

KEADBY 3 CARBON CAPTURE POWER STATION

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

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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 the Examining Authority's Further Written Questions

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Applicant: Keadby Generation Limited

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GLOSSARY

Abbreviation	Description
ADMS	Atmospheric Dispersion Modelling System
AGI	Above ground installation
AIL	Additional Abnormal Indivisible Load
AQMAU	Air Quality Modelling and Assessment Unit
AS	Additional Submissions
BAT	Best available techniques
CCGT	Combined Cycle Gas Turbine
CCP	Carbon dioxide capture plant
CEMP	Construction Environmental Management Plan
CHP	Combined heat and power
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
FFL	Finished floor level
FRA	Flood Risk Assessment
HP	High pressure
HRSG	Heat Recovery Steam Generator
MW	Megawatts
MWe	Megawatts electrical
NLC	North Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
PCC	Proposed Power and Carbon Capture
PINS	Planning Inspectorate

RR	Relevant Representation
SoS	Secretary of State
WFD	Water Framework Directive
ZCH	Zero Carbon Humber

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1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This 'Applicant's Response to the Examining Authority's Further Written Questions – Vol 1' document (**Application Document Ref. 9.17**) has been prepared on behalf of Keadby Generation Limited ('the Applicant') which is a wholly owned subsidiary of SSE plc. 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, 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 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 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. The carbon dioxide export pipeline 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 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 Proposed Development Changes

1.4.1 On 5 April 2022 the Applicant submitted a request for the following changes to the Proposed Development, together known as 'the Proposed Development Changes'.

1.4.2 The Proposed Development Changes have resulted from design contractor involvement, which has continued to refine the detail of this 'First of a Kind' Project implementation.

- Change No. 1 - Inclusion of riverbed within the Waterborne Transport Offloading Area (Railway Wharf)
- Change No. 2 - Changes to the Additional Abnormal Indivisible Load Route, largely within SSE land and all within existing Order Limits (Withdrawn on 26 April 2022).
- Change No. 3 - Increase to the maximum heights of the carbon dioxide absorbers/ stacks, if two are installed.
- Change No. 4 - Increase to the maximum heights of the carbon dioxide stripper column.
- Change No. 5 - Increase in proposed soil import volumes to create a suitable development platform.

1.4.3 With the Proposed Development Changes, the Proposed Development Site would cover an area of 69.7 hectares (ha) (a minor increase of 0.3ha in the amount of the Applicant's land required).

1.4.4 At the time of writing the Examining Authority has not determined whether to accept the Proposed Development Changes into examination and has issued questions to the Applicant and Canal and River Trust and Natural England dated 13 April 2022 (PD-017).

1.5 The Development Consent Process

1.5.1 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.

1.5.2 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.

1.6 The Purpose and Structure of this Document

1.6.1 This document sets out the Applicant's response to the Examining Authority's (ExA's) further set of written questions, which were issued on 12 April 2022.

1.6.2 The Applicant's responses are provided in Section 2, Table 2.1 and Appendix 1.

2.0 APPLICANT'S RESPONSE TO EXAMINING AUTHORITY'S FUTHER WRITTEN QUESTIONS

2.1.1 The Applicant's response to the ExA's further written questions are set out in Table 2.1 on the following pages of this document.

2.1.2 Table 2.1 includes the reference number for each relevant question, the ExA's comments and questions and the Applicant's response to each of those questions.

Table 2.1: Applicant's Response to the ExA's Further Written Questions

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
1. General and Cross-topic Questions		
Q2.1.1	The Applicant	The Applicant is still locating suitable evidence which is likely to be in the form of correspondence or documentation from National Grid Gas. This will need checking with NGG as to its suitability for submission into examination, having regard to commercial sensitivity. The Applicant recognises that the ExA wishes to be updated on this matter in a timely manner and will submit any suitable evidence that is located into examination (or provide an explanation otherwise) at Deadline 6a.
Q2.1.2	The Environment Agency (EA)	N/A
Q2.1.3	The Applicant	<p>The reference to "further certainty" in our response to ExQ 1.1.8 (REP2-006) is simply a direct response to the last part of ExQ 1.1.8 which asked the Applicant if R33 "is adequate in terms of linking the development into the prospective CO2 gathering network. (ie would such a R be adequate, reasonable, precise, enforceable, Etc.)".</p> <p>By adding reference to the section 14 Petroleum Act consent (this being the form of development consent that is needed to deliver the fourth element of the CCUS chain), the Applicant wished to convey the point that in the hypothetical event that evidence of the other third party consents listed in (a)-(c) is available but evidence of the section 14 Petroleum Act consent listed in (d) is not, that R33(1) would not be satisfied. This adds to the precision in the requirement, thereby responding to the request to consider whether it is "precise". "Precision" is analogous to "certainty" i.e. the response to ExQ 1.1.8 the words "further precision" could be substituted.</p>
Q2.1.4	The Applicant and All Interested Parties (IP)	As set out in the question, the Applicant is not subject to the PSED but it is not aware of any concerns in relation to equalities in relation to the development of the Keadby 3 Carbon Capture Power Station pursuant to any DCO made, or in relation to the conducting of the pre-application consultation or the examination.

EXQ2	QUESTION TO:	APPLICANT’S RESPONSE:
		<p>The Keadby 3 Carbon Capture Power Station would if developed not impact upon community facilities used by people with protected characteristics and is located well away from large population centres. Requirements are proposed in Schedule 2 to establish a local liaison committee with secretariat support provided by the Applicant, and an employment, skills and training plan that will be monitored as part of its implementation.</p> <p>An Environmental Permit and various other third party consents would be needed to construct and operate the project and this will ensure that impacts on the environment are acceptable and will not distinguish between human receptors on the basis of protected characteristics.</p> <p>The Applicant is an equal opportunities employer and there is potential for any person to benefit from the jobs created by the scheme.</p> <p>Following responses to public consultation a dedicated access on the A18 is proposed to reduce (non significant) impacts on communities from traffic and transport.</p> <p>The Consultation Report (APP-030) explains an overall objective of pre application consultation was to “provide varied, fair, and safe opportunities for the community to engage with the project, along with considerate timescales” (paragraph 4.2.1) and the published SoCC (Appendix 7.6) shows at Table 1 a broad range of methods were used to engage with local communities at multiple stages of consultation with regard given to providing safe and virtual methods, and explained (paragraph 4.6 of Appendix 7.6) “SSE Thermal also intends to provide longer consultation timescales, greater use of electronic methods, and a considerate approach to information provision, in response to coronavirus.”</p> <p>The Changes Consultation was similarly conducted as reported on in Document 10.3 Proposed Development Changes: Consultation Statement (REP5-042).</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		There is not basis on which to suggest that those with protected characteristics will be impacted differently from others as a result of the scheme.
2. Air Quality and Emissions		
Q22.1	The Applicant and EA	<p>The timescales for determining the Environmental Permit variation are not within the control of the Applicant and, therefore, it is difficult for the Applicant to comment save to say that the Applicant considers that a variation to the Environmental Permit EP (EPR/YP3133LL/V011) for the Proposed Development is unlikely to be granted before the close of Examination.</p> <p>In addition, the Applicant anticipates that the variation application will be Duly Made within the next 3 months and potentially prior to close of Examination.</p> <p>The Applicant is committed to working pro-actively to respond to the Environment Agency on any requests for further information, in the event that these arise.</p>
Q22.2	The Applicant	<p>The Applicant has updated Table 2: Air Quality of the Framework CEMP (Application Document Ref. 7.1) to add additional wording related to dust management.</p> <p>A representative receptor north of the abnormal load route and south of the water connection corridor (TR8 - Blackfriars Cottage (former Trentvale Prep School, Keadby) has been included in the dust monitoring plan.</p> <p>This updated CEMP is submitted into examination at this Deadline 6.</p>
Q22.3	The EA	N/A

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
Q224	North Lincolnshire Council (NLC)	N/A
Q225	UKHSA	N/A
Q226	The EA	N/A
Q227	The Applicant	<p>The Applicant has updated Table 2: Air Quality of the Framework CEMP (Application Document Ref. 7.1) to add additional wording related to the controls on construction diesel generators and NRMM.</p> <p>A revised version of the Framework CEMP has been submitted at this deadline 6.</p> <p>The reference to "this being an approach adopted on many other DCOs" provided in response to Q1.2.13 related to the use of generators being controlled through separate permits as appropriate, rather than through any specific wording within the DCO.</p>
Q228	The EA/ Natural England (NE)	N/A
3. Biodiversity, Ecology and Natural Environment		
Q23.1	NE	N/A
Q23.2	The Marine Management Organisation (MMO)	N/A
Q23.3	The MMO	N/A
Q23.4	NE	N/A
4. Habitat Regulations Assessment		
Q24.1	NLC	N/A
Q24.2	NE	N/A

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
Q243	NE	N/A
Q244	The Applicant	<p>The avoidance of piling works for the cofferdam in the River Trent between September and November is already secured via the Deemed Marine Licence for the purposes of avoiding works within the upstream adult salmon migration period, whilst Requirement 5(4)(d) more generally already secures the method and timing of installation and removal of any cofferdams at the intake points, their phasing, and the extent to which each extends into the waterway. As such, the Applicant considers that the mitigation proposed (i.e. avoiding piling works for any cofferdam within the River Trent within the wintering period) and outlined in the appropriate assessment of the updated HRA Appropriate Assessment submitted at Deadline 5 [REP5-036 – clean and REP5-037 - tracked] is already adequately controlled within the draft DCO. The updated SoCG with Natural England submitted at Deadline 6 confirms no further updates to the draft DCO are considered necessary in relation to this.</p>
Q245	The Applicant	<p>The existing baseline for the River Trent is described in Chapter 12: Water Resources and Flood Risk (APP-055) and in Appendix 12B: Water Framework Directive Assessment (APP-085) – Annex B Baseline Conditions and Appendix C Baseline Surface Water Quality Information and Data. The existing baseline conditions reported include operational discharges from Keadby 1 Power Station and are described in relation to WFD status of the River Trent. Additional baseline data in the form of a Keadby 1 thermal effluent modelling report has also been included in the HRA Appropriate Assessment (REP1-006) submitted at Deadline 1, at the request of Natural England for the purposes of demonstrating that the Keadby 1 Power Station cooling water discharge does not create thermal barriers to migratory fish movements or result in habitat disturbance.</p> <p>The future baseline during construction and operational scenarios for the Proposed Development is outlined in Section 12.4 of Chapter 12 (paragraphs 12.4.73 – 12.4.80) and forms the basis against which impacts of the Proposed Development are assessed.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		The Applicant and Natural England signed Statement of Common Ground submitted at Deadline 6 confirms that there are no outstanding matters to be agreed in relation to impacts of cooling water discharges on the River Trent.
Q24.6	The Applicant	The consented discharge for Keadby 1 power station is based on the once-through cooling technology used on that power station, which by its nature results in high volumes of water being abstracted from and discharged to the river. The cooling method used on Keadby 2 and proposed for Keadby 3 power stations is the use of hybrid cooling towers. These recirculate the water used and consequently the volume of water discharged to river is less than 1/10 of (an order of magnitude less than) that consented for Keadby 1 power station. The Applicant is therefore very confident that the Proposed Development will be compliant with the existing consented discharge flow parameters. As previously confirmed this will be monitored through the environmental permit which – through the approach being taken – covers the operation of all three power stations under the same permit. The Applicant is not seeking to vary the maximum flow rates specified within the existing Environmental Permit.
5. Climate Change		
Q25.1	N/A	N/A
6. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
Q26.1	The Applicant	The Applicant's response to this question has been included at Appendix 1 of this document.
Q26.2	IPs	<p>The Applicant has responded to the submissions of Pollock Associates [REP-057 to REP-060] in its response to Q2.6.1.</p> <p>The Applicant requests the opportunity to respond to any further representations that may be submitted by Pollock Associates together with any submissions that may be made in response to this question by other Interested Parties.</p>

EXQ2	QUESTION TO:	APPLICANT’S RESPONSE:
		<p>In this regard, the Applicant would point out that all interested parties have had the opportunity to make detailed representations and appear at the CA hearing. In the absence of any such representations or appearances, the Applicant has only been able to address issues put before it. Clearly, if there are additional points of concern that Interested Parties wish to raise the Applicant would wish to provide the ExA with a detailed response setting out the Applicant’s position on such matters.</p> <p>The Applicant asks the Examining Authority to consider a further CA hearing to allow these issues to be aired.</p>
Q263	The Applicant	<p>Annex A to Document 9.3 [REP2-007] lists the following statutory undertakers: National Grid Electricity Transmission Plc, Network Rail, Northern Powergrid (Yorkshire) Plc, the Canal and Rivers Trust and the Environment Agency. The Applicant responds in respect of each Affected Party as follows:</p> <p>NGET</p> <p>As set out above, the Applicant has been in discussions with NGET since 15 September 2021, but they did not appoint an agent until 14 March 2022. A series of productive meetings have taken place since then and their agent confirmed on 22 April 2022 that:</p> <p><i>“...I have submitted draft HoTs to NGET and their lawyers and I have a follow up meeting on Wednesday. We are aiming to agree HoTs by the 7th June at the latest.”</i></p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>The Applicant is therefore cautiously optimistic that agreement is in sight with NGET but considers that this is largely outside of their control. In this regard, there is no evidence that NGET would have instructed their agent earlier in the process had the dDCO submission been delayed.</p> <p>NR</p> <p>The Applicant has provided Network Rail with proposed Protective Provisions, Framework Agreement and land agreements. The Applicant is of the opinion that full agreement could be reached within the next 2 to 3 weeks.</p> <p>However, in reality, agreement is not likely as long as Network Rail continue to argue for their exclusion from the CA powers of the dDCO and avoid engaging in the discussion of terms. Furthermore, Network Rail have yet to commence the Sales Clearance process that involves consulting with other stakeholders. Whilst this process is supposed to take 6 weeks, the Applicant has little confidence, based on progress this far, that this timescale will be achieved.</p> <p>Northern Powergrid</p> <p>Whilst Northern Powergrid are included within the BoR their interest in the dDCO land is in respect of apparatus rather than land with the exception of the substation. The Applicant is only seeking rights for the purpose of connection and has no intention of interfering with Northern Powergrid's apparatus or seeking land/rights acquisition.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>Discussions have been underway in respect of a Connection Agreement which, once completed, would remove any need to agree any land rights. At present, therefore, land discussions are effectively on hold in the expectation that the Connection Agreement will be concluded such that any land requirements would fall away. In any event, a Connection Agreement is necessary for the operation of the proposed power station hence it is considered unlikely that agreement would not be reached.</p> <p>The Applicant understands, from a land and/or rights perspective that no further information or engagement is required by Northern Powergrid but is seeking confirmation of this.</p> <p>C&RT</p> <p>As set out above, any agreement with C&RT in respect of the canal abstraction option is to be progressed alongside the Canal Abstraction Agreement which addresses technical issues such as volume, flow rates and mitigation works. However, from the perspective of land terms and consideration to be paid, the Applicant understands that agreement has been reached and solicitors can be instructed to commence the legal drafting.</p> <p>The Applicant has drafted and forwarded a proposed easement in respect of North Pilfrey Bridge and is awaiting confirmation from Gerald Eve that solicitors can now be instructed to complete agreement.</p> <p>However, in addition to Gerald Eve obtaining and confirming their client's instructions, the Applicant understands that DEFRA approval is also required which is anticipated to take 1 month plus 6 to 12 weeks. This is beyond the Applicant's control.</p>

EXQ2	QUESTION TO:	APPLICANT’S RESPONSE:
Q264	The Applicant	<p>The position in respect of the existing agreements is as follows.</p> <p>With regard to the outfall pipe, there is a Deed of Grant dated 23 November 1954 between the Queen’s Most Excellent Majesty, the Crown Estate Commissioners and The British Electricity Authority in respect of</p> <p><i>“...permission to place and maintain a drain outfall consisting of lines of 9” 12” and 15” diameter concrete pipes across the foreshore of the River Trent for the purpose of discharging water from the cooling water pump house intake works at Keadby Power Station... ..and whereas by a Deed of Grant dated the Thirty first day of January One thousand nine hundred and forty four... ..there was granted to the River Trent Catchment Board the right to construct and maintain a half-tide wall on certain parts of the said foreshore and river bed including the party of which the Grantees now which to construct the Drain Outfall...”</i></p> <p>The Deed then confirms that the British Electricity Board have:</p> <p><i>“...FULL RIGHT AND AUTHORITY to place and thereafter maintain the said lines of pipes... ..for the purpose of discharging water... ..and from time to time to enter upon the said foreshore of the River and inspect renew and cleanse the said lines of pipes...”</i></p> <p>In respect of the river abstraction pipes, the Deed of Grant dated 14 May 1952 between the Queen’s Most Excellent Majesty, the Commissioners of Crown Lands and The British Electricity Authority refers to:</p> <p><i>“...permission to place and maintain (1) a piled concrete outfall chamber with apron and (2) intake works consisting of six intake channels with short, piled walls and apron on under or across the foreshore and bed of the river...”</i> and grants:</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p><i>"...FULL RIGHT AND AUTHORITY to place and thereafter maintain the said works in the position shown... ...and from time to time to enter upon the said foreshore and bed of the river and inspect repair renew and cleanse the outfall pipes and intake channels..."</i></p> <p>The Applicant understands that they have the benefit of both the 1952 and 1954 Deeds such that they can utilise the existing infrastructure for the benefit of the proposed scheme. The Crown has been invited to confirm whether they agree or disagree with this position.</p> <p>The Applicant has undertaken to reimburse the Crown's legal costs of reviewing these Deeds so that any potential disagreement can be identified and addressed. However. The Applicant has yet to be advised as to the potential costs or identity of the Crown's legal advisers.</p>
Q26.5	The Applicant	<p>The freehold interest in Railway Wharf (plot 136) is owned by Railway Wharf (Keadby) Limited (RWKL). Mammoet previously had a lease of the wharf but that has now expired. As set out above, there have been discussions with RWKL but they are looking to sell their interest whereas the Applicant only wishes to take temporary occupation in accordance with Work No. 10B. The Applicant has considered potentially purchasing the freehold interest but is unable to meet RWKL's aspirations on price. More fundamentally, however, access from the river to the wharf crosses a jetty.</p> <p>The riverbed upon which the jetty is positioned is owned freehold by the Crown Estate Commissioners acting on behalf of Her Majesty the Queen. Railway Wharf (Keadby) Limited occupy the riverbed by virtue of a lease dated 3 July 2018. At some point prior to this, it is assumed, having regard to the age of the jetty structure, that RWKL entered into a Licence for Alterations to enable them to construct the jetty.</p> <p>In simple terms, therefore, the jetty structure was constructed by RWKL, and the ownership thereof currently rests with RWKL but the land upon which it sits is owned by the Crown.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>The current lease is for a term of 15 years expiring on 24 March 2033. There are therefore less than 11 years remaining. However, the lease does benefit from the protection of the Landlord and Tenant Act 1954 such that, unless the Crown are able to rely upon one or more of the statutory grounds to refuse a regrant, the tenant would be able to request a new lease of up to 15 years term.</p> <p>The current rent is £1,650 per annum and relates to the demise which is defined as</p> <p><i>“the foreshore and bed of the River Trent at Grove Wharf...”</i></p> <p>The permitted use is defined as:</p> <p><i>“the site of the Works in connection with the use of the Tenant’s adjacent land above mean high water as a railway wharf.”</i></p> <p>The Works are defined as</p> <p><i>“the jetty which the Tenant has constructed in accordance with the Existing Lease.”</i></p> <p>The Existing Lease is defined as <i>“the lease... ..which is dated 13 June 2003...”</i></p> <p>The lease expressly forbids RWKL from granting a sublease. As such, the Applicant’s intention to take temporary occupation of the jetty is frustrated by the terms of the lease. As an alternative, the Applicant could</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>take an assignment of the lease as, whilst the landlord's consent is required it cannot be unreasonably withheld. However, this would mean that the Applicant would then have the benefit of the lease for the full term thereof but would only have rights over the wharf for a limited period of time such that the use of the wharf and jetty would be split.</p> <p>In simple terms, the Applicant could fall back on seeking an assignment of the existing lease if the Crown does not engage but this would be to the detriment of both the Applicant who would end up leasing land that it cannot use without the wharf and RWKL who would take back vacant possession of the wharf but have no right to use the jetty. The preferred option would therefore be to have a tripartite agreement between RWKL, the Crown and the Applicant in order to simplify matters and bring certainty.</p> <p>In this regard, the Applicant has been pressing Carter Jonas and the Crown for a meeting to take matters forward in the hope that a simple solution can be quickly entered into. The 29 April 2022 is the earliest date offered by Carter Jonas to progress matters. As referred to above, the Applicant has attached copies of the latest correspondence in this regard at Appendix 2.</p>
Q266	The Applicant, Network Rail (NR), Northern Powergrid, The Canal and River Trust, and The EA	<p>Point i.</p> <p>As detailed above, the Applicant has issued Network Rail with a draft easement for the rights over North Pilfrey Bridge together with amended Protective Provisions and a Framework Agreement. NR has instructed legal representation in respect of the Protective Provisions and Framework Agreement but are insistent that these exclude NR from the exercise of CA powers. This is not acceptable to the Applicant as, in the absence of NR agreeing terms, they would be able to exclude themselves from the statutory provisions governing the assessment of compensation and demand a ransom payment. No other Affected Persons including other statutory undertakers have adopted this stance.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>NR has yet to appoint solicitors to negotiate the terms of the proposed easement. Furthermore, the Applicant has yet to be provided with an estimate from Network Rail as to their anticipated legal costs in reviewing and completing the draft easement.</p> <p>The Applicant submitted a Sales Clearance application form to NR on 18 March 2021. Despite chasing this on several occasions and providing further copies thereof to various NR officers, the Applicant understands that this has still yet to be processed. The Applicant is also advised that no agreement can be completed until Sales Clearance has been obtained. Bearing in mind that clearance is supposed to be granted within 6 weeks of application and NR have yet to commence their consultations with the relevant bodies, it is unlikely that, even if NR appoints solicitors to progress the draft easement, full completion will be achieved prior to closure of the examination.</p> <p>The Applicant has spent significant time and resources addressing these points with NR since well before submission of the dDCO and is of the opinion that the current impasse would still have arisen regardless as to when negotiations first commenced as there is a fundamental point of principle in dispute.</p> <p>Point ii.</p> <p>As set out in the response to EXQ2.6.3, whilst Northern Powergrid are included within the BoR their interest in the dDCO land is in respect of apparatus rather than land with the exception of the substation. The Applicant is only seeking rights for the purpose of connection and has no intention of interfering with Northern Powergrid's apparatus or seeking land/rights acquisition.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>Discussions have been underway in respect of a Connection Agreement which, once completed, would remove any need to agree any land rights. At present, therefore, land discussions are effectively on hold in the expectation that the Connection Agreement will be concluded such that any land requirements would fall away. In any event, a Connection Agreement is necessary for the operation of the proposed power station hence it is considered unlikely that agreement would not be reached.</p> <p>The Applicant understands, from a land and/or rights perspective that no further information or engagement is required by Northern Powergrid but is seeking confirmation of this.</p> <p>Point iii</p> <p>The Applicant is exploring the potential for a side agreement with C&RT that would enable withdrawal of their objection. The Applicant is hopeful that this will be acceptable such that early withdrawal would be achievable.</p> <p>With regard to land issues, the Applicant believes that the principle of agreement has been reached with C&RT in respect of the acquisition of the easement and land for the canal abstraction route such that solicitors can now be instructed. However, as explained above the land agreement is directly tied in with the Canal Abstraction Agreement relating to technical matters as, if consent is not obtained for the proposed abstraction, the land agreement will fall away. The Applicant has issued a draft easement in respect of North Pilfrey Bridge and awaits comments in that regard.</p> <p>The Applicant has drafted a proposed Deed of Undertaking for issuing to the EA which it hopes would allow the EA to withdraw their objection prior to the close of examination in the event that the land agreements have not been fully completed in time. In addition, the Applicant understands that the EA are appointing solicitors</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		so that land agreements can be finalised and completed. The Applicant is in the process of drafting documents for sharing with the EA's solicitors following their appointment.
Q26.7	The EA	N/A
7. Cultural Heritage and the Historic Environment		
Q27.1	The Applicant / NLC	<p>The scope of the archaeological fieldwork has been agreed with North Lincolnshire Council (NLC) Historic Environment Officer (HER) via a Written Scheme of Investigation (WSI). The agreed fieldwork commenced on 15 March 2022 and was completed on 14 April 2022 – over this period, NLC HER visited site on two occasions to view and sign off the works of the archaeological contractor and in addition, received weekly updates on progress of the works and finds from the Applicant's archaeological representative.</p> <p>The agreed fieldwork was completed slightly ahead of the schedule set out in Table 1 of the Applicant's response to the ExA's Rule 17 (Archaeology) letter (REP2-012). An interim report from the archaeological contractor is expected to be provided to NLC HER on or around 26 April 2022.</p> <p>Following completion of the fieldwork, it is envisaged that there are two potential scenarios that are dependent on the findings published in the interim report by the archaeological contractor:</p> <ul style="list-style-type: none"> • Scenario 1 – no further mitigation is required and this is the position agreed with NLC HER. If Document 7.4 – Outline Written Scheme of Investigation (OWSI) is no longer required as no further mitigation is considered necessary, this would be noted to the ExA and the Draft DCO updated accordingly. • Scenario 2 – it is agreed with NLC HER that further mitigation prior to construction is necessary and will be secured via the OWSI – in this event, the OWSI would be updated accordingly, and submitted into examination.

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>Once the interim report is drafted, further engagement is planned with NLC HER to confirm which Scenario applies.</p> <p>In Table 1 of the Applicant's response to the ExA's Rule 17 (Archaeology) letter (REP2-012), submission of final deliverables into examination was programmed for no later than 13th May 2022 (around halfway between the current timetabled D6 and D7) to allow time for wider consultation/ review by Interested Parties before Deadline 7. The Applicant is therefore aiming to submit this information to ExA on 10th May.</p>
8. Landscape and Visual		
Q2.8.1	Denise Steel	N/A, however please see our response to the Deadline 5 submission in Document 9.18 submitted at this deadline.
9. Noise and Vibration		
Q2.9.1	The Applicant	The Applicant has revised wording within Table 4: Noise and Vibration of the Framework CEMP (Application Document Ref. 7.1) to include wording related to the responsibilities of the stakeholder manager to manage noise complaints. A revised version of the Framework CEMP has been submitted at this deadline.
Q2.9.2	NLC	N/A
10. Socio-economic Effects		
Q2.10.1	N/A	N/A
11. Transport, Traffic and Waste Management		
Q2.11.1	The Applicant	A review of readily available information (2019 Waste Interrogator, https://environment.data.gov.uk/portalstg/home/item.html?id=3846ab81a365488fb6c11c0847827bf4) for a selection of hazardous waste treatment sites shows the following differences between permitted capacity and 2019 annual throughputs:

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>Ellesmere Port Incinerator (Cheshire), 2019 actual throughput of 63,021 Tonnes, with a permitted capacity of 100,000 Tonnes per year, therefore a remaining capacity of 36,979 Tonnes for that year.</p> <p>Fawley HT Incinerator (Hampshire), 2019 actual throughput of 33,124 Tonnes with a permitted capacity of 48,000 Tonnes, therefore a remaining capacity of 14,876 Tonnes.</p> <p>Fine Environmental Services – Seal Sands (Tees Valley) 2019 actual throughput of 19,933 Tonnes with a permitted capacity of 48,000 Tonnes, therefore a remaining capacity of 28,067 Tonnes.</p> <p>Hazardous waste management provision is made at the national level, and these three are the largest hazardous waste incinerators in the UK, collectively making up a significant proportion of the capacity. They are also facilities for which information on permitted capacity is readily available in the public domain. Whilst we recognise that this is not a comprehensive assessment of throughput vs capacity for all hazardous waste management sites, we consider that this selection is sufficient to evidence our statement that, in general terms, there is some headroom within the existing system, and not all facilities are operating at maximum capacity 2019 data is used as it is the year used in our initial assessment.</p> <p>This information demonstrates that these facilities had potential for accepting additional waste within their currently permitted limits based on the most recent publicly available data.</p>
Q2.112	The Applicant	<p>Please see the response to 2.11.1 above regarding current waste treatment capacity.</p> <p>At this stage in design development and commercial engagement with technology providers, specific waste volumes cannot be provided, however it is clear from the design work undertaken as part of the ongoing FEED that the waste volumes will be lower than those conservatively assessed in the Waste Assessment (OD-003).</p> <p>Hazardous waste management provision is made at the national level, the three we have evidenced are the largest hazardous waste incinerators in the UK, collectively making up a significant proportion of the</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>capacity. A total 79,892 remaining capacity of these three largest remained available in 2019 (our assessment year) out of a total permitted capacity of 196,000, meaning 40% of their capacity was available. The assessment of incineration capacity has shown headroom well in excess of 3% and we expect the situation with respect to liquid hazardous waste would be similar.</p>
Q2.11.3	The Applicant	<p>The ES Traffic and transport Chapter and its traffic Assessment took a conservative approach to HGV and waste Volumes covering a worst case. The ES Addendum did not therefore require an update, as it is not required as above.</p> <p>Based on a 2 month (encompassing the busiest period of HGV movements, during enabling works) programme (i.e. 10 weeks), working 5 days per week and a 20t payload (based on 13,795m³ ([OD-003], table 1 Waste Technical Note), the anticipated spoil waste removal equates to 22 HGV arrivals and 22 HGV departures per day. Waste materials would be removed in in the Site Enabling and Preparation Phase i.e. circa months 7-8. These vehicle movements are within the quantified vehicle movements/ parameters identified within the ES Chapter.</p> <p>If the HGV movements associated with piling waste removal were to take place in months 7 & 8, it would result in around 668 two way HGV movements (paragraph 4.2.5 appendix 10a Transport assessment) and (paragraph 11.4.8 Chapter 10 Traffic and Transport) (this is compared to 624 stated in appendix 10a).</p> <p>In Section 5 (paragraph 5.1.3) of the Response to the S51 Advice - Waste Technical Note (OD-003) the Applicant reported that the traffic forecasts which form the basis of the assessment of environmental effects presented in Chapter 10: Traffic and Transport include the HGV's related to movement of wastes off-site and these movements do not coincide with the peak of construction which occurs later in the construction programme (months 26 & 27).</p> <p>Therefore, the movement of wastes set out in the Waste Technical Note did not change the worst-case assessment of traffic effects presented in either the Transport Assessment (APP-074) or the Traffic and Transport Chapter (APP-053) of the Environmental Statement.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
12. Flood Risk, Hydrology and Water Resources		
Q2.12.1	N/A	N/A
13. Design and Layout		
Q2.13.1	The Applicant	The route proving study is being commissioned currently and is shortly going out to tender. In line with our response to ExQ1 Q1.13.2 [REP2-006] it will be carried out in the spring of 2022 and then a decision as to the route and connection solution would be taken in late 2022.
14. Geology and Land Contamination		
Q2.14.1	N/A	N/A
15. Planning Policy		
Q2.15.1	N/A	N/A
16. Draft Development Consent Order		
Q2.16.1	NLC	N/A although the Applicant notes that it has provided responses to NLC requests for clarification in relation the outstanding matters at the A18 junction design and will update the CTMP at Deadline 7 to include (along with any updates regarding the Change Request), and has amended article 11 in relation to inspection and maintenance, as they have requested, and therefore we believe we have agreed the DfS. This is an update to the position set out in the final SoCG with NLC submitted at this deadline.
Q2.16.2	NLC	N/A
Q2.16.3	The Applicant/NLC	The revised LBMEP demonstrates that sufficient BNG has been achieved within the RLB and that the applicant will not be seeking land outside the RLB to provide BNG. This position is being agreed with NLC via the Landscape and Biodiversity Enhancement Management Plan (LBEMP) review. It is recognised that there is currently no formal requirement to achieve a specific level of Biodiversity Net Gain (BNG) for the Proposed Development, it being a Nationally Significant Infrastructure Project for which the DCO application was submitted in 2020.

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
Q2.164	NLC	N/A
Q2.165	NLC	<p>N/A</p> <p><i>As discussed in the Applicant's response to Q2.9.1 above, the Applicant has revised wording within Table 4: Noise and Vibration of the Framework CEMP (Application Document Ref. 7.1) to include wording related to the responsibilities of the stakeholder manager to manage noise complaints. A revised version of the Framework CEMP has been submitted at this deadline.</i></p> <p><i>In addition, wording has been added to Requirement 29 of the draft DCO [REP5-003] to state the complaints procedure to be followed and this has been amended slightly during SoCG discussions and documented in the final SoCG with NLC submitted at this deadline.</i></p>
Q2.166	The Canal and River Trust	N/A
Q2.167	The Applicant	The Applicant can confirm that the it should be "divert" at paragraph 4.9.2.
Q2.168	The Applicant	The Applicant can confirm that the draft form of protective provisions submitted by NGC at deadline 5 are not acceptable but is currently in discussions with NGC with the aim of reaching agreement on the final form of protective provisions. The agreed form of protective provisions or the Applicant's preferred form of protective provisions (if the form cannot be agreed) will be included in the Applicant's preferred form of DCO on 10 May 2022, supported by an explanatory note (if required).
Q2.169	The MMO	N/A
Q2.16.10	The MMO	N/A
Q2.16.11	The Applicant	The Applicant notes the request by the MMO in relation to movement of mean high water springs over time and this clause is now removed, together with Part 2(7) and an updated definition of office hours has been

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>added. The MMO has confirmed that it is happy with the amended wording of the DML submitted within the Draft DCO submitted at Deadline 6 and this is evidenced through the final signed SoCG also submitted.</p>
Q2.16.12	The MMO	N/A
Q2.16.13	The Applicant	<p>The revised LBMEP demonstrates that 10% BNG can be achieved within the Order Limits. This position is being agreed with NLC at present via the Statement of Common Ground which we are aiming to submit also at Deadline 6. No additional land is required to deliver BNG.</p> <p>For clarity the reason for including in Requirement 6 of Schedule 2 of the draft DCO the option to deliver off site is merely to provide an alternative option for delivery of net gain, if an (as yet undeveloped) future off site strategic net gain scheme were to be developed in the district by others. It is relevant to include this optionality as this could present benefits relevant to planning compared to on site delivery (e.g. greater public access compared to the Keadby Power Station site; potentially quicker delivery). We have sought to agree the drafting of Requirement 6 in the latest draft DCO (REP5-003) with NLC in the SoCG being submitted at Deadline 6.</p> <p>It is not due to being unable to deliver on site, and does not undermine the fact that BNG delivery on site has been demonstrated. Since delivery on site is proven, there is no basis for requiring a legal mechanism to be shown for this delivery.</p> <p>The removal of the AIL route (change) from the Change Request does not impact the BNG assessment since this land was not relied on for BNG delivery.</p> <p>We would note that there is also currently no formal requirement to achieve a specific level of Biodiversity Net Gain (BNG) for the Proposed Development, it being a Nationally Significant Infrastructure Project for which the DCO application was submitted in 2021. This is a further indication against the need for a legal mechanism.</p>

EXQ2	QUESTION TO:	APPLICANT'S RESPONSE:
		<p>The approach and steps for delivering on-site BNG is set out in the REP-034 and 035. In summary this allows for:</p> <ul style="list-style-type: none"> • Implementation of planting plans from an assumed worst case starting point at the end of the construction period (4 years after the original habitat loss, as entered into the Metric). • Establishment aftercare and monitoring for a period of 5 years to ensure habitats get off to a good start and that any failed stock is replaced in good time • Implementation of long-term nature conservation maintenance regimes once habitats are established to achieve biodiversity objectives (in accordance with the establishment and long-term maintenance periods prescribed within the Metric). • Ecological monitoring to measure success in the delivery of the committed BNG and to permit reporting on this to North Lincolnshire Council (NLC).
Q2.16.14	The MMO	N/A
Q2.16.15	The MMO	N/A
Q2.16.16	The Applicant	<p>The Applicant can confirm that the draft DCO submitted at deadline 6 incorporates the removal of this paragraph (now paragraph 27(2) of Schedule 13) from the deemed MMO licence.</p>
Q2.16.17		<p>The Applicant can confirm that all requested amendments by the MMO have been incorporated within Schedule 13 and is now in an agreed form.</p>

Appendix 1 – Applicant's Response to ExQ2.6.1

The Applicant has split its response into two sections which can be summarised as follows:

1. The extent to which all reasonable alternatives to CA have been explored including whether sufficient time for discussions has been allowed: and
2. The position in respect of negotiations and progress with Affected Persons including an indication of the likelihood of concluding agreements within the Examination period.

SECTION 1

The ExA has stated:

"...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 have been allowed."

The Applicant's response is set out below.

Introduction

The Applicant has previously provided the ExA with an "Update on Progress with Affected Persons" [REP5-018], an updated version of which will be submitted at this deadline. This lists each Affected Person detailing the plots within which they have an interest, the nature of that interest, dates of correspondence (excluding statutory consultation notices), meetings, phone calls and other contacts together with a current status in respect of the negotiations. This update also provides dates of first contact with each of the Affected Persons. The Applicant provides further detail of progress made with each of the parties within these answers to ExQ2.

For clarity, as the ExA will be aware, the BoR includes all known Affected Persons with interests within the dDCO red line boundary. However, the inclusion of such interests does not mean that the Applicant intends to acquire land and/or interests from all the Affected Persons nor that land and/or interests are required in respect of every plot listed. As such, whilst all Affected Persons have been engaged with, agreements in respect of the acquisition of land and/or rights are not required in every instance.

In this regard, as the Applicant will confirm further below, there are 3 Affected Persons who take access over Chapel Land in common with the general public but whose land and private interests are otherwise not required. These parties are included within the BoR but the Applicant can carry out the works it requires along Chapel Lane without requiring their

agreement. As such, whilst the Applicant has invited comments and discussions with these parties it does not need to negotiate the acquisition of any interests.

Similarly, there are 9 Affected Persons who have rights or equipment over land required for the scheme which will not be interfered with. Again, the Applicant, whilst engaging from the perspective of protecting existing rights and equipment, does not need to acquire land and/or rights such that there is no need to agree terms.

In addition, there are 4 parties who previously had an interest in land and/or rights within the dDCO red line boundary but who no longer have such an interest for various reasons.

There are therefore 16 parties listed within the BoR from whom no rights or interests are required in order to implement the scheme proposed by the dDCO.

As illustrated on Document Ref: 4.18 "SSE Land Ownership Plan", the Applicant already controls the vast majority of the required land either in its own right or through other SSE Group companies. These Group companies also benefit from rights in respect of the outfall pipe, river abstraction pipe and southern access over North Pilfrey Bridge.

It was therefore the case that, prior to the submission of the dDCO, the Applicant understood that it only needed to negotiate the acquisition of land and/or rights for the northern electricity cable route and emergency access together with the laydown area located immediately south of North Pilfrey Bridge and potentially, new rights for the canal abstraction route option.

The Applicant, as set out within the dDCO, intends to deliver some abnormal indivisible loads from the river via Railway Wharf but has taken the view that this could be achieved by replicating commercial agreements that had been previously agreed in respect of Keadby 2 whereby PD Ports managed the operations in conjunction with the appointed contractor such that SSE did not require land agreements. Because of this, the acquisition of rights by voluntary agreement or through the exercise of CA powers was considered to comprise a back-up option only. This remains the intention of the Applicant but, as a contractor has yet to be appointed, it is premature to progress this approach.

Pre- DCO Submission

In preparation for the submission of the dDCO, the Applicant instructed Ardent to commence title investigations in September 2020. They commenced the download and interrogation of HMLR titles at this point, undertook desk-top referencing, plotted landownerships and rights including those benefitting statutory undertakers and utilities, then issued "Request for Information" letters to all Affected Persons in October 2020 and sent out chasers to non-responders in November 2020. Site notices were also erected in November 2020.

These investigations were coordinated with the issuing of statutory consultation notices including the s42 Stage 2 consultation dated 24 November 2020 (sent to the landowners listed at Appendix 8.4 of the Consultation Report APP-030). In addition, a targeted round of s42 consultation was carried out in March 2021 involving statutory notices being sent to all landowners within or adjoining certain parts of the Proposed Development that were being altered, numbering sixteen interests, see Appendix 13.2 of the Consultation Report APP-030.

As with all exercises of this nature, not all documents could be sourced by the Applicant and not all Affected Persons provided detailed responses. Fewer still provided copies of relevant deeds.

The position, as at the submission of the dDCO, was as follows (in summary, with detail following):

1. The Proposed Development was on the existing power station site and virtually all of the land required for the Proposed Development was already controlled by the Applicant either directly or through associated group companies;
2. The largest new land requirement comprised the proposed emergency route and 132 KV cable route to the north over land owned by Andrew Clive Severn (Severn) and Richard Henry Strawson (Strawson) and the use of agricultural land owned by Mr Belton Wright for the purpose of laydown and temporary storage. Discussions with these parties had been underway for several months prior to the submission of the dDCO;
3. The connections for the proposed development, including gas, electricity, water and access utilised existing infrastructure and/or routes that have been in use for a significant period of time in connection with the existing Keadby 1 and/or Keadby 2 power stations. It was anticipated that the Applicant would be able to re-use these connections;
4. The Applicant was exploring the potential of a new canal abstraction solution to replace the current river abstraction pipe. This would require new land and rights from Canal and Rivers Trust (C&RT), Environment Agency (EA) and a single private landowner (Angela Way);
5. The Applicant had the benefit of existing highway accesses and crossing agreements;
6. The arrangements that were agreed for Keadby 2 in respect of the use of the haul road and Railway Wharf could be replicated for Keadby 3 as the requirements were broadly similar such that no land or interests would ultimately be required.

In respect of point 2 (the 132 KV cable and emergency access rights), the Applicant was aware from previous discussions in respect of Keadby 2 that the landowners (Severn and Strawson) were represented by Pollock Associates (Pollock). The Applicant therefore contacted Pollock by telephone on 10 December 2020 and followed up by an email with proposed Heads of Terms on 22 December 2020. Negotiations were therefore already at an advanced stage prior to submission of the dDCO.

Further negotiations have since taken place, but final agreement has been delayed by the late notification by Pollock of the existence of Option Agreements which were entered into after the submission of the dDCO. The Applicant is unclear as to why these Option Agreements were entered into without taking account of the, by then, known dDCO proposals nor why, despite being given plentiful opportunity to do so, Pollock did not inform the Applicant of their existence until 8 March 2022. The Applicant believes that, had Pollock kept the Applicant fully informed, agreement would have been completed by now.

The Applicant was already aware that the land required for the laydown area, and that the land north of Skew bridge was owned by Johnathan Belton Wright. The Applicant made contact and issued Heads of Terms on 22 December 2020 which were then followed by further Heads of Terms on 28 April 2021, 25 November 2021 and 2 February 2022. As with Pollock, negotiations were therefore already at an advanced stage prior to submission of the dDCO.

It was therefore the case that the Applicant had already engaged with those Affected Persons with whom it knew that terms would need to be agreed, at least 6 months prior to the submission of the dDCO.

Whilst the Applicant considered that it already benefitted from rights granted by Network Rail (NR) in respect of North Pilfrey bridge, it considered that it would be prudent to make early contact with NR in order to establish whether there were likely to be any issues arising. As such, the Applicant first made contact with the NR Wayleaves and Easements team on 17 March 2021 i.e., 2.5 months prior to the submission of the dDCO.

NR replied on the same day requesting that the Applicant applied for Sales Clearance before they considered the matter further. The Applicant completed and submitted these forms on the 18 March 2021. Further exchanges took place on 30 and 31 March 2021, 6 May 2021 and 10 May 2021. The Applicant chased again on 10 June 2021 and 12 August 2021 but no response from NR was received until 31 August 2021.

As such, the Applicant attempted to engage with NR prior to the submission of the dDCO but was unable to elicit any response until after submission. Since this point in time NR have been insistent that they be exempt from the exercise of any compulsory purchase powers

but have not engaged in respect of alternative proposals and have yet to grant sales clearance. The Applicant returns to these points below but does not believe that delaying the dDCO to allow further time prior to the submission thereof would have resulted in a different outcome.

With regard to point 4 (the canal abstraction option), the Applicant had already engaged with the Canal & River Trust (C&RT) pre-application to progress matters such as design, anticipated water volumes, mitigation works and engineering matters. As part of the technical engagement with C&RT during State 2 consultation in December 2020, C&RT confirmed that they would prepare the first pre-application consultation with the Environment Agency. As part of this, the Applicant formally provided C&RT with details of the abstraction volumes being sought. As such, the Applicant's requirements were set out and provided to C&RT 6 months prior to the submission of the dDCO.

The abstraction would comprise a similar design and concept to that which was achieved for Keadby 2. In this regard, if agreement could be reached with C&RT in respect of technical and engineering matters, agreement in respect of the provision of the requisite land and rights would naturally follow.

Conversely, there would be no requirement for land and/or rights if terms for an Abstraction Agreement could not be agreed and/or the canal option was abandoned in favour of the river option. In this context, the Applicant wished to progress the Abstraction Agreement as a priority. Notwithstanding this point, the Applicant nevertheless contacted C&RT to progress land discussions on 10 June 2021; and C&RT with the Applicant engaged in November 2021 in order to agree details of the abstraction licence application that was then submitted by C&RT to the Environment Agency on 3 December 2021 (as evidenced in the Deadline 3 SoCG with C&RT, reference REP3-014).

The Applicant sets out more details in respect of discussions with the Crown in its further responses below, but wishes to draw the ExA's attention to the fact that, having obtained consent to communicate with the Crown by email, the Applicant emailed NSIP@thecrownestate.co.uk on 4 March 2021 referring to statutory "Stage 2" s42 consultation which was served on 24 November 2020 and pointing out that no response had been received.

This email included plans of the outfall, river abstraction and wharf areas as extracted from the draft dDCO plans and stated "*we are also in discussions with CRT, Associated British Ports, MMO and the MCA, and would like the opportunity to discuss these proposed works with yourselves, provide further information, and discuss the potential terms of an agreement to use the relevant areas of land.*"

This email was followed on 30 March 2021 by a further email from the Applicant advising that a section 42 letter describing some very small changes was about to be issued together with a revised section 48 notice. The email also stated *"We remain keen to discuss the proposed works with you as set out below, including the potential terms of an agreement to use the land. This is separate from the above exercise."* The email also advised that it was expected that the dDCO would be submitted in late May 2021. No response had been received by 1 June 2021, i.e., the date of submission of the dDCO.

The Applicant was advised to contact Carter Jonas which they duly did in September 2021 since when the Applicant has been attempting to progress negotiations but, as set out below in further detail, there has been no meaningful engagement and, other than being advised that the Crown would like to secure a rental income for their cooperation in respect of the Wharf, terms have not progressed. Bearing in mind that the Applicant has been trying to negotiate with the Crown for over a year now it is of the opinion that allowing more time prior to submission of the dDCO would not have been likely to have assisted in progressing matters.

As such, the Applicant does not believe that delaying the dDCO to allow more time for engagement with the Crown would have resulted in a different outcome.

In summary, the position as a June 2021 (i.e., immediately prior to submission of the dDCO), was that the Applicant controlled the vast majority of the required land and interests either in its own right or through SSE Group companies, expected agreements to be reached in respect of the haul road on the same basis as had been agreed previously in respect of the Keadby 2 development, (which did not benefit from the exercise of CA powers), had issued Heads of Terms in respect of the Severn, Strawson and Belton Wright interests and commenced discussions with C&RT. They had also attempted to engage with NR and complied with their request to submit a Sales Clearance application and attempted to engage with the Crown.

Despite carrying out diligent inquiry, and two rounds of S42 consultation/notification, not all information sought had been provided to the Applicant, but the Applicant considered that delaying the submission of the dDCO would not have made it any more likely that this information and supporting documents would have been provided prior to the commencement of the pre-examination and examination stages.

Post DCO Submission

Having already progressed negotiations in respect of that land and/or rights that were not considered to be already under the control of the Applicant or one of the SSE Group companies, the Applicant actively contacted all the remaining Affected Persons regardless as to whether they were likely to be affected or not.

In this context, the Applicant contacted C&RT on the 10 June 2021, Severn Trent on the 15 June 2021, Railway Wharf (Keadby) Limited on the 23 June 2021 and PD Ports on the 2 September 2021 to explain the implications of the dDCO in respect of their land/interests. In addition, the Applicant attempted to make contact with the other Affected Persons by email and/or phone call.

This was followed by open letters emailed and/or posted to all remaining Affected Persons split into two tranches on 10 and 15 September 2021. These letters provided links to the dDCO, explained the required interests, requested further information as to the nature of their interest and invited them to contact DWD to commence negotiations or, alternatively, provide contact details for their agents.

Whilst the Applicant had issued "Requests for Information" prior to the submission of the dDCO, very little information had been provided by Affected Persons. However, following submission of the dDCO, Affected Persons started to provide further title information, leases and easements. This further information cast doubt on the extent to which the Applicant, despite being part of the SSE Group, could rely on the existing agreements to use the outfall pipe and North Pilfrey Bridge.

Following a full internal legal review, the Applicant decided to draft updated easements to regularise the position in respect of the outfall pipe to remove any risk, however remote, of challenge at a later date. Due to the number and complexity of the agreements combined with the need to ensure that the existing power station's ability to use the pipes was not inadvertently undermined, it was not possible to issue these to all the relevant Affected Persons until November 2021.

The request to enter into these revised Deeds was accompanied by confirmation that the Applicant would reimburse all reasonable costs and offers of consideration in excess of the Affected Persons' statutory entitlement to incentivise early agreement.

Whilst the deeds were drafted by the Applicant's inhouse legal team and it was originally intended that they would progress matters, an internal reorganisation took place such that Dentons were tasked with taking matters forward in place of the inhouse legal team. Unfortunately, this resulted in a delay arranging for funds to be transferred to Dentons in order that they could put the Affected Persons' solicitors in funds due to the need to obtain internal accounting signoff. Funds have now been made available to Dentons and the Applicant is hopeful that the deeds can now be completed without further significant further delay.

The position in respect of the outfall pipe only came to light as a result of the submission of the dDCO and the Applicant is of the opinion that delaying the submission of the dDCO would not have made any difference to the progress of these negotiations. In reality, the delay in completing these deeds is solely a result of the Applicant only becoming aware of a potential issue following the receipt of further information after the submission of the dDCO combined with internal reorganisation and need to coordinate different SSE Group companies.

Progress in respect of the remaining Affected Persons is set out below in Section 2 of this response. However, in summary, the Applicant would make the following points.

- The Applicant has been in negotiations with Severn and Strawson since 10 December 2020. The main reason that agreement has not been completed, in the Applicant's opinion, is due to the Applicant only being made aware on 8 March 2022 as to the existence of Option Agreements. The Applicant, as detailed below, has moved swiftly in dealing with this new issue and is now confident that the previous Heads of Terms are capable of amendment such that full agreement can be reached.
- The Applicant has been in negotiations with Belton Wright since 22 December 2020. It was understood by the Applicant that the Heads of Terms dated 2 February 2022 were agreed but confirmation, or otherwise, of this is awaited. The Applicant is not aware of any reason as to why the Heads of Terms cannot be finalised and solicitors instructed.
- Terms are unlikely to be agreed with NR regardless as to how much time is allowed as they are insistent on maintaining a ransom position and being excluded from CA powers and will only progress discussions on this basis. In this regard Sales Clearance was applied for on 18 March 2021 but has still not been progressed by NR.
- The Applicant, in submitting the dDCO, believed that it already had the benefit of the outfall pipe easement. Having been made aware of potential issues in relying on the existing easement, the Applicant issued revised easements in November 2021. The Applicant acknowledges that the process should have been progressed more quickly but is optimistic that completion of the draft easements can be achieved within 3 to 4 weeks at the latest.
- Negotiations in respect of the haul road and use of the wharf are progressing on a different basis to that proposed within the dDCO. However, the agreement of the Crown is still required in respect of the jetty. The Applicant has been trying to progress negotiations with the Crown since 15 September 2021 but without success.

This is not a matter of time but of the Crown's ability to dedicate resources to these negotiations.

- Discussions in respect of the canal river abstraction were underway well before the dDCO was submitted. As part of this, the Applicant provided technical information in respect of the abstraction volumes during Stage 2 consultation in December 2020. Following this, discussions in respect of the acquisition of land and rights along the proposed abstraction route commenced on 10 June 2021 but progress was initially delayed due to the lack of an agent being appointed by C&RT. Following the appointment of Gerald Eve on 21 January 2022 terms have now been agreed albeit the Applicant is advised that consent is required from DEFRA. This is outside of the Applicant's control. This has, in turn, enabled a further detailed offer to be made to Angela Way.
- Negotiations with National Grid and Electricity Transmission (NGET) have progressed to the point that NGET have advised that they expect to have internal approvals to Heads of Terms by 7 June 2022 at the latest.
- Negotiations with the Environment Agency have focussed on minimising the impact on their assets and there has been no indication that the EA will not agree terms. In this regard, the EA have advised that they consider that sufficient progress has been made to instruct their solicitors to conclude land agreements.
- A number of Affected Parties have been included in the BoR because they take access over Chapel Lane which is an adopted highway. No rights are required by the Applicant to interfere with access over Chapel Lane and they have only been included because it falls within the dDCO red line boundary.

Overall, the Applicant considers that considerable progress has been made in respect of agreeing matters which were already known at the time that the dDCO application was made and has responded to new information as quickly as feasibly possible. There are effectively only two parties with whom it has not been possible to make significant progress, namely the Crown and NR.

The Applicant does not consider that there is anything additional it can do to elicit a timely response from the Crown. The Applicant remains hopeful that progress can be made at the meeting arranged for 29 April 2022.

Whilst there has been extensive and detailed negotiations with NR there is point of principle at stake. NR wish to be excluded from the prospective exercise of CA powers and argue

that North Pilfrey Bridge comprises operational land. If this position was to be accepted, the Applicant would not be able to secure access over the bridge without Network Rail's consent.

On the assumption that Network Rail were excluded from CA powers and subsequently indicated that they were willing to grant access, despite having previously argued that the bridge comprised operational land, they have a policy of seeking "shared value". This is an alternative term for "ransom value" whereby they Rail would seek 50% of the uplift in value. As they would, by being exempted from the exercise of CA powers also be exempt from the statutory "no scheme" provisions of the Compensation Code, this increase in value would have regard to the value of the Proposed Development. It is important to note that neither C&RT nor the EA, without whose consent access cannot be taken over the bridge, are making this argument.

The Applicant has been clear with all Affected Persons from the outset that it is only seeking CA powers as an absolute matter of last resort and would far rather secure agreements such that it can avoid having to serve any acquisition notices at a later date.

In this regard, all Affected Persons were contacted early enough in the process to enable agreements to have been reached and commercial terms in excess of compensation entitlements have been offered to incentivise agreement. In addition, the Applicant is more than willing to enter into terms on an alternative basis and a number of different approaches have been negotiated to this end.

Taking all these points into account, with the exception of NR, it appears to the Applicant that there is a realistic prospect of the required land and interests being acquired without ultimately having to rely upon CA powers. Nevertheless, CA powers are still required as a fallback position if agreement cannot be reached for any reason including but not restricted to the amount of payment to be made by the Applicant.

SECTION 2

The ExA has stated "*...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.*"

In this regard, the Examination is scheduled to close on 7 June 2022 unless the ExA otherwise directs. There are therefore effectively 9 weeks of the Examination remaining.

The Applicant is pleased to provide a clear summary of the current position regarding negotiations before setting out the detail. In this regard the current position is as follows:

Number of Parties	Position
4	No longer have an interest in the Order Lands
12	No land or rights required
1	Acquisition completed (internal SSE transfers)
17	Legal Agreements issued
5	Heads of Terms being finalised
1	Commercial (no land/rights acquisition) terms proposed
2	Little or no progress

The following parties, whilst listed in the BoR, do not have any current interest in the dDCO red line boundary.

- RES Developments
- Metro Bank Plc
- Mammoet UK Ltd
- Owen Peter Roe

The Applicant does not need to acquire any land or interests from the following parties:

- National Grid Gas PLC
- North Lincolnshire Council
- Severn Trent Water
- Northern Powergrid
- Yorkshire Water
- British Telecommunications Plc
- NatWest
- Northern Powergrid
- Barclays Security Trustees Limited
- Ann Ida Madge Radford
- Raymond Radford
- The Sea Cadets.

The Applicant does not need to acquire any land or interest in order to implement the following works as it already owns the required land in its own right or through a SSE Group company:

- Work No. 1A - CCGT Plant
- Work No. 1B - CCGT Cooling Infrastructure
- Work No. 1C - Carbon Capture Plant
- Work No. 1D - Natural Gas Reception Facility
- Work No. 1E - Generating Station Supporting Uses
- Work No. 2A - Natural Grid Gas Natural Gas Compound
- Work No. 2B - Undertaker Natural Gas Compound
- Work No. 3A - Above or Below Ground Connection to National Grid 400 KV substation
- Work No. 6 - Towns Water Connection
- Work No. 7A - Carbon Dioxide Conditioning and Compression Facilities
- Work No. 7B – National Grid High Pressure Carbon Dioxide Apparatus
- Work No. 8B - Gatehouse and Layby
- Work No. 9C - Temporary Construction and Laydown Area in Association with Replacement of Private Bridge
- Work No. 11A - Landscaping and Biodiversity and Enhancement Areas
- Work No. 11B - Boundary Treatment

These works are defined at Schedule 1 of the dDCO and illustrated in Document Ref:4.3 "Works Plans".

With regard to the remaining works, the Applicant provides more detail as follows.

WORK NO.4A - CANAL WATER SUPPLY CONNECTION ROUTING

The route of the proposed Canal Water Supply Connection Routing (CWSCR) is shown on sheet 4 of Document 4.9 (Indicative Cooling Water and Waste Water Connection Plans). This comprises an underground pipe carrying water from the canal via a new pumping station to be located on Plot 80A. The western section of the proposed underground pipe will be installed in land already controlled by the Applicant. However, subsoil rights are required from unconnected third parties in respect of plots 52 (Environment Agency), 71 & 97 (Angela Way) and 81, 80 & 75 (Canal and Rivers Trust). The Applicant also requires the freehold of plot 80A (Canal and Rivers Trust).

The Applicant has been in negotiations with the Environment Agency since 10 September 2021. The Environment Agency advised at the last meeting with the Applicant on 7 April 2022 that they felt that sufficient progress had been made for them to instruct solicitors to review and conclude proposed terms. The Applicant is awaiting details thereof so that fee undertakings can be provided. In the meantime, a draft Deed of Variation was forwarded to the EA on 26 April 2022. The Applicant is not in control of the time likely to be taken to finalise agreement but does not expect to have to exercise CA powers.

Negotiations have taken place with C&RT since 10 June 2021, but Gerald Eve were not appointed to progress land agreements until January 2022. Broad terms in respect of the consideration to be paid and option provisions were subsequently agreed on 22 April 2022. However, Gerald Eve have advised that the consent of DEFRA will be required and that it would need to be finalised at the same time that the Abstraction Agreement is entered into. As such, other than progressing the detail of the agreement, the timing of completion is dependent upon DEFRA and the finalisation of the Abstraction Agreement. In the event that the Abstraction Agreement could not, for any reason, be agreed, the requirement for the land and rights would fall away.

In this regard, Gerald Eve have advised that the process for obtaining approval from DEFRA will take 1 month plus 6 to 12 weeks. As such, C&RT will not complete the agreed terms until the Abstraction Agreement is completed and DEFRA have provided consent. The timings of this are outside of the Applicant's control.

The position in respect of Angela Way is that contact was first made on 3 August 2021 following which discussions have taken place with her appointed agent. The reason that contact was not made earlier by the Applicant is that work was still being undertaken to confirm whether it was possible to find a route that would avoid this ownership entirely. However, the Applicant has been unable to find an alternative route such that it is necessary to agree terms assuming that agreement can be reached with C&RT.

This agent acting on behalf of Angela Way has advised that the installation of a pipe would interfere with his client's ability to secure significant payments from developers of, as yet unidentified land in the vicinity. In other words, he considers that the installation of a pipe through the subsoil of this plot would effectively sterilise the plot because it would prevent anyone else being able to install a pipe should they so wish. It is unclear to the Applicant as to who else would want to install a pipe through this plot nor why the installation of the proposed pipe would prevent the installation of any other pipes or cables.

The Applicant proposed improved terms on 24 April 2022 that, in their opinion, are better than provided for by the Compensation Code and are consistent with terms agreed elsewhere within the dDCO boundary. However, this proposal has been rejected by Angela Way on the grounds that the consideration being offered is insufficient. The Applicant will

continue to negotiate but matters of compensation and value are ultimately a matter for the Upper Tribunal Lands Chamber or such other Third Party as may be agreed by the parties

WORK NO. 4B - RIVER WATER SUPPLY PIPELINE CONNECTION ROUTING

Whilst the Applicant would prefer to supply water from the canal (Work No. 4A) it wishes to secure the ability to take water from the river as an alternative solution. In this regard, the water would be drawn through the existing pipe infrastructure which supplies water to the existing power station.

The route of the River Water Supply Pipeline Connection (RWSPC) is shown on sheet 5 of Document 4.9 (Indicative Cooling Water and Waste Water Connection Plans). As is apparent from Document 4.18 (SSE Land Ownership Plan), the entirety of the land required for the pipe is owned or leased by the Applicant. In addition, the coffer dam (i.e., plots 158 and 163) is subject to existing agreements with the Crown such that, with the possible need for the installation of eel screens, no consent is required from the Crown.

The only Affected Person with whom a revised/updated agreement may be required to extend the benefit of the pipe to the Applicant is NGET. They have advised, via their agents, that they do not object to the Applicant having the benefit of the pipe and are currently taking instructions in respect of proposed terms. They have advised that they anticipate the receipt of client's instructions by 7 June.

The Applicant considers that, having regard to progress thus far, there is every expectation of an agreement being completed such that CA powers should not ultimately need to be exercised.

WORK NO. 5 - COOLING WATER DISCHARGE PIPELINE

The Cooling Water Discharge Pipeline (CWDP) is already in position and comprises an underground pipe taking water from the existing power station into the river. As such, it has been in use by SSE Group Companies since the 1950s.

The Applicant proposes to use this pipe for the proposed Carbon Capture Power Station (Keadby 3) such that the proposed works would comprise repair and renewal only to the extent necessary in light of any deterioration that may subsequently come to light. There will therefore be no impact on any of the Affected Persons whose land the pipe passes beyond that which would arise in any event absentia the proposed development. In essence, the Applicant will simply connect into the existing infrastructure for Keadby 3 and use of the pipe by Keadby 1 will cease.

The route of the CWDP is shown on sheets 6 and 7 of Document 4.9 "Indicative Cooling Water and Waste Water Connection Plans". By comparing this document with sheet 2 of Document 4.18 "SSE Land Ownership Plan" it can be readily noted where the CWDP passes from land under the control of SSE group companies into land owned by Affected Persons. In this regard, the route outside of SSE controlled land runs eastwards from plot 83 to plot 163 as detailed on the Land Plans (Document 4.2).

The pipe is already subject to agreements with the Affected Persons and it was understood by the Applicant, at the time that the dDCO was submitted, that the Applicant would benefit from the existing agreements by virtue of being part of the SSE Group. It was therefore the case that the various Affected Persons in whose land the pipe has been installed, were included in the BoR solely on the basis that they owned or controlled land within the dDCO red line.

However, whilst none of the Affected Persons raised any concerns prior to the submission of the dDCO, the Applicant continued to review the position and asked Affected Persons to provide copies of the easements they considered related to their land. This was specifically requested in the detailed letters issued by the Applicant on 10 and 15 September 2021 as referred to above.

Following receipt from some of the Affected Persons of the easement documents registered against their title, it became apparent that there were inconsistencies between these, and the documents relied upon by the Applicant. A full legal title review was therefore instigated by the Applicant in light of which it was decided that it would be prudent to regularise the position and have a consistent set of agreements across the various landowners.

It was considered that there was little advantage in issuing proposed Heads of Terms and it would be quicker to simply draft the required Deed of Variations. As such, these Deeds of Variations needed to be fully considered by SSE Group before being issued such that final versions for comment by Affected Persons' solicitors were issued in late November 2021, providing sufficient time for final agreement and completion.

The Affected Persons to whom these agreements were issued were:

- Julie Albans
- Nigel Albans
- Stephen Dent
- Glew JR Junior and Co Ltd
- Michael Glew

- Richard Glew
- Stephen Glew
- Ruth Pauline Humphrey
- Sarah Amy Maclean
- Simon Alistair Maclean
- Donna Wall
- Vivian Anne Wall
- Isle of Axeholme.

The Applicant advised that it would provide undertakings to reimburse the Affected Persons their legal costs. However, as already set out above, these were unfortunately delayed. This has now been rectified and it is intended that the Affected Persons' solicitors will be in funds by 29 April 2022 at the latest.

Whilst completion of the Deeds will, following the release of funds, no longer be within the control of the Applicant, they are not considered to be complicated or controversial and it is hoped that completion with all the Affected Parties will be reached in short order. In this regard, unless a point of principle arises which cannot be resolved, there is no obvious reason why CA powers would have to be invoked.

Part of the pipe crosses land owned by National Grid Electricity Transmission PLC (NGET) and is subject to a lease. Whilst the Applicant has been in discussions with NGET direct since 15 September 2021, they did not appoint an agent until 14 March 2022. A series of meetings have taken place since then and their agent emailed the Applicant on 22 April 2022 advising that

"...I have submitted draft HoTs to NGET and their lawyers and I have a follow up meeting on Wednesday. We are aiming to agree HoTs by the 7th June at the latest."

The Applicant is therefore cautiously optimistic that agreement is in sight with NGET but considers that this is largely outside of their control. In this regard, there is no evidence that NGET would have instructed their agent earlier in the process had the dDCO submission been delayed.

WORK NO. 8A - VEHICULAR SITE ACCESS - NORTH PILFREY BRIDGE

North Pilfrey Bridge (NPF) comprises an existing bridge over the canal and railway connecting the existing and proposed power stations to the A18. The bridge was constructed by SSE and the use thereof is governed by agreements with NR, C&RT and EA.

No part of the bridge rests on land owned by NR or EA and the bridge is only used by SSE Group companies and access via a private road owned and controlled by SSE. There is therefore no public access over the bridge.

The bridge was constructed in accordance with a Works Agreement with NR and to this end was last extensively used in connection with the construction of Keadby 2. The proposed use of the bridge is entirely consistent with that use and, as previously confirmed, it has been maintained in a good state of repair.

No safety issues have been raised nor would the Applicant expect there to be bearing in mind that it has been fitted with extensive crash screens to prevent any loads falling from vehicles crossing over the bridge.

The position in respect of each Affected Person is as follows.

Network Rail

The current position is that SSE PLC have the benefit of a lease from Railtrack pursuant to which it constructed, maintained and uses the existing bridge. It was therefore the case, prior to submission of the dDCO that the Applicant understood that it would be able to use the bridge pursuant to that lease. However, it considered that it would be prudent to obtain NR's agreement to this.

To that end, the Applicant first contacted NR on 17 March 2021 and, at their request, submitted a Sales Clearance application form on 18 March 2021. It was understood by the Applicant that NR would not engage until Sales Clearance was obtained but, despite the fact that such clearance is supposed to be provided within 6 weeks from application, NR have yet to commence the clearance process.

The Applicant has consistently and regularly attempted to progress matters. In this regard, in order to remove any potential for NR challenging the Applicant's position at a later date, formal Heads of Terms to reach clear and unequivocal agreement on this point were prepared and submitted to NR on 29 November 2021.

In the absence of any response, further Heads of Terms were forwarded on 3 December 2021, but, again, no comments have been received and NR have yet to acknowledge that such terms have been offered. For clarity, these Heads of Terms provided for an initial payment to Network Rail with the ability for them to refer the matter to a third party such as

an Independent Expert, Arbitrator or even the Upper Tribunal Lands Chamber should they continue to disagree with the Applicant's assessment of value.

An alternative approach was suggested to NR on 4 April 2022. Again, NR have made no comments.

The vast majority of the exchanges with NR have centred on their insistence that the Applicant must agree their Protective Provisions and a Framework Agreement. The Applicant has provided revised Protective Provisions and a Framework Agreement accepting the majority of Network Rail's points, but these have been rejected by Network Rail as they maintain that agreement is dependent upon the Applicant forgoing CA powers in respect of their interests. There has been no flexibility on the part of NR nor recognition of the impediment that their approach would pose to the scheme, and they are adamant that they must be exempt from the exercise of CA powers. However, the Applicant has, within the offers made to NR, confirmed that it would be a condition of any agreement that they would not exercise CA powers in respect of the bridge rights. As such, if NR were to agree such terms their desire to be excluded would be fulfilled.

In simple terms, the Applicant has proposed that the quantum of consideration be determined by a Third Party so that Network Rail would have satisfaction that they were receiving full value together with an agreement that, if such terms were agreed, the Applicant would not exercise CA powers such that Network Rail's desire to be exempt from CA powers would be achieved.

NR's position from the outset has been that the bridge comprises operational land and should therefore be exempt from CA powers. As has already been expressed to the ExA, the Applicant does not accept that the bridge is operational land and sees no justification for NR to be afforded special treatment and granted exemption from statutory provisions.

In the absence of NR engaging in respect of a voluntary agreement, the Applicant has, in addition to responding with amended Protective Provisions and Framework Agreement, as a matter of last resort, drafted a Deed of Variation and a Licence which were emailed to NR on 22 April 2022. These are entirely consistent with the terms proposed to the Environment Agency and C&RT in respect of their interests in the same bridge. A response is awaited.

In the meantime, it is crucial that the Applicant secures CA powers to avoid Network Rail seeking to delay and/or frustrate the implementation of the project and/or seek a wholly unjustified level of consideration. Either of these circumstances would comprise an impediment to the scheme.

Canal and River Trust

There is already a lease in place between British Railways Board (C&RT's predecessors) and SSE Renewable Developments (UK) Ltd. It is the Applicant's opinion that they can make use of the bridge in reliance on this lease for access without any need to secure further rights. However, a Deed of Variation is required in order to allow the installation of cables.

As set out above, the Applicant has been in discussions with C&RT in respect of technical matters since before December 2020 and have been seeking the requisite land and rights since 10 June 2021. However, C&RT did not appoint Gerald Eve to engage in respect of land and right matters until January 2022.

The only significant issue between the Applicant and Gerald Eve is the consideration. Whilst Gerald Eve have not sought a ransom position, they nevertheless requested payment on behalf of their client of a significant sum in consideration of entering into any agreement on 8 March 2022. This was followed by a revised proposal notably lower than the first offer made on 22 April 2022.

In the circumstances, the Applicant has, in the interests of saving time, drafted a proposed Deed of Variation and this was emailed to Gerald Eve on 22 April 2022 together with an offer of consideration that the Applicant believes to be in excess of that which would be awarded by the Upper Tribunal Lands Chamber but still below what Gerald Eve are suggesting. This offer is consistent with the offers made to NR and the EA.

In the event that Gerald Eve is unable to recommend acceptance of this offer the Applicant would be prepared to consider terms that allowed for Third Party determination of the consideration if this meant that all other matters could be concluded such that the exercise of CA powers could be avoided.

In any event, Gerald Eve have advised that approval from DEFRA to any agreement would be required and that this would take 1 month plus 6 to 12 weeks.

Environment Agency

There is an existing lease in place between the Environment Agency and Keadby Wind Farm Limited. However, the Applicant wishes to vary this to ensure that there is no dispute at a later date as to the interpretation of that lease. Discussions have been underway since 10 September 2021 and significant progress has been made in the intervening period. In this regard, the Environment Agency informed DWD on 7 April 2022 that they were appointing solicitors.

DWD responded on the same day providing full contact details and proposing that the respective solicitors agree the scope of work and required fee undertaking. Whilst details of the EA's solicitors have yet to be confirmed, the Applicant has prepared a proposed Deed of Variation to be forwarded to them this week.

In light of the discussions that have taken place to date, the Applicant is optimistic that the Deed of Variation may be completed fairly quickly. However, this is dependent, to a certain degree, on matters outside of the Applicant's control such as the time it takes for a solicitor to be appointed and become familiar with the papers.

WORK NO. 8A - VEHICULAR SITE ACCESS AND WORK NO. 9B - TEMPORARY ACCESS TO THE TEMPORARY CONSTRUCTION AND LAYDOWN AREAS

The Applicant already benefits from an existing southern junction with the A18 over Mabey Bridge and Skew Bridge which links the A18 to North Pilfrey Bridge and the laydown area immediately south thereof. Both Mabey and Skew bridges were used for the purposes of constructing Keadby 2.

Access over Skew Bridge is via Plot 23 which is owned by Jonathan Belton Wright with whom the Applicant has been in negotiations since late 2020 resulting in the issuing of Heads of Terms on 22 December 2020, 28 April 2021, 25 November 2021 and 2 February 2022. The Applicant is unaware of any reasons preventing the instruction of solicitors to complete agreement.

Mabey Bridge crosses land owned by the Environment Agency (plot 3). As Mabey Bridge is being replaced, the existing easement will need to be varied to account for the proposed alterations. The Applicant understands from its negotiations with the Environment Agency that they are in agreement with this. The same position applies in respect of access from Skew Bridge (plots 10 and 26).

The remaining works are in land that is adopted highway such that no land agreement is required in respect of those plots either (plots 4 to 9).

WORK NO. 9A – TEMPORARY CONSTRUCTION AND LAYDOWN AREA

This work relates to plot 25 only which is owned by Mr Belton Wright. As already set out, the Applicant issued proposed Heads of Terms on 22 December 2020 which were then revised on 4 February 2021. A further offer was made by the Applicant on 28 April 2021, but a counteroffer was not received until 25 November 2021. Further Heads of Terms were exchanged on the 2 February 2022 which the Applicant understands to be agreed subject to formal confirmation by Mr Belton Wright.

The speed at which completion can be secured is now dependent upon the landowner providing formal agreement.

WORK NO. 3B – ELECTRICAL CABLE WORKS TO 132KV NOTHERN POWERGRID SUBSTATION AND WORK NO. 8C – EMERGENCY OPERATIONAL ACCESS

These works are illustrated on, inter alia, sheet 3 of Document Ref: 4.8 “Indicative Electrical Connection Plans” which details the alternative northern and southern cable routes for installation of the underground 132 KV cables connecting the power station and the substation and Document Ref: 4.4 “Access and Rights of Way Plans”. As confirmed within the dDCO submission, the Applicant intends to implement only one of the alternatives but, at present, is unable to confirm which will be decided upon.

In this regard, the northern route requires subsoil easements for the installation of the cable and emergency access rights from Andrew Clive Severn and Richard Henry Strawson who are advised by Pollock Associates.

The Applicant notes the representations made by Pollock Associates REP5-057, REP-058 and REP-059. The Applicant addresses these in detail at Section 2 Document 9.18 “Applicant’s Response to Deadline 5 Submissions” as submitted at Deadline 6 hence would refer the ExA to that document rather than repeating the same comments here.

In simple terms, the Applicant’s requirements were set out within the dDCO submission to which Pollock and his clients would have had full access. In addition, Pollock did not inform the Applicant as to the existence of any Option Agreements until 8 March 2022 and did not provide redacted copies until 21 April 2022.

As such, even though the Applicant had been in negotiations with Pollock since 10 December 2020, it was not aware, and could not have been aware as to the existence of the Option Agreements prior to 8 March 2022. In contrast, the Applicant’s proposals were in the public arena prior to the Option Agreements being entered into.

Notwithstanding these points the Applicant is of the opinion that a resolution to the issues raised by Pollock and the beneficiaries of the Option Agreements is achievable, further details of which are set out within Document 9.18.

WORK NO. 10A – TEMPORARY HAULAGE ROUTE

This comprises the temporary road leading from the wharf running westwards through plots 144, 145 and 135 before entering plot 119 which is owned freehold by Keadby Developments Limited.

Plots 144 and 145 comprise public adopted highway to which no alterations are proposed. As such, there is no necessity to enter into land agreements to cross the highway.

PD Ports own the freehold of plot 135 and AWS have a long-term ground lease. PD Ports and AWS are connected parties and are essentially the same entity. PD Ports have confirmed that there are no other parties with who agreement needs to be reached in order to use plot 135 and that they do not object with the principle of the intended use.

The Applicant's requirements for the haul road are informed by prospective contractors who would manage the construction of the proposed development. It was understood by the Applicant that these contractors were in discussions with PD Ports and Railway Wharf in respect of the practicalities of using the river and haul road for deliveries. The proposals would mirror the approach taken by the contractors when constructing Keadby 2 which was progressed without the exercise of CA powers.

However, the Applicant has, since September 2021, been in direct contact with PD Ports to progress discussions for temporary occupation of a restricted part of the yard to the rear of PD Ports' land as set out in the dDCO.

Negotiations have now moved beyond the proposals set out in the dDCO and the parties are exploring mutually beneficial opportunities involving the reconfiguration of the buildings on PD Ports' site to create a wider site access and improved site circulation. This would also enable the Applicant to negotiate terms for future access in connection with other projects other than that set out in the dDCO. To this end, the Applicant has prepared and provided various drawings setting out how the wider PD Ports land may be reconfigured, and a further meeting is being arranged to move this forward.

In addition to negotiating terms in respect of the PD Ports' landholding, discussions have also taken place in respect of PD Ports replicating their role in respect of Keadby 2 whereby they provided

harbour management services for the use of the wharf and jetty thereby coordinating the use thereof. In this regard, there is clear precedent for the Applicant and PD Ports working together to deliver the objectives of Keadby 2 and there is every expectation, following these discussions, that Keadby 3 would be managed in the same way. As such the Applicant regards the grant of CA powers as an insurance policy which would only be required in the unlikely scenario that terms with PD Ports on /both of the alternative proposals could not be agreed.

There is a small section of the haul road where an oversailing licence is required from NGET. Having discussed this with their agent the Applicant has been advised that their agent is awaiting client's instructions as to the terms of an agreement.

The Environment Agency own plots 31, 46, 53 and 54 and negotiations have taken place in respect of the principle of temporary access. As set out elsewhere, the Applicant is currently awaiting details of the Environment Agency's solicitors in order that agreement can be formally completed.

WORK NO. 10B – MAINTENANCE OF EXISTING JETTY AND PLACEMENT OF CRANE FOR OFFLOADING OF WATERBORNE TRANSPORT

For the sake of clarity, it should be noted that this work number encompasses a wharf area which is in single ownership which has a jetty structure alongside it against which boats are moored. As such, the intention is that the boats would be moored against the jetty but the crane would be located on the wharf and lift materials off boats, over the jetty, and onto HGV's parked on the wharf which would, once fully loaded, drive straight across the public highway and into PD Ports' yard (as described above in respect of Work No. 10A).

The wharf (plot 136) is owned freehold by Railway Wharf (Keadby) Limited (RWKL) and was understood to be leased to Mammoet. However, it was established in July 2021 that Mammoet no longer had a lease and had no further immediate need for the wharf. Furthermore, there was a possibility that the wharf may be available for sale. The direction of negotiations therefore changed from negotiating occupation with Mammoet to considering a freehold purchase. This went beyond the rights requested within the dDCO which are to take temporary access only.

The Applicant considered the potential for acquiring the freehold interest but has no long-term use proposals such that the price required by RWKL is significantly above what the Applicant can commercially justify. However, there is also a further issue in that, without the jetty being included, the wharf is of little practical use. In this regard, RWK lease the land occupied by the jetty from the Crown but own the structure albeit at the risk of being required to reinstate on expiry of the lease.

Effectively, the Applicant does not wish to pay a very significant price for land that it has no long term aspiration for not least when the use of that land is dependent upon the Crown continuing to grant a lease over the jetty at commercially acceptable terms and there is a risk that they might have to reinstate the jetty at their own cost.

In this regard, the Applicant has been trying to progress negotiations with the Crown since 15 September 2021 but has been unable to make any progress despite regular chasing. In this regard, DWD last heard from Carter Jonas on 22 February 2022, and they are not now available for further discussions until 29 April. Notwithstanding this, DWD emailed Carter Jonas again on 14 April 2022 and forwarded that email direct to the Crown. No response has been received.

A copy of DWD's latest emails are attached at Appendix 2.

Appendix 2 – Applicant's Latest Emails to Carter Jonas and Crown Estate

Colin Turnbull

From: Peter Roberts
Sent: 14 April 2022 16:29
To: NSIP@thecrownestate.co.uk
Cc: Adam Schofield
Subject: FW: Keadby 3 DCO

Dear Sir/Madam

Our client (SSE/KGL) is seeking a DCO for a gas fired power station in Keadby. We are now at deadline 6 of the examination which is due to end on 7 June 2022. We have been attempting to progress matters with Carter Jonas but we understand that they have limited capacity to deal with this.

The earliest date we have been offered for a meeting is 29 April which is after deadline 6 by which point the Inspector required confirmation that the Crown will provide the required rights as detailed in the email below.

I would be grateful if you could assist in expediting this matter.

For further details of the project please see:

<https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/keadby-3-carbon-capture-power-station/>

My contact details are set out in the footer to the email below.

For the avoidance of doubt, my client is willing to reimburse reasonable surveying and legal fees in progressing this matter.

Kind regards

Peter Roberts

From: Peter Roberts
Sent: 14 April 2022 16:09
To: Harmer, Guy [REDACTED]
Cc: Adam Schofield [REDACTED]
Subject: Keadby 3 DCO

Dear Guy

I am working with Adam in respect of the above matter and am aware that there have been a series of telephone discussions and email exchanges. However, we remain unclear as to your client's stance and expectations other than your comment that the Crown will be looking to secure a rental income. The Inspector has, understandably, raised his concerns at the lack of progress being made with the Crown and requires comfort that the Crown will cooperate and provide the required rights. We have a deadline of 26 April to provide such reassurance.

To summarise the previous discussions there are two key issues:

Outfall and River Abstraction Pipes

The Applicant is of the opinion that they are able to rely upon the existing deeds dated 14 May 1952 and 23 November 1954 (I understand that you have copies of these already) in respect of the pipe and outfall chamber to

the river together with the abstraction pipes. Our understanding of these documents is that the structures and pipes belong to SSE and are available for use by the Applicant and your client owns the river bed under the structures and the subsoil. We await confirmation that your client agrees with this understanding such that the Applicant does not therefore need to enter into further agreements and we can advise the Examining Authority accordingly.

That said, there is a possibility that the Applicant may need to install some eel screens in the river in front of the river abstraction point. However, this will only be required if the Applicant is unable, for any reason, to take water from the canal. For the sake of good order I would be grateful if you could now discuss this with the Crown and confirm that they would be agreeable to this within the terms of the existing Deeds.

Wharf

As you know the owner of the wharf benefits from a lease dated 3 July 2018 from your client of the foreshore and river bed. He has also constructed a quay for the mooring of boats against the wharf which comprises a tenant's authorised alteration.

The Applicant is seeking to agree rights with the wharf owner for temporary use of the wharf to unload barges. However, whilst the quay structure is owned by the owner of the wharf, the lease with the Crown only permits occupation of the demise by the owner of the wharf and does not permit assignment or underletting. In this regard, there is no point in the applicant acquiring rights to occupy the wharf if they are then unable to use the quay to unload the barges.

The Crown will receive rent from the owner of the wharf regardless as to whether or not the applicant takes occupation of the wharf. In this regard, there will be no loss to the Crown whatever happens.

We have previously requested guidance from the Crown as to how they would like to proceed. Our simple suggestion is that the Crown simply confirms in writing that they are content, notwithstanding the terms of the lease, to allow the Applicant to occupy and use the lease demise for the same period of time that they are in occupation of the wharf and will not take any action for lease forfeiture, enforcement or anything else that would prevent the applicant's use of the quay.

I appreciate that you have advised that you have not been able to give this your full attention and that the earliest you can make yourself available to discuss further is 29 April 2022. However, both the examining authority and the Applicant are in a state of limbo as we do not have any certainty as to your client's position. In this regard, the examining authority has requested evidence by 26 April 2022 that:

- 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 and*
- iii. *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.”*

I fully appreciate that the Easter period is upon us and that we are due to discuss this in greater detail on the 29th, but I would be very grateful if you could now discuss this with your client, take instructions and provide the required reassurance for 26th April 2022.

Kind regards

Peter

Peter Roberts
FRICS CEnv
Partner



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