

keadby3@planninginspectorate.gov.uk

Your Ref EN010114

Our Ref IPP-117

Monday 28 February 2022

Dear Mr Christopher Butler

Proposal: Application by Keadby Generation Limited for an Order Granting Development Consent for the Keadby 3 Low Carbon Gas Power Station Project.

Deadline 4:

Canal & River Trust Response Comments on Representations Made for Deadline Three (Unique Reference : KDB3-SP090)

This document sets out the Applicant's comments on Responses by the Applicant (Keadby Generation Limited) to the Trust's Written Representation (submitted at Deadline 2) received by the Examining Authority at Deadline 3.

Please note that we have only included Comments on areas where the Applicant has provided a response, so as to avoid repeating past information.

Table 1: Canal & River Trust's Comments on the Applicant's Comments to our Written Representation

Summary of Written Representation	Applicant's Response	Comments by the Trust
<p>The representations address the Trust's main outstanding issues:</p> <ol style="list-style-type: none"> 1. The proposed compulsory acquisition of rights over land owned by the Trust 2. The inadequacy of the protective provisions contained within Schedule 10, Part 2 of the draft DCO 3. The impact that the Project could have on the operation of Keadby Lock 	<p>The Applicant and the Trust continue to discuss acquisition of rights with the intention to reach commercial agreement and avoid the need for the exercise of compulsory acquisition powers.</p> <p>The protective provisions in favour of the Trust were updated in the draft DCO [REP2-003] submitted at Deadline 2 to respond to comments raised by the Trust in their relevant representations. The Applicant will continue to liaise with the Trust to resolve any further concerns as to the adequacy of the protective provisions.</p> <p>Regarding the potential effect on the operation of Keadby Lock through</p>	<p>The Trust confirm that we are still in the process of discussing the acquisition of rights with the intention to reach commercial agreement.</p>

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	<p>the delivery of Abnormal Invisible Loads to the wharf, the Applicant and the Trust have engaged in further discussions on the proposed approach, and it has been agreed in the Statement of Common Ground between the Parties that a Wharf Management Plan will be developed by the Applicant to agree the approach to notification and management of abnormal load deliveries and to include regular liaison meetings between the Applicant and the Trust during the construction of the Proposed Development.</p>	
<p><i>Draft Protective Provisions</i></p> <p>The Trust consider that the protective provisions contained in Schedule 10, Part 2 of the DCO are inadequate. The Trust considers that the imposition of a cap on liability within the protective provisions is unjustified. The Trust considers that this goes against established practice in other applications and imposes unacceptable risk onto the Trust. Furthermore, the Trust considers that the provisions should require compliance with its Code of Practice for Works affecting the Canal & River Trust. The Trust also considers that the protective provisions should be extended to cover Work Areas 9A, 9B and 11A, which are also in very close proximity to the canal.</p>	<p>The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach agreement. It has been agreed between the Parties in meetings – and through the Statement of Common Ground – that a cap on liability can be agreed within the protective provisions, with that cap commensurate with the level of potential risk to the Trust’s assets and liabilities.</p> <p>It has been agreed between the Parties that works associated with the Proposed Development that take place within the canal will be undertaken in accordance with the Trust’s Code of Practice for Works affecting the Canal & River Trust. The protective provisions have been updated to reference this also. The Applicant and the Trust continue to discuss protective provisions to reach an agreed form. The extent of the works covered by the protective provisions will be reviewed with the Trust to ensure all works likely to impact on the Trust's assets are included where appropriate.</p>	<p>The Trust are presently in negotiation over the capped amount, commensurate with the level of potential risk to the Trust’s assets and liabilities.</p> <p>The updated draft DCO has retained a cap of £2m, which the Trust does not consider to be sufficient to cover the level of risk, for reasons referred to in our Written Representation. We understand that, following discussions with the applicant, an updated figure may be provided within the next revision to the DCO, which the Trust will consider.</p> <p>The updated draft DCO has not been updated to incorporate Work Areas 9A, 9B and 11A within the Protective Provisions for the Trust (“Specified work” only currently relates to Work Nos 4A, 8A and 10B), which are also in very close proximity to the canal. The Trust’s concerns remain that the protective provisions relating to the Trust should be extended to include these areas.</p> <p>We note that additional text has been included within paragraph 22 of the protective provisions relating to the Trust (at Part 2, Sch. 10) requiring the Applicant to have “regard to the CRT Code of Practice” when making those plans relating to “specified works” or “temporary works”. Additional text has also been incorporated in para 5(4)(a) and 5(4)(d) with regards to consultations with the Trust.</p> <p>Although revisions have been made, the revised wording of the protective provisions do not require compliance with parts of the Code that go</p>

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		<p>beyond the approval of plans and timings. These include the need to manage stoppages, towpath closures, structural stability, environmental surveys, pollution prevention, nuisance, and contamination risks. The Trust's position remains that the measures set out within the Code are integral to the carrying out of safe works at the Canal, having been developed over time based on the Trust's extensive experience.</p> <p>The Trust suggests that its concern could be addressed through an amendment to the DCO requiring the Applicant to comply with the Code of Practice where appropriate and consistent with the exercise by the statutory powers conferred by the DCO, and the timely, safe, economic and efficient delivery of the Authorised Works. The Trust consider that a provision could be included to the effect that, where the Applicant considers that there are elements of the Code of Practice that it will be unable to comply with in delivering the works authorised by the DCO, it will identify and agree with the Trust the areas of the Code of Practice that will not apply.</p>
<p>While the Trust does not object to the principle of the Project, it remains concerned that the DCO, if made, would interfere with the Trust's ability to carry out its obligations as statutory undertaker for the waterways within the Order limits and as a navigation authority. Although the Trust has been in discussions with the Applicant about the effect of the proposals on its undertaking, the protections provided in the Order as applied for do not adequately address the Trusts concerns. The Trust therefore objects to the DCO on the grounds set out in this letter. The Trust believes it should be possible to resolve its concerns with the Applicant by negotiation, but reserves the right to appear at Hearing(s) and/or the Compulsory Acquisition Meeting if they are not resolved satisfactorily by that stage.</p>	<p>Noted. It is considered that the concerns raised by the Trust have now been addressed through further discussions between the Parties as set out in the Statement of Common Ground submitted at Deadline 3.</p>	<p>Although the Trust has had further discussions with the Applicant, we do not believe that all our concerns raised about the DCO have been addressed.</p> <p>It is not agreed that the Trust's concerns have been addressed by the Statement of Common Ground submitted at Deadline 3.</p>
<p>1. Proposed Compulsory Purchase/Acquisition of Trust land</p>	<p>Plots 27, 37, 38 and 39 refer to the existing Pilfrey Bridge which was constructed and is now owned and occupied by SSE pursuant to a lease</p>	<p>With regards to plots 27, 37, 38 and 39, the Book of Reference does not fully confirm what rights are being sought. As landowner of the</p>

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<p>We refer to the Promoter's Book of Reference and note that the Trust is listed as either owner or as having an interest in 8 individual plots of land the Applicant seeks to acquire rights over compulsorily. These comprise of Plots 27; 37; 38; 39; 75; 80; 80a; and 81 as identified within the submitted Book of Reference (Revision VP1.0) and associated Land Plans.</p>	<p>dated 13 February 2012 between British Waterways Board and SSE Renewable Developments (UK) Limited. The use of this bridge for the proposed development will be similar to its previous use in connection with Keadby 2. The Applicant wishes to vary the lease so that the demise accords with the bridge as constructed and to remove any uncertainty in this regard.</p> <p>Plot 80a comprises the proposed acquisition of the freehold interest in land next to the canal for the purpose of constructing a pumping station. Plots 80 and 81 are required to facilitate the installation and maintenance of a below ground water pipe from the pumping station to the main development.</p>	<p>Stainforth & Keadby Canal, the Trust do have ownership rights with regards to the airspace above.</p> <p>Further discussions with the applicant indicate that the rights being sought may seek to clarify existing rights. We are awaiting full information upon the rights sought, and whether there are any implications with regards to changes sought, including whether any rights to make alterations to the bridge (including any new pipe crossings) are sought.</p> <p>We note the applicant has now provided more clarity on the purposes of plots 80, 80a and 81.</p>
<p>The Trust hereby formally objects to the compulsory acquisition of rights over land owned by Trust. The Trust considers that:</p> <ul style="list-style-type: none"> a) The Applicant has failed to demonstrate that there is a compelling case in the public interest for the land/rights to be acquired by (as required by s122(3) of the 2008 Act); and b) The Applicant has failed to comply with guidance issued by the Department for Communities and Local Government, "Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land" (September 2013) (the "Guidance") in seeking to use powers of compulsory acquisition. 	<p>The Applicant and the Trust continue to discuss acquisition of rights and agreement of protective provisions with the intention to reach commercial agreement and avoid the need for the exercise of compulsory acquisition powers</p>	<p>The discussions referred to by the Applicant are ongoing.</p>
<ul style="list-style-type: none"> a) The Applicant has failed to demonstrate that there is a compelling case in the public interest for the land/rights to be acquired <p>S122 of the 2008 Act states inter alia that an order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.</p>	<p>The Applicant and the Trust continue to discuss acquisition of rights and agreement of protective provisions with the intention to reach commercial agreement and avoid the need for the exercise of compulsory acquisition powers. The Applicant already benefits from rights over Palfrey Bridge and the compulsory purchase powers are sought to regularize the current position and ensure that access to the proposed Development is available thereby removing a potential impediment. The easement and freehold acquisition is required to provide water abstraction from the canal for</p>	<p>Noted</p>

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	the operation of the proposed Development.	
If the canal is adversely impacted by any works related to the proposed development, then this could result in the Trust being required to undertake remedial works to ensure that they are not placed in breach of their statutory obligations, or their obligations under the Trust Agreement. The Trust considers that, through the DCO application, the Applicant should provide sufficient detail that sets out how that risk will be mitigated. The protective provisions contained within the DCO (Part 2, Schedule 10) should provide sufficient comfort that the Trust will not be adversely affected by the works and/or will not be put at risk of breaching its statutory obligations. As currently drafted, they do not do so.	The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach commercial agreement.	Noted
<p>b) The Applicant has failed to comply with the Guidance</p> <p>Paragraph 8 of the Guidance states:</p> <p>“The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.”</p> <p>Paragraph 25 of the Guidance states inter alia: “Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.”</p>	<p>The Applicant has had extensive and detailed discussions with C&RT initially directly but more latterly via Gerald Eve as their appointed agent. C&RT has been directed to all documents supporting this application which have been accessible through the Planning Inspectorate Portal together with additional “overlay” plans as and when requested. The Applicant understands that all available documents have been provided/made accessible to C&RT and explanations have been provided as to the need for the requested interests.</p> <p>Broad terms have been proposed to C&RT and the Applicant awaits their response thereto. The Applicant is not aware of any disagreement as to the approach being taken which is in accordance with the Compensation Code. Compulsory purchase powers would only be exercised as a matter of last resort to remove a potential impediment.</p>	Discussions with the applicant are continuing.
The Trust considers that the Applicant has failed to comply with the above paragraphs of the Guidance. The Trust has made it clear to the Applicant from the outset of the pre-submission consultation that it would be open to the possibility of entering into a voluntary agreement to transfer rights and/or land for both temporary and permanent works. The Trust was	<p>Please see previous response.</p> <p>It is the Applicant’s stated preference to enter into a voluntary agreement.</p> <p>Pilfrey Bridge is not occupied or used by the Trust such that there would be no impact on its occupation thereof.</p> <p>The land required in connection with the installation of the underground water abstraction pipe and pumping</p>	North Pilfrey Bridge occupies airspace above the Stainforth & Keadby Canal. The Book of Reference and discussions with the Trust have yet to fully confirm the nature of the rights sought and how they fit with the existing rights for the bridge. Certain works to the bridge, such as the installation of new pipework for example, have the potential to impact the canal below

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<p>clear that such an agreement would need to ensure that any requirements that the Trust has as a statutory undertaker are suitably addressed. Those requirements are more difficult to address where rights/land are acquired compulsorily through a DCO. The Trust made it clear that use of compulsory acquisition powers would not be acceptable to the Trust. As a statutory undertaker, the Trust has no option but to resist the use of compulsory purchase powers that it considers may negatively affect its land or undertakings, and ability to comply with its statutory duties and obligations.</p>	<p>station comprises a track, which will be reinstated, and a vacant plot of land next to an existing pumping station.</p>	<p>(for example, changes to headroom for vessels below).</p> <p>We note the comments with regards to the abstraction pipe and pumping station.</p>
<p>One of the key concerns of the Trust is that the Applicant agree to abide by the “Code of Practice for Works affecting the Canal & River Trust” (the Code of Practice). If the Trust was entering into an agreement to grant rights voluntarily over land that it owns, then its standard practice is that the party carrying out the rights must abide by the Code of Practice. This ensures that the Trust is able to verify that any works will not negatively affect the continued safety of navigational users of waterways under its control during and after the works. The use of the compulsory acquisition powers bypasses any requirement to agree to the Code of Practice, which would usually be agreed through a voluntary negotiation.</p>	<p>It has been agreed between the Parties that works associated with the Proposed Development that take place within the canal will be undertaken in accordance with the Trust’s Code of Practice.</p>	<p>We refer to our comments above in relation to the incorporation of the Code of Practice into the DCO.</p>
<p>Initial approaches were made by the Applicant to the Trust’s estates division on the acquisition of rights and ownership from 10th September 2021. The Trust requested additional information, including the provision of a key plan for the plots of land involved (requested on 13th September; 26th October; 18th November; and 20th December 2021) in order to advance these discussions. This information has been received piecemeal, and the key plan was not received until 17th January 2022.</p>	<p>The Applicant first contacted the Trust on 10 June 2021.</p> <p>DWD has assisted in providing copies of information already in the public domain and available on the Planning Inspectorate Website in response to various requests together with additional information including an overlay of the land and interests understood by the Applicant to be held by the Trust in comparison to the dDCO plan.</p> <p>The key plan referred to was emailed on the 18 January 2022 and set out the total area of land owned by SSE and associated companies. This was derived from plans already in the public domain on the Planning Infrastructure website.</p>	<p>Initial contact from May/June 2021 was made to the Trust. The extent of this was limited to the Applicant providing a higher level overview of the scheme and requesting ownership details of specific plots. It did not include negotiation on the acquisition of rights, which discussion commenced on 10th September 2021.</p> <p>The Key Plan document and documents submitted as part of the DCO, work plans and Book of Reference do not provide clarity over the exact rights and powers being sought by the applicant. The Trust is awaiting full information upon existing and proposed rights so as to understand the implications of the voluntary agreement sought.</p>

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	The Applicant will continue to respond to further queries of the Trust and their agent.	
The Trust welcome the receipt of this information. However, the delay has meant that the Trust has been prevented from fully reviewing the matter with our professional advisors until this point. The Trust considers that the applicant has failed to take practicable measures to reach a voluntary agreement with the Trust. The Trust considers that the DCO, as drafted, fails to strike an appropriate balance between the scheme and the Trust's interests as landowner and statutory undertaker.	<p>The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach commercial agreement.</p> <p>The Applicant was contacted by the Trust's agent (Gerald Eve) on 21 January 2022 following which a meeting was held whereby DWD set out the scheme and answered questions. Proposals have also been made by the Applicant to which a response is awaited.</p>	<p>The Applicant and the Trust are in the process of discussing the protective provisions.</p> <p>Following the meeting held on 26th January between the applicant and the Trust's agent (Gerald Eve), the applicant has agreed to provide more information to the Trust, which is awaited. This includes clarity on the existing legal rights for the bridge, which would inform the documentation required for any voluntary agreement.</p> <p>The Trust is continuing to discuss matters with the Applicant with a view to reaching agreement.</p>
The Applicant's proposals indicate that a section of Trust land is sought for the installation of abstraction equipment, alongside a section of the waterway itself. It is noted that no formal agreement has been reached thus far regarding the abstraction of water from the Trust's waterway. We welcome further information from the Applicant regarding their proposals.	The Applicant intends to continue engaging with the Trust in this regard.	Noted.
The Trust have yet to receive full detailed information from the Applicant as to how the Trust's land would be used, and for what duration, to support the delivery of the scheme. In addition, the details provided to date do not give a clear explanation of the practical implications that the use of CPO powers would have for the Trusts access rights, fishing rights, management of the waterway etc. We observe that plots 75, 80 and 81 appear widely drawn, and query whether this area is in excess of what would be required to deliver the scheme. The Trust remains open to discussing acquisition of rights voluntarily with the Applicant.	The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach commercial agreement. In addition, the Applicant is continuing discussions with the Trust's agent	Noted. We refer to our comments above.
<p>2. Draft Protective Provisions</p> <p>The Trust is engaging with the applicant upon the wording of parts of the DCO, including the protective provisions contained in Schedule 10, Part 2. Whilst the Trust is encouraged by the proposed inclusion of protective provisions, the Applicant is seeking to include certain exclusions from, and</p>	The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach agreement. It has been agreed between the Parties in meetings – and through the Statement of Common Ground – that a cap on liability can be agreed within the protective provisions, with that cap commensurate with the level of	<p>The Trust and applicant are presently in discussion with regards to an appropriate cap that is commensurate with the level of potential risk to the Trust's assets and liabilities.</p> <p>For reasons discussed in our written representation, the existing proposed cap of £2m is not considered sufficient to cover potential risk.</p>

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<p>limitations to, its liability, which are unacceptable to the Trust. Until those matters are suitably addressed, the Trust's position is that the DCO should not be granted.</p>	<p>potential risk to the Trust's assets and liabilities.</p>	
<p>2.1 Applicant's proposal to cap its liability</p> <p>Under Paragraph 32(6) of Schedule 10 of the DCO, the Applicant seeks to impose a cap on their liability for consequential losses to the Trust. This paragraph states: “(6) The aggregate cap of the undertaker's gross liability for consequential losses shall be limited to £2,000,000 (two million pounds) for any one occurrence or all occurrences of a series arising out of the one original cause.”</p> <p>The implication of this paragraph is that any expenditure beyond the cap on liability would be borne by the Trust.</p> <p>The protective provisions are included within the DCO because it is foreseeable that the works to be undertaken as part of the Project could cause detriment to the Trust. It is foreseeable that works associated with the Project could result in losses to the Trust in excess of the proposed cap, for example, damage caused by the collapse of the canal wash wall or collisions between boats on the River Trent colliding with Keadby Lock.</p>	<p>It has been agreed between the Parties in meetings – and through the Statement of Common Ground – that a cap on liability can be agreed within the protective provisions, with that cap commensurate with the level of potential risk to the Trust's assets and liabilities.</p> <p>The Applicant and the Trust continue to discuss agreement of protective provisions with the intention to reach commercial agreement. It has been agreed between the Parties in meetings – and through the Statement of Common Ground – that a cap on liability can be agreed within the protective provisions, with that cap commensurate with the level of potential risk to the Trust's assets and liabilities. Although, as noted by the Trust, the cap is a limit on consequential losses. Where any detriment is caused to the Trust during construction or through a failure of the specified works or protective works carried out by the undertaker, then it is responsible for making good such detriment and meeting the reasonable costs together with any compensation for loss sustained by the Trust (paragraph 32 of Part 2 of Schedule 10.).</p>	<p>We refer to our comments above.</p>
<p>The Trust considers that the imposition of the proposed capped amount on liability is unjustified. There are a number of other Nationally Significant Infrastructure Projects for which development consent was granted that included protective provisions relating to assets owned by the Trust (see for example Part 3, Schedule 9 of the Keuper Underground Gas Storage</p>	<p>It has been agreed between the Parties in meetings – and through the Statement of Common Ground – that a cap on liability can be agreed within the protective provisions, with that cap commensurate with the level of potential risk to the Trust's assets and liabilities.</p>	<p>We refer to our comments above.</p>

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<p>Facility Order 2017; Schedule Part 3, Schedule 12 of the Eggborough CCGT Order 2018). The Development Consent Orders for those projects had no cap on liability.</p>		
<p>2.2 Applicant's proposal to limit the Protective Provisions to Work Areas 4A, 8A and 10B</p> <p>The Trust note that the protective provisions included in schedule 10 that relate to the Trust only apply to Work Areas 4A, 8A and 10B with regards to the 'specified work' being carried out.</p>	<p>The Applicant and the Trust continue to discuss protective provisions to reach an agreed form. The extent of the works covered by the protective provisions will be reviewed with the Trust to ensure all works likely to impact on the Trust's assets are included where appropriate</p>	<p>We refer to our comments above in respect of Work Areas 4A, 8A and 10B.</p>
<p>The Trust note that Work Areas 9A, 9B and 11A are also in very close proximity to the canal. The Trust consider that it cannot be ruled out at this stage that activities associated with the construction layout areas, access arrangements, and landscape works associated with these Works do not have the potential to adversely impact the canal; for example through adverse loading or unexpected vibration close to the canal.</p> <p>The Trust consider that it is necessary for these areas to be included within the protective provisions, so as to ensure that risks to the canal can be adequately managed and that the Trust will not be liable for any damage repairs or losses due to these Works.</p>	<p>Please see previous response</p>	<p>We refer to our comments above.</p>
<p>2.3 Compliance with the Trust's Code of Practice</p> <p>The Code of Practice is designed to safeguard the Trust's assets and to deal with the nuances of developing adjacent to a 200-year-old waterway heritage assets, which are not built to modern engineering standards. These features have an inherent fragility and the extent to which development adjacent to or over them may affect their stability can reach far beyond any narrow waterway corridor. Ensuring that development is appropriately located and controlled on land adjacent to the Trust's waterways network is crucial to limit the potential for failure of its infrastructure and the associated economic, environmental and social consequences of this.</p>	<p>It has been agreed between the Parties that works associated with the Proposed Development that take place within the canal will be undertaken in accordance with the Trust's Code of Practice</p>	<p>We refer to our comments above in respect of compliance with the Code of Practice.</p>

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<p>Therefore, in order to ensure that the construction works will not result in a danger to navigational safety, the Trust requires that any consents given to the works adjacent and over its waterways abide by the Code of Practice.</p>		
<p>The Code of Practice is critical to the Trust, as it specifically deals with waterway structures and the nuances of protecting the rights of our users, boaters, anglers etc. Based on the details provided through the application, there is insufficient clarity on what standard would be applied for the Trust to comment on how that might impact the structural integrity of the canal and impact its users. The Trust would normally deal with these matters via the Code of Practice on a site-by-site basis and would need to ensure that measures are in place to mitigate stability and any chances of landslides.</p>	<p>Please see previous response.</p>	<p>We refer to our comments above.</p>
<p>The wording of Schedule 10, Part 2, includes extracts from the Trust's Code of Practice. However, it has not been adopted in full, which could allow for works to be undertaken outside of the Trust's established process via the Code of Practice.</p>	<p>Please see previous response.</p>	<p>We refer to our comments above.</p>
<p>The Trust understands that the Applicant is willing to amend the wording of the DCO to make it more explicit that the works will accord with the Code of Practice. This is welcomed by the Trust. The Trust request that they have an opportunity to comment on any proposed wording to accommodate this.</p>	<p>Please see previous response.</p>	<p>We refer to our comments above.</p>
<p>3. Impact on the Operation of Keadby Lock</p> <p>3.1 Background</p> <p>The proposed offloading area associated with Work No 10B lies to the immediate north of Keadby Lock, which provides the sole access between the River Trent and the Stainforth & Keadby Canal. As confirmed in table 8 of appendix 12C: Navigation Risk Assessment submitted by the applicant and referenced in the draft Statement of Common Ground between the Trust and the applicant, it is recognised that it may be necessary to close Keadby Lock for short periods during certain larger AIL deliveries.</p>	<p>It is agreed by both Parties that Notices to Mariners (Notices and Stoppages) can be provided through the Trust to provide mariners with forewarning of closures. The Applicant acknowledges and appreciates the issues caused by the unscheduled vessel arrivals during Keadby 2 construction and has engaged with the Trust on a proposed approach to improve the scheduling of deliveries. It has been agreed in the Statement of Common Ground that a Wharf Management Plan will be developed by the Applicant to agree the approach to notification and management of abnormal load deliveries and to include regular liaison meetings between the Applicant and the Trust during the construction of the Proposed Development</p>	<p>To address comments raised in the Trust's original Written Representation, we believe it is necessary for the Wharf Management Plan to specifically address processes that will occur when vessels arrive at the offloading point to the north of Keadby Lock outside of hours where the Trust have been forewarned of closures.</p> <p>We appreciate the proposed addition of a Wharf Management Plan to the latest dDCO under schedule 2 25 (3). However, to ensure it addresses the concern raised by the Trust, we request that the wording of the requirement should include specific reference to processes to avoid unscheduled closures of Keadby Lock. Suggested wording is provided below:</p>

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<p>Due to the nature of the Lock access from the Trent, vessels seeking to utilise the facility need to pre-book slots for assisted passage. It is agreed with the applicant that Notices to Mariners (Notices and Stoppages) through the Trust can be used to provide mariners with forewarning of closures.</p>		<p>“A wharf management plan. The wharf management plans shall include, amongst other things, provision for notification to CRT of abnormal load deliveries, and processes to avoid abnormal load deliveries resulting in obstructions to Keadby Lock outside of times agreed with the Trust”</p> <p>We also advise that, in addition to consultation with the National Highways and the highway authority, requirement 25 should also include consultation with the Trust to ensure that our comments on the impacts of the plan on navigation can be fully taken into account.</p>
<p>3.2 Procedures for Vessels Arriving Outside of Agreed Times</p> <p>During the deliveries for the Keadby 2 Power Station Works, which also utilised the same offloading point for AIL deliveries, it was observed that some vessels arrived at the offloading point outside of times agreed by the Trust, often due to delays occurring at sea. This resulted in unscheduled closures of Keadby Lock, which prevented craft utilising this structure.</p>	<p>Please see previous response.</p>	<p>Please see previous response.</p>
<p>Due to the events of the Covid-19 pandemic, use of the lock was low during the Keadby 2 deliveries. However, it is anticipated that, as vessels arrive at the AIL loading point outside of scheduled times, this could result in canal-bound vessels becoming stranded on either side of Keadby Lock.</p> <p>The Applicant’s submission does not address this specific issue, which the Trust considers needs to be resolved in order to prevent hazards to navigation during the proposed Works for the Project</p>	<p>Please see previous response.</p>	<p>Please see previous response.</p>
<p>To avoid the above occurrence, we respectfully request that the Applicant needs to set out procedures specifying what will occur should vessels arrive at the offloading point outside of scheduled times. Additional processes requiring co-ordination with the Trust prior to the mooring of vessels, including agreement to allow scheduled passage of Keadby Lock to take</p>	<p>Please see previous response.</p>	<p>Please see previous response.</p>

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<p>place, could help to resolve this matter.</p>		
<p>4. Changes to the Draft DCO Agreed in principle with the Applicant</p> <p>Our previous representation from September 2021 highlighted a number of minor alterations to the wording of the requirements within the draft DCO, which are summarised below:</p> <ul style="list-style-type: none"> • Amendments to Requirement 5(4c) to include the wording 'angle of flow' • The amendment of Requirement 5(4c) to secure, in relation to Work 4A, that details are to be submitted to and in consultation with the Canal & River Trust approved by the relevant planning authority • The amendment of Requirement 5(4d) to secure, in relation to the cofferdam installation, that details are to be submitted to and in consultation with the Canal & River Trust approved by the relevant planning authority <p>The Trust note that the Applicant has agreed to make appropriate amendments to these Requirements to address the Trust's concerns, which is welcomed.</p>	<p>The amended dDCO submitted at deadline 2 was amended as follows:</p> <ul style="list-style-type: none"> (a) Requirement 5(4)(c) – now includes reference to "angle of flow" (b) Requirement 5(4)(a) – amended to required the Trust to be consulted in relation to any details submitted for Works No. 4 (c) Requirement 5(4)(d) has been updated to reference consultation with the Trust where any cofferdam installation occurs in the canal. <p>All of these requested amendments have therefore been incorporated</p>	<p>Noted.</p>
<p>5. Comments on Questions Raised by the Examining Authority</p> <p>In addition to the above responses, we note that the Examining Authority have asked a question to the Applicant (Q.1.13.3) in relation to design proposals for the proposed water abstraction from the Stainforth and Keadby Canal (Work No. 4A). Although not directed at the Trust, we believe the information below may be of use.</p> <ul style="list-style-type: none"> • The Applicant has been working with the Trust regarding the abstraction of water from the canal. No commercial agreement has yet been reached which would give rights to the Applicant to abstract water from the canal. However, in anticipation of this 	<p>Regarding the requirement for Scheduled Monument Consent for modifications to the Keadby Lock Scheduled Monument [1005204], formal consent will be sought prior to construction and CRT, as the landowner, will make the application.</p> <p>Pre-application discussions have been entered into with Historic England from 9 December 2021. This focused on the scope and design of the modification and the documents that would be necessary to support a formal application. A draft application package has been submitted by CRT to Historic England for review on 7 February 2022. This comprised the following documents:</p> <ul style="list-style-type: none"> • Heritage Impact Assessment • Flood Risk Technical Note • Scheduled Monument Consent Application Form 	<p>Noted.</p>

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<p>agreement, the Trust (as the relevant Licence Holder for the Stainforth and Keadby Canal) has submitted an application to the Environment Agency for the potential abstraction of the volumes of water proposed by the Applicant. No response has yet been received</p> <ul style="list-style-type: none"> The proposed water abstraction will require additional water efficiency measures to be undertaken, which will necessitate minor physical modifications to Keadby Lock. Such physical modifications will require consent from the Secretary of State for Digital, Culture, Media and Sport, (advised by Historic England) as these works would occur within the curtilage of the Scheduled Monument. The Trust understand that final designs of the abstraction equipment on site have yet to be developed and as such, no further progress has been made on this matter. The Trust therefore consider that a requirement to submit details of Work No 4A (DCO Schedule 2(4)) is appropriate. 	<ul style="list-style-type: none"> Options Appraisal Form Drawing – ‘Site Information and Sections’ and ‘Elevations’ <p>The purpose of the draft application is to assist Historic England (as advisor to Secretary of State for Digital, Culture, Media and Sport) in being comfortable writing a letter of no impediment (or similar) to the determination of the Scheduled Monument Consent. It is hoped that this will provide the Examining Authority with comfort that that are no impediments on the grounds of heritage to including Work 4A – Canal Water Abstraction in any DCO granted.</p> <p>No response from Historic England has yet been received.</p>	
<p>6. Other Matters – Framework Construction Environmental Management Plan (CEMP)</p> <p>The Trust has made comments to the applicant on the Framework CEMP on 25th January 2022, which we believe would make it more effective in implementation and in the development of the final CEMP. These concern:</p> <ul style="list-style-type: none"> Page 19: The inclusion of proposals to cover/seed spoil heaps (see our response to ExA’s question Q1.2.7) Page 48: Ensuring the recommendations concerning fish rescue are consistent with those on page 72 (fish rescue prior to 	<p>The Applicant has amended the wording of the Framework CEMP to address the points raised by the Trust; the revised Framework CEMP is being submitted into the examination at Deadline 3. Confirmation of these changes has been included in the Statement of Common Ground between the Parties submitted at Deadline 3.</p>	<p>Noted.</p>

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