

NLC's responses to the ExA's second written questions (ExQ2) Issued 12 April 2022

ExQ1	Question	NLC Answer
Q2.2.4	<p>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.</p>	<p>NLC are satisfied with the applicants response and the additional wording added to the Framework CEMP. On this basis it is considered that there is no requirement to further strengthen the Framework CEMP.</p>
Q2.4.1	<p>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 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> <p>i. it agrees with the Applicant's response to ExQ1 Q1.3.5 [REP2-006];</p>	<ul style="list-style-type: none"> <li data-bbox="1153 722 2051 759">i. The applicant's response to ExQ1 is correct <li data-bbox="1153 794 2051 930">ii. Neither the NLC screening of LSE nor the Natural England response explicitly considered the numbers of construction related vessels over time or any increases in related traffic and other activities with respect to the Humber Estuary sites. <li data-bbox="1153 965 2051 1181">iii. Any effects on the SAC or Ramsar site in the immediate vicinity of the waterborne transport off-loading area are addressed in the determination of no likely significant effect. The Humber Estuary Special Protection Area (SPA) lies roughly 10 kilometres to the north-north-east. No direct effects on the SPA are anticipated at that distance. <p>Looking more widely, then if there were to be more vessel movements to and from the waterborne transport off-loading area, then the vessels concerned are highly likely to travel through much of the length of the Humber Estuary. Conceivably,</p>

	<p>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</p> <p>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.</p>	<p>this could increase the risk of marine pollution, disturbance of waterbirds or other effects associated with navigation.</p> <p>However, Associated British Ports is a relevant authority in terms of the Habitats Regulations, controlling any potential impacts of navigation on the interest features of the European Marine Site. Their role and duties are summarised in the documentation of the Humber Management Scheme:</p> <p>[REDACTED]</p> <p>This document states that, “On average there are around 26,000 commercial vessel movements in the Humber Estuary every year.” We do not consider that numbers of construction related vessels over time, or any increases in related traffic, associated with Keadby 3 would add significantly to the existing baseline level of vessel movements to such an extent that there would be a significant increase in the risk of pollution disturbance or other interest features of the European Marine Site. Therefore, we would suggest that no further assessment is required.</p>
<p>Q2.7.1</p>	<p>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.</p>	<p>NLC’s Historic Environment Officer (HEO) has confirmed that we are currently following the Applicant’s timetable for evaluation and that this is proceeding on schedule. The trial trenching fieldwork is completed, the HEO monitored the trenches and the preliminary observations of no significant archaeology. We are currently awaiting the report to complete the assessment, which is expected this week (w/c 25/04/2022). A meeting has been arranged with the Applicant’s archaeological consultant to discuss whether any mitigation will be necessary.</p>
<p>Q2.9.2</p>	<p>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:</p>	<p>NLC are satisfied with the more detailed noise complaints procedure specified by the Applicant. However it is noted that in its current drafting the noise complaints procedure would only apply to “Any complaint made to the undertaker in breach of the threshold above...” This threshold being +3dB higher than background levels. NLC do not consider it realistic that a third</p>

	<p>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]). 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].</p>	<p>party would be able to identify whether noise emitted from the site exceeds this threshold and are of the opinion that the complaints procedure should apply to all noise complaints to the undertaker.</p> <p>NLC has discussed this point with the Applicant and it is understood that the drafting of R29 is to be updated to address our concerns.</p>
Q2.16.1	<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>	<p>NLC's comments were sent to the applicant on 04/04/22 and a response was received on 20/04/22. The response from the applicant addressed almost all of the outstanding points of clarification. The only point that NLC is awaiting clarification on is that the Applicant will be responsible for any structural maintenance/defects at the new site access between the completion of the site access and the end of construction, at which point responsibility would revert to NLC.</p> <p>It is anticipated that this final point of clarification regarding maintenance responsibilities can be addressed quickly to allow NLC to formally agree the departures. All other matters, including the design of the access have been resolved.</p>
Q2.16.2	<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</p>	<p>NLC is satisfied with the Applicant's response and agree that no appeal process needs to be specifically referenced within Article 10 or Article 12.</p>

	<p>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	<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 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?</p>	<p>NLC are not aware of the mechanism(s) that the Applicant proposes to secure off-site biodiversity enhancement if required. This is not a matter that has been discussed with the LPA.</p> <p>It is noted that the Applicant has put forwards evidence to demonstrate that net gain is deliverable on-site (net gain assessment at appendix D of the LBMEP (APP-039)) and it is understood that R6 is drafted to allow off-site delivery purely to provide an alternative option should a more beneficial means of providing the net gain elsewhere materialise (i.e. on publicly accessible land or part of a strategic proposal brought forwards by others). It is NLC's understanding that R6 has not been drafted to allow for off-site delivery because of any uncertainty over the ability to provide the requisite net gain on-site, merely to allow an element of flexibility should a more suitable means of delivery be identified.</p> <p>Whilst NLC has no objection to land outside of the Order Limits being used for biodiversity enhancement if beneficial the LPA would require this biodiversity enhancement to be delivered locally.</p>
Q2.16.4	<p>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.</p>	<p>The Applicant's response to NLC's response to ExQ1 Q1.16.53 [REP3-20] is noted. It is acknowledged that on such a large and first of a kind construction programme additional restriction of construction hours could significantly extend the construction period. This could delay the delivery of the nationally significant infrastructure proposed and could also result in additional amenity impacts due to the extended construction period.</p>

		<p>NLC also note that the construction hours proposed do not exceed those that were imposed upon the Keadby 2 Section 36 Consent and that they align with other similar projects. The construction of the Keadby 2 Power Station has been well managed and has not generated complaints to the local authority.</p> <p>In addition to the above the Applicant has satisfactorily clarified the types and nature of activities to be undertaken in the “start-up” and “shut-down” periods, which will not be intrusive.</p> <p>For these reasons NLC’s concern regarding the proposed construction hours has been addressed.</p>
Q2.16.5	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?	NLC are satisfied with the Applicant’s response to ExQ1.16.54 [REP2-006].