within the wider area (assessed within ES Volume I, Chapter 11 'Landscape and Visual Amenity' (Document Ref. 6.2.11)) and therefore, from a landscape and visual perspective, the setting of the Proposed Development has a low sensitivity to change.
- 7.1.3 EPWM has sought to incorporate a degree of flexibility within the draft DCO (Document Ref. 2.1). This flexibility is required as it is not possible to fully fix the design of the Proposed Development prior to construction and in advance of a contractor having been appointed.
- 7.1.4 A focussed use of the 'Rochdale Envelope' approach has therefore been adopted for undertaking the EIA in order to present a worst-case assessment of potential environmental effects of the different parameters of the Proposed Development that cannot yet be fixed. The maximum dimensions for the layout of the Proposed Development are identified within the ES Chapter 4 'The Proposed Development' (Document Ref. 6.2.4).
- 7.1.5 Where an element of flexibility has been maintained, alternatives have been assessed and the worst-case impacts reported in the ES.
- 7.1.6 EPWM has submitted an 'Indicative Generating Station Plan, Floor Plans, Section and Elevations' (Document Ref. 4.5) that provide an indication of how the EfW Power Station would appear based on the design parameters. Furthermore, the 'Planning, Design and Access Statement' (Document Ref. 5.5) provides information on the key design components for the Proposed Development, including its anticipated appearance and finishes.
- 7.1.7 It is agreed that the design of the Proposed Development is not materially different from the Consented Development, which was found acceptable in terms of design subject to conditions securing matters relating to external materials, hard and soft landscaping, lighting and the final position of buildings, floor level and elevations.
- 7.1.8 It is agreed that the approach taken to securing design details for the Proposed Development through requirements is appropriate and consistent with the Consented Development.
- 7.1.9 It is therefore agreed that the design of the Proposed Development is appropriate given its function and purpose (to generate electricity) and the context within which it would sit and that it represents 'good design' in

accordance with the North East Lincolnshire Local Plan ('NELLP') Policy 22 'Good design in new developments'.

## **8.0 COMBINED HEAT AND POWER**

- 8.1.1 Policy 31 'Renewable and low carbon infrastructure' of the NELLP identifies that NELC will support opportunities to maximise renewable energy capacity within the Borough. The assessment carried out has been done in accordance with the principles set out in section 4.6 of NPS EN-1.
- 8.1.2 It is agreed that the Applicant has appropriately assessed the feasibility of combined heat and power ('CHP') and reported the findings within the Combined Heat and Power Assessment (Document Ref. 5.6).
- 8.1.3 It is agreed that the proposed heat network, as modelled in the cost-benefit assessment study, is not presently considered an economically viable scheme.
- 8.1.4 It is agreed that the Proposed Development should be designed to be CHP-Ready to demonstrate Best Available Techniques. Requirement 35 'Combined heat and power' in Schedule 2 of the draft DCO (Document Ref. 2.1) ensures the Proposed Development will be CHP-Ready.

## **9.0 ENVIRONMENTAL STATEMENT CHAPTERS 7-19**

9.1.1 The below sections summarise ES Chapters 7-19 (Document Ref. 6.2.7 – 6.2.19).

### **9.2 Chapter 7 – Air Quality**

9.2.1 The assessment of the air quality effects of the Proposed Development is set out in ES Volume I, Chapter 7 ‘Air Quality’ (Document Ref. 6.2.7). The air quality study area and the locations of the sensitive receptors considered in the assessment are shown on Figure 7.1 of Volume II of the ES (Document Ref. 6.3.8).

9.2.2 Operational emissions from the Proposed Development would be controlled through the Environmental Permitting regime and therefore regulated by the Environment Agency (‘EA’).

9.2.3 The air quality impacts resulting from the construction phase of the Proposed Development would not result in significant effects upon sensitive receptors. Emissions will be controlled in accordance with standard impact avoidance measures, which will be implemented as part of the final Construction Environment Management Plan (‘CEMP’) secured through Requirement 15 in Schedule 2 of the draft DCO (Document Ref. 2.1).

9.2.4 The ES considers the effects of operational point source emissions and traffic on sensitive receptors concluding that the effects of the Proposed Development are not significant. The fixed stack height to ensure appropriate dispersion of pollutants is secured in Requirement 3 ‘Approved details and amendments to them’ in Schedule 2 of the draft DCO (Document Ref 2.1).

9.2.5 It is also identified that impacts from the decommissioning phase would be similar to the impacts from the construction phase and therefore no significant effects would occur.

9.2.6 The ES confirms that the Proposed Development’s air quality effects will be the same as the Consented Development and there will therefore be no additional effects.

9.2.7 It is agreed that subject to the mitigation secured via Requirements 3 and 15 of the draft DCO and the relevant permitting, there would be no unacceptable impacts upon air quality as a result of the Proposed Development. Therefore, with regard to the above, the Proposed Development is acceptable and in accordance with Policy 5 ‘Development boundaries’ of the NELLP.

### **9.3 Chapter 8 - Noise and Vibration**

9.3.1 The assessment of the noise and vibration effects of the Proposed Development is set out in ES Volume I, Chapter 8 ‘Noise and Vibration’ (Document Ref. 6.2.8). The baseline noise monitoring locations and the locations of the sensitive receptors used for the purpose of the assessment are shown on Figure 8.1 of ES Volume II (Document Ref. 6.3.12).

9.3.2 The noise and vibration resulting from the construction phase of the Proposed Development would not result in significant residual effects upon sensitive receptors. Mitigation has been identified as being required to mitigate effects

from piling activities on the ecological receptors, and this is secured through Requirement 17 'Piling' in Schedule 2 of the draft DCO (Document Ref 2.1).

- 9.3.3 It is agreed that the views of Natural England will be relevant to the view of North East Lincolnshire Council on the matter of piling noise and vibration. The agreement of Natural England to the mitigation methods and the wording in draft Requirement 17 securing these (in the submission version draft DCO) was confirmed in paragraphs 4.35-4.38 of the Statement of Common Ground with Natural England submitted at Deadline 2 (Document Ref. 7.4 / REP2-003). In addition, the Applicant has also specified the agreed mitigation methods within the wording of the Requirement in the Draft DCO submitted at Deadline 2 and thereafter (see below text in italics), for additional precision and clarity. Accordingly it is agreed that these matters are appropriately controlled.

*17.—(1) No part of the authorised development comprised within Work No. 1 may commence, save for the permitted preliminary works, until a written specification of the type of piling to be used to support the building and structures has been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.*

*(2) The written specification submitted to and approved under subparagraph (1) must include a scheme to mitigate the effects of the piling with regard to noise to ecological receptors (which must include seasonal piling restrictions and/or the use of continuous flight auger piling as each of those are described in section 7 of the biodiversity strategy) and a scheme to mitigate the effects of the piling with regard to groundwater resources (which must be in accordance with the results of the site investigation carried out, and the remediation strategy submitted, pursuant to requirement 19).*

*(3) All piling works must be carried out in accordance with the approved written specification unless otherwise agreed with the relevant planning authority.*

- 9.3.4 Construction noise will also be controlled in accordance with standard impact avoidance measures, which will be implemented as part of the final CEMP secured through Requirement 15 'Construction environmental management plan' in Schedule 2 of the Draft DCO (Document Ref 2.1).
- 9.3.5 The noise and vibration impacts resulting from the operational phases of the Proposed Development would not result in significant effects upon sensitive receptors. Best practice measures to reduce noise will nevertheless be considered during the detailed design stage; this could include plant selection, sound reducing cladding, louvres/ baffles and an acoustically treated stack.
- 9.3.6 The nature of decommissioning works is likely to be similar to that of construction works (with the exception of piling, which is not required for decommissioning) and therefore no significant noise or vibration effects are predicted.
- 9.3.7 In summary the ES confirms that the Proposed Development's noise and vibration effects will be the same as the Consented Development, with only

negligible increases in noise from the Additional Works, and there will therefore be no additional effects.

- 9.3.8 It is agreed that subject to the mitigation that is secured by Requirements 15 and 17, , there would be no unacceptable impacts upon noise and vibration receptors as a result of the Proposed Development. Therefore, with regard to the above, the Proposed Development is acceptable and in accordance with Policy 5 'Development boundaries' of the NELLP.

#### **9.4 Chapter 9 - Traffic and Transport**

- 9.4.1 The assessment of the traffic and transport effects of the Proposed Development is set out in ES Volume I, Chapter 9 'Traffic and Transport' (Application Document Ref. 6.2.9).
- 9.4.2 The traffic associated with the Proposed Development construction activities will result in temporary, increases of traffic flows, including HGVs, on the roads leading to the Site. In line with the significance criteria presented in ES Chapter 9 and in the Transport Assessment (Appendix 9A in ES Volume III (Document Ref. 6.4.12)), the impacts of construction traffic on all road sections and junctions are considered to be minor/ negligible adverse and not considered to be significant.
- 9.4.3 It is agreed that the operational HGV trip generation assumptions in Section 7 of the Transport Assessment (Appendix 14A File 1 of ES Volume III, Document Ref. 6.4 / APP-115) are suitably robust and conservative.
- 9.4.4 The Transport Assessment forecasts that the Proposed Development operational traffic will result in a significant proportional increase in traffic on South Marsh Road (east of Hobson Way) and on Hobson Way (north of South Marsh Road) but this is due to the low number of vehicles currently using these roads, and there is considered to be ample capacity on the roads for the anticipated increase. For all links, including South Marsh Road and Hobson Way, the Transport Assessment considers that the effects are not considered to be significant.
- 9.4.5 It is agreed that the forecast increase in traffic has the potential to affect the condition of South Marsh Road (east of Hobson Way). The Applicant expects that actual trip generation may be lower than forecast, but it was agreed for the Consented Development that the Applicant should carry out a condition survey before development commences to determine the theoretical structural capacity of the road. A traffic count along South Marsh Road will then be carried out within 6 months of the development coming into operation. If the actual traffic attributable to South Humber Bank Energy Centre exceeds the theoretical structural capacity then a programme of works would need to be progressed under S278 Highways Act 1980. This is secured in a multi-stage prior approval condition numbered 22 on the decision notice (see Appendix 2 of the Planning, Design and Access Statement, Document Ref. 5.5 / APP-024) and equivalent wording is shown in Requirement 29 of Schedule 2 of the Draft DCO (Document Ref. 2.1 / APP-005).
- 9.4.6 The Transport Assessment (Appendix 9A in ES Volume III (Document Ref. 6.4.12)) confirms that the construction and operational traffic flows associated with the Proposed Development are the same as the construction and

operational traffic flows associated with the Consented Development. As a result of this, the traffic mitigation (including routeing) is the same for the Consented Development and Proposed Development. It is noted that NELC considered traffic levels in the determination of the application for the Consented Development.

- 9.4.7 With regards to the level crossing on Kiln Lane, the Transport Assessment (Appendix 9A in ES Volume III (Document Ref. 6.4.12)) identifies that the Consented Development and Proposed Development will increase traffic flows by circa 9% . It also confirms the additional traffic generated will not have a significant effect on the operational railway or the level crossing on Kiln Lane. South Marsh Road level crossing will not be used by the Proposed Development since this section of South Marsh Road (west of Hobson Way) is a bridleway. It is therefore agreed that this section of South Marsh Road will not experience impacts from the Proposed Development.
- 9.4.8 It is agreed that given the current traffic flows, the traffic effects during operation, maintenance and planned outages are considered to be not significant in terms of capacity and will not affect sensitive road users (pedestrians and cyclists).
- 9.4.9 Decommissioning vehicle numbers are expected to be lower than those experienced during the construction or operational phases and therefore traffic effects are not anticipated to be significant.
- 9.4.10 The Transport Assessment (Appendix 9A in ES Volume III (Document Ref. 6.4.12)) assesses the impacts of Proposed Development traffic on a range of issues including pedestrian amenity and delay, accidents and safety. The sensitivity of each road within the study area is defined by the type of user groups who may use it including consideration of footpath and cycle route networks that cross the roads. South Marsh Road is promoted as a leisure cycle route (known as Fishermen and Ships) by NELC, and several roads in the study area have footways and/ or cycleways alongside, but all roads in the study area are classified as Low or Very Low sensitivity (see Table 9.1). Public Rights of Way are also shown on Figure 11.3 in ES Volume II.”
- 9.4.11 A designated HGV route has been agreed, which ensures HGV traffic uses the strategic and principal road network and avoids the use of minor local roads. This and other measures to control and manage construction and operational traffic are secured within Schedule 2 of the draft DCO (Document Ref 2.1). These requirements include a Construction Worker Travel Plan (‘CWTP’), Construction Traffic Management Plan (‘CTMP’), Operational Travel Plan (‘OTP’) and Delivery and Servicing Plan (‘DSP’); these documents are reviewed further in Section 11 of this SoCG.
- 9.4.12 The ES confirms that the baseline traffic flows assumed for the Proposed Development and Consented Development construction traffic assessments are slightly different (due to the update of the baseline scenario to include the South Humber Bank Link Road as requested by NELC Highways), but the overall conclusions are the same – namely that there will be no significant effects on severance, pedestrian amenity, fear and intimidation, accidents and

safety, and driver delay. As such, the Proposed Development is predicted to have no additional effects compared to the Consented Development.

- 9.4.13 It is agreed that subject to the measures to manage construction and operational traffic secured via requirements there would be no unacceptable impacts upon traffic and transport as a result of the Proposed Development. Therefore, the Proposed Development is acceptable and in accordance with Policy 5 'Development boundaries', Policy 36 'Promoting sustainable transport' and Policy 38 'Parking' of the NELLP.

## **9.5 Chapter 10 - Ecology**

- 9.5.1 Impacts on ecology are considered in ES Volume I, Chapter 10 'Ecology' (Document Ref. 6.2.10), which summarises the ecological surveys undertaken and provides an assessment of the effects of the Proposed Development on ecology.
- 9.5.2 The assessment identified the potential for significant adverse noise, vibration and visual disturbance effects on waterbirds in the field to the south of the Site, which is functionally linked to the Humber Estuary Special Protection Area (SPA)/ Ramsar site. This will be mitigated by a visual screen between the Proposed Development and the field to the south and restrictions on piling activities (including type of piling proposed) undertaken during the wintering bird season, and no significant adverse residual effects are anticipated.
- 9.5.3 The loss of habitat within the Main Development Area that is used by waterbirds will be mitigated by a financial contribution by the Applicant to the South Humber Gateway strategic mitigation scheme as set out in the NELLP Policy 9 'Habitat Mitigation - South Humber Bank'. Additionally, to mitigate for the loss of semi-improved grassland within the Site, a new mitigation and enhancement area will be created within the Site, and the Proposed Development design incorporates a 5 m undeveloped buffer zone along the banks of all perimeter ditches to prevent damage and disturbance to water vole habitats. With these mitigation and enhancement measures, the Proposed Development will not result in significant adverse effects due to loss of habitats during construction.
- 9.5.4 The Biodiversity Protection Plan included in the Biodiversity Strategy (Document Ref. 5.11) sets out the measures to be implemented to protect water vole, grass snake and breeding birds during construction. The implementation of this Plan is secured by Requirement 11 in the draft DCO (Document Ref. 2.1).
- 9.5.5 Due to the impact avoidance measures included in the design, such as appropriate lighting design, stack heights and surface water drainage, and retention of the visual screen between the Main Development Area and field to the south throughout operation, there will be no significant adverse effects on designated sites, notable habitats or protected species during the operation.
- 9.5.6 No significant effects are anticipated as a result of the decommissioning phase of the Proposed Development and any necessary mitigation requirements are to be determined and agreed at a future date prior to decommissioning, taking account of relevant legislative, policy and permitting requirements at that time.
-

- 9.5.7 Agreement of the final Biodiversity Mitigation and Enhancement Plan ('BMEP') is secured through Requirement 12 'Biodiversity mitigation and enhancement' within Schedule 2 of the draft DCO (Document Ref. 2.1). This will include details on grassland mitigation, new pond and species-rich hedgerow creation, enhancement of existing ditch habitat, the location and construction specifications for log pile refuges and bird nest boxes, habitat management and monitoring, timescales and responsibilities.
- 9.5.8 A scheme to mitigate the potential noise and vibration effects of piling on waterbirds during the wintering bird season is secured by Requirement 17 'Piling' in Schedule 2 of the Draft DCO (Document Ref 2.1).
- 9.5.9 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will therefore be no additional effects on ecology.
- 9.5.10 It is agreed that the Proposed Development will not result in any significant effects on local designated areas and appropriate mitigation has been secured through Requirements 11, 12 and 17 in the Draft DCO (Document Ref 2.1). The Proposed Development therefore accords with Policy 5 'Development boundaries', Policy 6 'Infrastructure', Policy 9 'Habitat Mitigation - South Humber Bank' and Policy 41 'Biodiversity and Geodiversity' of the NELLP.

## **9.6 Chapter 11 - Landscape and Visual Amenity**

- 9.6.1 The assessment of the landscape and visual amenity effects of the Proposed Development is set out in ES Volume I, Chapter 11 'Landscape and Visual Amenity' (Document Ref. 6.2.11).
- 9.6.2 The viewpoint locations considered are identified in Figures 11.1 – 11.18 (Document Refs 6.3.14 - 6.3.40). It is agreed that these locations were suitable to assess for the impacts on views for sensitive receptors, such as residents and visitors to the area, due to the construction and operation of the Proposed Development.
- 9.6.3 Of the ten viewpoints considered in the assessment, only one visual amenity receptor (Viewpoint 9: Middle Drain Footpath) is predicted to experience a significant adverse effect during construction, operation and decommissioning. This is as a result of the close distance and heights of the proposed structures. No specific mitigation measures are proposed since it is difficult to avoid or mitigate this effect due to the size of the buildings and structures required.
- 9.6.4 The assessment does not identify any significant effects on landscape.
- 9.6.5 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will therefore be no additional effects on the landscape or on visual amenity.
- 9.6.6 Details of external finishes are secured through a number of Requirements linked to external materials, hard and soft landscaping, lighting and the final position of buildings, floor level and elevations in Schedule 2 of the draft DCO (Document Ref 2.1). The relevant requirements are Requirement 3 'Approved details and amendments to them', Requirement 5 'Detailed design (position and scale)', Requirement 6 'Detailed design (appearance)', Requirement 8

'Means of enclosure and hard landscaping', Requirement 9 'Lighting scheme' and Requirement 10 'Soft landscaping'.

- 9.6.7 It is agreed that the Proposed Development accords with Policy 5 'Development boundaries', Policy 22 '- Good design in new developments', Policy 39 'Conserving and enhancing the historic environment' and Policy 42 'Landscape' of the NELLP.

## **9.7 Chapter 12 - Geology, Hydrogeology and Land Contamination**

- 9.7.1 The assessment of the geology, hydrology and land contamination effects of the Proposed Development is set out in ES Volume I, Chapter 12 'Geology, Hydrogeology and Land Contamination' (Document Ref. 6.2.12).
- 9.7.2 A ground investigation has been undertaken which identified no requirement for remedial measures.
- 9.7.3 Potentially significant effects during the construction phase include contamination risks to surface water and groundwater from leaks and spills and settlement of the Proposed Development infrastructure due to ground instability. However, these potential effects will be managed by appropriate construction mitigation measures and design and as such no significant adverse effects are anticipated. An Outline CEMP is included at ES Appendix 5A (Document Ref. 6.4.4) and approval of the final CEMP, including a materials management plan, is secured through Requirement 15 'Construction environmental management plan' within Schedule 2 of the draft DCO (Document Ref. 2.1), and a scheme to mitigate the effects of the piling with regard to groundwater resources is secured by Requirement 17 'Piling' in Schedule 2 of the Draft DCO (Document Ref 2.1).
- 9.7.4 During operation, with appropriate management, housekeeping and preventative maintenance practices (such as appropriate storage of potentially contaminating liquid), as required by the Environmental Permit for the operational Site, potential impacts to soil and groundwater will be avoided. As such, significant adverse effects are not anticipated.
- 9.7.5 During the eventual decommissioning, effects are considered to be comparable to, or less than, those for construction activities (and controlled similarly) and therefore not considered to be significant.
- 9.7.6 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will therefore be no additional effects regarding geology, hydrogeology and contamination.
- 9.7.7 It is agreed that subject to appropriate mitigation through Requirements 15 and 17 and the requirements of the Environmental Permit, there would be no unacceptable impacts with regard to geology, hydrogeology and contamination as a result of the Proposed Development. Therefore the Proposed Development is acceptable in accordance with Policy 5 'Development boundaries' of the NELLP.

## **9.8 Chapter 13 - Cultural Heritage**

- 9.8.1 The assessment of the cultural heritage effects of the Proposed Development is set out in ES Volume I, Chapter 13 'Cultural Heritage' (Document Ref.

- 6.2.13). The relevant heritage assets considered within a 5 km study area of the Proposed Development are identified in ES Figure 13.1 (Document Refs 6.3.41).
- 9.8.2 There will be no physical impact upon any designated heritage assets or buried archaeology during construction, operation and decommissioning. This is due to the Site previously being extensively worked as part of the construction of the SHBPS, and as such, any surviving remains would have been removed during this time.
- 9.8.3 There will be no impact on the setting of Scheduled Monuments within the 5 km study area due to distance and screening by intervening vegetation. Similarly, the majority of listed buildings in the study area will experience no impact on their setting, with the exception of the Church of St Nicolas in Great Coates (Grade I listed) and the Church of St Peter and St Paul in Stallingborough (Grade II\* listed) which will experience minor (not significant) adverse effects. It is agreed that in line with NPS EN-1 paragraph 5.8.14 and paragraph 193 of NPPF, the effects of the Proposed Development constitutes no harm.
- 9.8.4 No additional effects on the cultural heritage assets in the Study Area will occur during operation.
- 9.8.5 During the decommissioning, effects are considered to be comparable to, or less than, those for construction.
- 9.8.6 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will be no additional effects associated with cultural heritage.
- 9.8.7 It is agreed that the Proposed Development accords with Policy 39 'Conserve and enhance historic environment' of the NELLP.
- 9.9 Chapter 14 - Water Resources, Flood Risk and Drainage**
- 9.9.1 The assessment of the water resources, flood risk and drainage effects of the Proposed Development is set out in ES Volume I, Chapter 14 'Water Resources, Flood Risk and Drainage' (Document Ref. 6.2.14). An Outline Drainage Strategy is provided at Appendix 14B of ES Volume III (Document Ref. 6.4 / APP-137).
- 9.9.2 The relevant key watercourses are identified in Figure 14.1 (Document Ref. 6.3.43). The Site is located in Flood Zone 3a but benefits from the presence of tidal flood defences along the south bank of the Humber Estuary, which are maintained by the Environment Agency.
- 9.9.3 During construction there is the potential for spillages to occur which could impact upon water quality of surface waterbodies or groundwater, but the likelihood of these occurring is considered to be low or negligible through the use of standard good working practices formalised through the CEMP. As a result, no significant effects on surface or groundwater are predicted.
- 9.9.4 The increase in impermeable area within the Main Development Area during construction and operation will have no significant effect on flood risk because

surface water runoff will be attenuated on site and discharged at the existing greenfield runoff rate.

- 9.9.5 For the operational phase, with appropriate measures put in place to prevent spillages (as required by the Environmental Permit), there is a low probability of pollution events occurring and therefore there will be no significant adverse effects on surface or groundwater as a result of the Proposed Development's operation.
- 9.9.6 Requirement 13 of Schedule 2 of the Draft DCO (Document Ref. 2.1 / APP-005) requires the prior approval of surface water drainage details in accordance with the principles set out in the Outline Drainage Strategy.
- 9.9.7 With flood resilience measures and a place of safe refuge incorporated into the design, and emergency flood response protocols in place for the Proposed Development, no significant adverse flood related effects are anticipated during operation.
- 9.9.8 During the decommissioning phase, effects are considered to be comparable to, or less than, those for construction activities (and controlled similarly) and therefore not considered to be significant.
- 9.9.9 Requirement 22 'Flood risk mitigation' and Requirement 23 'Flood warning and evacuation plan' in Schedule 2 of the draft DCO (Document Ref 2.1) secure the necessary mitigation.
- 9.9.10 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will therefore be no additional effects associated with water resources, flood risk and drainage.
- 9.9.11 It is agreed that subject to appropriate mitigation from Requirements 22 and 23 and the requirements of the Environmental Permit, there would be no unacceptable impacts regarding water resources, flood risk and drainage as a result of the Proposed Development. Therefore, the Proposed Development is acceptable and in accordance with Policy 5 'Development boundaries', Policy 33 'Flood risk' and Policy 34 'Water management' of the NELLP.

## **9.10 Chapter 15 - Socio-Economics**

- 9.10.1 The assessment of the socio-economics effects of the Proposed Development is set out in ES Volume I, Chapter 15 'Socio Economics' (Document Ref. 6.2.15).
- 9.10.2 The Proposed Development's construction is predicted to have a significant temporary beneficial effect on the local and regional economy through the creation of an estimated 730 net construction jobs (750 gross), of which around 365 are expected to be sourced from within the Grimsby area. This is considered to have a major beneficial (significant) effect.
- 9.10.3 The Proposed Development will also generate approximately 55 net long-term jobs once operational (56 gross), of which 48 are likely to be sourced from the Grimsby area. Additionally, for the periodic maintenance element of the Proposed Development, the total net employment is estimated to be 195 employees (200 gross) of which around 49 are expected to be sourced from within the Grimsby area. The Applicant will host a careers fair to promote

employment opportunities at the Proposed Development for local residents, and a "meet the buyer" event will be held to promote supply chain opportunities for local businesses. The employment generated is therefore considered to comprise a significant, long term moderate beneficial (significant) socio-economic effect.

9.10.4 During the decommissioning phase, socio-economic effects are considered to be beneficial but less than those for construction.

9.10.5 The ES confirms that the socio-economic assessment of the Consented Development considered a 'worst case' scenario for socio-economics whereby only a single-stream plant was constructed, a scenario that has subsequently been ruled out for the Proposed Development. As a result, the Proposed Development is predicted to generate higher employment than the Consented Development.

9.10.6 It is agreed that the Proposed Development is in accordance with Policy 1 'Employment land supply', Policy 5 'Development boundaries', Policy 8 'Existing employment areas' and Strategic Objective 3 'Employment' of the NELLP.

## **9.11 Chapter 16 - Waste Management**

9.11.1 The assessment of the waste management effects of the Proposed Development is set out in ES Volume I, Chapter 16 'Waste Management' (Document Ref. 6.2.16).

9.11.2 As a percentage of the regional total (approximately 1.2%), construction waste from the Proposed Development is not considered significant or likely to lead to any capacity issues within the regional waste management network. Good practice waste management procedures will minimise waste arisings, and these will be detailed in the CEMP. An Outline CEMP is included at ES Appendix 5A (Document Ref. 6.4.4) and the approval of the final CEMP is secured through Requirement 15 'Construction environmental management plan' within Schedule 2 of the draft DCO (Document Ref. 2.1).

9.11.3 During operation the waste quantities of inert bottom ash (approximately 179,000 tonnes per annum) and FGT residues (approximately 20,600 tonnes per annum) are not considered to result in significant adverse effects on regional waste management infrastructure.

9.11.4 Waste generated from decommissioning was scoped out of the waste assessment as it is not possible at this stage to determine quantities of waste.

9.11.5 Appropriate management of construction waste is secured within Requirement 15 'Construction environmental management plan' within Schedule 2 of the draft DCO (Document Ref. 2.1).

9.11.6 The ES confirms that the Proposed Development's impacts will be the same as the Consented Development and there will therefore be no additional effects associated with waste management.

9.11.7 It is agreed that the amount of waste generated and waste management methods are appropriate and in accordance with Strategic Objective 10 'Minerals and waste' of the NELLP.

## 9.12 Chapter 17 – Cumulative and Combined Effects

- 9.12.1 The assessment of the cumulative and combined effects of the Proposed Development is set out in ES Volume I, Chapter 17 ‘Cumulative and Combined Effects’ (Document Ref. 6.2.17). The locations of the relevant cumulative developments are identified in Figure 17.1 (Document Ref. 6.3.44).
- 9.12.2 Schemes of potential relevance to the cumulative effects assessment have been selected with regard to knowledge of the area, checks of local authority planning registers, and the approaches set out in ‘Planning Act 2008: guidance on the Pre-application process’ (Department for Communities and Local Government, March 2015) and Advice Note 17 ‘Cumulative effects assessment’ (Planning Inspectorate, August 2019, version 2).
- 9.12.3 The general rationale was to consider schemes that are committed in planning terms, therefore are the subject of either an EIA screening/ scoping request or have a planning permission likely to be valid (i.e. granted within the three years to February 2020), or have received planning permission; and have potential cumulative impacts within a 10 km radius. It is agreed that this rationale is appropriate for the cumulative effects assessment of the Proposed Development.
- 9.12.4 It is agreed that the list in Table 17.4 of ES Volume I, Chapter 17 ‘Cumulative and Combined Effects’ (Document Ref. 6.2.17) represents the schemes with potential cumulative effects as at the time of the submission of the Application, and the schemes short listed for assessment at Table 17.5 of ES Volume I, Chapter 17 ‘Cumulative and Combined Effects’ (Document Ref. 6.2.17) are appropriate.
- 9.12.5 For the majority of topics, no significant cumulative effects during construction or operation have been identified; the exceptions to this being two potentially significant cumulative visual effects from two viewpoints (Viewpoints 5: Beechwood Farm Carvery and 9: Middle Drain footpath). It is however identified that, as identified in ES Chapter 17, opportunities for mitigating visual effects are limited by the large scale and massing of the required buildings and structures and therefore no mitigation is proposed. This outcome is anticipated within NPS EN-1 which states in paragraph 5.9.18 that *“All proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites.”*
- 9.12.6 There were no significant combined effects identified that required assessment where the combination of different effects from the Proposed Development would result in a different rating of effect to that already predicted in the individual technical assessments.
- 9.12.7 As the shortlist of other developments that are considered to be relevant to the cumulative effects assessment had been updated since the EIA for the Consented Development was completed, the cumulative effects assessment presented in the Consented Development ES is not directly comparable. Despite this, ES Volume 1, Chapter 17 (Document Ref 6.2.17) identifies that cumulative effects would be the same as the cumulative effects of the Consented Development with the current shortlist of other developments – i.e.

the Proposed Development would have no additional cumulative effects compared to the Consented Development.

- 9.12.8 It is agreed that for the cumulative visual effects no specific mitigation measures are required since it is difficult to avoid or mitigate this effect due to the size of the buildings and structures required.
- 9.12.9 It is agreed that the effects identified are acceptable and the proposal accords with Policies 5 'Development boundaries', 22 'Good design in new developments', and 42 'Landscape' of the NELLP.

### **9.13 Chapter 18 – Human Health**

- 9.13.1 The assessment of the human health effects of the Proposed Development is set out in ES Volume I, Chapter 18 'Human Health' (Document Ref. 6.2.18). With the exception of the consideration of potential electromagnetic field (EMF) health effects, all other health effects (air quality, noise and vibration, traffic and transport, land quality/ contamination, emissions to water, and socio-economics) are assessed in the relevant technical chapters of the ES described in Sections 9.2 – 9.4, 9.7, and 9.9 – 9.10 above.
- 9.13.2 The embedded mitigation measures described above in Sections 9.2 – 9.4, 9.7 and 9.9 – 9.10 to avoid impacts on human health (e.g. stack height, adoption of a designated HGV route avoiding residential areas, and pollution prevention) and implementation of standard measures to protect workers from potential EMF effects in accordance with the Control of Electromagnetic Fields at Work Regulations 2016 will ensure that there are no significant adverse effects on the health and well-being of the local population, construction workers and operational staff.
- 9.13.3 Requirements set out in Schedule 2 of the draft DCO (Document Ref 2.1) to protect human health include Requirement 3 'Approved details and amendments to them' (secures the stack height), Requirement 15 'Construction environmental management plan', Requirement 18 'Temporary halting of development on finding unexpected contamination', Requirement 19 'Investigation and remediation of contamination', Requirement 20 'Implementation of remediation scheme' and Requirement 21 'Procedure in cases of unexpected contamination'.
- 9.13.4 No significant adverse human health effects relating to air quality, noise and vibration, traffic and transport, geology, hydrogeology and land contamination, water resources, flood risk and drainage, or socio-economics have been identified. There is also no potential for significant EMF effects for the general public, and the only potential exposure to EMF arises for construction workers and operational staff who, with the appropriate precautions in place, would experience no significant EMF related health effects.
- 9.13.5 The ES confirms that effects of the Proposed Development are assessed to be the same as the effects of the Consented Development.
- 9.13.6 It is agreed that, subject to appropriate mitigation through Requirements 3, 15, 18, 19, 20 and 21 and the requirements of the Environmental Permit, there would be no unacceptable impacts upon human health as a result of the

Proposed Development. Therefore, the Proposed Development is in accordance with Policy 5 'Development boundaries' of the NELLP.

#### **9.14 Chapter 19 – Sustainability and Climate Change**

9.14.1 The assessment of the sustainability and climate change effects of the Proposed Development is set out in ES Volume I, Chapter 19 'Sustainability and Climate Change' (Document Ref. 6.2.19).

9.14.2 The assessment identifies a number of potential sustainability and climate change impacts of the Proposed Development – traffic generation, loss of biodiversity, increased flood risk, employment generation, potential for CHP, waste generation, greenhouse gas emissions from construction, operation and decommissioning and impacts of climate change on the Proposed Development. However, no significant adverse effects are predicted to occur as a result of the Proposed Development. This is on the basis that the Proposed Development has several characteristics incorporated into its design, construction and management which meet the key sustainability requirements as set out in national and local policy. These include but are not limited to the following:

- management plans to reduce traffic impacts;
- the creation and enhancement of habitats within the Site and a financial contribution to NELC for strategic mitigation habitat creation off Site;
- design of the Proposed Development to be CHP ready;
- measures to reduce and manage waste in accordance with the waste hierarchy;
- design of the Proposed Development to minimise the scale of buildings without affecting safety or functionality to reduce greenhouse gas emissions;
- designed to be resistant and resilient to flood risk at the Site, with consideration of increased risks due to climate change;
- incorporation of a surface water drainage system with a capacity allowance for climate change, discharging off Site at the greenfield runoff rate; and
- generation of employment, and measures to promote employment opportunities to local residents and businesses (including a careers fair to promote employment opportunities and a "meet the buyer" event to promote supply chain opportunities for local businesses).

9.14.3 The effects of the Proposed Development would be the same as the effects of the Consented Development. However, in terms of greenhouse gases, because the Proposed Development will be capable of generating more electricity than the Consented Development, the carbon intensity of the Proposed Development will be lower.

9.14.4 It is agreed that the assessment carried out is in accordance with the principles set out in Strategic Objective 2 'Climate change' of NELLP.

**10.0 CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

- 10.1.1 An Outline CEMP has been submitted as part of the Application (Document Ref. 6.4.4) and Requirement 15 'Construction environmental management plan' within Schedule 2 of the draft DCO (Document Ref. 2.1) secures the submission, approval (prior to construction) and then implementation of a final CEMP.
- 10.1.2 It is agreed that a CEMP for the Consented Development relating only to an initial phase of development has been submitted to and approved by NELC pursuant to conditions on the Planning Permission under application DM/0713/19/CND.
- 10.1.3 It is agreed that the approval of a further CEMP is required in order to secure environmental mitigation for the future phases of work associated with the Proposed Development and ensure any impacts will not be significant. This is secured by conditions on the Planning Permission and Requirement 15 as noted above.

## **11.0 TRANSPORT MANAGEMENT PLANS**

### **11.1 Construction**

- 11.1.1 Within the submitted Transport Assessment (Document Ref. 6.4.12) a Framework Construction Traffic Management Plan ('CTMP') is provided within Annex 28. This document's purpose is to manage HGV traffic during the construction phase of the Proposed Development.
- 11.1.2 Requirement 16 'Construction traffic management and travel planning' within Schedule 2 of the draft DCO (Document Ref. 2.1) secures the submission of a final CTMP in accordance with the submitted Framework CTMP (Annex 28, Document Ref. 6.4.12).
- 11.1.3 Within the submitted Transport Assessment (Document Ref. 6.4.12) a Framework Construction Worker Travel Plan ('CWTP') is provided at Annex 27. This document will promote and encourage the use of sustainable transport modes and reduce reliance on the private car during the construction phase of the development.
- 11.1.4 Requirement 16 'Construction traffic management and travel planning' within Schedule 2 of the draft DCO (Document Ref. 2.1) secures the submission of a final CWTP which must be in accordance with the submitted Framework CWTP (Annex 27, Document Ref. 6.4.12).

### **11.2 Operation**

- 11.2.1 Within the submitted Transport Assessment (Document Ref. 6.4.12) a Delivery and Servicing Plan ('DSP') is provided within Annex 26. This document demonstrates how deliveries to the Proposed Development during operation will be managed.
- 11.2.2 Requirement 24 'Delivery and servicing plan' within Schedule 2 of the Draft DCO (Document Ref. 2.1) secures the submission of a final DSP for all operational HGVs entering and leaving the Site. The final DSP must be in accordance with the submitted DSP (Annex 26, Document Ref. 6.4.12).
- 11.2.3 It is agreed that the DSP approved pursuant to Condition 18 for the Consented Development (Ref. DM/1117/19/CND) is acceptable for the Proposed Development.
- 11.2.4 Within the submitted Transport Assessment (Document Ref. 6.4.12) a Framework Operational Travel Plan ('OTP') is provided within Annex 7. This document demonstrates how the use of sustainable transport modes will be promoted and encouraged in order to reduce reliance on the private car once the Proposed Development is operational.
- 11.2.5 Requirement 25 'Operational travel plan' within Schedule 2 of the Draft DCO (Document Ref. 2.1) secures the submission of a final OTP. The final OTP must be in accordance with the submitted Framework OTP (Annex 27, Document Ref. 6.4.12).
- 11.2.6 It is agreed that the mitigation measures secured through Requirements 16, 24 and 25 are appropriate to control the traffic impacts of the Proposed Development at construction and operational stages.

## 12.0 LOCAL IMPACTS

12.1.1 The likely significant adverse effects of the Proposed Development, as identified in the ES, after taking account of mitigation secured within the requirements within Schedule 2 of the draft DCO (Document Ref 2.1), are limited to visual impacts as follows:

- one visual amenity receptor (Viewpoint 9 – footpath users of the Public Right of Way (PRoW) along Middle Drain to the north-west of the Site) is predicted to experience significant adverse effects at construction, operation, and decommissioning, as a result of the close distance and height of the proposed structures; and
- significant cumulative effects on views from Viewpoint 5 (Beechwood Farm Carvery) and Viewpoint 9 (Middle Drain footpath) are predicted during construction and operation of the Proposed Development together with the construction and operation of other developments proposed in the vicinity of the Site.

12.1.2 It is agreed that for the above visual effects no specific mitigation measures are required since it is difficult to avoid or mitigate this effect due to the size of the buildings and structures required.

12.1.3 Some potentially significant adverse effects identified in the ES were assessed as minor (not significant) following implementation of appropriate mitigation. These are:

- disturbance of waterbirds using the field to the south of Site due to noise/vibration from drop-hammer piling during winter months;
- the loss of 6.7 ha of semi-improved grassland of District nature conservation value; and
- the change to the impermeable area within the Site, and associated changes to surface water flows resulting in adverse effects on flood risk and drainage during construction and operation.

12.1.4 It is agreed that the above adverse effects have been minimised through design, impact avoidance, and mitigation.

## 13.0 THE BENEFITS OF THE PROPOSED DEVELOPMENT

13.1.1 It is agreed that the Proposed Development would have a number of benefits at the local level, including the following:

- The Proposed Development would have significant benefits for the local economy, in terms of employment during the construction phase and permanent employment during operation, and is consistent with the industrial character of the area and the aims of the SHIIP and NELC Energy Vision.
- The Proposed Development would make use of vacant land within an existing employment allocation. Therefore the new jobs created would be an additional benefit compared to the SHIIP as the Proposed Development would intensify the existing employment land.
- The Proposed Development's location immediately adjacent to the SHBPS means that the Site already benefits from utilities connections and other infrastructure, such as good highway access, which assists in minimising the impact of the Proposed Development upon the environment.
- The Proposed Development would contribute an appropriate sum to off-site strategic habitat mitigation under Policy 9 of the NELLP, thereby contributing substantially towards the project to develop bird habitat at Cress Marsh.
- The Proposed Development will support NELC Strategic Objective 10 by supporting the waste hierarchy in the management of waste and delivering sustainable facilities to manage waste.
- The Proposed Development will be designed to be CHP-Ready which could help to support other local businesses and increase energy efficiency.

13.1.2 Due to the Site's location adjacent to the SHBPS, and the work undertaken as part of the Consented Development, the Proposed Development could be delivered relatively quickly and therefore bring forward the benefits identified above in a relatively short term.

13.1.3 Based on the assessment of effects of the Proposed Development identified in the ES, and the appropriate mitigation proposals set out, it is agreed that the Proposed Development has clear and substantial benefits that outweigh the limited adverse effects identified.

## 14.0 DCO REQUIREMENTS AND PLANNING OBLIGATIONS

### 14.1 Relationship with Consented Development Planning Conditions and Obligations

14.1.1 It has previously been agreed that in principle the wording of the requirements in Schedule 2 of the draft DCO should in general closely follow the conditions attached to the Planning Permission, because:

- the relevant environmental parameters (the maximum built dimensions and maximum fuel throughput) of the Proposed Development are no greater than the Consented Development;
- the mitigation proposed in the Consented Development ES (and secured through conditions) is appropriate to the findings of the Proposed Development ES (and will be secured through requirements);
- taking the above into account it is also appropriate for reasons of clarity that the controls which apply to the draft DCO are consistent with those in the Planning Permission.

14.1.2 It is agreed that the ground investigation rationale and specification approved pursuant to Condition 13 for the Consented Development (NELC reference DM/0486/19/CND, dated 12 June 2019) is acceptable for the Proposed Development. It is also agreed that the further Ground Investigation Report approved pursuant to Condition 13 (NELC reference DM/0626/20/CND, dated 17 September 2020) is also acceptable for the Proposed Development.

14.1.3 It is agreed that the Delivery and Servicing Plan approved pursuant to Condition 18 for the Consented Development is acceptable for the Proposed Development.

14.1.4 It is agreed that the obligation applicable to the Consented Development in respect of potential impacts on water birds, namely a Section 106 agreement requiring the sum of £105,378.00 to be payable to NELC in return for creating wetland habitat at Cress Marsh on South Marsh Road suitable for birds that use the Humber Estuary SPA and Ramsar site, will carry over to the Proposed Development and will be achieved by entering into a deed of variation. EPWM and NELC have now agreed the draft deed of variation and it is with EPWM's mortgagee for approval. Once the draft is approved by the mortgagee it will be engrossed and circulated for execution and completion and then submitted to the Examination.

### 14.2 The Proposed Requirements in the draft DCO

14.2.1 It is agreed that the requirements in Schedule 2 to the draft DCO (Document Ref. 2.1), Revision 3.0 submitted at Deadline 3, comply with the tests set out paragraph 4.1.7 of NPS EN-1, as they are necessary, relevant to planning, relevant to the Proposed Development, enforceable, precise and reasonable in all other respects.

14.2.2 It is agreed that it is appropriate that the majority of the requirements are based on the conditions attached to the Planning Permission and which relate to the Consented Development given the nature of the Additional Works proposed and their lack of additional impacts.

- 14.2.3 A limited number of new Requirements are added in the draft DCO (Document Ref. 2.1) and these are agreed with, as follows.
- 14.2.4 Requirement 34 'Amendments agreed by the relevant planning authority' clarifies that where the phrase "unless otherwise agreed by the relevant planning authority" appears in requirements, it does not permit changes which would or could take the authorised development outside the scope of the ES. It also makes clear that where the requirement requires the planning authority to consult with another body, then any approval or agreement to any amendments must not be given without the planning authority having first consulted with that body. Such provisions are very commonly included in requirements within DCOs.
- 14.2.5 Requirement 35 'Combined heat and power' has been added to take account of specific policies contained in NPS EN-1 and EN-3. It is agreed that this will be updated to add the words " , and must remain available for connection and use" to the end, to avoid doubt that the CHP pipework must be both maintained and useable.
- 14.2.6 Requirement 36 'Anticipatory steps towards compliance with any requirement' allows steps to be taken prior to any grant of the Order in relation to requirements and for those steps to 'count' as a formal step towards satisfaction of the relevant requirement. This is relevant as EPWM is likely to be progressing construction of the Consented Development pursuant to the Planning Permission prior to the Order being granted, and it may be logical (to avoid delaying delivery) to carry out detailed design and submit details to NELC prior to the Order being granted. Paragraph 36(2) requires that any documents submitted with a view to constituting such 'steps' must state this.
- 14.2.7 It is agreed that the following changes to the submission version Draft DCO Schedule 2 are necessary and appropriate in planning terms:
- Updating the wording in Requirements 5 & 6 to avoid any doubt that Work 1 includes Works 1A and 1B and to stipulate the three storey occupation limit on the administration block in accordance with HSE planning guidance.
  - Updating Requirement 9(2) to add the words "principles in the" before "indicative lighting strategy" in order that compliance with the indicative lighting strategy is not seen to take precedence over the minimisation of artificial light emissions (as stipulated in the rest of the Requirement).
  - Updating Requirement 10(1) to change the trigger to "come into operation", consistent with the Planning Permission. The soft landscaping proposals governed by this Requirement will be limited in scale and provide amenity near to buildings on site (since boundary treatments, biodiversity mitigation and enhancement, and retained trees are controlled by other Requirements) and are unlikely to be known or designed until the construction period is substantially complete.
  - Updating Requirement 11(2) to amend the trigger to require the submission of an interim ecologists' report 18 months from the commencement of the authorised development. This will contain verification of the early biodiversity protection measures and set out implementation proposals for

the remaining biodiversity protection measures. This recognises that a pre construction approval is not necessary since the early biodiversity protection measures are set out in detail in the biodiversity protection plan (a certified document). An interim report half way through construction allows expert verification of the methods employed to date and the effectiveness and feasibility of the remaining measures. Full implementation of the biodiversity protection plan remains secured by Requirement 11(1).

- Updating Requirements 13 & 14 to provide that North East Lincolnshire Council will consult with Anglian Water prior to deciding whether to discharge the requirement.
- Updating Requirements 14, 17, and 19-21 to provide that North East Lincolnshire Council will consult with the Environment Agency prior to deciding whether to discharge the requirement.
- Updating Requirement 15 (Construction Environmental Management Plan) to require tree root protection measures and control the timing of installation of the fencing to the southern and eastern boundaries.
- Updating Requirements 16 and 24 at the request of Network Rail to name Network Rail as a consultee for the Construction Traffic Management Plan and the Delivery and Servicing Plan respectively;
- Updating Requirement 29 to require implementation of the approved scheme.
- Updating Requirement 35 as noted above.
- New Requirement 37 preventing HGV use of South Marsh Road (west of Hobson Way).

14.2.8 All the above updates appear in the revised Draft DCO submitted at Deadline 3 except for Requirement 35 owing to an oversight. This will be corrected at Deadline 4.

14.2.9 It is agreed that Requirements 26 and 27 are suitable provided that the “swept path analysis plan” that is referred to in these numbered requirements is based on the S278 approved drawing. That drawing should be submitted into the examination and defined in Requirement 1 and listed as a certified document in the Draft DCO submitted at that deadline.

14.2.10 Subject to these updates it is agreed that the requirements in Schedule 2 of the Draft DCO (Document Ref. 2.1 / APP-005) are suitable for controlling the impacts of the Proposed Development.

14.2.11 It is agreed that article 28, which provides that the requirements in Schedule 2 of the draft DCO (Document Ref. 2.1) are to be treated as planning conditions under the Town and Country Planning Act 1990 for certain specified purposes, including applications to discharge them and appeals, is appropriate and provides a mechanism for the consideration and approval of details of the Proposed Development which is consistent with that which applies to the Consented Development.

### 14.3 Draft DCO Updates in Advance of Deadline 4

14.3.1 It is agreed that, following the Issue Specific Hearing undertaken on 09 February 2021, a number of changes to the requirements within the Draft DCO submitted at Deadline 4 are required. The relevant changes for NELC are set out below and are mainly consistency and drafting points, but are considered necessary and appropriate in planning terms:

- Updating Requirement 8 to include 8(5) requiring that the details submitted are implemented as approved within a set period unless otherwise agreed by the relevant planning authority and maintained throughout the operation of the authorised development. This provides additional precision and certainty regarding implementation, and will align with the form of wording used in Requirements 10(3), 12(3), 13(3), 14(3), 23(3) and 30(3)-(5). Other requirements containing similar clauses will also be updated with this more precise form of wording, these being Requirements numbered 9, 16, 22, 26, 27, and 28.
- Updating Requirement 12(1) to confirm the plan submitted will require approval from NELC, again for precision/certainty.
- Further updating Requirements 13(2) & 14(2) to provide more clarity on “the relevant part” being referred to by referencing the relevant section(s) in the specified document.
- Updating Requirement 21(3) to include a tailpiece stating “, unless otherwise agreed by the relevant planning authority.” in common with related requirements governing contaminated land matters.
- Updating Requirement 33(1) with the term “a timetable for implementation and” after “including” to provide more precision and certainty regarding implementation.
- Further updating Requirement 35 to create two sections. 35(1) to provide for approval of the specification of the CHP facility inside the main building, and 35(2) to provide for express approval of details of external steam pipe routing and dimensions.

14.3.2 Following comments at the Issue Specific Hearing, it is agreed that NELC is content with Requirement 11(2)’s trigger being 18 months.

14.3.3 Following comments at the Issue Specific Hearing, it is agreed that Requirement 37 is considered necessary and appropriate to govern the various HGV related traffic management plans required throughout the lifetime of the development.

14.3.4 It is understood that the above changes will be included in a revised draft DCO at Deadline 4.

## 15.0 DCO ARTICLES

### 15.1 Article 5

- 15.1.1 Article 5 (Effect of the Order on the SHBEC planning permission), within the Draft DCO (Document Ref. 2.1), sets out the way in which the draft DCO will interact with the Planning Permission. It provides that EPWM cannot implement the DCO until it has served notice on the relevant planning authority.
- 15.1.2 The Article 5 notice provides the mechanism to switch between the Planning Permission and the DCO, and ensures that NELC (who has responsibility for enforcement of both the Planning Permission and the DCO) and any other people who may be interested have clarity as to the point at which there is a switch between the consents, and also therefore between the conditions and the requirements.
- 15.1.3 It is agreed that the mechanism which 'pulls across' approvals pursuant to a condition as deemed approvals pursuant to the corresponding requirement (Article 5(5) and Schedule 3) is necessary and appropriate, and that it does not remove the need for approvals relating to the Additional Works pursuant to requirements.
- 15.1.4 It is agreed the Applicant has discussed the terms of Article 5 with NELC who has confirmed that it is content with the principles of the approach, and who provided various comments on the drafting, all of which have been taken into account and dealt with. NELC has no further comments on Article 5.

### 15.2 Articles 10-14

- 15.2.1 Articles 10-14 are set out as follows:
- 10. Street works
  - 11. Power to alter layout, etc., of streets
  - 12. Construction and maintenance of new or altered means of access
  - 13. Temporary stopping up of streets and public rights of way
  - 14. Agreements with street authorities
- 15.2.2 Articles 10 (Street works) and 11 (Power to alter layout, etc., of streets) allow the undertaker to alter the layout of a street in order to construct the new accesses authorised under article 12 or to carry out street works in accordance with the statutory rights under the New Roads and Street Works Act 1991. Schedule 4 sets out the streets that are subject to street works, and the nature of those works. Schedule 5 sets out the alterations to streets to allow for the creation of new accesses (either temporary or permanent). Article 11 is a model provision intended to permit the carrying out of street works for the purposes of the authorised development.
- 15.2.3 Article 12 (Construction and maintenance of new or altered means of access) provides that new or altered means of access are to be constructed to a particular standard and maintained at the expense of the undertaker for a year. Any part of the new or altered means of access which are proposed to be

public highway (as set out on the Access and Rights of Way Plan (Application Document Ref. 4.4) and described in Part 1 of Schedule 6) will then be maintained by the highway authority. Those parts of the new or altered means of access which are not intended to be public highway (such as private roads or accesses which the undertaker is altering or creating and as also set out in the ARoW Plan(s) and Part 2 of Schedule 6) will then be maintained by the street authority. Paragraphs (3) and (4) mirror the defence in section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic.

- 15.2.4 Article 13 (Temporary stopping up of streets and public rights of way) provides for the temporary stopping up of streets and public rights of way for the purposes of carrying out the authorised development.
- 15.2.5 Article 14 (Agreements with street authorities) is a model provision which authorises street authorities and the undertaker to enter into agreements relating to the construction of a street or the carrying out of works in the street, and the alteration and diversion of the street. In addition to the model provisions, it provides for such agreements to deal with the strengthening, improvement or repair of any streets.
- 15.2.6 It is agreed that NELC, as the highway authority for the area in which the Site is located, considers that these Articles are appropriate.

### **15.3 Draft DCO Updates in Advance of Deadline 4**

- 15.3.1 Following comments at the Issue Specific Hearing, it is agreed that the Applicant will enter into a Planning Performance Agreement ('PPA') to ensure consultees referenced within the Requirements are also consulted on each of the equivalent Consented Development planning conditions. While consultation with these statutory bodies is standard practice by NELC, the PPA will document this, and ensure any consultation done before the proposed switch over under Article 5 matches that contained in the wording of the relevant Requirement.
- 15.3.2 It is agreed that the removal of Requirements 12 and 22 from Schedule 3 is appropriate so that the deemed discharge process under Article 5 does not apply to these, due to these two Requirements securing a slightly higher level of mitigation compared to the equivalent condition under the Planning Permission.

## **16.0 MATTERS NOT YET AGREED**

16.1.1 Due to the impacts of the Proposed Development being similar to those already found to be acceptable as part of the Consented Development, and being suitably controlled via the requirements in Schedule 2 of the draft DCO (Document Ref. 2.1) to be submitted at Deadline 4 in accordance with the updates set out in Section 14 of this document, and the Section 106 Deed of Variation referred to in Section 14, there are no relevant matters not agreed.

Signed:  Mark Nearney, Assistant Director of Housing, Highways and Planning

**On behalf of North East Lincolnshire Council:**

Date: 18<sup>th</sup> February 2021

Signed: 

**On behalf of EP Waste Management**

**Ltd:** Date: 18.2.21