

Application by Keadby Generation Limited for an Order Granting Development Consent for the Keadby 3 Carbon Capture Power Station Project

The Examining Authority's further written questions and requests for information (ExQ2)

Issued on 12 April 2022

The following table sets out the Examining Authority's (ExA) further written questions and requests for information – ExQ2.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex C to the Rule 6 letter of 8 November 2021. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

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

Each question has a unique reference number which starts with 2 (indicating that it is from ExQ2) and then has an issue number and a question number. For example, the first question on General and Cross-topic matters is identified as Q2.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact keadby3@planninginspectorate.gov.uk and include 'Keadby 3 Carbon Capture Power Station Project' in the subject line of your email.

Responses are due by Deadline 6: Tuesday 26 April 2022.

Abbreviations used:

AA	Appropriate Assessment	IP	Interested Parties
Art	Article	ISH1	Issue Specific Hearing 1 (Environmental Matters)
CA	Compulsory Acquisition	LSE	Likely Significant Effect
CEMP	Construction Environmental Management Plan	MMO	Marine Management Organisation
DCO	Development Consent Order	NE	Natural England
dDCO	Draft DCO	NR	Network Rail
EA	Environment Agency	NLC	North Lincolnshire Council
EP	Environmental Permit	PSED	Public Sector Equality Duty
ExA	Examining Authority	SAC	Special Area of Conservation
ExQ1	ExA's First Written Questions	SoCG	Statement of Common Ground
HRA	Habitats Regulations Assessment	UKHSA	United Kingdom Health Security Agency

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the [Examination Library](#) published on the project webpage of the National Infrastructure Planning website. The Examination Library will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg Q2.1.1 – refers to question 1 in this table.



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ExQ1	Question to:	Question:
1. General and Cross-topic Questions		
Q2.1.1	The Applicant	The Applicant's response to the Examining Authority's First Written Questions (ExQ1) Q1.1.1 is noted. However, the Examining Authority (ExA) would ask the Applicant to direct it to the evidence within the submitted documents that demonstrates the capacity of the existing natural gas pipeline would preclude the operation of Keadby 1 and the Proposed Development at the same time or to enter such evidence into the Examination.
Q2.1.2	The Environment Agency (EA)	The ExA notes the Applicant's response to ExQ1 Q1.1.2, but would ask the EA to confirm that the Environmental Permit (EP) would be used to control the Carbon Dioxide capture rate from the Proposed Development and how this is to be delivered, measured and monitored.
Q2.1.3	The Applicant	The Applicant's response to ExQ1 Q1.1.8 is noted, as is Requirement 33 in the current draft Development Consent Order (dDCO) [REP5-003], where the Applicant has added reference to the need for a pipeline works authorisation under section 14 of the Petroleum Act 1998 for the offshore carbon transport pipeline to be in place before the works are commenced. The Applicant advises this has been done to provide further certainty. The ExA notes this is similar to Requirement 30 of the draft White Rose CCS (Generating Station) Order, but would ask the Applicant to explain in more detail as to how and why adding this reference provides the further certainty it is referring to.
Q2.1.4	The Applicant and All Interested Parties (IP)	During the Compulsory Acquisition (CA) Hearing, the ExA asked the Applicant to briefly set out any duties it may have under the Equality Act 2010. The Applicant responded during the CA Hearing, advising that it is not caught by the main duty under the Equality Act (the Public Sector Equality Duty (PSED) Section 149) and this is noted. However, the ExA is required to pay due regard to the PSED. As such, the Applicant and IPs are invited to make submissions in regard to anything in the Application that may concern the PSED, in order to ensure that the ExA has given that duty due regard within the ExA's Recommendation Report.
2. Air Quality and Emissions		
Q2.2.1	The Applicant and EA	The EA's Written Representation [REP2-022], submitted at Deadline 2, is noted, as are the 'Applicant's Response to the Examining Authority's first Written Questions – Vol 1' [REP2-006] and the 'Applicants Comments on Written Representations' [REP3-021]. However, the ExA would seek an update as to the status of the EP variation application (Variation to the existing Keadby Power Station EP (EPR/YP3133LL/V011)) that was

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ExQ1	Question to:	Question:
		submitted to the EA in July 2021 and confirmed by the EA as having been received for duly made checks on 7 September 2021. The ExA would also seek confirmation as to the likelihood of a decision being issued/ made in regard to this EP variation application during: <ul style="list-style-type: none"><li data-bbox="786 405 2007 477">i. the remainder of the Examination period, as set out in the ExA's Rule 8 letter [PD-008];<li data-bbox="786 493 2092 564">ii. the Secretary of State's Decision period (normally no later than 3 months following the submission of the ExA's Recommendation Report).
Q2.2.2	The Applicant	As the Applicant is aware, the United Kingdom Health Security Agency (UKHSA) advised that the dust monitoring and recording strategy should include properties north of the abnormal load route and south of the water connection corridor. The ExA notes that the scheme to control any emissions to air and for environmental monitoring will form part of the final Construction Environmental Management Plan (CEMP), secured by Requirement 17(2)(b) and 17(2)(f) of the dDCO [REP5-003]. However, the ExA also notes that the Applicant confirmed it would be happy to add representative receptors from these groups to the framework CEMP at a future Deadline, which the final CEMP must take account of. As such the ExA would ask the Applicant to direct it to where within the framework CEMP [REP3-010] these representative receptors have been added.
Q2.2.3	The EA	<p>The ExA noted the response of the Applicant to ExQ1 Q1.2.3, especially the response to item ii. where it states:</p> <p><i>"...Due to the low concentrations of amine degradation species that will be released from the CCP, and also the low concentrations of amines within the ambient air, there are currently no accredited monitoring methodologies available for these parameters. It is understood that the EA are currently developing appropriate accredited methods and it envisaged that once available and where appropriate these will be applied and secured through the environmental permit monitoring conditions."</i></p> <p>Bearing the above in mind, the ExA would ask the EA to provide an update as to progress in relation to its development of appropriate accredited methods in this regard.</p>

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ExQ1	Question to:	Question:
Q2.2.4	North Lincolnshire Council (NLC)	In the document entitled 'Applicants Response to ExQ1 - Vol 1' [REP2-006], the Applicant's responses to Q1.2.7 and Q1.2.14 are noted, as are the comments made by the Applicant during the Issue Specific Hearing 1 (Environmental Matters) (ISH1) [EV013 to EV-016] and the 'Applicant's Response to Action Points Arising from Hearings [REP5-015] (See ISH1-AP4 (paragraphs 2.5.1 to 2.5.5)). In this regard, please could NLC confirm whether they are satisfied with the Applicant's response or whether they consider that the framework CEMP should be strengthened.
Q2.2.5	UKHSA	The ExA notes that the UKHSA did not appear to respond to question Q1.2.11 of its ExQ1. As such, the ExA would ask it to respond to that question, bearing in mind the subsequent submissions from the Applicant and the EA, as well as the most recent version of the draft Statement of Common Ground (SoCG) between the Applicant and the UKHSA [REP4-006].
Q2.2.6	The EA	In response to ExQ1 Q1.2.11 the EA [REP2-021] commented on windspeed and direction data. The Applicant responded to this comment in its document entitled 'Responses to the Examining Authority's Written Question Responses' [REP3-020]. The ExA also asked questions in the ISH1 [EV-013 to EV-016] in regard to matters related to air quality monitoring. Can the EA confirm it is satisfied with the Applicant's responses regarding air quality monitoring, especially windspeed and direction data.
Q2.2.7	The Applicant	In the document entitled 'Applicants Response to ExQ1 - Vol 1' [REP2-006], in the responds to Q1.2.13, it is indicated that additional wording can be included in the framework CEMP, if it is considered necessary. The Applicant states this approach is adopted on many other Development Consent Order(s) (DCO). However, the 'Framework Construction Environmental Management Plan - Revision 2' [REP3-010] does not appear to include any such additional wording. Whilst it is appreciated the word 'can' was included in the response, the ExA would request this matter to be addressed in the framework CEMP or for a full explanation to be provided as to why the same 'approach adopted on many other DCOs', as referred to by the Applicant in its response, should not be applied in this instance.
Q2.2.8	The EA/ Natural England (NE)	The Applicant's response to the ExA's ExQ1 Q1.2.17 [REP2-006] concerning abatement measures to reduce the NOx and ammonia emissions from the development are noted by the ExA. However, the ExA would ask the EA/ NE if, in this regard, they are satisfied with: <ul style="list-style-type: none">i. the Applicant's response to this question; and

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ExQ1	Question to:	Question:
		ii. the wording of the dDCO in regard to this matter.
3. Biodiversity, Ecology and Natural Environment		
Q2.3.1	NE	The Applicant's response to the ExA's ExQ1 Q1.3.13 [REP2-006] is noted, but the ExA would ask whether NE wish to make any comment in response in regard to this matter?
Q2.3.2	The Marine Management Organisation (MMO)	The Applicant's responses to the ExA's ExQ1 Q1.3.14 and Q1.3.15 [REP2-006] are noted, as is the Deadline 2 response from the MMO [REP2-024], where it advises it notes the comments from the Applicant in regard to both potential scour and underwater noise impacts. However, the MMO also indicates it is unable to provide comments at this stage and will endeavour to provide comments to the Applicant prior to Deadline 3. The ExA is not aware of any further response from the MMO in regard to these matters and would ask the MMO to respond or direct the ExA to where in its various submissions their response in regard to these matters can be located.
Q2.3.3	The MMO	The MMO does not appear to have responded to question Q1.3.16 of ExQ1. The ExA would ask the MMO to reply to this question or direct it to where in its various submissions the response to this question can be found.
Q2.3.4	NE	<p>The ExA notes NE's comments concerning how sewerage and 'grey water' produced during the construction phase of the development is to be disposed of and the fact that it considers this should be secured in the DCO. The Applicant's response set out in [REP3-020] is noted, as is the 'Applicant's Response to Action Points Arising from Hearings' [REP5-015], submitted at Deadline 5, that sets out why it considers Requirement 13 provides adequate control in this regard.</p> <p>Bearing the above in mind, the ExA would ask NE whether it has agreed this approach with the Applicant and whether an updated SoCG, that addresses this matter, has been agreed by them.</p>
4. Habitats Regulations Assessment		
Q2.4.1	NLC	The Applicant in response to the ExQ1 Q1.3.5 (Waterborne Transport Off-loading Area and Likely Significant Effect (LSE) on the Humber Estuary Site of Special Scientific Interest, Special Area of Conservation (SAC) and Ramsar site)) advised that the screening of LSE for the purposes of the Habitats Regulations was completed by NLC for Planning Application PA/2019/1554 (Planning permission to construct a foundation to support a

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ExQ1	Question to:	Question:
		<p>temporary mobile crane including associated works Keadby Railway Wharf, Trent Side, Keadby). It also stated that in relation to this application (PA/2019/1554), that NE advised NLC on 28 October 2019 that the proposed developments would not have significant adverse impacts on designated sites and that NE had no objection.</p> <p>Please could NLC confirm whether:</p> <ol style="list-style-type: none"> i. it agrees with the Applicant's response to ExQ1 Q1.3.5 [REP2-006]; ii. the screening of LSE for the purposes of the Habitats Regulations completed by NLC for Planning Application PA/2019/1554 adequately addresses and responds to the ExA's ExQ1 Q1.3.5; and iii. whether it considers any further assessment of LSE is required specifically in regard to the waterborne transport off-loading area included within this DCO application.
Q2.4.2	NE	<p>Pursuant to the Q2.4.1 above, please could NE confirm:</p> <ol style="list-style-type: none"> i. if it agrees with the Applicant's response to ExQ1 Q1.3.5 [REP2-006]; ii. that the screening of LSE for the purposes of the Habitats Regulations completed by NLC for Planning Application PA/2019/1554 adequately addresses and responds to the ExA's ExQ1 Q1.3.5; and iii. whether it considers any further assessment of LSE is required specifically in regard to the waterborne transport off-loading area included within this DCO application.
Q2.4.3	NE	<p>The Applicant's revised Habitats Regulations Assessment (HRA) Appropriate Assessment (AA) Report [REP1-006] is noted, especially the assessment of impacts to saltmarsh (SAC and Ramsar). On the basis of there being no adverse effect on relevant habitats demonstrated through this report, the Applicant considers it is not necessary to secure the reinstatement of such habitat by Requirement in the DCO. The ExA would ask NE if it agrees with the Applicant's position on this matter?</p>
Q2.4.4	The Applicant	<p>The draft SoCG with NE [REP1-009] indicates in 'Matters Agreed' (Table 4.2), in relation to the dDCO, that the Applicant would consider NE's position where it is seeking to secure in the DCO, amongst other matters, the avoidance of the wintering bird period for the cofferdam installation and associated piling works, to prevent noise and visual disturbance</p>

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ExQ1	Question to:	Question:
		<p>to the designated features of the Humber Estuary SPA. However, the ExA notes this does not appear to have been addressed in subsequent drafts of the DCO (most recent version being [REP5-003]).</p> <p>Please could the Applicant direct the ExA to:</p> <ol style="list-style-type: none"> i. its justification within the submitted evidence as to why this matter has not been addressed within the dDCO; or ii. where this matter has been addressed in the dDCO.
Q2.4.5	The Applicant	<p>The ExA notes the Applicant's response to ExQ1 Q1.4.15 [REP2-006], as well as the updated HRA AA Report [REP1-006] submitted at Deadline 1 that addresses this matter at paragraph 5.3.1 onwards. However, the ExA would ask the Applicant to clarify whether the existing baseline has been provided with Keadby 1 currently operating and discharging or whether the baseline provided represents a future baseline?</p>
Q2.4.6	The Applicant	<p>The ExA notes the existing consented discharge from Keadby 1 Power Station is regulated by the EA and that the current EP related to that power station allows a maximum daily discharge of 15m³/ sec (average over a 24-hour period). It also notes that the Applicant anticipates that the rate of discharge from the Proposed Development will be less than 1m³/ sec and will be discharged intermittently, in combination with the 0.016m³/ sec proposed to be discharged from Keadby 2 Power Station. As such it is noted that the Proposed Development would operate well within the existing consented parameters of Keadby 1 Power Station. However, with no EP yet in place related to the Proposed Development and the fact that the delivery of this is being controlled through a process outside the Planning Act 2008 regime, which has not yet been made/ granted, what confidence can the ExA have that these controls/ mitigation can be adequately delivered?</p>
5. Climate Change		
Q2.5.1	N/A	<p>No specific questions at present, which aren't already covered by other questions within this document.</p>
6. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
Q2.6.1	The Applicant	<p>The Applicant's responses to questions concerning CA, Temporary Possession and Other Land or Rights Considerations set out in ExQ1 (Q1.6.5 to Q1.6.23 are noted), as is the Applicant's most recent documents entitled 'Update on Progress with Affected Persons'</p>

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ExQ1	Question to:	Question:
		<p>[REP5-018] and 'Applicant's Response to Action Points Arising from the Hearing' [REP5-015]. The ExA also notes the responses of Affected Persons received to date, especially the submissions of Pollock Associates [REP5-057 to REP5-060] made at Deadline 5.</p> <p>The ExA notes that there is less than 2 months of the Examination Period remaining and there appears to be limited progress being made with Affected Persons. No voluntary agreements have been reached to date and, in the majority of cases, progress since the last update seems to be limited with discussions continuing.</p> <p>In the light of the above responses and considering CA/ Temporary Possession more generally, the ExA is mindful of sections 122 and 123 of the Planning Act 2008, as well as advice set out by the Government's 2013 publication, '<i>Planning Act 2008: guidance related to procedures for the compulsory acquisition of land</i>'. As such the ExA is considering whether sufficient evidence has been submitted to demonstrate all reasonable alternatives to CA/ Temporary Possession have been explored and the ExA would ask the Applicant to clearly set out its evidence in this regard, including whether sufficient time for discussions with Affected Persons has been allowed.</p> <p>Additionally, the Applicant is asked to provide a clear update on all discussions and progress made with Affected Persons, including an indication of the likelihood of reaching/ completing each voluntary agreement within the remaining timescale of the Examination.</p>
Q2.6.2	IPs	<p>The ExA notes the responses of Affected Persons to date, especially the submissions of Pollock Associates [REP5-057 to REP5-060], made at Deadline 5. Being mindful of sections 122 and 123 of the Planning Act 2008, as well as advice set out by the Government's 2013 publication, '<i>Planning Act 2008: guidance related to procedures for the compulsory acquisition of land</i>', the ExA would ask IPs whether they consider all reasonable alternatives to CA/ Temporary Possession have been explored? Responding to this question the ExA would ask IPs to justify their reply, providing any evidence that supports their response.</p>
Q2.6.3	The Applicant	<p>The Applicant's responses to ExQ1 Q1.6.15 are noted, as is the Applicant's most recent document entitled 'Update on Progress with Affected Persons' [REP5-018]. However, the ExA would ask the Applicant to provide an update as to the timing point, in light of the ongoing negotiations with the statutory undertakers, or indicate when, if the objections from statutory undertakers are not withdrawn, the information sought will be submitted</p>

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ExQ1	Question to:	Question:
		into the Examination (ie the justification showing that extinguishment or removal would be necessary for the purpose of carrying out the development to which the Order relates in accordance with section 138 of the Planning Act 2008).
Q2.6.4	The Applicant	<p>The Applicant's responses to ExQ1 Q1.6.17 are noted, as is the Applicant's most recent document entitled 'Update on Progress with Affected Persons' [REP5-018], but the ExA would ask for evidence to be entered into the Examination that demonstrates:</p> <ul style="list-style-type: none"> i. the Crown agrees that no further agreement is required from them in respect of the outfall and river abstraction rights; or ii. the Crown has agreed rights in respect of outfall and river abstraction rights.
Q2.6.5	The Applicant	Pursuant to question Q2.6.4 above, and bearing in mind the Applicant's most recent document entitled 'Update on Progress with Affected Persons' [REP5-018], please provide an update as to progress on reaching agreement with the Crown in respect of the use of the Railway Wharf. If agreement has been reached, please enter evidence of such an agreement into the Examination.
Q2.6.6	The Applicant, Network Rail (NR), Northern Powergrid, The Canal and River Trust, and The EA	<p>In the light of the Applicant's response to ExQ1 Q1.6.18, Q1.6.19 and Q1.6.20, the ExA would ask:</p> <ul style="list-style-type: none"> i. in regard to Q1.6.18 can the Applicant and NR provide the ExA with an update in regard to this matter and whether NR is likely to be in a position to withdraw its objection prior to the close of the Examination; ii. in regard to Q1.6.19 can the Applicant and Northern Powergrid provide the ExA with an update in regard to this matter and whether agreement between the parties has been reached or is likely to be reached immanently; and iii. in regard to Q1.6.20 can the Applicant, The Canal and River Trust and EA provide an update in regard to this matter and whether The Canal and River Trust and EA are likely to be in a position to withdraw their objections prior to the close of the Examination.
Q2.6.7	The EA	The EA's responses to ExQ1 are noted, especially Q1.6.5, Q1.6.9 and Q1.6.23 [REP2-021], as are the 'Applicants Responses to the ExA's Written Question Responses'

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ExQ1	Question to:	Question:
		[REP3-020]. However, the ExA would ask whether there are any updates the EA would like to provide in regard to the above listed questions.
7. Cultural Heritage and the Historic Environment		
Q2.7.1	The Applicant/ NLC	In terms of the effects of the Proposed Development on archaeology, known and unknown, and adequacy of surveys/ assessments, please could the Applicant/ NLC provide an update on progress of surveys/ assessments being undertaken and timescales for submission of such evidence into the Examination.
8. Landscape and Visual		
Q2.8.1	Denise Steel	Your Deadline 5 submission [REP5-052] is noted, as was your Relevant Representation [RR-014] that prompted question Q1.13.4 in the ExA's ExQ1 [PD-009]. The Applicant's response to that question (Q1.13.4) is set out in its document 'Applicant's Response to the Examining Authority's Written Questions – Vol 1' [REP2-006] (pages 70 and 71). The Applicant also refers to its document 'Applicant's comments on Relevant Representations and Additional Submissions' [REP1-021]. The ExA would ask, in the light of the Applicant's responses above, whether any of your concerns have been addressed or abated?
9. Noise and Vibration		
Q2.9.1	The Applicant	The Applicant's response to ExQ1 Q1.9.2 is noted, especially its confirmation that it could add details of its robust procedure for managing complaints and dedicated Stakeholder Manager with responsibility for liaising with members of the local community into the framework CEMP. However, the ExA noted that these details do not appear to have been added to the current version of the framework CEMP [REP3-010]. As such, the ExA would ask the Applicant to direct it to where within the framework CEMP [REP3-010] these details have been included or provide an updated framework CEMP at Deadline 6, where these details have been included.
Q2.9.2	NLC	Pursuant to the above question (Q2.9.1), the ExA notes the response of NLC to Question ExQ1 Q1.9.2 [REP2-015] and the Applicant's response to NLC's reply to this question (see [REP3-020]). The ExA also notes the 'Applicant's Response to Action Points Arising from Hearings' [REP5-015] (See: response to ISH1-AP5 (Paragraphs 2.6.2 and 2.6.3) and Requirement 29 in Schedule 2 of the most up to date version of the dDCO [REP5-003]).

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ExQ1	Question to:	Question:
		In the light of these responses, the ExA would ask NLC whether they are satisfied in regard to the more detailed noise complaints procedure specified by the Applicant and how it is proposed to be secured in Requirement 29 of the dDCO [REP5-003].
10. Socio-economic Effects		
Q2.10.1	N/A	No specific questions at present, which aren't already covered by other questions within this document.
11. Transportation, Traffic and Waste Management		
Q2.11.1	The Applicant	<p>The 'Applicant's Response to Action Points Arising from Hearings' [REP5-015] is noted. However, in response to ISH1-AP12 at paragraph 2.13.3 it is stated:</p> <p><i>"...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. <u>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.</u>" (Underlining is the ExA's emphasis).</i></p> <p>In the light of this response, the ExA would ask the Applicant to explain/ justify why it considers its conclusion underlined above is a reasonable assumption.</p>
Q2.11.2	The Applicant	<p>The 'Applicant's Response to Action Points Arising from Hearings [REP5-015] is noted, especially the responses to ISH1-AP13 at paragraph 2.14.4 and ISH1-AP16 at Paragraphs 2.17.2 and 2.17.3 where it is stated:</p> <p>paragraph 2.14.4 - <i>"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</i></p>

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ExQ1	Question to:	Question:
		<p><i>effluent stream, which would further reduce the demand for off-site management capacity."</i></p> <p>paragraph 2.17.3 – <i>"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."</i></p> <p>The ExA would ask the Applicant to submit evidence that supports these statements, as set out above, into the Examination.</p>
Q2.11.3	The Applicant	The ExA notes the response of NLC to the ExA's Action Points Arising from the Hearings, especially its response to ISH1-AP14 (See document [REP5-049]). In the light of this response the ExA would ask the Applicant to provide a more robust assessment on the number of HGV movements associated with removing construction waste from site and across what period to enable NLC to confirm whether or not it considers the Transport Assessment adequately covers HGV movements of waste carriers emanating from the site.
12. Flood Risk, Hydrology and Water Resources		
Q2.12.1	N/A	No specific questions at present, which aren't already covered by other questions within this document.
13. Design and Layout		
Q2.13.1	The Applicant	The Applicant's response to ExQ1 Q1.13.2 [REP2-006] is noted, but the ExA would ask the Applicant to provide it with an update regarding the route proving study referred to in that answer.
14. Geology and Land Contamination		
Q2.14.1	N/A	No specific questions at present, which aren't already covered by other questions within this document.
15. Planning Policy		
Q2.15.1	N/A	No specific questions at present, which aren't already covered by other questions within this document.

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ExQ1	Question to:	Question:
16.	Draft Development Consent Order	
Q2.16.1	NLC	<p><u>Article (Art) 10 (Power to alter layout, etc., of streets)</u></p> <p>The responses of the Applicant and NLC to ExQ1 Q1.16.14 (documents [REP2-006] and [REP2-015] respectively) are noted, as are the 'Applicant's Response to the ExA's ExQ1 Responses' [REP3-020]. The Applicant confirms in its responses that it has provided further information to NLC confirming that the modifications to the existing A18 junction have been designed following the parameters on the Design Manual for Roads and Bridges Standards CD109/CD123 for a 60mph road, and outlines the justification regarding the proposed departure from standard. The response of NLC to the ExA's Action Points Arising from the Hearings, especially its response to ISH1-AP10 (See document [REP5-049]) are noted, including the comment that NLC's Highway's Projects Team broadly accept the departures in principle, but have raised a few points with the Applicant requiring clarification. In the light of NLC's response can it advise what points of clarification remain outstanding and whether those points of clarification have been addressed by the Applicant enabling its concerns in regard to this matter to be resolved?</p>
Q2.16.2	NLC	<p><u>Art 10 (Power to alter layout, etc., of streets)</u></p> <p>The responses of the Applicant and NLC to ExQ1 Q1.16.15 (documents [REP2-006] and [REP2-015] respectively) are noted, as is the 'Applicant's Response to the ExA's ExQ1 Responses' [REP3-020]. In the light of the Applicant's responses, where it seeks to justify why an appeals process is not required in terms of Art 10 and Art 12, can NLC confirm it is satisfied with its response and confirm no appeal process needs to be specifically referenced within these Articles?</p>
Q2.16.3	The Applicant/ NLC	<p>The ExA notes the response of the Applicant to ExQ1 Q1.16.42 and Q1.16.43 [REP2-006] and the NLC's response to Question ExQ1 Q1.16.43 (document [REP2-015]). The Applicant's response to NLC's reply to this question (see [REP3-020]) is also noted. As the ExA understands it, the Applicant's position is that its current expectation is that biodiversity net gain is to be delivered on land within its control in accordance with its current Landscape and Biodiversity Management and Enhancement Plan. However, the potential exists for any shortfall in biodiversity units to be potentially provided off-site. In this regard the ExA is concerned as to how this would be secured, as it would appear to potentially involve land outside the Order limits and/ or land outside the control of the</p>

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ExQ1	Question to:	Question:
		Applicant. As such the ExA would ask what mechanism(s) are being proposed to ensure such land is secured and provided, should it be required?
Q2.16.4	NLC	NLC's response to ExQ1 Q1.16.53 [REP2-015] is noted, as is the Applicant's response to NLC's reply to this question (see [REP3-020]). The ExA would seek NLC's reply to the response provided by the Applicant in regard to this matter.
Q2.16.5	NLC	The Applicant's response to ExQ1 Q1.16.54 [REP2-006] is noted, but the ExA would ask NLC whether it is satisfied with the Applicant's response in this regard?
Q2.16.6	The Canal and River Trust	The Deadline 5 submission made by the Canal and River Trust [REP5-050] is noted. In regard to the representation made concerning Schedule 2 Requirement 25(3)(c) of the dDCO [REP5-003], the ExA notes the wording is not as set out by the Canal and River Trust in the above mentioned submission. Can the Canal and River Trust confirm that they are satisfied with the wording of Schedule 2 Requirement 25(3)(c) of the current dDCO [REP5-003]?
Q2.16.7	The Applicant	<p><u>Schedule 10 Protective Provisions</u></p> <p>The 'Applicant's Response to Action Points Arising from the Hearing' [REP5-015] at ISH2-AP8 is noted, but the ExA would question the use of the word 'Diver' in paragraph 4.9.2. Should this read 'divert'?</p>
Q2.16.8	The Applicant	<p><u>Schedule 10 Protective Provisions</u></p> <p>Please confirm that the proposed protective provisions provided by National Grid Carbon Ltd (part of National Grid Ventures Ltd), submitted at Deadline 5 [REP5-055], are satisfactory and can be included within the next version of the dDCO to be submitted at Deadline 6 (Tuesday 26 April 2022). If they are not considered to be satisfactory, please provide a full written explanation of your concerns and what you consider is required to address those concerns.</p>
Q2.16.9	The MMO	Pursuant to the submissions made by the MMO at Deadline 3 [REP3-026], it is noted that the Applicant amended the dDCO at Deadline 4 [REP4-003] by amending Schedule 13, Part 1(1) the definition of "Maintain". However, the term 'improve' still remains within the definition and this has not changed in the most recent version of the dDCO [REP5-003] submitted at Deadline 5. The ExA is unclear whether the wording of this definition, as a

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ExQ1	Question to:	Question:
		whole, is reflective of the MMO's comments made at Paragraph 2.1.3 of its Deadline 3 submissions [REP3-026] . Can the MMO confirm whether it is satisfied with the wording for the definition of 'Maintain' as set out in Schedule 13, Part 1(1) of the current version of the dDCO [REP5-003] or suggest alternative wording it considers would be acceptable?
Q2.16.10	The MMO	The Applicant at Deadline 4 amended the dDCO [REP4-003] to address the comments of the MMO, as set out in paragraph 2.1.5 of its Deadline 3 submission [REP3-026] . This was done by the Applicant by inserting Schedule 13, Part 1(4) and renumbering the remaining sub-paragraph Part 1(5). These revisions remain unchanged in the most recent version of the dDCO [REP5-003] submitted at Deadline 5. However, the wording is not exactly as sought by the MMO and the ExA would ask the MMO to confirm whether Schedule 13, Part 1(4) & Part 1(5), as revised in the most recent version of the dDCO [REP5-003] , satisfactorily meets its comments as set out in paragraph 2.1.5 of its Deadline 3 submission [REP3-026] . If not please suggest appropriate alternative wording.
Q2.16.11	The Applicant	The ExA would ask the Applicant to respond to the MMO's request for clarification as set out at paragraphs: 2.1.8 (Movement of the Mean High Water Spring over time); 2.1.9 (Deviation from the Marine and Coastal Access Act); and 2.1.10 (definition of 'Office hours' and 'business/ working days') of its Deadline 3 submission [REP3-026] (also referred to in paragraph 1.1.6 of its Deadline 5 submission [REP5-053]), or direct the ExA to where within the submitted evidence the Applicant's response to these matters can be located.
Q2.16.12	The MMO	Pursuant to the above question (Q2.16.11), the ExA would ask what concerns/ issues/ harms would arise as a result of the Applicant's current wording of Schedule 13, Part 2(5)(b). The most recent version of the dDCO [REP5-003] was submitted at Deadline 5.
Q2.16.13	The Applicant	The ExA notes paragraphs 2.1.13, 2.1.16, 2.1.17 and 2.1.18 of the MMO's Deadline 3 submission [REP3-026] and would ask the Applicant why it has not: <ul style="list-style-type: none">i. amended the dDCO at Schedule 13, Part 3(10) and Part 3(11) to require the respective documents (the CEMP and the Marine Method Statement) to be submitted to the relevant specified bodies 'in writing';ii. defined 'ABP Humber' within Schedule 13, Part 1(1) of the dDCO; and

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ExQ1	Question to:	Question:
		<p>iii. replaced all references to the word 'shall' within Schedule 13, Part 11(1)(e) and Part 12 with the word 'must'.</p> <p>In addition to the above, the ExA would ask the Applicant to review the use of the word 'shall' throughout Schedule 13 (Deemed Marine Licence) of the dDCO and replace it with the word 'must', where appropriate, or justify the use of the word 'shall'.</p> <p>The most recent version of the dDCO is [REP5-003] and was submitted at Deadline 5.</p>
Q2.16.14	The MMO	<p>The Applicant, at Deadline 4, amended the dDCO [REP4-003] to address the comments of the MMO, as set out in paragraph 2.1.19 of its Deadline 3 submission [REP3-026]. This has not changed in the most recent version of the dDCO [REP5-003] submitted at Deadline 5. However, the wording used by the Applicant at Schedule 13, Part 13 is not exactly as sought by the MMO. The ExA would ask the MMO to confirm whether Schedule 13, Part 13, as revised in the most recent version of the dDCO [REP5-003], satisfactorily addresses its comments. If not please suggest appropriate alternative wording.</p>
Q2.16.15	The MMO	<p>The Applicant, at Deadline 4, amended the dDCO [REP4-003] to address the comments of the MMO, as set out in paragraph 2.1.25 and 2.1.26 of its Deadline 3 submission [REP3-026]. This has not changed in the most recent version of the dDCO [REP5-003] submitted at Deadline 5. However, the wording used by the Applicant at Schedule 13, Part 23 (formerly Part 24) is not exactly as sought by the MMO. The ExA would ask the MMO to confirm whether Schedule 13, Part 23, as revised in the most recent version of the dDCO [REP5-003], satisfactorily addresses its comments. If not please suggest appropriate alternative wording.</p>
Q2.16.16	The Applicant	<p>The Applicant's Response to ISH2-AP14, as set out in the 'Applicant's Response to Action Points Arising from the Hearings' [REP5-015], paragraph 4.15.2, is noted. However, this response deviates from the Applicant's position set out in the Applicant's Document 9.1 'Applicant's Comments on Relevant Representations & Additional Submissions' where it stated: "<i>The Applicant confirms that Schedule 13, Part 3 'Conditions Discharge' 29 (2) [now 28(2)] will be omitted in the updated draft DCO (APP-005) submitted at Deadline 2.</i>" The ExA is concerned at the apparent reversal of the Applicant's position in this regard and would request a full and reasoned explanation as to why they are not conforming to its previous statement (quoted above) or amending Schedule 13, Part 3 'Conditions Discharge' 28(2) accordingly.</p>

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ExQ1	Question to:	Question:
Q2.16.17	The Applicant	The ExA would ask the Applicant to respond in full to the MMO's Deadline 5 submission [REP5-053], updating the dDCO as appropriate. Alternatively, the ExA would ask the Applicant to provide a written justification as to why the amendments sought by the MMO are not being incorporated into the next revision of the dDCO to be submitted at Deadline 6 (Tuesday 26 April 2022).