

KEADBY 3 CARBON CAPTURE POWER STATION

A collaboration between **SSE Thermal** and **Equinor**

Document Ref: 9.14

Planning Inspectorate Ref: EN010114

The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order

Land at and in the vicinity of the Keadby Power Station site, Trentside, Keadby, North Lincolnshire

Applicant's Response to Action Points arising from Hearings

The Planning Act 2008

Applicant: Keadby Generation Limited

Date: April 2022

DOCUMENT HISTORY

Document Ref	9.14		
Revision	VP1.0		
Author	DWD/AECOM		
Signed	CT	Date	April 2022
Approved By	CT		
Signed	CT	Date	April 2022
Document Owner	DWD/AECOM		

GLOSSARY

Abbreviation	Description
2008 Act	The Planning Act 2008
AGI	Above ground installation
AIL	Additional Abnormal Indivisible Load
Applicant	Keadby Generation Limited
Application	The application
CAH	Compulsory Acquisition Hearing
CCGT	Combined Cycle Gas Turbine
CCP	Carbon Capture Plant
DCO	Development Consent Order
ES	Environmental Statement
ha	hectares
HLCP	Humber Low Carbon Pipelines
HLCPP	The Humber Low Carbon Pipelines Project
HP	High pressure
HRSG	Heat Recovery Steam Generator
ISH	Issue Specific Hearing
MW	megawatts
NGCL	National Grid Carbon Limited
NGG	National Grid Gas
NGV	National Grid Ventures
NLC	North Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
OPH	Open Floor Hearing

Abbreviation	Description
Order Limits	The Proposed Development Site
Parties	National Grid Ventures
PCC Site	Proposed Power and Carbon Capture Site
PINS	Planning Inspectorate
Proposed Development Site	Keadby Power Station, Trentside, Keadby, Scunthorpe DN17 3EF
SoCG	Statement of Common Ground
SoS	Secretary of State
The Order	The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order
The Proposed Development	Generating Station
WFD	Water Framework Directive
ZCH	Zero Carbon Humber

CONTENTS

1.0	Introduction	6
1.1	Overview	6
1.2	The Proposed Development	6
1.3	The Proposed Development Site	9
1.4	The Development Consent Process	10
1.5	The Purpose and Structure of this Document	11
2.0	Applicant's Response to Action Points arising from ISH1	12
2.2	ISH1-AP1	12
2.3	ISH1-AP2	12
2.4	ISH1-AP3	14
2.5	ISH1-AP4	15
2.6	ISH1-AP5	16
2.7	ISH1-AP6	16
2.8	ISH1-AP7	17
2.9	ISH1-AP8	17
2.10	ISH1-AP9	18
2.11	ISH1-AP10	18
2.12	ISH1-AP11	19
2.13	ISH1-AP12	19
2.14	ISH1-AP13	19
2.15	ISH1-AP14	20
2.16	ISH1-AP15	20
2.17	ISH1-AP16	20
3.0	Applicant's Response to Action Points Arising from CAH	22
3.2	CAH-AP1	22
3.3	CAH-AP2	22
3.4	CAH-AP3	25
3.5	CAH-AP4	26
3.6	CAH-AP5	26
3.7	CAH-AP6	28
4.0	Applicant's Response to Action Points arising from ISH2	29
4.2	ISH2-AP1	29
4.3	ISH2-AP2	29
4.4	ISH2-AP3	29
4.5	ISH2-AP4	30
4.6	ISH2-AP5	30
4.7	ISH2-AP6	30
4.8	ISH2-AP7	31
4.9	ISH2-AP8	31
4.10	ISH2-AP9	32
4.11	ISH2-AP10	32
4.12	ISH2-AP11	32
4.13	ISH2-AP12	32
4.14	ISH2-AP13	32

4.15	ISH2-AP14.....	33
4.16	ISH2-AP15.....	33
4.17	ISH2-AP16.....	33
4.18	ISH2-AP17.....	33
4.19	ISH2-AP18.....	34
4.20	ISH2-AP19.....	34
4.21	ISH2-AP20.....	34
4.22	ISH2-AP21.....	35
4.23	ISH2-AP22.....	35
4.24	ISH2-AP23.....	35
4.25	ISH2-AP24.....	36
4.26	ISH2-AP25.....	37
4.27	ISH2-AP26.....	37
4.28	ISH2-AP27.....	37
4.29	ISH2-AP28.....	38
4.30	ISH2-AP29.....	38
4.31	ISH2-AP30.....	38
4.32	ISH2-AP31.....	39
4.33	ISH2-AP32.....	39
4.34	ISH2-AP33.....	40
4.35	ISH2-AP34.....	41
4.36	ISH2-AP35.....	41

1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This Applicant's Response to Action Points arising from Hearings (Application Document Ref. 9.14) has been prepared on behalf of Keadby Generation Limited ('the Applicant') which is a wholly owned subsidiary of SSE plc following hearings held w/c 14 March 2022. It forms part of 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 (BEIS), under Section 37 of 'The Planning Act 2008' (the '2008 Act').
- 1.1.2 The Applicant is seeking development consent for the construction, operation and maintenance of a new low carbon Combined Cycle Gas Turbine (CCGT) Generating Station ('the Proposed Development') on land at, and in the vicinity of, the existing Keadby Power Station, Trentside, Keadby, Scunthorpe, DN17 3EF (the 'Proposed Development Site').
- 1.1.3 The Proposed Development is a new electricity generating station of up to 910 megawatts (MW) gross electrical output, equipped with carbon capture and compression plant and fuelled by natural gas, on land to the west of Keadby 1 Power Station and the (under commissioning) Keadby 2 Power Station, including connections for cooling water, electrical, gas and utilities, construction laydown areas and other associated development. It is described in Chapter 4: The Proposed Development of the Environmental Statement (ES) (ES Volume I – APP-047).
- 1.1.4 The Proposed Development falls within the definition of a 'Nationally Significant Infrastructure Project' (NSIP) under Section 14(1)(a) and Sections 15(1) and (2) of the 2008 Act, as it is an onshore generating station in England that would have a generating capacity greater than 50MW electrical output (50MWe). As such, a DCO application is required to authorise the Proposed Development in accordance with Section 31 of the 2008 Act.
- 1.1.5 The DCO, if made by the SoS, would be known as 'The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order' ('the Order').

1.2 The Proposed Development

- 1.2.1 The Proposed Development will work by capturing carbon dioxide emissions from the gas-fired power station and connecting into the Humber Low Carbon Pipelines project pipeline network, being promoted by National Grid Carbon Limited (NGCL), for onward transportation to the Endurance storage site under the North Sea.
- 1.2.2 The Proposed Development would comprise a low carbon gas fired power station with a gross electrical output capacity of up to 910MWe and associated

buildings, structures and plant and other associated development defined in Schedule 1 of the draft DCO (APP-005) as Work No. 1 – 11 and shown on the Works Plans (APP-012).

1.2.3 At this stage, the final technology selection cannot yet be made as it will be determined by various technical and economic considerations and will be influenced by future UK Government policy and regulation. The design of the Proposed Development therefore incorporates a necessary degree of flexibility to allow for the future selection of the preferred technology in light of prevailing policy, regulatory and market conditions once a DCO is made.

1.2.4 The Proposed Development will include:

- a carbon capture equipped electricity generating station including a CCGT plant (**Work No. 1A**) with integrated cooling infrastructure (**Work No. 1B**), and carbon dioxide capture plant (CCP) including conditioning and compression equipment, carbon dioxide absorption unit(s) and stack(s) (**Work No. 1C**), natural gas receiving facility (**Work No. 1D**), supporting uses including control room, workshops, stores, raw and demineralised water tanks and permanent laydown area (**Work No. 1E**), and associated utilities, various pipework, water treatment plant, wastewater treatment, firefighting equipment, emergency diesel generator, gatehouse, chemical storage facilities, other minor infrastructure and auxiliaries/ services (all located in the area referred to as the 'Proposed Power and Carbon Capture (PCC) Site' and which together form **Work No. 1**);
- natural gas pipeline from the existing National Grid Gas high pressure (HP) gas pipeline within the Proposed Development Site to supply the Proposed PCC Site including an above ground installation (AGI) for National Grid Gas's apparatus (**Work No. 2A**) and the Applicant's apparatus (**Work No. 2B**) (the 'Gas Connection Corridor');
- electrical connection works to and from the existing National Grid (National Grid Electricity Transmission) 400kV Substation for the export of electricity (**Work No. 3A**) (the 'Electrical Connection Area to National Grid 400kV Substation');
- electrical connection works to and from the existing Northern Powergrid 132kV Substation for the supply of electricity at up to 132kV to the Proposed PCC Site, and associated plant and equipment (**Work No. 3B**) (the 'Potential Electrical Connection to Northern Powergrid 132kV Substation');
- Water Connection Corridors to provide cooling and make-up water including:
 - underground and/or overground water supply pipeline(s) and intake structures within the Stainforth and Keadby Canal, including temporary cofferdam (**Work No. 4A**) (the 'Canal Water Abstraction Option');
 - in the event that the Canal Water Abstraction Option is not available, works to the existing Keadby 1 power station cooling water supply

- pipelines and intake structures within the River Trent, including temporary cofferdam (**Work No. 4B**) (the 'River Water Abstraction Option'); and
- works to and use of an existing outfall and associated pipework for the discharge of return cooling water and treated wastewater to the River Trent (**Work No. 5**) (the 'Water Discharge Corridor');
- towns water connection pipeline from existing water supply within the Keadby Power Station for potable water (**Work No. 6**);
 - above ground carbon dioxide compression and export infrastructure comprising an above ground installation (AGI) for the undertaker's apparatus including deoxygenation, dehydration, staged compression facilities, outlet metering, and electrical connection (**Work No. 7A**) and an AGI for NGCL apparatus (**Work No. 7B**);
 - new permanent access from the A18, comprising the maintenance and improvement of an existing private access road from the junction with the A18 including the western private bridge crossing of the Hatfield Waste Drain (**Work No. 8A**) and installation of a layby and gatehouse (**Work No. 8B**), and an emergency vehicle and pedestrian access road comprising the maintenance and improvement of an existing private track running between the Proposed PCC Site and Chapel Lane, Keadby and including new private bridge (**Work No. 8C**);
 - temporary construction and laydown areas including contractor facilities and parking (**Work No. 9A**), and access to these using the existing private roads from the A18 and the existing private bridge crossings, including the replacement of the western existing private bridge crossing known as 'Mabey Bridge' over Hatfield Waste Drain (**Work No. 9B**) and a temporary construction laydown area associated with that bridge replacement (**Work No. 9C**);
 - temporary retention, improvement and subsequent removal of an existing Additional Abnormal Indivisible Load Haulage Route (**Work No. 10A**) and temporary use, maintenance, and placement of mobile crane(s) at the existing Railway Wharf jetty for a Waterborne Transport Offloading Area (**Work No. 10B**);
 - landscaping and biodiversity enhancement measures (**Work No. 11A**) and security fencing and boundary treatments (**Work No. 11B**); and
 - minor associated development.
- 1.2.5 1.2.5 The Proposed Development includes the equipment required for the capture and compression of carbon dioxide emissions from the generating station so that it is capable of being transported off-site. NGCL will be responsible for the development of the carbon dioxide pipeline network linking onshore power and industrial facilities, including the Proposed Development, in

the Humber Region. That pipeline network does not, therefore, form part of the Proposed Development and is not included in the Application but will be the subject of separate consent application(s) to be taken forward by NGCL.

- 1.2.6 The Proposed Development is designed to be capable of operating 24 hours per day, 7 days a week, with plant operation dispatchable to meet electricity demand and with programmed offline periods for maintenance. It is anticipated that in the event of CCP maintenance outages, for example, it could be necessary to operate the Proposed Development without carbon capture, with exhaust gases from the CCGT being routed via the Heat Recovery Steam Generator (HRSG) stack.
- 1.2.7 Various types of associated and ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 'Authorised Development' of the draft DCO (APP-005). This, along with Chapter 4: The Proposed Development in the ES Volume I (APP-047), provides further description of the Proposed Development. The areas within which each numbered Work (component) of the Proposed Development are to be built are defined by the coloured and hatched areas on the Works Plans (APP-012).

1.3 The Proposed Development Site

- 1.3.1 The Proposed Development Site (the 'Order Limits') is located within and near to the existing Keadby Power Station site near Scunthorpe, Lincolnshire and lies within the administrative boundary of North Lincolnshire Council (NLC). The majority of land is within the ownership or control of the Applicant (or SSE associated companies) and is centred on national grid reference 482351, 411796.
- 1.3.2 The existing Keadby Power Station site currently encompasses the operational Keadby 1 and Keadby 2 Power Station (under commissioning) sites, including the Keadby 2 Power Station Carbon Capture and Readiness reserve space.
- 1.3.3 The Proposed Development Site encompasses an area of approximately 69.4 hectares (ha). This includes an area of approximately 18.7ha to the west of Keadby 2 Power Station in which the generating station (CCGT plant, cooling infrastructure and CCP) and gas connection will be developed (the Proposed PCC Site).
- 1.3.4 The Proposed Development Site includes other areas including:
- a high pressure gas pipeline to supply the CCGT including a gas compound for NGG apparatus and a gas compound for the Applicant's apparatus;
 - the National Grid 400kV Substation located directly adjacent to the Proposed PCC Site, through which electricity generated by the Proposed Development will be exported;

- Emergency Vehicle Access Road and Potential Electrical Connection to Northern Powergrid Substation;
- Water Connection Corridors:
 - Canal Water Abstraction Option which includes land within the existing Keadby Power Station site with an intake adjacent to the Keadby 2 Power Station intake and pumping station and interconnecting pipework;
 - River Water Abstraction Option which includes a corridor that spans Trent Road and encompasses the existing Keadby Power Station pumping station, below ground cooling water pipework, and infrastructure within the River Trent; and
 - a Water Discharge Corridor which includes an existing discharge pipeline and outfall to the River Trent and follows a route of an existing easement for Keadby 1 Power Station;
- an existing river wharf at Railway Wharf (the Waterborne Transport Offloading Area) and existing temporary haul road into the into the existing Keadby 1 Power Station Site (the 'Additional Abnormal Indivisible Load (AIL) Route');
- a number of temporary Construction Laydown Areas on previously developed land and adjoining agricultural land; and
- land at the A18 Junction and an existing site access road, including two existing private bridge crossings of the Hatfield Waste Drain lying west of Pilfrey Farm (the western of which is known as Mabey Bridge, to be replaced, and the eastern of which is termed Skew Bridge) and an existing temporary gatehouse, to be replaced in permanent form.

1.3.5 In the vicinity of the Proposed Development Site the River Trent is tidal. Therefore, parts of the Proposed Development Site are within the UK marine area. No harbour works are proposed.

1.3.6 Further description of the Proposed Development Site and its surroundings is provided in **Chapter 3: The Site and Surrounding Area** in ES Volume I (**APP-046**).

1.4 The Development Consent Process

1.4.1 As a NSIP project, the Applicant is required to seek a DCO to construct, operate and maintain the generating station, under Section 31 of the 2008 Act. Sections 42 to 48 of the 2008 Act govern the consultation that the promoter must carry out before submitting an application for a DCO and Section 37 of the 2008 Act governs the form, content and accompanying documents that are required as part of a DCO application.

1.4.2 An application for development consent for the Proposed Development has been submitted to and accepted for examination by the Planning Inspectorate (PINS) acting on behalf of the SoS. PINS is now examining the Application and will make a recommendation to the SoS, who will then decide whether to make (grant) the DCO.

1.5 The Purpose and Structure of this Document

1.5.1 The purpose of this document is to provide the Applicant's Response to Action Points arising from the Hearings held w/c 14 March 2022 set out in the ExA's Action Points from the Issue Specific and Compulsory Acquisition Hearings held between 15 and 17 March 2022 [EV-031] which were as follows:

- Monday 14 March 2022 – Open Floor Hearing ('OFH');
- Tuesday 15 March 2022 – Issue Specific Hearing 1 ('ISH1') (Environmental Matters);
- Wednesday 16 March 2022 – Compulsory Acquisition Hearing ('CAH'); and
- Thursday 17 March 2022 – Issue Specific Hearing 2 ('ISH2') (draft Development Consent Order).

1.5.2 The remainder of this document is structured as follows:

- Section 2 – Applicant's Response to Action Points arising from ISH1;
- Section 3 – Applicant's Response to Action Points arising from CAH; and
- Section 4 – Applicant's Response to Action Points arising from ISH2.

1.5.3 There were no Action Points arising from the OFH.

2.0 APPLICANT'S RESPONSE TO ACTION POINTS ARISING FROM ISH1

2.1.1 This section sets out each of the Action Points arising from the ISH1 (Environmental Matters) held on Tuesday 15 March 2022 followed by the Applicant's Response.

2.2 ISH1-AP1

2.2.1 *"Provide more written context regarding the emerging approach of BEIS1 to the Track 1 Cluster/ Emitters to be announced in May 2022 and what mechanisms will be in place to ensure the Carbon Capture and Compression Plant meets the 90% capture rate being sought by BEIS.*

2.2.2 *NB. Discussion on mechanisms was stated to be ongoing as part of the Track 1 Cluster, such as a control power agreement which only allows commercial operation where the capture rate is 90% or greater."*

2.2.3 In May 2022, BEIS intend to make an initial selection of emitters to connect to the Track 1 clusters. Keadby 3 is one of the projects to have submitted an application to BEIS to be one of those emitters.

2.2.4 Should Keadby 3 be selected as an emitter – either in May or subsequently, BEIS will continue commercial discussions with the Applicant regarding the financial contract for the development of the Proposed Development, primarily centred around the mechanism for the Dispatchable Power Agreement (DPA). It is envisaged – based on discussions to date – that the DPA will stipulate that any electricity supplied by the Proposed Development will only qualify for the DPA financial mechanism if at least 90% of the carbon dioxide that would otherwise be emitted will be captured and directed to permanent storage.

2.2.5 In May 2021, BEIS issued a guidance note entitled "An Update on the Dispatchable Power Agreement Business Model". This sets out the developing approach to calculating revenue for dispatchable low carbon generating stations based on the emerging business model. The calculation includes a Minimum Capture Rate below which payments would be suspended or withheld. It also includes enhanced Availability Payments during periods of high capture rates in order to incentivise operators to improve capture efficiency performance.

2.3 ISH1-AP2

2.3.1 *"Provide a written summary of the oral submission regarding assessment of alternatives."*

2.3.2 The Applicant recognises that the consideration of reasonable alternatives forms a statutory requirement of Environmental Impact Assessment (EIA). Regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 requires the ES to include a description of the

- reasonable and relevant alternatives actually studied, and an indication of the main reasons for the option chosen, taking into account environmental effects.
- 2.3.3 Chapter 6 of the ES Volume 1 complies with that regulation in that it sets out the alternative sites, technologies and fuels, design options, and layouts studied. The reasons for the choice of Keadby are explained and include environmental considerations such as the ability to use / reuse existing proximate connections and reuse brownfield land.
- 2.3.4 In paragraph 6.3.1 of Chapter 6: Alternatives of ES Volume I (APP-049), the Applicant makes reference to Keadby Power Station site being selected for the development of a Low Carbon Gas Generating Station, as opposed to other potentially available sites at that time, and provides the reasons. At the time that the Applicant began developing options for lower carbon power generation, the Energy White Paper – Powering our Net Zero Future' (EWP) (HM Government, 2020) referred to at least one low carbon power station project being supported. However, the Clean Growth Strategy first published in 2017 and updated in January 2021 has subsequently expanded on the UK Government's ambitions to have at least 4 low carbon clusters by 2030 with the prioritisation of two clusters for deployment in the mid 2020s. The Applicant's consideration of locations for low carbon projects has therefore been set within the prevailing and now rapidly changing policy context.
- 2.3.5 At the time of site selection, the relative maturity of each Low Carbon Cluster was a key factor in decision making and a reason why the Keadby Power Station site was selected as a priority over other potential sites (e.g. Medway Power Station, Peterhead Power Station and Ferrybridge Power Station). None of these are true alternatives because any one of them could be taken forward in the relatively near future in light of the substantial quantitative need for flexible generation and for carbon capture, usage and storage projects. The Applicant explained that Keadby has the advantage of being in close proximity to the HLCP and indeed the pipeline is intended to be routed into the Keadby site itself. Keadby 3 can therefore be connected directly into it – hence Keadby has been progressed ahead of these other sites, although in addition an application for planning permission under Section 36 of the Electricity Act 1989 for a low carbon gas fired generating station on the Peterhead Power Station site was submitted by SSE Thermal Generation (Scotland) Limited to the Scottish Government Energy Consents Unit in March 2022.
- 2.3.6 In relation to the law on alternatives the first point of principle is that land may be developed in any way acceptable for planning purposes and that alternatives are only relevant in exceptional circumstances where the development in question causes material planning harms. Those circumstances do not arise here.

2.3.7 Medway and Ferrybridge were not considered as true alternatives as they are sites available for development in their own right. They are not, in any event, preferable at this stage as Keadby has the advantage of being able to connect directly into a Track 1 CCUS cluster as discussed above.

2.3.8 There has been no change in circumstances that would warrant altering the selection of this site. A connection at Keadby continues to form part of the HCLP Project and government energy and broader planning policy remains supportive of this form of development and the siting on mainly brownfield land. The findings of pre application consultation and engagement as reported on in the Applicant's Consultation Report (APP-030) also did not indicate against the selection of the site. Indeed, there have been a number of relevant changes in circumstances that affirm the Applicant's position in selecting this site:

- Track 1 cluster status has been announced for the East Coast Cluster, of which Keadby 3 and HLCP are part;
- Keadby 3 has been listed recently by BEIS as eligible for CCUS cluster sequencing phase two (delivery in mid 2020s)¹; and
- The government's Net Zero Strategy published in October 2021² has increased government ambitions, seeking four (rather than "at least one") CCUS clusters being developed by 2024, with a higher level of carbon capture (20-30Mt per year, including 6Mt per year from industrial sources). Keadby 3 would capture around 1.5Mt per year, which indicates the scale of national delivery required given that power carbon capture will make up the balance of the 20-30Mt target (i.e. 14 to 24Mt per year).

2.3.9 It is therefore considered that the choice of the Keadby site remains appropriate and robust.

2.4 ISH1-AP3

2.4.1 *"Respond in writing regarding the likelihood of reaching commercial agreement with The Canal and River Trust."*

2.4.2 The Applicant and the Canal and River Trust are both confident that commercial agreement can and will be achieved for the provision of water to the Proposed Development from the Canal. This is based on the similar successful commercial agreement the Parties have signed relating to the provision of water

1

[REDACTED]
(BEIS, March 2022)

[REDACTED] BEIS, 2021

from the Canal to the Keadby 2 generating station and also the close collaborative working between the Parties in developing the abstraction licence modification required by the Canal and River Trust.

2.5 ISH1-AP4

- 2.5.1 *“Re-examine the list at paragraph 3.2.14 in Appendix 8A of the ES³ [APP-069] and discuss with NLC⁴ what measures should be secured in the final CEMP⁵ and how the ExA can have certainty as to what will be incorporated into the final CEMP in this regard.”*
- 2.5.2 The Applicant provided a response to the ExA at Deadline 3 in Applicant's Response to Examining Authority's Written Questions Responses [REP3-020] to this matter. The Applicant's response to Q1.2.7 states that the Applicant acknowledged NLC's response to the ExA's first written question on this matter, and that the Applicant has added some additional wording into the Framework CEMP submitted at Deadline 3 (REP3-010) to strengthen the commitment that the final CEMP should follow the IAQM guidance on relevant measures to be adopted. The additional wording was added to Table 2: Air Quality of the revised Framework CEMP submitted at Deadline 3, under the first bullet point in 'Good Site Techniques' heading. The additional wording is underlined below:
- 2.5.3 *“Emissions of dust and particulates from the construction phase of the Proposed Development will be controlled in accordance with industry best practice, through incorporation of appropriate control measures according to the risks posed by the activities undertaken. This will include all relevant measures set out in Section 8.2 of the Institute of Air Quality Management 2014 guidance (IAQM, 2014) which are listed as 'highly recommended' for High Risk sites.”*
- 2.5.4 The final CEMP will be secured by Requirement 17 of the draft DCO, which states that NLC must be consulted on the final CEMP and that it must be in accordance with the Framework CEMP (which now includes reference to the IAQM guidance).
- 2.5.5 The Applicant has discussed and agreed with NLC that the additional wording included in the Framework CEMP (REP3-010) is appropriate in providing adequate mitigation for dust impacts during the construction phase. This was confirmed in writing by the NLC Environmental Health Officer on 4th April 2022.

³ Environmental Statement

⁴ North Lincolnshire Council

⁵ Construction Environmental Management Plan

2.6 ISH1-AP5

- 2.6.1 *"In relation to the question about noise complaints, the Applicant is to give some thought to the complaints procedure and provide a note of how it anticipates such a procedure will work in practice."*
- 2.6.2 The Applicant has considered the matter further in light of the ExA and NLC comments, and has redrafted Requirement 29 to add a step by step process with defined time periods for the Applicant to provide acknowledgement, investigation, and then a response, to noise complaints. This is considered to provide clarity over responsibilities, outputs, and time periods.
- 2.6.3 The process and the time periods have precedent in Requirement 15(4) of the Hirwaun Generating Station Order 2015.

2.7 ISH1-AP6

- 2.7.1 *"Reconsider the wording for Requirement 13 to see if it provides adequate control regarding sewerage and grey water."*
- 2.7.2 Requirement 13 (Foul water drainage) of the draft DCO [APP-005] states the following:
- 2.7.3 "13.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary foul water drainage systems, including means of pollution control in accordance with the framework construction environmental management plan and a management and maintenance plan to ensure that the systems remain fully operational throughout the construction of the relevant part of the authorised development have, for that part, been submitted to, and after consultation with Severn Trent Water, approved by the relevant planning authority.
- 2.7.4 (2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.
- 2.7.5 (3) Details of the permanent foul water drainage systems, including a programme for their implementation, must be submitted to, and after consultation with the Environment Agency and Severn Trent Water, approved by the relevant planning authority prior to the start of construction of any part of those systems.
- 2.7.6 (4) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority."
- 2.7.7 The Applicant has a signed SoCG with Severn Trent Water (also submitted at Deadline 5), which states the Parties are agreed that the wording in

Requirement 13 is appropriate. As such, the Applicant does not propose any changes to the wording of Requirement 13.

2.8 ISH1-AP7

2.8.1 *“Keep the HRA AA Report⁶ under constant review, especially in relation to in-combination effects, and confirm at each Deadline that there have been no changes or submit an updated HRA AA Report.”*

2.8.2 The HRA has been updated to reflect the Proposed Development Changes and updates to Chapter 19 Cumulative and Combined effects and submitted at D5. The HRA will be periodically reviewed for each deadline.

2.9 ISH1-AP8

2.9.1 *“Submit a written response as to whether the Applicant can provide an assessment of traffic levels pre/ post-pandemic.”*

2.9.2 Traffic count analysis of locations using monthly two-way AADT count data from 2019, 2020 and 2021 on the M180 J3 close to the Keadby site. We've then created an average figure over the year. This data has been extracted from the National Highways Webtris portal.

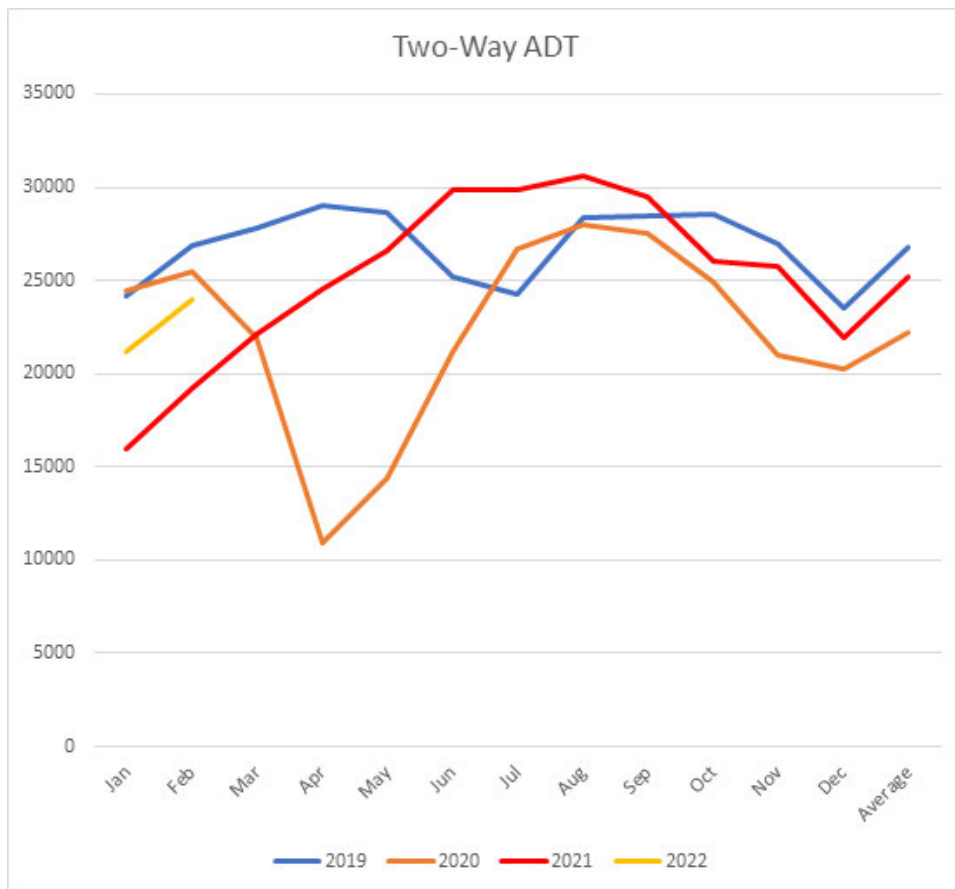
Year	2019	2020	2021
Two-way average AADT	26823	22218	25164

2.9.3 The data shows that in 2020 flows dropped significantly compared with 2019, but in 2021 were climbing again towards 2019 levels, but had not quite reached the same level. Therefore, essentially flows are returning to normal, but aren't yet at pre-pandemic levels.

2.9.4 The graph below further highlights the month-by-month difference across the 3 years and shows that with the exception of June, July and August the 2019 counts are higher than the 2021. The early year data of 2022 also shows it lags behind 2019 data.

2.9.5 This supports the Applicant's conservative approach to the assessment by using slightly older but pre pandemic traffic data in the assessment.

⁶ Habitats Regulations Assessment - Appropriate Assessment Report



2.10 ISH1-AP9

2.10.1 *“Ascertain whether there is any further/ more up-to-date traffic data for the A18 available, that is relevant to the Proposed Development site access on the A18 and would be useful to the Examination, and provide commentary as to whether this is reflective of original traffic levels pre-pandemic.”*

2.10.2 N/A - for North Lincolnshire Council.

2.11 ISH1-AP10

2.11.1 *“Follow up with Highways colleagues and provide an update with regards to additional data submitted to NLC responding to its concerns about non-compliance with the DMRB⁷, especially around changes in speed limits vs. DMRB standards.”*

2.11.2 N/A - for North Lincolnshire Council.

⁷ Design Manual for Roads and Bridges

2.12 ISH1-AP11

2.12.1 *"Submit updated Navigational Risk Assessment."*

2.12.2 The NRA has been updated to reflect a minor update from the Statement of Common Ground with ABP. The previous NRA referred to Neap house as being operated by ABP Humber. ABP confirmed that it is operated by PD Ports, this has been updated in doc Application document reference 6.3.2- Rev 02.

2.13 ISH1-AP12

2.13.1 *"Provide clarification as to Tables 5 to 7 of the Waste Technical Note [OD-003]."*

2.13.2 Tables 5 – 7 of Document Ref. 8.1 Environmental Information Response to Section 51 Advice identify;

- Table 5: Hazardous Waste Incineration Facilities including their 2019 throughput for England
- Table 6: Hazardous Liquid Waste Treatment Facilities in England
- Table 7: Hazardous Liquid Waste Treatment Facilities in Yorkshire and Humberside.

2.13.3 These tables are based on the latest available information from the Environment Agency Waste Data Interrogator for 2019 and show the throughput of each facility in 2019. Information is not available on the actual capacity of these facilities, and hence it is not possible to calculate the "headroom" in terms of currently unused capacity, since these are operational treatment facilities rather than landfills which have a defined finite capacity. It is however reasonable to assume that not all sites would be operating at maximum capacity and that some sites would have the potential for expansion within their currently permitted limits.

2.14 ISH1-AP13

2.14.1 *"Provide a summary of assumptions made regarding travel distances for HGVs, and signpost where this information has been provided in the documentation submitted into the Examination."*

2.14.2 BEIS waste carbon emission factors have been used in the assessment, which include transportation emissions in line with GHG Protocol Guidelines. Please see BEIS guidance below:

2.14.3 For landfill, the factors in the tables include collection, transportation and landfill emissions ('gate to grave'). For combustion and recycling, the factors consider transport to an energy recovery or materials reclamation facility only. This is in line with GHG Protocol Guidelines, with subsequent emissions attributed to electricity generation or recycled material production respectively.

2.14.4 Ongoing design development includes a review of the anticipated waste output (which at present have been based on worst case/ Precautionary approach). As a result of the ongoing design development it is anticipated that liquid waste volumes will be approximately one third of those reported in Section 4.2, representing 3% rather than 9.1% of 2019 liquid waste treatment throughput (at the national level) as reported in Section 4.2. The design development is also considering the potential for some of the liquid waste stream to be treated on site and treated wastewater discharged as part of the effluent stream, which would further reduce the demand for off-site management capacity.

2.15 ISH1-AP14

2.15.1 *“Comment on whether NLC considers the TA⁸ covers HGV movements of waste carriers emanating from the site.”*

2.15.2 N/A - for North Lincolnshire Council.

2.16 ISH1-AP15

2.16.1 *“Provide more detail about section 4.2 (Operational Waste) of Waste Technical Note [REDACTED].”*

2.16.2 The waste management sector will adapt to emerging market demands. This can be clearly shown by the significant change away from landfill towards energy recovery and recycling in recent years, due to both policy and economic drivers. It is therefore realistic to expect the waste sector to similarly adapt to manage the types of waste that will be generated by the CCS sector and they will have a strong financial incentive to do so (in terms of generating gate fees for accepting these wastes).

2.17 ISH1-AP16

2.17.1 *“Provide additional clarity regarding the treatment of additional hazardous waste and whether there is capacity in the system to meet demands from this Proposed Development. This arises from the question related to paragraph 4.2.3 of the Waste Technical Note [REDACTED].”*

2.17.2 For both types of waste (for incineration, and for liquid waste treatment), the required capacity is expected to be approximately 3% of current throughput (see response to ISH1-AP13). It is considered unlikely that all facilities are operating at maximum capacity, such that this relatively small increase in volumes for treatment could be accommodated.

⁸ Transport Assessment

2.17.3 The waste management sector will adapt to emerging market demands. This can be clearly shown by the significant change away from landfill towards energy recovery and recycling in recent years, due to both policy and economic drivers. It is therefore realistic to expect the waste sector to similarly adapt to manage the types of waste that will be generated by the CCS sector and they will have a strong financial incentive to do so (in terms of generating gate fees for accepting these wastes).

3.0 APPLICANT'S RESPONSE TO ACTION POINTS ARISING FROM CAH

3.1.1 This section sets out each of the Action Points arising from the CAH held on Wednesday 16 March 2022 followed by the Applicant's Response.

3.2 CAH-AP1

3.2.1 *"Consider whether the Funding Statement needs to be updated, and confirm the position."*

3.2.2 The Funding Statement has been updated at this deadline accordingly.

3.3 CAH-AP2

3.3.1 *"Confirm timing of negotiations on Compulsory Acquisition/ Temporary Possession and whether all reasonable alternatives were explored."*

3.3.2 Please see table below.

Affected Party	First contact made	Is party engaging?
Albans, Julie Ellen	24 Nov 2020 - DWD S44 letter 10 Sept 2021 - DWD email & phone call.	Yes
Albans, Nigel David	24 Nov 2020 - DWD S44 letter 10 Sept 2021 - DWD email & phone call.	Yes
Associated Waterway Services Limited	24 Nov 2020 - By virtue of DWD s44 letter to PD Ports Services Limited and PD Ports Properties Limited 2nd Sept 2021 - DWD email	Yes
Barclays Security Trustee Limited	10th Sept 2021 - DWD letter	No
Belton Wright, Jonathan	24 Nov 2020 - DWD S44 letter 9 Dec 2020 - SSE Phone call	Yes
British Telecommu- nications Public Limited Company	24 Nov 2020 - DWD S44 letter 10 Sept 2021 - DWD Email	Yes
Canal & River Trust	4 Jun 2020 - SSE contact 24 Nov 2020 - DWD S44 letter	Yes

Dent, Stephen	15 Sept 2021 - DWD letter	No
Environment Agency	24 Nov 2020 - DWD S44 letter 10 Sept 2021 - DWD email	Yes
Glew J R Junior & Co Limited	10th Sept 2021 - DWD letter	Yes
Glew, David	10th Sept 2021 - DWD letter	Yes
Glew, Richard	10th Sept 2021 - DWD letter	Yes
Glew, Stephen	10th Sept 2021 - DWD letter	Yes
Humphrey, Ruth Pauline	15 Sept 2021 - DWD letter	Yes
Macleane, Amy Sarah	10th Sept 2021 - DWD letter	Yes
Macleane, Simon Alistair	10th Sept 2021 - DWD letter	Yes
Mammoet UK Limited	15th September 2021 - DWD letter	N/A - No longer have an interest
Metro Bank plc	8th Sept 2021 - DWD Phone call and email	N/A - No longer have an interest
Nat West	20 Dec 2021 - DWD letter	No
National Grid Electricity Transmission PLC	24 Nov 2020 - DWD S44 letter 15 Sept 2021 - DWD letter	Yes
National Grid Gas PLC	24 Nov 2020 - DWD S44 letter 15 Sept 2021 - DWD letter	Yes
Network Rail Infrastructure Limited	17 Mar 2021 - SSE Email	Yes
North Lincolnshire Council	24 Nov 2020 - DWD S44 letter 15 Sept 2021 - DWD email	Yes

Northern Powergrid (Yorkshire) plc	24 Nov 2020 - S44 letter 15 Sept 2021 - Contact by letter enclosing details and land plans	Yes
Pd Ports Properties Limited	24 Nov 2020 - DWD S44 letter 2 Sept 2021 - DWD email	Yes
Radford, Ann Ida Madge	10 Sept 2021 - DWD letter	Yes
Radford, Raymond	10 Sept 2021 - DWD letter	Yes
Railway Wharf (Keadby) Limited	24 Nov 2020 - DWD S44 letter 23 Jun 2021 - Letter from Mr Railway Wharf (Keadby) Limited to SSE	Yes
RES Developments Limited	11 Aug 2021 - Email from RES confirming they no longer have any interest	N/A - No longer have an interest
Roe, Owen Peter	10 Sept 2021 - DWD letter	N/A - No longer have an interest
Sea Cadets Scunthorpe	10 Sept 2021 - DWD letter	Yes
Severn Trent Water	15 Jun 2021 - Contact from STW agent to Ardent	Yes
Severn, Andrew Clive	10 Dec 2020 - SSE phone contact with Agent	Yes
Strawson, Richard Henry	10 Dec 2020 - SSE phone contact with Agent	Yes
The Crown Estate Commissioners	24 Nov 2020 - DWD S44 letter 15 Sept 2021 - DWD email to agent	Yes
The Isle of Axholme and North Nottinghamshire Water Level Management Board	24 Nov 2020 - DWD S44 letter 15th Jan 2021 - Contact between AECOM and IMBD	Yes

The Queen's Most Excellent Majesty In Right Of Her Crown	24 Nov 2020 - DWD S44 letter 15 Sept 2021 - DWD email to agent	Yes
Wall, Donna	10 Sept 2021 - DWD letter	Yes
Wall, Vivien Anne	10 Sept 2021 - DWD letter	Yes
Way, Angela	24 Nov 2020 SWD S44 letter 3 Aug 2021 - Angela Way contacts Ardent	Yes
Yorkshire Water Limited	15th Sept 2021 - DWD letter	Yes

3.3.3 Subsequent discussions are to be listed in the Deadline 6 update spreadsheet.

3.3.4 With regard to reasonable alternatives the position is that negotiations have been undertaken on the basis of voluntary agreements such that compulsory purchase powers would only be required as a matter of last resort to avoid any risk of impediments. Full and final settlements have been proposed in respect of the outfall pipe whilst 5 year renewable option agreements have been discussed in respect of the remaining interests. Where terms cannot be agreed in respect of the payment(s) to be made terms have been offered on the basis of an initial payment with the ability of the landowner to make a further claim ultimately to be determined by an Independent Expert, Arbitrator or private reference to the UTLC should they remain of the opinion that further compensation should be payable.

3.4 CAH-AP3

3.4.1 *“Provide clarification on how long ‘temporary’ is and whether there is any legal basis for the duration.”*

3.4.2 Currently there is no legislative provision which specifies the time periods within which that temporary possession powers may be used. Provision is made in the Neighbourhood Planning Act 2017 on the time periods for the use of temporary possession powers but these sections are not yet in force and there is currently no indication of when (or if) these sections will be brought into force. However, for context a summary of the relevant sections are as follows:

3.4.3 Section 20 (2) provides that the acquiring authority should serve a notice specifying the period after the end of which the acquiring authority may take temporary possession of the land and section 20 (4) provides that such notice must specify the period for which the acquiring authority is to take temporary possession of the land. There is no stated limit on the duration of occupation

to be specified with a section 20 (4) notice. However, section 21 (2) provides that the owner of land in receipt of a section 20 notice may serve a counter notice providing that the total period of time for which the land may be subject to temporary possession is limited to 12 months where the land is or is part of a dwelling, or 6 years in any other case. If the owner has a leasehold interest the counter notice may instead provide notice refusing temporary possession. The acquiring authority may then respond by accepting the counter notice or proceed on the basis of compulsory acquisition. Alternatively, in the case of a leasehold occupational interest, the acquiring authority may withdraw the notice of intended occupation. In effect, therefore, the extent to which temporary occupation may be taken would be subject to the ability of the affected landowner to utilise NPA 2017 to limit such period to a maximum period of 6 years from the date of notice. In the event that this was insufficient the acquiring authority could then consider taking permanent acquisition and pay compensation accordingly.

3.5 CAH-AP4

3.5.1 *“Provide an update on negotiations with National Grid Electricity Transmission Plc and National Grid Gas Plc, which the Applicant advises are due to take place imminently.”*

3.5.2 DWD have been in contact with DCO Liaison officer Anne Holdsworth since late 2021 (see negotiations update spreadsheet). As a result, DWD were informed on 14th March 2022 that Dalcour Maclaren were instructed to advise both National Grid Electricity Transmission PLC and National Grid Gas PLC (NGG). A video conference call was scheduled for between DWD and Dalcour Maclaren for 18th March 2022, 2 days after the Compulsory Acquisition Hearing. The Video conference call was productive and further communications have occurred between the parties which have identified the plots on which agreement will be needed and clarifying the work streams that are to be covered in further discussions. It has also been provisionally confirmed that NGG have no land interests that are affected by the DCO. A further video conference call is scheduled between DWD and Dalcour Maclaren for the afternoon of 5th April (deadline 6). The Applicant considers that good progress is being made in these discussions.

3.6 CAH-AP5

3.6.1 *“Briefly set out the current position in relation to any applications made under s127 of the PA2008⁹ and not withdrawn (regarding Statutory Undertakers' land).”*

⁹ Planning Act 2008

- 3.6.2 Section 127 (3) PA 2008 refers to the purchase of land that is not to be replaced and land that is to be replaced with regard to the potential for consequential serious detriment to the carrying on of the undertaking.
- 3.6.3 Whilst the dDCO includes a significant number of plots that are owned by or within which statutory undertakers have an interest, the only proposed acquisition of land from a statutory undertaker who have made representations and not withdrawn them at this point in time, comprises plot 80A. This plot comprises part of the northern bank of the canal and the freehold is owned by Canal & River Trust. Canal & River Trust have not requested and the applicant is unaware of any need for the replacement of this land.
- 3.6.4 The land is neither occupied nor necessary to the undertaking of Canal & River Trust and terms have been progressed between the applicant and Canal & River Trust for its acquisition. Canal & River Trust have not identified any serious detriment to their undertaking as a result of this acquisition and the applicant is not aware of any potential for serious detriment.
- 3.6.5 Section 127 (5) and (6) PA 2008 refers to the compulsory creation of rights over statutory undertaker's land in circumstances where the right can be created without serious detriment to the carrying on of the undertaking or any detriment that may arise can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.
- 3.6.6 In this regard, the applicant requires rights from Canal & River Trust, Network Rail, Environment Agency, SSE PLC and SSE Generation Ltd to use the existing North Pilfrey bridge. Other than SSE PLC and SSE Generation, none of the other statutory undertakers make use of the bridge and, in the opinion of the applicant, the taking of access rights would not cause any detriment to the carrying out of their undertaking. The bridge does not comprise statutory undertakers operational land and the use of the bridge will not impact on any operational land. The applicant requires new rights from Canal & River Trust with regard to a proposed pipe easement under plots 80 and 81a but, again, no detriment will be cause to their undertaking. With regard to Northern Powergrid and National Grid Electricity Transmission, the applicant intends to create new rights in their land but has been actively working with these parties with the intention of avoiding any impact on their equipment that would be likely to give rise to serious detriment and no concerns have been brought to their attention in this regard.

3.7 CAH-AP6

- 3.7.1 *“Explain the application of s138 of the PA2008 to the dDCO¹⁰ and list the Statutory Undertakers involved (including whether there are any relevant rights or relevant apparatus affected, and who the Statutory Undertakers are).”*
- 3.7.2 Section 138 PA2008 applies in respect of the extinguishment of rights, and removal of apparatus, of statutory undertakers.
- 3.7.3 The dDCO provides for the installation of a pipe in the subsoil beneath plots 80 and 81A. These plots comprise a track leading from Chapel Lane to the bank of the canal lying to the east of Chapel Lane including plot 80a upon which the pumping station is proposed to be constructed. These access rights will be interfered with on the grounds of health and safety for the duration of the pipe installation works on completion of which full access will be restored.
- 3.7.4 Chapel Lane will be subject to traffic control measures during construction of the proposed development such that statutory undertakers' vehicle and pedestrian movements will be subject to potential delay. However, access will be maintained at all times.
- 3.7.5 There are no proposals to permanently extinguish known rights benefitting statutory undertakers or permanently remove SU apparatus. Whilst the applicant is aware that NR are seeking to reserve blanket rights in this regard, NR has yet to identify any rights on any land included within the dDCO in addition to those already identified by the applicant.

¹⁰ Draft Development Consent Order

4.0 APPLICANT'S RESPONSE TO ACTION POINTS ARISING FROM ISH2

4.1.1 This section sets out each of the Action Points arising from the ISH2 (draft Development Consent Order) held on Thursday 17 March 2022 followed by the Applicant's Response.

4.2 ISH2-AP1

4.2.1 *"Reflect on the wording of Article 16(1)(b) and advise whether this solely applies to those locations within the Order limits or to anywhere within the River/ Canal, and either confirm no revision is required or submit revision to this Article."*

4.2.2 *NB. The wording relates to temporarily mooring or anchoring barges or other vessels or craft in the river or the canal; and loading or unloading into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised development."*

4.2.3 The Applicant has given further consideration to Article 16(1)(b). It is considered that this needs to remain as drafted as it may be necessary for vessels or craft to be able to temporarily moor for waiting purposes in the river or canal outside of the Order limits. However, a new Article 16(1)(c) has been incorporated to confirm that any temporary closures of the canal can only take place within the Order limits and Article 16(1)(d) has been amended to confirm that the loading or unloading of barges, other vessels or draft can only take place within the Order limits.

4.2.4 The Applicant considers that the amended Article 16 is in an appropriate form to provide the necessary powers needed (within identified constraints) to facilitate the construction of the Proposed Development.

4.3 ISH2-AP2

4.3.1 *"Article 27(10)(a) appears to refer to Schedule 6 but gives the wrong description/ title of that Schedule. Check and amend accordingly."*

4.3.2 The Article has been updated and amended accordingly.

4.4 ISH2-AP3

4.4.1 *"Reflect on Article 33 and consider whether to retain/ remove/ amend this Article. If amending, make it specific to the need to remove or lop trees, such as to allow for the transport of abnormal indivisible loads."*

4.4.2 The Applicant has given further consideration to Article 33 and it has been amended to constrain the use of the power to the felling or lopping of trees and shrubs adjoining the authorised development where required to facilitate the passage for abnormal indivisible loads.

4.5 ISH2-AP4

4.5.1 *“Review and respond as to why Article 34(5)(b) has been excluded from the list set out in Article 34(6).”*

4.5.2 Article 34(6) has been amended to include reference to this.

4.6 ISH2-AP5

4.6.1 *“Review and respond as to why Article 38 has omitted s264(3)(b) and whether this Article should just refer to s264(3).”*

4.6.2 The Article has been amended to refer to S264(3) of the 1990 Act.

4.7 ISH2-AP6

4.7.1 *“Reflect on Article 40 in regard to s79(1) of the Environmental Protection Act 1990 and whether the scope of the related DCO provisions is too broad.”*

4.7.2 Article 40 covers nuisances within paragraph (b), (c), (d), (e), (f), (fb), (g) or (h) of section 79(1) of the Environmental Protection Act 1990 ('EPA 1990').

4.7.3 These correspond to (respectively): smoke; fumes or gases; dust, steam, smell or other effluvia; accumulation or deposit; animal kept; artificial light; noise; and (h) “any other matter declared by an enactment to be a statutory nuisance”.

4.7.4 In accordance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) ('APFP') Regulations 2009, the Applicant has prepared “a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them”. This is contained in the Statutory Nuisance Statement (APP-038).

4.7.5 The Statutory Nuisance Statement complies with APFP Regulation 5(2)(f) and is consistent with Article 40 because:

- The types of nuisances identified in Article 40 all appear within the Statutory Nuisance Statement, sections 3.3-3.9 inclusive; and
- In each instance it is explained in the first paragraphs of each section why this type of nuisance is engaged, then in subsequent paragraphs, how the mitigation secured in the Draft DCO will act to avoid or limit impacts of each type of nuisance.

4.7.6 It is noted that the APFP regulation does not expressly require the statement to justify the inclusion of each, rather, simply that they are engaged. Nevertheless, the Statutory Nuisance Statement explains “through the embedded mitigation in place and the controls provided for, as presented within the Environmental

Statement (Application Document Refs. 6.1 - 6.4) and secured in the draft Development Consent Order (DCO), it has been demonstrated that the Proposed Development is unlikely to give rise to any statutory nuisance under the EPA 1990. Therefore, it is appropriate to include within the DCO a provision for a defence against claims of statutory nuisance.”

- 4.7.7 In addition, the Applicant makes specific cases for inclusion of paragraphs (c), (d), (e), (fb), (g) and (h) in the opening paragraphs within sections 3.3-3.9 inclusive.
- 4.7.8 In broad terms the case is that each of these types of nuisance will be avoided or mitigated to all reasonable and practicable extents through the mitigation secured in the draft DCO, but the nature of the Proposed Development is that there remains a theoretical residual risk of each of these types of nuisance occurring. In addition, please refer in particular Statutory Nuisance Statement paragraphs 3.3.12 on fumes/gases, 3.4.1 and 3.4.5 on dust, accumulations and deposits; 3.4.11 and 3.4.18 on steam and smell/odour; 3.7.2 and 3.7.4 on artificial lighting; 3.8.4 and 3.8.10 on noise; and 3.9.1 on abnormal loads i.e. other nuisances. The Applicant seeks a statutory defence against proceedings in relation to these residual risks.
- 4.7.9 In relation to paragraphs (b) and (f) respectively the Statutory Nuisance Statement identifies “no smoke is expected to be generated from the Proposed Development during normal operation” and “no animals will be kept at the Site”. The Applicant is reviewing these two types of nuisance only, and will either update the Statutory Nuisance Statement with a clear justification, or remove the reference to EPA 1990 S79(1) paragraphs (b) and (f) within Article 40, at Deadline 6.

4.8 ISH2-AP7

- 4.8.1 *“Review and respond regarding Schedule 3 and whether the description of Street Works in Table 1 Column (3) (next to Chapel Lane) should include Work No. 3A. If not, explain why.”*
- 4.8.2 Work No. 3A is located to the west of Chapel Lane and therefore does not affect Chapel Lane itself. On that basis it is not necessary to make reference to Work No. 3A.

4.9 ISH2-AP8

- 4.9.1 *“Reflect and respond as to how navigational safety is maintained in protective provisions.”*
- 4.9.2 The Applicant considers that condition 19(4) of Part 2 of Schedule 10 (being protective provisions in favour of the Canal and River Trust) provides sufficient

safeguards. This prevents the Applicant from exercising any powers under Article 16 (temporary interference with canal and public rights of navigation) so as to diver any rights of access or right of navigation along the canal unless the consent to such diversion is first given by the Canal and River Trust.

4.10 ISH2-AP9

4.10.1 *"With regards to the precision of Condition 20 (Fencing) and the reference to the term 'engineer', review and confirm whose 'engineer' is being referred to (ie the Applicant's, an engineer for the C&RT¹¹, any engineer)."*

4.10.2 This condition has been amended to clarify the engineer is that of the Canal and River Trust.

4.11 ISH2-AP10

4.11.1 *"Review Schedule 13 paragraph 1(1) (Definitions) and respond as to whether this should include a definition for the MMO¹² Local Enforcement Office."*

4.11.2 The Applicant had included a definition for Local Enforcement Office.

4.12 ISH2-AP11

4.12.1 *"Review the consistency of Schedule 13 paragraph 10 in terms of the difference in wording between the triggers for paragraphs 10 (Pre-construction) and 11 (Pre-construction)."*

4.12.2 Paragraph 10 has been amended so that the wording is now consistent.

4.13 ISH2-AP12

4.13.1 *"Review Schedule 13 paragraph 10 (Pre-construction) in regard to the use of the phrase "All activities", and respond regarding whether it would be more appropriate to use the words "The Development Permitted"."*

4.13.2 This wording has been amended to be replaced with "the authorised development", as this is defined within paragraph 1(1) of Schedule 13.

4.14 ISH2-AP13

4.14.1 *"Review Schedule 13 paragraph 10 (Pre-construction) and respond as to whether the list at (a) should include compliance with the Marine Safety Code."*

¹¹ Canal and River Trust

¹² Marine Management Organisation

4.14.2 The MMO has commented and requested amendments on Schedule 13 as part of the DCO process. This has not been specifically requested by the MMO and the purpose of paragraph 10 is to identify those elements of the CEMP which must include measures the MMO has required.

4.15 ISH2-AP14

4.15.1 *"The Applicant has previously indicated that Schedule 13 paragraph 28(2) (Conditions Discharge) would be deleted, albeit that this paragraph was previously referred to as paragraph 29(2). Review and respond."*

4.15.2 The Applicant has reviewed its position. It is considered that paragraph 28(1) provides the MMO with a reasonable time frame to review and respond on details submitted for a condition discharge, there is the ability for the parties to agree an alternative timescale. In the event that details are not determined within that reasonable time frame the Applicant requires certainty that this not cause delay to the construction programme. It is not unusual to have deeming provisions within DCOs.

4.16 ISH2-AP15

4.16.1 *"Update the Articles and Schedules of the dDCO in regard to the typographic errors identified/ discussed during the Hearing."*

4.16.2 The draft DCO has been updated accordingly.

4.17 ISH2-AP16

4.17.1 *"Reflect on whether the wording of Requirement 5(4) could be made clearer in regard to consultation with C&RT and whether C&RT should be specified in (a) to (d), and clarify at what stage consultation with C&RT would take place."*

4.17.2 Requirement 5(4) has been amended to require C&RT are consulted in relation to any details submitted to the relevant local planning authority where they relate to Works No.4A.

4.18 ISH2-AP17

4.18.1 *"Reflect on the drafting of Requirements 5(4) to (10) inclusive, regarding timescales to be agreed for the works to be undertaken, a requirement for the works to be implemented as agreed and for those works to thereafter be maintained."*

4.18.2 The Applicant has reviewed Requirement 5 and considers that Requirement 5(12) and 5(13) as drafted, secure the provision of the works in accordance with the details submitted, with Requirement 5(13) being updated to include provisions as to maintenance.

4.19 ISH2-AP18

4.19.1 *“Review and respond regarding whether a sub-paragraph should be inserted into Requirement 6 requiring that no survey work should be more than 3 years old at commencement of the development for that part of the proposal.”*

4.19.2 The existing drafting in subparagraph 2 requires the submission and approval of a “timetable for implementation of (...) further survey work carried out to establish whether any protected species are present on any of the land affected, or likely to be affected, by that part, and, where a protected species is shown to be present, a scheme of protection and mitigation measures”. This means that the relevant planning authority will be approving either surveys already carried out, or a timetable of further surveys to be carried out, as part of Requirement 6. Subparagraph 8 requires this to be implemented in full. Accordingly, the age of surveys will be considered by the planning authority when it receives submissions under this requirement which is considered appropriate and necessary.

4.19.3 We do not consider it is necessary to apply a blanket requirement for surveys to be under three years old at the point of “commencement of development for that part of the proposal”, due the control already afforded as described above. In addition, it may be impractical to apply as different parts of the project may be commenced at different times.

4.20 ISH2-AP19

4.20.1 *“Consider the wording of Requirement 6(6), with a view to specifying a replacement tree on a 1:1 basis rather than being replaced with a tree of the same size and species as originally planted.”*

4.20.2 Requirement 6(6) has been updated to confirm that any replacement should of “at least the size” of that originally planted. This drafting is considered reasonable and necessary, and avoids impractical situations arising around sourcing of a tree of a size matching the one replaced.

4.21 ISH2-AP20

4.21.1 *“Consider the triggers regarding timescales for implementation in Requirement 7 (External Lighting), and whether wording is required to ensure the lighting, as approved, is to be maintained thereafter.”*

4.21.2 Requirement 7 has been amended to confirm the timescales for implementation there being a distinction between lighting to be provided for construction and subsequently the lighting scheme following commercial operation

4.22 ISH2-AP21

4.22.1 *“Review Requirement 9 (Means of Enclosure) and respond as to whether:*

- i. there should be a trigger or triggers related to timescales for implementation; and*
- ii. wording should be added to ensure the means of enclosure is to be maintained thereafter as approved.”*

4.22.2 Requirement 9 has been updated to separate out the details for the means of enclosure during construction and operational stages of the development. The Requirement secures the implementation of the relevant scheme as approved and thereafter to maintain the permanent element of the scheme in accordance with the approved details.

4.23 ISH2-AP22

4.23.1 *“Review Requirement 12 (Surface Water Drainage) and respond as to whether in Requirement 12(1) there is a need to ensure C&RT, the IDB, LLFA and the EA are consulted and whether Requirement 12(2) and Requirement 12(5) should specify a timescale for implementation.”*

4.23.2 Requirement 12(1) is intended to govern the temporary surface water drainage systems during the construction period and include a “management and maintenance plan to ensure that the systems remain fully operational throughout the construction of the relevant part of the authorised development”. Accordingly, the plan submitted for approval would include a timescale for implementation, but it is not worded in the same way as for a permanent surface water drainage system, because the systems employed at different points in the construction process will depend on the progress made with construction and the nature of construction activities in each location. The construction of the drainage systems may form part of the construction process.

4.23.3 The construction stage temporary surface water drainage systems will generally involve reduced areas of hardstanding than the permanent development and may involve small or fairly temporary systems and it is not considered that these parties must be consulted on every submission as a term of the DCO. However, it is naturally open to the relevant planning authority to exercise its usual discretion to consult them on larger submissions.

4.23.4 The signed and dated final SoCG with the Environment Agency submitted into examination at deadline 5 (Document Ref. 8.2) identifies discussions with EA on requirement wording with no outstanding disagreements.

4.24 ISH2-AP23

4.24.1 *“Review Requirement 13 (Foul Water Drainage) and respond as to whether:*

- i. *Requirement 13(1) should ensure consultation with the EA, as set out in Requirement 13(3); and*
- ii. *Requirement 13(2) and Requirement 13(4) should specify a timescale for implementation.”*

4.24.2 Requirement 13(1) is intended to govern the temporary foul water drainage systems during the construction period and include a “management and maintenance plan to ensure that the systems remain fully operational throughout the construction of the relevant part of the authorised development”. Accordingly, the plan submitted for approval would include a timescale for implementation, but it is not worded in the same way as for a permanent foul water drainage system, because the systems employed at different points in the construction process will depend on the progress made with construction and the nature of construction activities in each location. The construction of the drainage systems may form part of the construction process.

4.24.3 The construction stage temporary foul water drainage systems will be consulted on with the sewerage undertaker (Severn Trent Water) and it is not considered relevant to require consultation of the Environment Agency on every part of the temporary foul water drainage systems as a term of the DCO. However, it is naturally open to the relevant planning authority to exercise its usual discretion to consult them on larger submissions if in the relevant planning authority's opinion, it did engage matters relating to pollution control that the sewerage undertaker or their internal environmental protection department were not able to consider.

4.24.4 The signed and dated final SoCG with the Environment Agency submitted into examination at deadline 5 (Document Ref. 8.2) identifies discussions with EA on requirement wording with no outstanding disagreements.

4.25 ISH2-AP24

4.25.1 *“Review Requirement 14 (Flood Risk mitigation) and respond as to whether:*

- i. *Requirement 14(1) should also allow for consultation with C&RT, the IDB, and EA as set out in Requirement 14(3); and*
- ii. *Requirement 14(7) should also allow for consultation with the EA.”*

4.25.2 Requirement 14(1) is intended to govern the mitigation of flood risk during construction and provide a minimum finished floor levels for works 1A and 1C that must be “implemented as approved and maintained throughout the construction” period.

4.25.3 Works 1A and 1C are set back some distance from IDB and CRT assets while byelaws regulate discharge into IDB drains. It is not considered that these parties must be consulted on the construction stage flood mitigation scheme as

a term of the DCO. However, it is naturally open to the relevant planning authority to exercise its usual discretion to consult these parties or the LLFA if it considers appropriate.

4.25.4 We have had no request to include EA as a consultee for Requirement 14(7). EA advised in direct correspondence (their review of the FRA dated 12 October 2021, not currently in examination but can be supplied on request) that “the safe access and egress assessment is not within the Environment Agency’s remit to assess (this is within the remit of the Lead Local Flood Authority – North Lincolnshire Council) [so] we advise that relevant specialist advice to review the emergency/evacuation plans is sought from the Council.” EA is not therefore an appropriate consultee on flood warning and evacuation plans, rather, the LLFA is, as drafted.

4.25.5 The signed and dated final SoCG with the Environment Agency submitted into examination at deadline 5 (Document Ref. 8.2) identifies discussions with EA on requirement wording, including agreement to the wording of requirement 14 in full.

4.26 ISH2-AP25

4.26.1 *“Review Requirement 15(4) and respond in regard to whether it should specify when the works must be carried out.”*

4.26.2 Requirement 15(4) has been updated to require the scheme be implemented and maintained in accordance with the approved details.

4.27 ISH2-AP26

4.27.1 *“Review Requirement 17(2) and respond in regard to whether a scheme to deal with contamination should be listed in this Requirement.”*

4.27.2 Requirement 17(2) has been updated to include reference to the contaminated land scheme approved pursuant to Requirement 15.

4.28 ISH2-AP27

4.28.1 *“Review Requirement 21 (Temporary haul road (removal and restoration)) and respond regarding whether there should be a sub-clause requiring notification of completion of these works, given that in the absence of such a procedure it is unclear how the Local Planning Authority would know the date from which the timings specified would have commenced.”*

4.28.2 Requirement 3 as drafted already provides for notification to the relevant planning authority of the intended date for completion of commissioning with a backstop of notifying within 7 days of completion having occurred. This backstop date is three weeks before the relevant date in Requirement 21 (28

days from completion of commissioning), providing adequate notice to the relevant planning authority. Additionally, Requirement 36 as drafted provides the forum for keeping the local planning authority being kept up to date on matters including timing for the construction and commissioning of the authorised development. No change has been made to Requirement 21.

4.29 ISH2-AP28

4.29.1 *“Review the wording of Requirement 22 (Temporary haul road (prior approval of restoration scheme)) and respond as to whether:*

- i. the restoration of the site means the restoration of the whole site or just the restoration of the site of Works no. 10A; and*
- ii. timescales for implementation of the approved scheme of restoration should be included.”*

4.29.2 Requirement 22 has been amended to clarify it relates to Work No.10A. Requirement 22(1) requires that a timetable be included for implementation with paragraph 2 requiring compliance with the approved details.

4.30 ISH2-AP29

4.30.1 *“Review Requirement 25(3) and respond regarding whether it should include a monitoring and review mechanism, similar to that set out in Requirement 26.”*

4.30.2 The Applicant has reviewed Requirement 25(3), the matters secured under 25(3) are not ones which specifically require on-going monitoring, they are a series of strategies or measures which need to be complied with in accordance with the approved details.

4.31 ISH2-AP30

4.31.1 *“The Applicant’s response to NLC’s¹³ response to the ExA’s¹⁴ First Written Questions ██████████, especially Q1.16.53, is noted. No response to this has been received from NLC to date, but the ExA invited NLC to comment on its current stance with regard to Requirement 27 (Construction Hours). NLC to reflect on its position in this regard and to respond to the ExA accordingly.”*

4.31.2 N/A - for North Lincolnshire Council.

¹³ North Lincolnshire Council

¹⁴ Examining Authority

4.32 ISH2-AP31

- 4.32.1 *“Provide to the Examination a written form of Mr Lowe’s verbal response to the ExA’s question about Requirement 32 (Combined Heat and Power) and what mechanism is to be provided in this DCO, if made, to actually install the CHP¹⁵ pipework up to the Order boundary.”*
- 4.32.2 At this stage no offsite users for surplus heat have been identified through the CHP Readiness assessment undertaken to support the DCO application. In part this is because waste heat from the CCGT is intended to be utilised in the carbon capture plant where feasible, integrating the two from an energy efficiency perspective.
- 4.32.3 As no off site user of heat has been identified, it is not considered appropriate to develop heat or steam (CHP) pipework to a defined point on the Order boundary, since the routing of any such pipework would be – at this stage – arbitrary and could direct to the wrong boundary in the event that an off-site user is identified in the future.
- 4.32.4 The Applicant is committed to making the Proposed Development CHP Ready and has included a requirement of the draft DCO requiring regular re-appraisal of the potential for CHP opportunities in the future. The Applicant is also in control of land within the wider Keadby power station site beyond the Order Limits. Should any CHP pipework be required in the future, this could be developed under the Applicant’s permitted development rights to the Order boundary or through a separate local (Town and Country Planning Act) planning application. As a result, there is no identified impediment to the delivery of future viable CHP opportunities through not including within the DCO a commitment to installing an arbitrary CHP pipework route to the Order boundary.

4.33 ISH2-AP32

- 4.33.1 *“Reflect on and respond to the ExA’s question about whether any consents under the Energy Act 2008 would be required in relation to Requirement 33(1), and if so, whether evidence of any such relevant approval should be listed in this sub-paragraph.”*
- 4.33.2 Requirement 33 already identifies consents required under the Energy Act 2008, this being the Carbon Dioxide Storage Licence secured by Requirement 33(1)(b).

¹⁵ Combined Heat and Power

4.34 ISH2-AP33

4.34.1 *“Review Requirement 36 (Local Liaison Committee) and respond regarding how this Requirement can ensure that the powers and responsibilities of the Local Liaison Committee are meaningful in the light of the objective of this Requirement.”*

4.34.2 The purpose of the Local Liaison Committee is to create a forum by which the local planning authority and other appropriate stakeholders can be kept up to date on the construction of the authorised development and for any feedback to be provided directly to the Applicant. The drafting provides that the committee would meet six times a year throughout construction and commissioning, and annually for the lifetime of the development, which is considered to offer a high level of engagement. In addition, the Framework CTMP is secured by Requirement 25 and provides additional specific activities for the Local Liaison Committee:

4.34.3 *“a formal process of liaison between all relevant parties (Principal Contractor, NLC and Highways England) via a Local Liaison Committee, would: make all parties aware of the results of monitoring of the final CTMP; provide a route by which any complaints can be communicated and dealt with; and provide a route through which transport related issues can be identified and dealt with.”*

4.34.4 There have been no specific requests from interested parties to establish a local liaison committee with wider or greater powers or responsibilities. The likely membership is not clear at this stage despite four rounds of pre application consultation (1, 2, 2.1 pre application, and the Changes Consultation recently). In this context a balance has to be struck as to the level of duties and responsibilities to assign the members before it is established or a contractor appointed, in order to encourage rather than dissuade involvement.

4.34.5 The Applicant consequently decided to propose wording that will create a Local Liaison Committee operating along similar lines to that which has worked effectively at the Ferrybridge SSE site for some years. The CLG has evolved over its lifetime to accommodate new construction, operation and demolition projects at the site including the construction of Ferrybridge Multifuel 1 & 2 plants, the demolition of Ferrybridge C and the pre application consultation of Ferrybridge D DCO project. These power/waste NSIPs have comparable construction and (ongoing) operational characteristics to the Keadby 3 project.

4.34.6 In addition, the wording is consistent with that in Requirement 36 in the Eggborough Gas Fired Generating Station Order 2018 but with the addition of specific reference to local parish councils.

4.35 ISH2-AP34

4.35.1 *“Review Requirement 37 (Employment, skills and training plan) and respond in regard to:*

- i. how this is to be monitored and measured in terms of its success or failure; and*
- ii. what review mechanisms are proposed within the Requirement to control any adaption to the scheme that may be required.”*

4.35.2 Requirement 37 has been amended to include requirements for monitoring. It is considered that any need for future adaptations of the scheme would be recognised and permitted by Requirement 40(2).

4.36 ISH2-AP35

4.36.1 *“Update Schedule 2 (Recommendations) of the dDCO in regard to the typographic errors identified/ discussed during the Hearing.”*

4.36.2 These have been amended as identified.