



**Application by The North Lincolnshire Green Energy Park Limited for North Lincolnshire Green Energy Park  
The Examining Authority's written questions and requests for information (ExQ1)  
Issued on 23 November 2022**

The following table sets out the Examining Authority's (ExA's) written questions and requests for information - ExQ1. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as ExQ2.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe B to the Rule 6 letter of 18 October 2022. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

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

Each question has a unique reference number which starts with 1 (indicating that it is from ExQ1) and then has an issue number and a question number. For example, the first question on air quality and emissions issues is identified as Q1.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [NorthLincolnshireGreenEnergyProject@planninginspectorate.gov.uk](mailto:NorthLincolnshireGreenEnergyProject@planninginspectorate.gov.uk) and include 'North Lincolnshire Green Energy Park' in the subject line of your email.

**Responses are due by Deadline 2, Thursday 15 December 2022**



**Abbreviations used:**

<b>PA2008</b>	The Planning Act 2008	<b>LBMMP</b>	Landscape and Biodiversity Management and Monitoring Plan
<b>ABP</b>	Associated British Ports	<b>LIR</b>	Local Impact Report
<b>Art</b>	Article	<b>LPA</b>	Local planning authority
<b>ALA 1981</b>	Acquisition of Land Act 1981	<b>MP</b>	Model Provision (in the MP Order)
<b>ALC</b>	Agricultural land Classification	<b>MP Order</b>	The Infrastructure Planning (Model Provisions) Order 2009
<b>AP</b>	Affected Person	<b>NE</b>	Natural England
<b>BAT</b>	Best Available Technique	<b>NLC</b>	North Lincolnshire Council
<b>BMV</b>	Best and Most Versatile	<b>NPS</b>	National Policy Statement
<b>BoR</b>	Book of Reference	<b>NR</b>	Network Rail
<b>CA</b>	Compulsory Acquisition	<b>NRA</b>	Navigation Risk Assessment
<b>CBMF</b>	Concrete Block Manufacturing Facility	<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>CCUS</b>	Carbon Capture Utilisation and Storage	<b>OEMP</b>	Operational Environmental Management Plan
<b>CoCP</b>	Code of Construction Practice	<b>ORR</b>	Office of Road and Rail
<b>CPO</b>	Compulsory purchase order	<b>PPG</b>	Planning Practice Guidance
<b>DAS</b>	Design and Access Statement	<b>PRoW</b>	Public Right of Way
<b>dDCO</b>	Draft DCO	<b>R</b>	Requirement
<b>EA</b>	Environment Agency	<b>RDF</b>	Refuse Derived Fuel
<b>EM</b>	Explanatory Memorandum	<b>SAC</b>	Special Areas of Conservation
<b>ES</b>	Environmental Statement	<b>SI</b>	Statutory Instrument
<b>ExA</b>	Examining authority	<b>SoCG</b>	Statement of Common Ground
<b>FRA</b>	Flood Risk Assessment	<b>SoR</b>	Statement of Reasons
<b>GCN</b>	Great Crested Newt	<b>SoS</b>	Secretary of State
<b>GHG</b>	Greenhouse Gas	<b>SSSI</b>	Site of Special Scientific Interest
<b>HRA</b>	Habitat Regulations Assessment	<b>TP</b>	Temporary Possession
<b>HSE</b>	Health and Safety Executive	<b>tpa</b>	Tonnes per annum

### The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010116/EN010116-000436-North%20Lincs%20Energy%20Park%20EL.pdf>

It will be updated as the examination progresses.

### Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ1 1.0.1 – refers to question 1 in this table.



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ExQ1	Question to:	Question:
<b>1. General and Cross-topic Questions</b>		
Q1.0.1	The Applicant (i), NLC (ii)	<p><b>Consultation</b></p> <p>A number of RRs express concern over the adequacy of consultation.</p> <p>(i) Can the Applicant summarise the process followed and confirm their position as to the adequacy of the consultation undertaken and that it meets the legislative tests for each round of consultation undertaken.</p> <p>(ii) Can the council confirm that they are satisfied that the legislative tests were met in undertaking each round of consultation?</p>
Q1.0.2	The Applicant	<p><b>Project Areas</b></p> <p>The Non Technical Summary [APP-048] at Figure 3 provides a plan showing project areas, subdividing the DCO land to aid clarity within the ES.</p> <p>(i) Please clarify if this plan forms the basis for assessment of effects within the respective ES Chapters.</p> <p>(ii) In paragraph 1.3.1.13 of APP-042 the Railway Reinstatement Land appears to go beyond the area identified in Figure 3 and this description appears more consistent with paragraph 2.5.1.2 of [APP-051] Project Description. Please clarify the position and any implications for the ES.</p> <p>(iii) Please provide a Plan based on an up to date Ordnance Survey of the Project Areas used as a basis for the ES.</p>
Q1.0.3	The Applicant	<p><b>ES Documents</b></p> <p>(i) Within a number of the ES documents ‘flags’ remain identifying comments and editing of documents by the Applicant’s Team. E.g. [APP-057] para 8.2.2, and [APP-054] para 3.1.1.2. In this particular case it suggests that the table cross referencing is wrong, is this still the case?</p> <p>(ii) If cross referencing is incorrect, please provide an update reflecting the corrected cross-referencing.</p>
Q1.0.4	The Applicant	<b>Documents</b>

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**Responses are due by Deadline 2, Thursday 15 December 2022**

ExQ1	Question to:	Question:
		<p>(i) [APP-073] Annex 6 Navigation Risk Assessment. The Table included at Appendix E does not appear to have populated fully and as viewed has a series of letters missing. Please check this document and update as necessary.</p> <p>(ii) [APP-041] the text within the boxes included on the plan shown on the final page has not populated correctly, the letter 'L' does not appear. Please check this document and update as necessary.</p>
Q1.0.5	The Applicant	<p><b>Plans</b></p> <p>(i) [APP-020] it is understood the Hatfield Moor SAC sits to the southwest of the proposed development site, but beyond the 15km buffer. It would be of assistance if this also identified relative to the 15km buffer and the proposed development land, please provide a plan showing the location of this SAC.</p> <p>(ii) Please check Sheet 6 of [APP-024] and other plans that the colours within the key correspond with those within the plan. It appears that the green in the key for Native Woodland/Hedgerow is darker than any corresponding green within the plan itself.</p>
Q1.0.6	The Applicant	<p><b>Plans</b></p> <p>(i) Please clarify with respect to the redline boundary for the DCO where the western most part of the site extends to. Does it include the full extent of the timber protection up to the riverside face of the wharf?</p> <p>(ii) If this is not the case, please explain how appropriate controls can be secured for the whole of the operational wharf area.</p>
Q1.0.7	The Applicant	<p><b>Cross referencing within documents</b></p> <p>(i) When cross referencing within documents please ensure that not only the document is referenced, but the page and paragraph number is also provided, so it is clear where the referenced material can be found. Please ensure this is the case in all future submissions or in response to written questions</p> <p>(ii) [APP-042] Doc 5.8 Consents and Licenses – Table 2.1, item 25 Please advise where Table 4.1 in the Design and Access Statement can be found or provide a corrected reference.</p>
Q1.0.8	The Applicant	<p><b>Glossary of Terms and Bibliography</b></p>

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ExQ1	Question to:	Question:
		<p>(i) Following the Acceptance of the application for examination the s51 advice letter identified a series of acronyms which had not been included within the Glossary of Terms. The ExA notes the revised version (Revision 1) submitted on 29 September helpfully resolves those previously identified however USS on page 85 of Design and Access Statement [APP-037] under heading of Resource Efficiency remains unclear, please clarify and add to the Glossary.</p> <p>(ii) DPCD has been added as Department of Planning and Community Development – this may overlap with Design Principles and Codes Document referenced in Section 7 paragraph 7.1.1.1 of the ES [APP-057] and listed in the section on Mitigation in the CoCP [APP-074]. Please clarify.</p> <p>(iii) Please confirm RTFO referenced in the Planning Statement [APP-035] relates to Renewable Transport Fuel Obligation or explain this term.</p> <p>(iv) Please advise what TBA means as referenced in Table 2.1 of [APP-042] Consents and Licences Document</p> <p>(v) The Application relies upon many referenced documents that are external to the Application. Can the Applicant submit a bibliography of all external reference documents, and a copy of any that are not publicly available, for inclusion in the examination library at the first available deadline.</p>
Q1.0.9	The Applicant	<p><b>Definition of the Proposed Scheme</b></p> <p>The ExA have noted inconsistencies regarding the design definition of the Proposed Scheme, for example 5.4 Combined Heat and Power Assessment [APP-38] p 46 compared with 6.2.3 Project Description and Alternatives [APP-51] p6.</p> <p>(i) Can the Applicant review and amend all submitted material to ensure a consistent definition or provide a single Proposed Scheme design definition document that is referenced by all other submissions. In either case uncertainty factors shall be incorporated to ensure benefits and disbenefits are stated on a precautionary basis. Any divergence from the design definition must be explained and justified.</p>
Q1.0.10	The Applicant	<p><b>Accurate Description of the Proposed Development</b></p> <p>The description of the proposed development differs in a number of documents. The Application Form Description Box 5 [APP-004] “The Project requires development consent for</p>

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ExQ1	Question to:	Question:
		<p>the construction and operation of a combined heat and power (CHP) enabled energy generating development, with an electrical output of up to 95 megawatts (MWe) incorporating carbon capture etc.”</p> <p>The description from paragraph 1.1.1.1 of [APP-051] is “a Nationally Significant Infrastructure Project (NSIP) comprising an Energy Recovery Facility (ERF) capable of converting up to 760,000 tonnes of non-recyclable waste into 95 MW of electricity and a carbon capture, utilisation and storage (CCUS) facility.”</p> <p>While the description from dDCO [APP-007] “Work No 1 an electricity generating station located on land at Flixborough Wharf, Lincolnshire, fuelled by refuse derived fuels with a gross generation capacity of up to 95 megawatts at ISO conditions comprising the following works ....”</p> <p>(i) Do you agree that the correct description to use for the Proposed Development is that set out in the dDCO?</p>
Q1.0.11	The Applicant	<p><b>Public Rights of Way (PRoW)</b></p> <p>(i) Two footbridges are indicated on [APP-045] sheet 3 and the Transport Chapter [APP-061] at paragraph 7.3.11 9th bullet point indicates that PROW FLIX 178 will be reinstated through the provision of a footbridge. Please clarify if it is intended to be one footbridge and one level crossing?</p> <p>(ii) Please explain how these would be delivered through the DCO, and where within the documentation this is secured.</p> <p>(iii) What time frame is set for their provision and how is this to be secured?</p> <p>(iv) Are there any parameter plans or more detailed designs of the proposed bridge(s) currently before the examination, if so please provide details of where these can be found?</p> <p>(v) If there were no parameters, how has any effect of construction and subsequent retention been assessed within the ES?</p> <p>(vi) What consideration has there been for disability access in providing these routes?</p>
Q1.0.12	The Applicant (i and ii), Network Rail (i only)	<p><b>PRoW</b></p> <p>(i) Will either the footbridge(s) or level crossing require any form of illumination?</p> <p>(ii) If so has this been assessed?</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
Q1.0.13	NLC	<p><b>PRoW</b></p> <p>(i) In light of question 1.0.9 what are the Council's views on the temporary closure of these rights of way and the mechanisms for reinstatement/alternative provision?</p> <p>(ii) Do you consider disability rights or protected characteristics have been fully considered in presenting the proposals?</p>
Q1.0.14	The Applicant	<p><b>PRoW</b></p> <p>Within [APP-062] Paragraph 6.6.2.1 states that FLIX304 currently utilises a level crossing over the railway line. From undertaking the USI it would appear to go under the railway line which at this point is elevated on a section of bridge. If the ExA have misunderstood this, please provide an ordnance survey extract identifying the location of the level crossing.</p>
Q1.0.15	NLC	<p><b>PRoW</b></p> <p>FLIX178 would currently appear to be a dead end. Should the public have access from Flixborough onto Nisa Way or does the RoW terminate short of the public highway?</p>
Q1.0.16	NE, EA, NLC, UK Health Security Agency (i and ii only) The Applicant (iii)	<p><b>Refuse Derived Fuel (RDF)</b></p> <p>(i) It is anticipated that both the volume of material going to landfill and the content will change over time as both recycling and other elements in the supply chain and manufacturing of materials changes. [APP-054, Table 5] Do you agree the anticipated nature of the change to RDF during the operational period has been reasonably assessed to reflect these changes that are anticipated to occur.</p> <p>(ii) Do you consider this has been adequately assessed within the ES to forecast potential areas of effect as predicted by the Applicant? If not, what areas of concern do you have?</p> <p>(iii) Table 5 of [APP-054] would appear to calculate the effects on climate change using 650,000 tonnes per annum (tpa) of RDF, yet the application references elsewhere [APP-051] paragraph 3.2.2.3 and [APP-044] paragraph 1.1.1.1 [APP-045] paragraph 1.4.1 a capacity of up to 760,000 tpa. Please explain this discrepancy and whether this has any consequences for the conclusions reached?</p>
Q1.0.17	EA, NLC, NE	<p><b>Operational Environmental Management Plan (OEMP) (Annex 8 Doc 6.3.8) [APP-075]</b></p> <p>(i) The Applicant states the OEMP will cover all environmental pollution activities not covered by an environmental permit. Do you agree that this is the case?</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		(ii) In the event that there is not agreement please advise of the areas where you consider there are gaps between the planning and permitting regimes and advise how you consider they might be best addressed.
Q1.0.18	The Applicant	<b>Licences and Permits</b> Document 5.8 'Consents and Licences' [APP-042] refers to a number of other consents, licences and permits that would be required for the Proposed Development. The Applicants are asked to: i) Provide updates on progress with obtaining these consents, licences and permits throughout the Examination; ii) Include a section providing an update on these consents, licences and permits in any emerging Statements of Common Ground (SoCG) that are being drafted with the relevant consenting authorities; and iii) Where the need for a permit, consent or licence is still unclear, provide an update as to the provision of a statement by the relevant authority that they would not advise against the granting of the DCO.
Q1.0.19	The Applicant	<b>Licences and Permits</b> (i) In light of the RR from Jotun Paints can the Applicant provide an explanation of the relationship to this COMAH site and what advice has been received from the HSE during consultation
Q1.0.20	The Applicant, NLC, EA, NE	<b>The Environment Act</b> The Environment Act passed into law on 9 November 2021. While many of its provisions await detail and implementation, does this have any implications for the application documentation submitted for the Proposed Development?
Q1.0.21	The Applicant	<b>Works Plans</b> (i) Please provide clarification as to which works plans are to be certified documents. [APP-016] Includes plans for all Work Nos 1-15, versions of Work No. 14 and 15 are also included in [APP-017], while a further set of plans for Work Nos 12, 12A and 14 are provided in [APP-018].

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ExQ1	Question to:	Question:
		<p>(ii) These different plans do not have the same drawing Nos – are there differences between them? Please explain what these are if there are any and how the DCO and the respective schedule of Work plan Nos is proposed to work.</p> <p>(iii) Option B on Work Plan B6 only appears to show utility construction and diversion linking to the existing sub station area – is this correct or should it also show the Private Wire Network?</p>
Q1.0.22	The Applicant	<p><b>Energy generation</b></p> <p>The ERF as proposed could generate up to 95Mwe. Within Chapter 3 [APP-051] the energy necessary to operate the ERF is specified as a parasitic load of 9.5 MWe. The energy necessary for the other elements of the plant are set out in MWh or MWe per annum or no figure is provided.</p> <p>(i) It would be helpful to understand the quantity of energy that will be required by the different elements of the project relative to the output of the ERF. Please provide a table setting out the breakdown of this information.</p>
Q1.0.23	The Applicant	<p><b>Area of land to the east of the proposed Access Road</b></p> <p>(i) Figure 3 of ES Chapter 1 [APP-049] and the corresponding Figure 4 in ES Chapter 3 [APP-051] identify this area of land as flood management by way of blue hatching. Within [APP-058] ES Chapter 10 Ecology and Nature Conservation on page 17 within Table 2, in response to comments from Natural England who identify that “<i>Large areas of land within the Order Limits will remain undeveloped, although it is unclear whether any works are proposed</i>” you direct the reader to a figure within Chapter 3. Please confirm this refers to Figure 4.</p> <p>(ii) Further reference is given to the Project Description [APP-051], Flood Risk Assessment [APP-070], and Economic, Community and Land Use Impact Chapter [APP-062]. Please identify within each of the chapters referenced where reference to this area of land is set out and explain how the future use would be secured expressing clearly where this is linked within the DCO and or supporting mitigation documentation.</p>
Q1.0.24	The Applicant	<p><b>Tree Planting and Ecological Enhancement</b></p> <p>Figure 3 of ES Chapter 1 Introduction [APP-049] identifies ‘Areas for Potential Future Mitigation’.</p>

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ExQ1	Question to:	Question:
		<p>(i) Can the Applicant confirm what is meant by this term, as the ExA understands from the Outline Landscape and Biodiversity Management and Monitoring Plan (LBMMP) [APP-041] and Indicative Landscape and biodiversity plan [APP-024] that these areas have been set aside for tree planting and an ecological enhancement area.</p>
Q1.0.25	The Applicant	<p><b>Exterior Storage Tanks</b></p> <p>In Chapter 3 [APP-051] at paragraph 3.2.2.25 it states “The facility will also be equipped with a fire water tank, sized to surpass the minimum requirements of NFPA 850”. 7 (National Fire Protection Agency)</p> <p>(i) How is this secured within the DCO?</p> <p>(ii) How much larger than the minimum requirements will this be, in answering this please provide a volume and percentage and a justification for this approach.</p>
Q1.0.26	Applicant	<p><b>Health</b></p> <p>With respect to APP-065 ES Chapter 17 Health</p> <p>(i) Please could the assertions at 6.5, including 6.5.1.5, be amended to provide a clear set of conclusions with the respect to the operation of all the processing plant, including (but not limited to) that required for the incineration of waste and that required for carbon capture plant drawn from the Human Health Risk Assessment presented in Appendix B?</p> <p>(ii) Within Appendix B the final risk assessment values are compared favourably with those ‘conventionally considered to be acceptable for industrial regulation in the UK’ Please could the source be included and explained, or a reference provided within the submissions where this can be found?</p>
Q1.0.27	The Applicant	<p><b>Land Reinstatement Policy</b></p> <p>Can the Applicant confirm where the Land Reinstatement Policy, referenced at e-page 77 of the Code of Construction Plan [APP-074], can be found?</p>
Q1.0.28	The Applicant	<p><b>Working Hours</b></p> <p>Paragraph 6.1.1.6 of ES Chapter 3 [APP-051] states that working hours would be 07:00-19:00 and that there would be no working during night-time hours of 23:00-07:00 except with specific agreement of North Lincolnshire Council (NLC) and/or in the event of an emergency. This is stipulated in the CoCP [APP-074].</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		(i) Can the Applicant confirm whether agreement with NLC would be required for any works between 19:00-23:00?
Q1.0.29	North Lincolnshire Council (NLC)	<b>Cumulative Effects</b> Does North Lincolnshire Council agree with the plans or projects that have been included within the cumulative effects assessment (ES Chapter 18)?
Q1.0.30	The Applicant	<b>In combination effects</b> (i) Can the Applicant confirm whether the concurrent installation of the DHPWN with the grid connection (to be provided by the District Network Operator) would result in increased working widths or installation timescales compared to installation of the DHPWN alone? (ii) Please provide answers to this in respect of both Options A and option B and highlight any differences that may arise
Q1.0.31	The Applicant	<b>Code of Construction Practice</b> The ES Annex 7 6.3.7 [APP-074] Code of Construction Practice normally describes how it is intended to control adverse effects during construction. Could the Applicant explain why their intentions with respect to core construction working hours have not been set out?
Q1.0.32	NLC	<b>Adverse effects during construction</b> (i) Does NLC agree with the Applicant's assessment of adverse effects caused by the construction of the proposed scheme regarding those matters for which it is the regulatory authority? (ii) Does NLC agree that sufficient control of any adverse effects identified under (i) will be achieved by NLC's approval, prior to the commencement of construction, of a Construction Environmental Management Plan (CEMP) submitted by the Applicant (ES Chapter 3 6.1.1.3)?
<b>2. Agriculture</b>		
Q2.0.1	DM & A Green	<b>Church Farm, Flixborough</b> (i) To better understand the effect on the farm, please provide a plan of the holding and show the areas of land which would be severed by the Proposed Development.

ExQ1	Question to:	Question:
		(ii) Please expand on the details of your concerns upon the effect on the operation of the farm and any effect on the viability of the agricultural operation.
Q2.0.2	The Applicant	<p><b>Agricultural Land Classification (ALC) and loss of Best and Most Versatile (BMV) land</b></p> <p>Natural England advise that some Grade 1 land has not been identified in the south/south west of the application site and is not shown on Figure 9 of ES Chapter 14 [APP-062]</p> <p>(i) Please review this information and clarify the situation</p> <p>(ii) It has generally been the case that a significant effect would be the loss of &gt;20ha BMV, and this is considered major magnitude in the IEMA guidance (Table 3). ES Chapter 14 confirms the permanent loss of approx. 36ha agricultural land. Could the Applicant consider whether there is scope to reduce this adverse impact?</p>
Q2.0.3	The Applicant, NE	<p><b>ALC</b></p> <p>NE states that the 'Agricultural Land Classification detailed Post 1988 ALC survey, Scunthorpe, Glanford Business Park (ALCL00890)' figure does not cover the whole application site.</p> <p>(i) It is not clear which parts of the application site are not covered by the figure please could this be clarified and Figure updated/provided as appropriate.</p>
Q2.0.4	The Applicant	<p><b>Flood Risk Effect on Agriculture</b></p> <p>ES chapter 14 [APP-062] para 8.3.6.2 states that flood risk may 'marginally affect how it is used for agricultural production'.</p> <p>(i) Can the Applicant confirm the type of agricultural production that could potentially be affected during flood events, define what is meant by 'marginally affected' and provide for this conclusion (with reference to flood risk in that specific area).</p>
Q2.0.5	The Applicant	<p><b>Agricultural Land Area</b></p> <p>Can a table be provided setting out the total area of land within the DCO, broken down by existing and proposed use by area.</p>
<b>3. Air Quality and Emissions</b>		
Q3.0.1	The Applicant	<b>Refuse Derived Fuel (RDF)</b>

ExQ1	Question to:	Question:
		<p>(i) Paragraph 8.3.1.3 of [APP-053] refers to waste being delivered to the site ‘wrapped or sealed in containers’, however Chapter 5 [APP-053] at paragraph 7.2.1.1 states “RDF deliveries by road will predominantly be wrapped and baled”. Please clarify what the ES has assessed.</p> <p>(ii) Is any control mechanism in place that would ensure that RDF would be baled or wrapped?</p> <p>(iii) Delivery of the RDF would be in sealed containers if delivered by rail or river but could be in curtain sided lorries if delivered by road. How would this ensure any odour was controlled both in transit or upon arrival at the site if delivered by road?</p> <p>(iv) In the event that the ExA considered it was appropriate to have sealed containers only, could this be secured? Could this have other implications for the project? please explain if this is the case what these might be and support any explanation with evidence.</p>
Q3.0.2	The Applicant	<p><b>Amines</b></p> <p>Paragraphs 3.2.2.26-3.2.2.8 of ES Chapter 3 [APP-051] explain that the carbon capture process would utilise an amine solution to bond to CO<sub>2</sub>. It states that the bonded solution is reheated to release CO<sub>2</sub> for capture and storage in pressurised containers.</p> <p>(i) Can the Applicant confirm whether the resulting amine solution is consequentially re-used or disposed of?</p> <p>(ii) If the latter, how will it be disposed of?</p>
Q3.0.3	The Applicant	<p><b>Air Quality Assessment 6.2.5 [APP-053]</b></p> <p>Assessment of operational traffic, reliability of baseline, ERF emissions modelling, habitats</p> <p>(i) TG 16 has been superseded, albeit recently by TG22, does this have any effect on the assessment?</p> <p>(ii) Could the Applicant identify where in the IAQM screening guidance with respect to traffic impact, it recommends applying the additional Defra screening criteria?</p> <p>(iii) The Defra criteria, should they be relevant, indicate that lower criteria apply at junctions, for example the B1216/A1077 junction. The AADT 2028 traffic flows North/South of this junction are 16k/20k (see 6.2.13 ES Chapter 13 Traffic and Transport [APP-061]).</p>

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ExQ1	Question to:	Question:
		<p>These values would seem to meet the Defra criteria for requiring assessment considering it is a junction?</p> <p>(iv) Given that the predicted increase in HGVs is 558 or 707 (Chapter 13 Traffic and Transport [APP-061]) which would all use the B1216/A1077 junction and considering the points ii) and iii) above could the Applicant either explain why an assessment has been screened out or review its methodology and carry out a suitable assessment as necessary?</p> <p>(v) Baseline air quality values appear to rely on data which may not be relevant to the receptors most likely to be affected by air quality impacts caused by road traffic. Please could the Applicant explain why further data has not been collected, for example by showing that they do, or obtain more information to support the determination of a reliable baseline?</p> <p>(vi) If the terrain model had accounted for the ground rising steadily towards Flixborough and Barton upon Stather how would this affect the predicted concentration values? This issue has been raised in relevant representations.</p> <p>(vii) Where adverse impacts are predicted on designated sites could the Applicant comment on what mitigation might be feasible to reduce the impact and how it might affect other environmental impacts?</p>
Q3.0.4	The Applicant	<p><b>Defra Guidance</b></p> <p>Can the Applicant explain the relevance of Defra (2021) Local Air Quality Management Technical Guidance Note TG(16) in assessing effects on air quality at a project level?</p>
Q3.0.5	The Applicant	<p><b>Air Quality effects from HGV Movements</b></p> <p>Paragraph 4.3.10.3 of ES Chapter 5 Air Quality [APP-053] states that the new access road is the sole road modelled as traffic changes on other roads would not be sufficient to have a material impact on air quality. It states that the IAQM guidance sets out that impacts will not be significant to human and ecological receptors where Heavy Goods Vehicles (HGVs) are less than 100 vehicles per day. However, Table 21 of ES Chapter 13 Traffic and Transport [APP-061] identifies a number of the highway links where additional HGV movements are anticipated</p>

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ExQ1	Question to:	Question:
		to exceed 100 Annual Average Daily Traffic (AADT) movements during the operational phase. (i) Please can the Applicant explain why these links have therefore not been modelled?
Q3.0.6	The Applicant	<p><b>Air Quality effects from HGV Movements</b></p> <p>ES Chapter 5 Air Quality [APP-053] goes on to state that Defra (2021) Local Air Quality Management Technical Guidance Note TG(16) sets out that impacts to air quality effects would be significant on existing roads with (i) total traffic &gt;10,000 vehicles/day and increase in traffic is &lt;25% of the baseline or (ii) where total HGVs are &gt;2,500 vehicles/day. The latter of these two thresholds appear to be exceeded for a number of links in Table 21 of ES Chapter 13 Traffic and Transport [APP-061].</p> <p>(i) Please can the Applicant explain why these links have therefore not been modelled?</p>
<b>4. Alternatives</b>		
Q4.0.1	The Applicant	<p>The Applicant has provided two options for the Northern District Heat and Private Wire Networks (DPHWN) route.</p> <p>(i) Can the Applicant explain whether there are any differences in the impacts of these two options on Traffic and Transport [ES Chapter 13], or refer to where this information is provided within the ES?</p> <p>(ii) How will the final option selection be made?</p>
Q4.0.2	The Applicant, NLC	<p>(i) In considering the alternative Option A and B for the DPHWN do you consider that there are only two factors at play i.e traffic v's noise or are there other areas the ExA should weigh in the balance in considering these alternatives?</p> <p>(ii) Please show where you have set out the differing time frames for the construction of the alternatives, and the alternative mitigation that you have considered in addressing the identified adverse effects.</p>
Q4.0.3	The Applicant, NLC	In the event that both alternatives are considered acceptable, would not a requirement which makes clear that only one alternative can be exercised be more appropriate than relying upon compulsory acquisition powers as currently drafted.
Q4.0.4	The Applicant, NLC	In the event that the ExA recommend to the SoS one option over the other, is there an alternative wording for the dDCO that should be presented to the SoS?

ExQ1	Question to:	Question:
Q4.0.5	The Applicant	<p><b>Site Selection</b></p> <p>Within Chapter 3 [APP-051] at section 9.4.2 explanation is given as to the commercial site finding exercise.</p> <p>(i) What considerations were taken into account to define what might be a suitable site?</p> <p>(ii) How were the elements of this consideration defined?</p> <p>(iii) What elements were regarded as essential or merely desirable?</p> <p>(iv) In responding to each of these preceding elements please provide an overall justification for the approach used and how each of the respective sites performed against these criteria.</p>
Q4.0.6	The Applicant	<p><b>Site Selection</b></p> <p>NPS EN-1 at paragraph 4.4.2 first bullet point advises Applicant's to explain their choice taking into account the "<i>environmental, social, and economic effects and including where relevant, technical and commercial feasibility</i>"</p> <p>(i) Please state where the assessment of the environmental, social, and economic effects are set out for these alternative sites.</p>
Q4.0.7	The Applicant	<p><b>Alternatives [APP-051] ES Chapter 3 6.2.3 Project Description and Alternatives</b></p> <p>(i) Having identified East Midlands, Yorkshire and the Humber as a good candidate region for the proposed development. Where in the submissions is the information that the EN-1 approach as indicated at 9.1.1.2 was applied to the two shortlisted sites?</p> <p>(ii) It is stated that both sites performed well in planning terms at 9.4.3.6, so how did they perform in terms of environmental effects?</p> <p>(iii) Was the alternative site identified commercially viable in terms of meeting the national need for dispatchable power generation?</p>
Q4.0.8	The Applicant	<p><b>Site Selection</b></p> <p>(i) Of the long listed sites, which might be regarded as suitable to meet the needs of the Yorkshire and Humber and East Midlands region?</p> <p>(ii) Of the sites identified which if any were not in Flood Zone 3?</p>

**5. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))**

**ExQ1: 23 November 2022****Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
Q5.0.1	The Applicant	<p><b>Surveys</b></p> <p>(i) Ecology chapter 10 [APP-058] states at para 5.2.3.1 surveys have been completed or are underway. Please explain which surveys are 'underway' and therefore when more information might be expected?</p>
Q5.0.2	Natural England, Environment Agency	<p><b>Hatfield Moor SAC</b></p> <p>(i) The Applicant has screened out assessment of possible effects due to the distance from main stack of the ERF. [APP-058] explains the SAC is 12.4km from the DCO boundary, but more than 15km from the main emissions source, and paragraph 4.2.1.4 of [APP-043] states that air quality modelling showed there was no potential for a significant effect on a site more than 15km from the energy recovery facility (ERF) component of the Proposed Development. Are you satisfied with the Applicant's approach to assessment of effects on Hatfield Moor SAC?</p>
Q5.0.3	Applicant	<p><b>Natural England Relevant Representation</b></p> <p>In light of the concerns raised by NE in their RR [RR-090] can the Applicant please ensure that in responding to this RR a full timetable is set out of when additional information can be expected to be received to ensure that full ecological information is available prior to the end of the examination, but in good time for the statutory consultee to respond</p>
Q5.0.4	The Applicant	<p><b>Great Crested Newt Surveys</b></p> <p>NE has raised the need to survey ponds for Great Crested Newt (GCN) that were inaccessible to the Applicant during pre-application. The ExA understands the ponds in question to be ponds 28 to 30, which are located outside of the application site but close to the proposed ecological enhancement/planting works.</p> <p>(i) Can the Applicant comment on whether it would be able to survey these ponds during the Examination?</p> <p>(ii) Can the Applicant provide a worst case assessment of effects to GCNs from these ponds with a clear identification of the assumptions made?</p> <p>(iii) Can it confirm whether any terrestrial habitat within the DCO Order limits which is located within 500m of the ponds contains habitat suitable for GCN?</p>
Q5.0.5	The Applicant	<p><b>Risby Warren SSSI</b></p>

ExQ1	Question to:	Question:
		Can the Applicant explain why no consideration has been given to the potential for further mitigation in respect of ammonia, nitrogen and acid deposition to Risby Warren SSSI?
<b>5.1 Habitats Regulation Assessment</b>		
Q5.1.1	The Applicant	<p><b>Request for Documents</b></p> <p>The ExA notes that paragraph 4.2.1.5 of the Report to Inform Habitats Regulations Assessment (HRA) [APP-043] sets out a summary of the conservation objectives relevant to the five European sites considered in the assessment but copies of the Natural England citation/ Nature 2000 data sheets are not included. Can the Applicant submit copies of these for each site.</p>
Q5.1.2	The Applicant	<p><b>Request for Documents</b></p> <p>Can the Applicant please submit a copy of Appendix 1 (matrices summarising screening and assessment of adverse effects on integrity) of the Report to Inform HRA [APP-043], which is referred to at paragraph 1.1.1.3 but has not been included.</p>
Q5.1.3	The Applicant	<p><b>Request for Documents</b></p> <p>(i) Can the Applicant please submit a copy of Appendix B to Environmental Statement (ES) Chapter 5 Air Quality [APP-053] (Site Specific Critical Loads), which is stated to be available on request.</p> <p>(ii) Provide a commentary on whether there have been any changes to the data since April 2021, when the Applicant last accessed the Defra and Air Pollution Information Service (APIS) websites, and, if so, explain any implications for the HRA.</p>
Q5.1.4	The Applicant	<p><b>Relationship to Humber Estuary</b></p> <p>Can the Applicant confirm whether the Humber Estuary SAC, SPA or Ramsar are located within 200m of any road that is proposed to be used for construction and/ or operational traffic and illustrate the relationship(s) on plan(s).</p>
Q5.1.5	The Applicant	<p><b>River and Sea Lamprey</b></p> <p>Can the Applicant provide an updated Report to Inform HRA that either includes an assessment of potential impacts to the migrating river lamprey and sea lamprey qualifying features of the Humber Estuary SAC and Ramsar from construction noise and vibration or</p>

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ExQ1	Question to:	Question:
		<p>provides a detailed explanation by reference to relevant guidance and criteria as to how the conclusion to screen out this impact has been reached. This should include consideration of piling activity and increased vessel movement on the River Trent. If likely significant effects are identified, then suitable mitigation should be proposed and an assessment of adverse effects on integrity should also be included.</p>
Q5.1.6	The Applicant	<p><b>Response to NE Relevant Representation</b></p> <p>The ExA will expect to see a detailed response from the Applicant to Natural England’s relevant representation [RR-090], including items 4, 6, 8, 14, 16, 18, 20 and 22 in Part II Table 1.</p>
Q5.1.7	Natural England (NE)	<p>Can Natural England provide clarification of their comments in Part II Table 1 Items 1 and 2 of [RR-090] in respect of the following:</p> <ul style="list-style-type: none"> <li>• The Applicant’s Report to Inform HRA [APP-043] screened out impacts from operational emissions to air (ammonia and nutrient nitrogen deposition) on the Humber Estuary SPA from the Proposed Development alone on the basis that process contribution (PC) was less than 1% of the Critical Level (as shown in Tables 7 and 10). Can Natural England confirm that its comments about the Humber Estuary SPA therefore only relate to the Proposed Development in-combination with Keadby 2 and 3 developments, or does it consider that this matter should also be considered for adverse effects on integrity for the Proposed Development alone.</li> <li>• Does Natural England consider that the designed BAT abatement systems are mitigation for the purposes of the screening stage of HRA rather than embedded measures that would be needed to meet air quality emissions’ requirements.</li> <li>• The ExA notes that the parameters of the stacks for the main ERF, boiler and back-up generator, including maximum height, are proposed to be secured in Schedule 1, Part 3 of the dDCO. Can Natural England explain whether it considers this would need to be further secured.</li> <li>• The ExA notes that the BAT abatement systems for the main ERF stack would also be secured through the environmental permit process. Can Natural England explain how it considers this would need to be further secured.</li> </ul>
Q5.1.8	NE	<p><b>Condition of European Sites</b></p>

ExQ1	Question to:	Question:
		Natural England [RR-090] makes reference in Part II Table 1 Item 2 to the condition of the Humber Estuary SPA, Special Area of Conservation (SAC) and Ramsar but does not state whether these sites are currently in favourable or unfavourable condition. This information is not currently presented in the Report to Inform HRA [APP-043] or Natural England's Supplementary Advice. Can Natural England confirm for each of the five European sites considered in the Report to Inform HRA [APP-043], whether they are in favourable or unfavourable condition.
Q5.1.9	NE	<p><b>River and Sea Lamprey</b></p> <p>Can Natural England explain which construction activities it is concerned about in respect of noise and vibration impacts to migrating river lamprey and sea lamprey (Part II Table 1 Item 14 [RR-090]), noting that the proposed extension of Flixborough Wharf has been removed from the Proposed Development (see ES Chapter 3 [APP-051]). Can Natural England also point to any relevant guidance or criteria to be used in assessment of noise and vibration impacts to lamprey.</p>
<b>6. Climate Change</b>		
Q6.0.1	The Applicant	<p><b>Committee on Climate Change</b></p> <p>Reference is made in [APP-054] Chapter 6 Climate, to the Committee on Climate Change Report (2020). A further progress report was presented to Parliament on 25 June 2021.</p> <p>(i) Are there implications of the progress report which could be regarded as important or relevant for the Proposed Development?</p>
Q6.0.2	The Applicant	<p><b>Greenhouse Gas Emissions Guidance</b></p> <p>A revised IEMA Guide to Assessment Greenhouse Gas Emissions and Evaluating their Significance was published in February 2022; it contains updated guidance in respect of classifying the overall significance of effect for GHG impacts.</p> <p>(i) Can the Applicant explain what the implications of the revised guidance would be for the assessment of likely significant effects presented in ES Chapter 6 Climate?</p>
Q6.0.3	The Applicant	<b>Carbon Capture</b>

ExQ1	Question to:	Question:
		<p>Paragraph 9.8.5 of [APP-051] states “The Project includes a CCUS facility which is sized initially to capture approximately 7.5% of the CO<sub>2</sub> emitted by the ERF for utilisation on site as part of the ash recycling into concrete products.”</p> <p>The Planning Statement [APP-035] states in the executive summary “at its heart and a carbon capture, utilisation and storage (CCUS) facility which will treat a proportion of the excess gasses released from the ERF to remove and store carbon dioxide (CO<sub>2</sub>) prior to emission into the atmosphere.”</p> <p>[APP-051] at paragraph 7.3.2.2 states a small quantity of the CO<sub>2</sub> will be utilised in the CBMF, whilst the remaining CO<sub>2</sub> will be transported off site by train or ship.</p> <p>Table 6 of [APP-054] identifies that a total of 54,387 t CO<sub>2</sub> will be captured from the ERF with a further 48,664 t CO<sub>2</sub> utilised in horticulture.</p> <p>The dDCO [APP-007] on the other hand indicates that Work 1B carbon capture utilisation and storage will be capable of capturing at least 54,387 tonnes of CO<sub>2</sub> per annum. While Requirement 19 stipulates that Work 1B must capture a minimum quantity of CO<sub>2</sub> which equates to the lesser of 54,387 tonnes per annum <b>and</b> 8.37% of the ERF waste throughput per annum.</p> <p>[APP-053] on Air Quality at paragraph 7.2.1.1 states “the ERF is designed with Best Available Technique abatement systems for reducing emissions to air. Flue gases are further scrubbed before CO<sub>2</sub> removal”</p> <p>It would be of assistance to the ExA to better understand how the different processes of Carbon Capture are intended to operate, and the differing quantities of CO<sub>2</sub> which are intended to be captured from the different elements of the project, in order to understand the elements proposed, but also to ensure that the dDCO and Requirements work as intended and are properly secured.</p> <p>(i) Please provide a simplified table explaining how the different elements are intended to work and verify how the dDCO will ensure that the quantity to be captured will be the quantity secured.</p> <p>(ii) What is the total quantity of CO<sub>2</sub> that is expected to be generated per annum from the proposed development? In answering this question, please provide a breakdown of the different sources and quantities of CO<sub>2</sub> generation from the different elements of the scheme and the subsequent amount which will be captured from each element.</p>

ExQ1	Question to:	Question:
		(iii) Please define the term 'waste throughput' in respect of Requirement 19 or clarify if this is referring to CO <sub>2</sub> only.
Q6.0.4	The Applicant	<p><b>Carbon Capture</b></p> <p>As currently drafted the timing of delivery for the Carbon Capture Utilisation and Storage (CCUS) and Concrete Block Manufacturing facility (CBMF) as set out under Requirement 18 allows for a 6 month and then an additional 12 month period prior to each element being commissioned.</p> <p>(i) Please explain if the ES has assessed the ERF operating for these periods without these elements in place and where these calculations are set out.</p> <p>(ii) If this is not the basis of the ES assessment, please explain what the basis was and any implications for the findings of the ES that may result.</p> <p>(iii) In the event of a delay in completion of either element, please explain what implications there could be and if this would remain within the assessment of the ES</p> <p>(iv) During the intervening period how will the ash and other by products from the operation of the ERF be dealt with?</p>
Q6.0.5	The Applicant	<p><b>Climate [APP-054] 6.2.6 ES Chapter 6</b></p> <p>The basis of the assessment appears to be an assumed composition of the RDF described at 5.4.2.11, other operating assumptions (Tables 6-10) supported by sensitivity analysis.</p> <p>i) How does the assumed composition compare with current composition of available RDF?</p> <p>ii) What would be a maximum-adverse case composition, and how does that affect the assessment?</p> <p>iii) In the analysis of displaced GHG emission Table 11 has it been assumed that the alternative natural gas fuelled CCGT has CCUS implemented as this is not explicit at 5.3.3.8?</p> <p>iv) How would the monitoring regime outlined at 9.1.1.6 work in practice?</p> <p>v) How would the assessment be affected by the use of maximum-adverse case parameter values consistent with other assessments including (but not limited to) delivery of 100% RDF by road from the 100 miles / Yorkshire, Humber and East Midlands study area as described in the RDF supply assessment?</p> <p>vi) To what extent can the specification of RDF as assumed in this assessment be sourced from within the study area considering both now and in the future?</p>

ExQ1	Question to:	Question:
Q6.0.6	The Applicant	<p><b>Greenhouse Gas Emissions</b></p> <p>In [APP-054] the final paragraph 9.1.1.6 appears to throw some doubt about the potential benefit of the scheme in respect of GHG emissions.</p> <p>(i) Whilst monitoring of the biogenic content would provide useful information after the event, how does this assist the ExA in understanding the effects of the proposed development?</p> <p>(ii) What controls are there in place which manage the organic fines that are present in MSW?</p> <p>(iii) Are there any controls that the operator could put in place to manage this content such that the GHG emissions benefit as calculated would not be lost?</p>
Q6.0.7	The Applicant	<p><b>Monitoring of Carbon content</b></p> <p>Paragraph 9.1.1.6 of ES Chapter 6 Climate [APP-054] proposes monitoring of the biogenic carbon content of the Refuse Derived Fuel (RDF) used at the site.</p> <p>(i) Can the Applicant explain how this monitoring is secured and whether there would be any trigger levels with corrective actions for example to change the source of RDF?</p>
Q6.0.8	The Applicant, National Grid Carbon Ltd.	<p><b>Zero Carbon Humber</b></p> <p>(i) What weight do you consider the ExA can give to the potential for a connection to this potential pipeline?</p> <p>(ii) Are you able to quantify what additional benefit may result in terms of quantum of CO<sub>2</sub> that it would be possible to store/transport via this route from this site and over what time period?</p>
Q6.0.9	The Applicant	<p><b>Zero Carbon Humber</b></p> <p>In light of the RR from National Grid Carbon Ltd. and the lack of a connection to the pipeline.</p> <p>(i) how do you propose to address this challenge?</p> <p>(ii) In addition to the issue of connection please explain any other factors that would need to be addressed which may include for example the likely requirements for processing and compression of the CO<sub>2</sub> to make it acceptable for injection into the CO<sub>2</sub> pipeline and how this is intended to be secured.</p>
Q6.0.10	The Applicant	<p><b>Hydrogen injection</b></p>

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ExQ1	Question to:	Question:
		<p>(i) Given that there appears to be little evidence of engagement with the gas distribution network operator on the feasibility of injecting hydrogen into their network what weight do you consider the ExA can give to this potential benefit of the proposed development?</p> <p>(ii) Given that there appears to be little detail on the feasibility of injecting hydrogen into a potential hydrogen gathering pipeline what weight do you consider the ExA can give to this potential benefit of the proposed development?</p>
Q6.0.11	The Applicant	<p><b>Transport Modal Split</b></p> <p>There is no commitment at this stage to a given modal split of transporting Refuse Derived Fuel (RDF) by either rail, road or ship.</p> <p>(i) Can the Applicant therefore explain the implications of considering a worst case scenario of traffic by road on the impacts on Climate (ES Chapter 6)?</p>
<p><b>7. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b></p>		
Q7.0.1	The Applicant	<p><b>Compulsory Acquisition Schedule</b></p> <p>Please complete the Compulsory Acquisition (CA) / Temporary Possession (TP) Objections Schedule (CA Schedule) (at Annex A of this document) and make any entries you believe would be appropriate, taking account of the positions expressed in RRs, and giving reasons for any additions. As the Examination progresses and at each successive deadline, please update the CA Schedule as necessary.</p>
Q7.0.2	The Applicant	<p><b>Land Plans</b></p> <p>Please provide a larger scale inset for plots 4-92, 4-93, 4-94, 4-96, 4-97, 4-103 set out on sheet 4 of [APP-014]</p>
Q7.0.3	The Applicant	<p><b>Compulsory Acquisition and Temporary Possession Information</b></p> <p>Please will the Applicants ensure that the BoR [APP-010], SoR [APP-011] and Land Plans [APP-014] are:</p> <p>i) kept fully up to date with any changes and the latest versions submitted at each Deadline, starting from Deadline 2 (with a final version of these documents submitted at Deadline 9), shown in the Examination timetable together with an explanation of the reasons for each change;</p>

**ExQ1: 23 November 2022**

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ExQ1	Question to:	Question:
		<p>ii) supplied in two versions at each Deadline, starting at Deadline 2 (with a final version of these documents submitted at Deadline 9), the first being the up-to-date clean copy and the second showing tracked changes from the previous version; and</p> <p>iii) supplied with unique revision numbers that are updated consecutively from the application versions, clearly indicated within the body of each document and included within the electronic filename; and the dDCO, is updated accordingly.</p>
Q7.0.4	The Applicant	<p><b>Compulsory Acquisition and Temporary Possession Information</b></p> <p>At each of the relevant Deadlines, starting at Deadline 2 and finishing at Deadline 9, as shown in the Examination timetable, please will the Applicant provide a schedule of progress on discussions regarding CA and TP, voluntary agreements, objections and any progress in respect of blight that:</p> <p>i) identifies the Affected Person, their interests in each plot, the powers sought by the Applicant; the purpose(s) for which they are sought; and the anticipated duration of any TP;</p> <p>ii) summarises any objections by the Affected Person to the powers being sought by the Applicant, and the Applicant's responses;</p> <p>iii) identifies whether voluntary agreement has been reached;</p> <p>iv) sets out the progress made since the last update, any outstanding matters, the next steps to be taken and the progress anticipated by the close of the Examination.</p> <p>Please note that the above information will be published on our website, so commercial and/ or confidential details need not be given.</p>
Q7.0.5	The Applicant	<p><b>Book of Reference (BoR)</b></p> <p>Please advise whether the Book of Reference (BoR) [APP-010] is fully compliant with DCLG Guidance.<sup>1</sup></p>
Q7.0.6	All Affected persons (APs)	<p><b>BoR</b></p>

<sup>1</sup> Planning Act 2008, Guidance related to procedures for the compulsory acquisition of land, DCLG, September 2013

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		Are any APs aware of any inaccuracies in the BoR [APP-010], Statement of Reasons (SoR) [APP-011] or Land Plans [APP-014]? If so, please set out what these are and provide the correct details
Q7.0.7	All APs	<b>Compulsory Acquisition and Temporary Possession Powers</b> Do any APs have any concerns that they have not yet raised about the legitimacy, proportionality or necessity of the CA or TP powers sought by the Applicant that would affect land that they own or have an interest in?
Q7.0.8	The Applicant	<b>Area of land to the east of the proposed Access Road</b> In light of question 1.0.23 please explain further how each of the plots to the east of the access road that are not included within a specific work number would meet the tests necessary to fall within the powers for compulsory acquisition/temporary possession.
Q7.0.9	Applicant	<b>Funding Statement</b> Please explain how the wetlands, structured planting and biodiversity net gain is intended to be funded as this is not clear from what is said within the Funding Statement [APP-012] paragraph 2.4.1 (g)
Q7.0.10	The Applicant	<b>Crown Land</b> (i) While the BoR advises there is no land classed as Crown Land, Homes England are identified as having an interest in several plots. Please clarify if any form of consent will be required from this organisation, or the overseeing Government Department. (ii) In the event that consent is required please advise what arrangements are in place to ensure this is provided in advance of the end of the Examination.
Q7.0.11	Statutory Undertakers	<b>Protective Provisions</b> A number of Statutory Undertakers, including Network Rail (NR); Northern Powergrid; Anglian Water Services Limited, Etc., have either noted: i) that Protective Provisions in their favour have not been included within the dDCO; ii) that their standard Protective Provision wording has not been used; or iii) that site specific circumstances in regard to Protective Provisions have not been taken into account.

**ExQ1: 23 November 2022****Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>The ExA would ask all Statutory Undertakers to:</p> <ul style="list-style-type: none"><li>a) provide copies of their preferred wording or, if they have previously provided wording to the Applicant, explain why the wording in the current version of the dDCO should not be used;</li><li>b) where relevant, advise what site-specific circumstances, in regard to Protective Provisions, have not been taken into account; and</li><li>c) provide confirmation that the parties are willing to enter into a side agreement, or has commenced preparation of such a side agreement, or already entered into such a side agreement to the satisfaction of the relevant parties.</li></ul> <p>Please note that the above information will be published on our website, so commercial and/ or confidential details need not be given.</p>
Q7.0.12	The Applicant	<p><b>Protective Provisions</b></p> <p>The BoR [APP-010] includes a number of Statutory Undertakers with interests in land. The ExA would ask the Applicant to:</p> <ul style="list-style-type: none"><li>i) Provide a progress report on negotiations with each of the Statutory Undertakers listed in the BoR, with an estimate of the timescale for securing agreement with them;</li><li>ii) State whether there are any envisaged impediments to the securing of such agreements; and</li><li>iii) State whether any additional Statutory Undertakers have been identified since the submission of the BoR and whether the latest version of the BoR includes any recently identified Statutory Undertakers.</li></ul>
Q7.0.13	The Applicant, Associated British Ports (ABP)	<p><b>Protective Provisions</b></p> <p>Please consider whether it is necessary to provide Protective provisions for ABP as port and navigation authority. If they are not regarded as necessary, please provide a brief explanation</p>
Q7.0.14	The Applicant	<p><b>Objections from Statutory Undertakers</b></p> <p>Where a representation is made by a statutory undertaker under section 127 of the Planning Act 2008 (PA2008) and has not been withdrawn, the Secretary of State (SoS) would be unable to authorise powers relating to the statutory undertaker land unless satisfied of specified matters set out in section 127. If the representation is not withdrawn by the end of the examination confirmation would be needed that the “expedience” test is met.</p>

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ExQ1	Question to:	Question:
		<p>The SoS would also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal would be necessary for the purpose of carrying out the development to which the Order relates in accordance with section 138 of the PA2008. Justification would be needed to show that extinguishment or removal would be necessary.</p> <p>(i) Please indicate when, if the objections from Statutory Undertakers are not withdrawn, this information would be submitted into the Examination.</p>
Q7.0.15	The Applicant	<p><b>Land Interests</b></p> <p>Please could the Applicant confirm that all persons having an interest in land, including any rights over unregistered land have been identified and where this has not been possible:</p> <p>(i) provide a summary of where it has not yet been able to identify any persons having an interest in land, including any rights over unregistered land; and</p> <p>(ii) confirm what further steps the Applicant will be taking to identify any unknown right(s) during the Examination?</p>
Q7.0.16	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p> <p>(i) Please explain further why it is considered why more land might be necessary in the event the 7 year period was not stipulated as suggested in the SoR [APP-011] at section 7, Paragraph 7.4?</p> <p>(ii) Is not the opposite also true for the current landowners when considering what is stated at paragraph 7.5 of the SoR?</p> <p>(iii) In what circumstances do you consider you could or would be forced to acquire land or rights in land that would not be necessary for the delivery of the DCO?</p>
Q7.0.17	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p> <p>With regard to a variety of proposed works including landscaping, drainage rights, and utility works</p> <p>(i) Please provide an indication of the anticipated content and/or an initial draft of any restrictive covenants intended to be imposed;</p> <p>(ii) Should a requirement for consultation with relevant owners/occupiers as regards the drafting of any such restrictive covenants be imposed?</p>
Q7.0.18	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p>

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ExQ1	Question to:	Question:
		<p>The SoR [APP-011] at paragraph 10.3.23 states that Article 37 would authorise the Applicant to enter onto any land shown within the Application Land or land which may be affected by the authorised development, to survey and investigate the land. Article 37(2) provides for a 14 day notice period to be given to the owner/occupier of the land. Please provide justification for a 14 day notice period and consider whether this is unreasonably short and should be extended to 28 days?</p>
Q7.0.19	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p> <p>The SoR [APP-011] section 7 paragraphs 7.19-7.22 seeks to explain why it may be appropriate to extinguish or override rights over the Application Land. Please explain in further detail:</p> <ul style="list-style-type: none"> <li>(i) The need to seek such a power and whether all such rights and easements have been specifically identified;</li> <li>(ii) Why it is necessary to include powers of compulsory acquisition as a means of overriding existing rights and interests in or over land, as well as creating new rights over land, and granting the right to take temporary possession of land?</li> <li>(iii) The nature and extent of any delay to the project that might otherwise result?</li> <li>(iv) What alternatives to this approach have been explored?</li> </ul>
Q7.0.20	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p> <p>To assist with the consideration of whether the extent of the land to be acquired is no more than is reasonably required for the purposes of the development to which the development consent will relate,</p> <ul style="list-style-type: none"> <li>(i) Please provide a detailed explanation of the purpose of the plots which have not been included in any of the works plans [APP-016-APP-017, APP-018], and</li> <li>(ii) Explain the justification for the extinguishment of rights over such land</li> </ul>
Q7.0.21	The Applicant	<p><b>The scope and purpose of the Compulsory Acquisition Powers sought</b></p> <p>Article 24 – 7 year time limit</p> <p>As drafted, this leaves the period of temporary possession open-ended from the date the power is exercised. Should there not also be a time limit after which the temporary possession of the land or interests must cease?</p>

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ExQ1	Question to:	Question:
Q7.0.22	The Applicant	<p><b>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</b></p> <p>The SoR [APP-011], section 7.37-7.41.3, sets out the Applicant’s compelling case in the public interest for the proposed compulsory acquisition.</p> <p>(i) What assessment, if any, has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of compulsory acquisition powers in each case;</p> <p>(ii) What is the clear evidence that the public benefit would outweigh the private loss and how has that balancing exercise between public benefit and private loss been carried out?</p>
Q7.0.23	The Applicant	<p><b>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</b></p> <p>Please explain how the engagement with persons with land interests:</p> <p>(i) Has helped to shape the proposals and enabled the Applicant to make changes to designs to minimise any private loss;</p> <p>(ii) How has the direct engagement with individual landowners given the Applicant a better understanding of the direct and indirect impacts on them;</p> <p>(iii) Please provide detail, where available, of the direct and indirect impacts thereby identified.</p>
Q7.0.24	The Applicant	<p><b>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</b></p> <p>What weight has the Applicant attached to the compensation that would be available to those entitled to claim it under the relevant provisions of the national Compensation Code in its assessment of private loss?</p>
Q7.0.25	The Applicant	<p><b>Whether all reasonable alternatives to Compulsory Acquisition have been explored</b></p> <p>In the light of the DCLG Guidance relating to procedures for the compulsory acquisition of land (CA Guidance), paragraph 8:</p> <p>(i) How can the Panel be assured that all reasonable alternatives to Compulsory Acquisition (including modifications to the scheme) have been explored;</p>

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ExQ1	Question to:	Question:
		(ii) Set out in summary form, with document references where appropriate, what assessment/comparison has been made of the alternatives to the proposed acquisition of land or interests therein in each case.
Q7.0.26	The Applicant	<p><b>Whether all reasonable alternatives to Compulsory Acquisition have been explored</b></p> <p>(i) Please explain what, if any, account has been taken of responses to pre-application consultation (both in relation to statutory and non-statutory consultation) in the location and design of the elements of the scheme that were the subject of such consultation in considering whether there are reasonable alternatives to Compulsory Acquisition.</p> <p>(ii) Please provide any examples of location/route changes and changes to design development options within the application scheme in response to public consultation.</p>
Q7.0.27	The Applicant	<p><b>Whether all reasonable alternatives to Compulsory Acquisition have been explored</b></p> <p>The CA Guidance, paragraph 25, state that applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.</p> <p>(i) Please demonstrate the Applicant's compliance with this aspect of the CA Guidance.</p> <p>(ii) Has the Applicant offered full access to alternative dispute resolution techniques for those with concerns about the compulsory acquisition of their land or considered other means of involving those affected?</p>
Q7.0.28	The Applicant	<p><b>Whether adequate funding is likely to be available</b></p> <p>The CA Guidance, paragraph 17, considers the resource implication of the proposed scheme. In the light of that guidance, please set out the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and the basis upon which any such contributions or underwriting is to be made.</p>
Q7.0.29	The Applicant	<p><b>Whether adequate funding is likely to be available</b></p> <p>In the light of the CA Guidance, paragraph 18, what evidence is there to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following any DCO being made?</p>
7.1	<b>Draft Development Consent Order (dDCO)</b>	

ExQ1	Question to:	Question:
Q7.1.1	The Applicant	<p><b>PART 1 Preliminary Articles</b></p> <p>(i) Please consider whether it might be more helpful to include all interpretations in this section of the dDCO and specifically whether the CEMP should be included here. The CEMP would usually be the overall control document to which other documents were subservient.</p> <p>(ii) In light of the importance of ‘commissioning’ would it not be preferable to have this set out here at the outset of the document?</p>
Q7.1.2	The Applicant	<p><b>Interpretation ‘authorised development’</b></p> <p>(i) ‘apparatus’ ‘would it not be simpler to say, ‘has the same meaning as in Part 3 of the 1991 Act’ The Act makes it clear in S79 that it is everything owned by the undertaker.</p>
Q7.1.3	The Applicant	<p><b>Interpretation ‘authorised development’</b></p> <p>Should associated development include ‘other associated development’?</p> <p>Please provide a more detailed justification for the approach taken</p>
Q7.1.4	The Applicant, NLC	<p><b>Definition of ‘maintain’</b></p> <p>(i) Is the extent of alternatives included within the definition reasonably justified?</p> <p>(ii) Does this reasonably comply with Planning Inspectorate Advice Note 15?</p> <p>The definition includes “alter, remove, refurbish or reconstruct”. On its face, that would include decommissioning and the construction of a new generating station. The ExA doubts this is what is intended nor is this obviously to be limited by reference to new or materially different environmental effects. However, lesser reconstructions may pass that test but nonetheless be development which ought to be regulated by planning control?</p> <p>(iii) Might the following definition be adequate: “maintain” includes inspect, repair, adjust, alter, clear, refurbish or improve, and any derivative of “maintain” is to be construed accordingly”, with the addition of the prohibition relating to maintenance causing environmental effects?</p> <p>(iv) If the NLC consider that the current definition is too wide, would they please give examples of development it permits but which NLC considers should be subject to planning control? Would they please also consider whether the ExA’s</p>

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ExQ1	Question to:	Question:
		<p>suggestion above would deal with any concern and give reasons?                      (iii) If the Applicant disagrees with the ExA's suggestion, please will it, in answering the question, explain clearly the intent of the breadth of the definition and reflect on whether it ought to be reduced?</p>
Q7.1.5	The Applicant	<p><b>Order land</b>                      (i) Should the Order land be defined to align with the BoR? Please explain the omission if this is not agreed</p>
Q7.1.6	The Applicant	<p><b>Preliminary works</b>                      (i) Would it be preferable to limit activity in line with S155 of PA2008 and re-title this as 'pre-commencement activity'?                      (ii) Should this include reference to archaeological investigation?</p>
Q7.1.7	The Applicant	<p><b>Undertaker</b>                      Should this not also include the Company registered postal address?</p>
Q7.1.8	The Applicant	<p><b>Article 2 (2)</b>                      As drafted in the dDCO this would appear to follow a number of other DCOs, but it would not appear to be consistent with the wording in the Explanatory Memorandum, which suggests that the wording should not be limited by reference to parameters.                      (i) Please clarify the position.                      (ii) In the event that reference to parameters is not proposed to remain, please explain how this could ensure that the DCO would remain within the assessment of the ES.</p>
Q7.1.9	The Applicant	<p><b>Article 2 (3)</b>                      In light of the requirement to be definitive in setting out the land to be included in the BoR- please provide further justification for this approach.</p>
Q7.1.10	The Applicant	<p><b>Part 2 principal powers</b>                      Limits of deviation 5 (1) (a)                      Please provide a justification for the extent of the area of deviation as shown on the works plans</p>

ExQ1	Question to:	Question:
Q7.1.11	The Applicant	<p><b>Part 2 principal powers</b></p> <p>Limits of deviation 5 (2)</p> <p>Should this read ‘between 2.1m AOD and 5.2m AOD?’ If this is not the case, please provide an explanation for the position as currently drafted</p>
Q7.1.12	The Applicant, NLC (ii)	<p><b>DCO- Vertical Limits of Deviation</b></p> <p>(i) Please explain how the limits of deviation would apply to areas not covered by specific works numbers as set out under Article 5 of the dDCO.</p> <p>(ii) Do the Council agree that the limitations as currently drafted appropriately control the potential extent of works proposed?</p>
Q7.1.13	The Applicant	<p><b>DCO – Vertical Limits of Deviation</b></p> <p>(i) Can the Applicant explain how the vertical alignment parameters (including limits of deviation), will be secured?</p> <p>(ii) Is there a need to certify the Indicative Highways Drawings [APP-028] within the DCO to perform this function, akin to the Indicative Railway Drawings?</p>
Q7.1.14	The Applicant	<p><b>Vertical Parameters - Highways</b></p> <p>The levels shown on the Vertical Parameters Plans and Indicative Highways Drawings [APP-028] vary from 2.7mAOD to 4mAOD. Article 5 of the dDCO states that the new access road (Work no. 5) must be constructed within the following LoD: 2.1 to 5.2m AOD. In addition, the Design and Access Statement [APP-037] includes an illustrative section through the main access road at Figure 5.12, which indicates the height as being 7m.</p> <p>(i) Can the Applicant explain these discrepancies?</p> <p>(ii) Please also explain with this range how the proposed road is intended to connect into the existing road and how it is intended this will be achieved.</p>
Q7.1.15	The Applicant	<p><b>Vertical Parameters – Rail</b></p> <p>The Indicative Railway Drawings [APP-029] identify proposed footbridges, to cross over the railway. These are not clearly identified on the Works Plans C [APP-018]. They are briefly referenced within the ES project description (paragraph 1.1.1.3 of [APP-051]).</p>

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ExQ1	Question to:	Question:
		<p>(i) Can the Applicant confirm the dimensions of footbridges, how these dimensions are secured, and whether there would be any likely significant visual or landscape effects from their presence?</p> <p>(ii) Please explain where the assessment of potential effects can be found in the ES</p>
Q7.1.16	The Applicant	<p><b>Operation of authorised development Article 7</b></p> <p>(i) Please explain the distinction between use and operate. Are both terms necessary?</p> <p>(ii) In respect of 7(2) does this mean that elements of the authorised development, other than the generating station, could operate without such a permit or in limited mode: e.g. heat only/no export of power to the local grid?</p> <p>(iii) Should it be drawn more widely i.e. replace 'generating station' with 'authorised development' so the other components are included and would need a permit if this was a requirement under the relevant statutory regime?</p>
Q7.1.17	The Applicant	<p><b>Consent to transfer benefit of the Order Article 10 (1) (a)</b></p> <p>(i) Is it correct to interpret this as allowing the undertaker to separate off each component part of each numbered work?</p> <p>(ii) If this is the case does this not suggest a lack of interdependence of the component parts and undermine the argument you make about the need for and the interdependence of the associated development.</p>
Q7.1.18	The Applicant, NLC	<p><b>Article 10 (7)</b></p> <p>Is five working days agreed?</p>
Q7.1.19	The Applicant, NLC	<p><b>Public Rights of Way Article 15 (1) (b)</b></p> <p>Should a time period be specified for the notification of the highway authority and for the subsequent period of diversion?</p>
Q7.1.20	The Applicant, NLC	<p><b>Accesses Article 16 (3)</b></p> <p>Is the 28-day period agreed?</p>
Q7.1.21	The Applicant, NLC	<p><b>Part 4 Compulsory Acquisition</b></p> <p><b>Funding - 22 (4)</b></p>

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ExQ1	Question to:	Question:
		<p>Is a 10-year limitation reasonable, particularly if a 7-year period to exercise rights is also sought? By way of reference EN010093 Riverside Energy Park gave 15 years</p>
Q7.1.22	The Applicant, NLC	<p><b>Time Limit for exercise of authority to acquire land and rights Article 24 (1)</b> As referred to in ISH2 please provide a full explanation for the justification for the 7-year period sought. Other DCOs have accepted a 5-year period EN010093 Riverside Energy Park- 5 years EN010012 The Sizewell C project - 5 years TR010025 A303 Amesbury to Berwick Down – 5 years</p>
Q7.1.23	The Applicant	<p><b>Time limit Article 24 (2)</b> As drafted, this would suggest it could be permanent should there not be a time limitation to ensure that it is temporary?</p>
Q7.1.24	The Applicant, NLC	<p><b>PART 5 Supplemental Powers</b> No reference is made within the dDCO to dealing with human remains. The heritage assessment makes reference to a 'bog body' which it is assumed relates to human remains. While it may not be anticipated that human remains are likely to be found, what would the consequence be for the DCO in the event one was to be found?</p>
Q7.1.25	The Applicant, NLC	<p><b>PART 7 Miscellaneous and General Operational Land Article 42</b> (i) Is it correct to interpret this as facilitating extensive permitted development rights for the whole of the Order land? (ii) Is this reasonable in light of the extensive powers that this would facilitate for the whole DCO site in respect of future permitted development rights? (ii) Where is the evidence that this has been appropriately assessed within the ES and could be appropriately controlled within the extent of what the ES has assessed, or mitigation offered through requirements or other controls?</p>
Q7.1.26	Applicant. NLC, Associated British Ports	<p><b>Certification of Plans Article 44</b></p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>(i) Should this include the Design and Access Statement (DAS) and Navigation Risk Assessment (NRA)?</p> <p>(ii) If the DAS or NRA are not included, please provide an explanation how the design considerations and navigation risks considered will be secured</p>
Q7.1.27	The Applicant, EA	<p><b>Water Discharges 36 (1)</b></p> <p>(i) Should this not be a conditional power subject to the approval, for example as described under 36 (3) and 36 (4)?</p> <p>(ii) What does the 'carrying out' of the authorised development mean?</p>
Q7.1.28	The Applicant, EA	<p><b>Work No. 1</b></p> <p>(i) Should there be a limitation in the annual throughput of RDF to a maximum of 760,000 or 650,000 tonnes in the absence of an Environmental Permit? (This was recommended in the South Humber Bank Energy Centre rDCO)</p>
Q7.1.29	The Applicant	<p><b>Work No 1 (i)</b></p> <p>(i) Should this be air cooled condenser or air blast chiller?</p> <p>(ii) Is this a duplication of Work 1D Please explain if both Work 1D and Work No 1 (i) are required</p>
Q7.1.30	The Applicant	<p><b>Work No 2</b></p> <p>Should there be reference to the elevated walkway as in Work No 1 and Work No 1C?</p>
Q7.1.31	The Applicant	<p><b>Work No.3</b></p> <p>The extent of work No.3 as shown on the Works Plans [APP-018] does not include the spur running west to east, the land between Dragonby village and the B1430. While Fig.3 of [APP-049] indicates this area as 'Construction Laydown Limits of Deviation'</p> <p>(i) Please clarify the position with how this area of land is intended to be used both during construction and subsequent operation.</p> <p>(ii) Please advise where this use has been assessed within the ES.</p>
Q7.1.32	The Applicant	<p><b>Work No.3</b></p> <p>This work makes no reference to a footbridge or bridges. Should this be specifically added?</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
Q7.1.33	The Applicant	<b>Work No.3 and Work No. 4</b> There do not appear to be any laydown areas within either of these work areas, is this correct?
Q7.1.34	The Applicant	<b>Work No. 4</b> (i) Can the Applicant confirm what the “associated equipment to allow loading and unloading” at the proposed railhead (Work No. 4 of the dDCO [APP-007]) would comprise and their anticipated dimensions? (ii) Are any buildings required?
Q7.1.35	The Applicant	<b>Work No. 4</b> [APP-018] Work Plans C appear to show on sheet C5 ‘Work No.4’ at Dragonby. This would appear to be an error and should be a Construction Laydown Area as shown on Fig 3 of [APP-049]? Please clarify the situation. The dDCO at Work No. 4 describes a single railhead. (i) Should this be plural? (ii) Please explain what is meant by railhead, what would be included in terms of structures, buildings, equipment etc.
Q7.1.36	The Applicant, IPs, NLC	Annex E to the Rule 6 Letter [18 October 2022] provided notice of two Issue Specific Hearings (ISH) on the scope of the proposed development and the dDCO which were held on 17 and 18 November 2022 (ISH1 and ISH2). Annex I and Annex J to that letter set out a schedule of issues and questions for examination at ISH1 and ISH2. The examination timetable provides that matters raised orally in response to that schedule are to be submitted in writing by Deadline 1: 1 December 2022. Comments on any matters set out in those submissions are to be provided by Deadline 2: 15 December 2022, which is the same as the deadline for responses to these questions. Interested Parties (IPs) who participated in ISH1 or ISH2 and consider that their issues have already been drawn to the ExA’s attention do not need to reiterate their issues in responses to these questions. IPs are requested to review the Deadline 1 written submissions arising from ISH1 and ISH2 before responding to the questions and where appropriate point out to the ExA where the answer can be found.
Q7.1.37	The Applicant	<b>Indicative Surface Water Drainage Plan</b>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		The dDCO [APP-007] does not make reference to the Indicative Surface Water Drainage Plan [APP-030], either as a certified document or within Requirement 8 'Surface water drainage'. (i) Can the Applicant explain why this is the case?
Q7.1.38	The Applicant	<b>Work No. 5</b> dDCO requirement 5 requires the new access road (Work No. 5) to be constructed to 'base course level' before any development at the energy park. (i) Can the Applicant confirm how dust from a base course would be controlled?
Q7.1.39	The Applicant	<b>Work No.7 and Work No.8</b> Please explain the lack of consistency of wording in respect of the hydrogen production process or adjust accordingly?
Q7.1.40	The Applicant	<b>Work No. 12A</b> (i) Please provide an update on the progress on negotiations with the land owner towards achieving a licence. (ii) In the event this matter is resolved by agreement in this way, is it intended to submit the Licence into the Examination? (iii) If this is not the case what regard can the ExA have to such an agreement?
Q7.1.41	Applicant, NLC, EA	<b>Refuse Derived Fuels (RDF)</b> (i) The description of Work No 1. Includes 'an electricity generating station fuelled by RDF. Is RDF defined in guidance/legislation or other form of document which the ExA can rely upon to understand the standard/constituent parts of the fuel and how this then might influence the outcomes considered in the ES for example in respect of air quality? (ii) Is the content of RDF monitored and if so by whom? (iii) Please explain how Requirement 15 limiting the fuel to processed waste corresponds with/relates to RDF and how this would be monitored and enforced. (iv) The basis of the assessment appears to be an assumed composition of the RDF described at 5.4.2.11, other operating assumptions (Tables 6-10) supported by sensitivity analysis. - How is this secured/controlled?
Q7.1.42	Applicant	<b>Decommissioning</b>

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ExQ1	Question to:	Question:
		<p>(i) The description of development in Part 1 and Part 2 of Schedule 1 would not appear to include decommissioning. Please confirm if decommissioning of part or all of the development has been subject to the ES assessment or is it intended to be subject to a future application/ES process?</p> <p>(ii) Please explain what would secure a process for decommissioning and ensure it would remain within what has been assessed within the ES if this is the case</p>
Q7.1.43	The Applicant, EA, NLC, Scunthorpe and Gainsborough Water Management Board	<p><b>Requirement 16</b></p> <p>(i) Does this requirement achieve and set out appropriately the acknowledgment that the decommissioning will need to have due regard to flood risk as set out in Table 2 of [APP-057]?</p> <p>(ii) In the event that any party considers this requirement should be changed please provide an alternative wording.</p>
Q7.1.44	The Applicant	<p><b>Schedule 1 Part 3 Parameters Table</b> Column 2</p> <p>(i) is there an accepted convention as to width x depth?</p> <p>If not, should this be made clear?</p>
Q7.1.45	The Applicant, NLC	<p><b>Requirements</b></p> <p>(i) Considering the uncertainty in the design, is it accepted that impact limit values could be set to ensure that significant effects would be avoided during construction or operation of the authorised development? Examples might include, operational waste import quantities, type and composition, traffic types and volumes, and noise, in addition to stack emission limit values.</p> <p>(ii) Please justify the current approach if the incorporation of limit values is not intended to be introduced into the dDCO and provide clarity as to how mitigation would be delivered in the absence of the inclusion of limit values.</p>
Q7.1.46	The Applicant, NLC (iv and v), EA (vi)	<p><b>Permitted preliminary development works construction environmental management plan (PPDW CEMP)</b></p> <p>(i) Please clarify if the intention is to provide a single PPDW CEMP for the Proposed Development, or to provide a series in line with the phasing of the proposed development. The wording in the CoCP does not make this explicit</p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

ExQ1	Question to:	Question:
		<p>(ii) If preliminary works was changed to pre-commencement activities as described under Part 1 Article 2 previously (1) would not be required and 'save for the preliminary works' could be removed from (2)?</p> <p>(iii) Should 4 (3) also include traffic and noise plans to address such impacts during construction? If this is not considered appropriate, please provide a justification for the approach.</p> <p>(iv) Is it correct to understand that the relevant local authority can override their approval of a CMP/CEMP that they have approved?</p> <p>(v) Is it accepted that 4(2) would appear to be adequate on the basis that the approved CEMP would include provisions for change management and revision?</p> <p>(vi) Other DCOs where there is a reliance on the environmental permit to be the primary regulatory tool for operations of a generating station or ERF do not appear to include reference to an operational environmental management plan. Could it be clarified how these requirements would interact with the Environmental Permit and any other necessary permits, licences and consents?</p>
Q7.1.47	The Applicant, EA, NLC	<p><b>Requirement 2</b></p> <p>(i) Would it not be appropriate to have a CEMP provided in advance of each part to be approved by the relevant local authority?</p>
Q7.1.48	The Applicant, EA (i and ii)	<p><b>Requirement 4 Environmental management</b></p> <p>(i) (5) onwards seeks to deal with operation. Please explain how this would engage with the licensing and permitting regime.</p> <p>(ii) In the event there were a conflict, what regime would take precedence and how would any conflict be managed?</p> <p>(iii) Requirement 4 (4) – Should this be a CEMP rather than CMP? Please clarify</p> <p>(iv) Requirement 4 (4) - The EM appears to suggest preliminary works are excluded; this would appear to contradict the dDCO, please clarify the approach?</p> <p>(v) Requirement 4 (5) - Does there need to be a clause covering the rail land as well as the energy park works?</p>
Q7.1.49	The Applicant, NLC, EA, WMB	<p><b>Requirement 4 (6) (c) Environmental management</b></p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		(i) What relationship does the surface water strategy have with the construction flood management plan, FRA etc.? (ii) Should they be cross referenced within requirements and the dDCO?
Q7.1.50	The Applicant	<b>Requirement 5 – Lighting scheme</b> What controls would be in place during construction and how would this be managed and enforced if appropriate?
Q7.1.51	NLC	<b>Requirement 6 – Landscape design</b> Is the term ‘must be based on’ regarded as sufficiently precise?
Q7.1.52	The Applicant	<b>Requirement 6 (3) - Landscape design</b> (i) Is ‘coming into operation’ defined, if not please provide an explanation/definition? (ii) Should a minimum maintenance period be specified?
Q7.1.53	The Applicant	<b>Requirement 7 - Landscape and ecology management</b> (i) ‘may become operational’ again a different form of words – consistency may be more helpful/appropriate along with clear definition of the term set out in the interpretation section, please consider and respond accordingly.
Q7.1.54	The Applicant	<b>Requirement 7(2) – Landscape and ecology management</b> (i) Maintenance during the operation of the authorised development – is this sufficiently robust and does it give the confidence to the commitment of at least 30 years maintenance which the BNG appears to rely upon. (ii) In Chapter 3 of the ES [APP-051] paragraph 8.1.1.1 indicates that the ERF may be repowered so may remain beyond 2065, how would this eventuality be resolved in the event the operational period were extended? (iii) in light of the Natural England RR, please address the need for a commitment to 10% BNG and how this could be delivered.
Q7.1.55	The Applicant, NLC, EA, WMB	<b>Requirement 8 – Surface water drainage</b> Should there be prior consultation with NLC, the Water Management Board and or EA?
Q7.1.56	The Applicant, NLC, EA, WMB	<b>Requirement 8 – Surface water drainage</b>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		Do you consider the timing appropriate such that it would ensure that the mitigation/plan is in place in a timely manner?
Q7.1.57	The Applicant, NLC, EA, WMB	<b>Requirement 9 – Foul water drainage</b> Do you consider the timing appropriate such that it would ensure that the mitigation/plan is in place in a timely manner?
Q7.1.58	The Applicant	<b>Requirement 10 – Construction traffic management</b> (i) Does this not need to relate to each respective part of the scheme? Please explain if this is not the case as there appears to be either a conflict with sub para (1) or a lack of clarity. (ii) Should this also refer to the construction worker travel plan?
Q7.1.59	The Applicant	<b>Requirement 11 – Archaeology</b> (i) Is the intention of this requirement to prevent any work commencing including the preliminary works? The EM suggests otherwise please clarify the approach proposed. (ii) The wording of the dDCO requirement currently refers to a scheme of archaeological mitigation, however there is no link back to the studies already undertaken or the recommendations set out in the written scheme of investigation. Should the requirement not be aligned with the work and recommendations already set out?
Q7.1.60	The Applicant, EA, NLC	<b>Requirement 12 – Flood risk</b> (i) Is the timing appropriate? If not submitted until after commissioning, will it not be too late to resolve any potential difficulties and or to consider during the design stage?
Q7.1.61	The Applicant, NLC	<b>Requirement 14 – New highway access</b> What ensures that the road is completed to an appropriate standard and made available for the use by the public?
Q7.1.62	The Applicant, NLC, EA	<b>Requirement 15 – Fuel</b> Would it not be more appropriate to restrict the waste to non-recyclable wastes to ensure compliance with the 2011 Waste Regulations?
Q7.1.63	The Applicant	<b>Requirement 19 – Carbon capture</b> (i) 54,387 tonnes per annum and? Should this <b>and</b> be or?

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>(ii) Does 'waste throughput' refer to CO2? if so, it may be appropriate to be more precise, if not please explain what this relates to and where this is set out.</p> <p>(iii) There appear to be at least two processes involving carbon capture, please explain further and provide detail on how this would be monitored, secured and enforced</p>
Q7.1.64	The Applicant, NLC	<p><b>Schedule 2 PART 2 Procedure for discharge of requirements</b></p> <p>(i) Should there be a section on fees payable to the discharging authority in line with the planning Inspectorate Advice Note? If this is not agreed please provide an explanation</p>
Q7.1.65	Applicant and Natural England	<p><b>Biodiversity Net Gain (BNG)</b></p> <p>In light of the RR from Natural England can both parties consider whether there should be a commitment to include 10% BNG and provide the wording of a Requirement that would deliver this.</p>
Q7.1.66	The Applicant, NLC	<p><b>[APP-040] The Statutory Nuisance Statement.</b></p> <p>(i) If the ES has only assessed air quality, noise, visible plumes and artificial lighting – is it reasonable to include all other categories of nuisance within the defences to proceedings of statutory nuisance in Article 43?</p>
Q7.1.67	The Applicant/ NLC	<p><b>Defence to proceedings of statutory nuisance</b></p> <p>(i) Should there not be reference to construction and operation being undertaken in accordance with the various control documents and in line with the mitigation offered?</p> <p>(ii) If this is not considered appropriate please provide a reasoned justification for your approach.</p>
Q7.1.68	The Applicant, NLC (ii)	<p><b>Code of Construction Practice (CoCP)</b></p> <p>With reference to paragraph 7.2.1.3 of ES Chapter 7 and e-page 43 of the CoCP.</p> <p>(i) Can the Applicant confirm how it will be determined whether or not monitoring of noise levels is necessary and how the scope of such monitoring will be determined?</p> <p>(ii) Does North Lincolnshire Council have any comments on the proposed noise monitoring during construction?</p>
Q7.1.69	The Applicant	<b>CoCP</b>

ExQ1	Question to:	Question:
		<p>Each Appendix of the CoCP [APP-074] has a section entitled ‘Monitoring, Inspection and Auditing’, except the Invasive Species plan which discusses monitoring separately. With the exception of the outline Dust Management Plan (DMP), these sections merely state that monitoring will take place. The DMP has further details but does not contain any trigger levels or specific corrective/ remedial actions.</p> <p>(i) For clarity, can the Applicant provide a summary of all proposed monitoring; their purpose; whether trigger levels and remedial action will be included; and whether monitoring results will be shared with any third parties.</p> <p>(ii) What would happen in the event that the monitoring found a level above that anticipated? Please explain what measures would be in place to ensure controls are in place to avoid this eventuality, how this is secured, and how it is reported to the relevant authority.</p>
Q7.1.70	The Applicant	<p><b>Other Associated Development</b></p> <p>The whole of this section if retained would allow for a considerable range of additional development.</p> <p>(i) What justification is there for such a broad approach?</p> <p>(ii) Are there other DCOs which have used this approach which you rely upon?</p> <p>(iii) Where a sub clause includes a structure – e.g. (a), (b), (c), (f) what limitation would apply to control their size?</p>
Q7.1.71	The Applicant	<p><b>Other Associated Development</b></p> <p>This section of the dDCO includes construction and lay down areas (i) on page 33 of [AS-0. As drafted, this would appear to allow them to be sited anywhere within the DCO site. This would appear to contradict what has been assessed as they have been specifically set out within Table 2 of [APP-051] and identified on Figures 4 and 6.</p> <p>(i) Please explain how the approach currently presented is justified and how the ES has considered the potential for laydown areas to be sited anywhere within the DCO land.</p>
Q7.1.72	The Applicant	<p><b>Statement of Reasons (SoR)</b></p> <p>Paragraph 3.18 of the SoR [APP-011] makes reference to the provision of footbridges. Footbridges do not appear in the description of development or in the schedules within the dDCO.</p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>(i) Please clarify the position and update the dDCO as necessary.</p> <p>(ii) Work No. 3 in the dDCO does not reference a footbridge – should this be added to the description?</p>
Q7.1.73	The Applicant	<p><b>SoR</b></p> <p>Paragraph 4.1.1 (b) of [APP-011] refers to 760,000 tonnes of waste while the dDCO refers to refuse derived fuel (RDF). The ExA consider consistency of description/language and terminology is important. Please update the document as appropriate or explain the different terminology.</p>
Q7.1.74	The Applicant, NLC	<p><b>SoR</b></p> <p>North Lincolnshire is a Unitary Authority.</p> <p>(i) Please explain the reference to the Lincolnshire County Council Joint Municipal Waste Management Strategy.</p> <p>(ii) This Strategy is not referenced within Chapter 2 of the ES [APP-050]. Please update this document as necessary or provide an explanation.</p> <p>(iii) Paragraph 5.16 of the SoR says this strategy is for the region. In your answer please be clear what area this represents, which authorities it includes and if it reflects a recognised waste area.</p>
Q7.1.75	The Applicant	<p><b>Explanatory Memorandum (EM)</b></p> <p>The EM provides no explanation as to why the inclusion of ‘other authorised development’ should be regarded as an appropriate approach.</p> <p>(i) Should these activities not be tied into a specific work number or linked to more precise areas of the DCO land as opposed to the entire site.</p>
Q7.1.76	The Applicant	<p><b>EM</b></p> <p>Detailed Design 3/Page 35 of the dDCO. The EM appears to reference Requirement 4. Is the EM referring to the wrong requirement? please explain so it is understood and the dDCO does as intended</p>
Q7.1.77	The Applicant	<p><b>Book of Reference (BoR)</b></p> <p>(i) Paragraph 1.6 of the BoR – should this refer to Article 23?</p> <p>(ii) Paragraph 1.7 of the BoR – should this refer to Article 25?</p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

ExQ1	Question to:	Question:
		(iii) Paragraph 1.9 of the BoR – should this refer to Article 31? (iv) Paragraph 1.10 of the BoR – should this refer to Article 32? (v) Paragraph 1.11 of the BoR – should this refer to Article 37? (vi) Land Plot 4-95 – should this also be in Part 3?
Q7.1.78	The Applicant (i), NE (ii)	<p><b>Natural England Relevant Representation</b></p> <p>Table 1 within ES Chapter 19 Mitigation, states that air quality mitigation measures are secured within Schedule 2, Requirement 3, however, rather than it being included within a statement about adhering to design, we advise that the requirement to include mitigation measures should be explicitly stated.</p> <p>(i) Please can the Applicant consider this request                      (ii) Please can Natural England propose a form of words that they consider would address this concern.</p>
Q7.1.79	The Applicant (i), NE (ii)	<p><b>Natural England Relevant Representation</b></p> <p>The requirement for a dust management plan has been included within the draft DCO under Environmental management, requirement 4(3). This has secured the inclusion of the dust management plan within the CEMP. Natural England should be consulted on the final CEMP prior to commencement of development.</p> <p>(i) Please can the Applicant consider this request                      (ii) Please can Natural England propose a form of words that they consider would address this concern.</p>
Q7.1.80	The Applicant (i), NE (ii)	<p><b>Natural England Relevant Representation</b></p> <p>We recommend that measures outlined in Chapter 10, paragraph 7.1.2.2 of the Preliminary Environmental Impact Report (PEIR) are reinstated in a Construction Ornithological Monitoring Plan (COMP) and included in the commitments of the construction environmental management plan.</p> <p>(i) Please can the Applicant consider this request                      (ii) Please can Natural England propose a form of words that they consider would address this concern.</p>
Q7.1.81	The Applicant	<p><b>Natural England Relevant Representation</b></p>

ExQ1	Question to:	Question:												
		<p>We also highlight that additional information regarding sustainable soil management should be included in the Soil Handling Management Plan (SHMP) as part of the CEMP.</p> <p>(i) Can the Applicant please address this concern.</p>												
Q7.1.82	The Applicant	<p><b>Natural England Relevant Representation</b></p> <p>Please clarify if the Operational travel Plan would provide any form of mitigation and what this might be.</p>												
Q7.1.83	The Applicant	<p><b>Environment Agency Relevant Representation</b></p> <p>The Environment Agency RR has suggested an additional requirement, please consider this request and provide a justification for your response.</p> <p>(1) No piling or any other foundation designs using penetrative methods shall be permitted, until a written piling and penetrative foundation design method statement, informed by a risk assessment, for that part, has been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.</p> <p>(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement.</p>												
Q7.1.84	The Applicant	<p><b>DCO Suggested Changes for consideration</b></p> <table border="1" data-bbox="768 954 1966 1453"> <thead> <tr> <th data-bbox="768 954 842 1046"></th> <th data-bbox="842 954 1182 1046">DCO Reference/Page No.</th> <th data-bbox="1182 954 1966 1046"></th> </tr> </thead> <tbody> <tr> <td data-bbox="768 1046 842 1257">1</td> <td data-bbox="842 1046 1182 1257">Index/Page 3</td> <td data-bbox="1182 1046 1966 1257"> <p><b>Suggested Change</b></p> <p>Schedule 10 Part 1 Option A – add “LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED”? for consistency of wording with Option B and Schedule 12.</p> </td> </tr> <tr> <td data-bbox="768 1257 842 1358">2</td> <td data-bbox="842 1257 1182 1358">5 (2) page 8</td> <td data-bbox="1182 1257 1966 1358"> <p><b>Suggested Change</b></p> <p>‘between 2.1m AOD and 5.2m AOD’</p> </td> </tr> <tr> <td data-bbox="768 1358 842 1453">3</td> <td data-bbox="842 1358 1182 1453">12 (1) page 11</td> <td data-bbox="1182 1358 1966 1453"> <p><b>Suggested Change</b></p> <p>street at its junction with such a streets – delete s</p> </td> </tr> </tbody> </table>		DCO Reference/Page No.		1	Index/Page 3	<p><b>Suggested Change</b></p> <p>Schedule 10 Part 1 Option A – add “LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED”? for consistency of wording with Option B and Schedule 12.</p>	2	5 (2) page 8	<p><b>Suggested Change</b></p> <p>‘between 2.1m AOD and 5.2m AOD’</p>	3	12 (1) page 11	<p><b>Suggested Change</b></p> <p>street at its junction with such a streets – delete s</p>
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ExQ1: 23 November 2022

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ExQ1	Question to:	Question:			
		4	43 (ii) (b)/ page 28	<p><b>Suggested Change to reword as follows ...</b> is a consequence of the construction, maintenance or operation of the authorised development and that it cannot, to the reasonable satisfaction of North Lincolnshire Council reasonably be avoided</p>	
		5	Part 3 parameters table Page 33	<p><b>Suggested Change</b> Column 4 title delete 'from'</p>	
		6	3 (1) (a)/page 35	<p><b>Suggested Changes</b> insert , after the siting Omit 'following commissioning'</p>	
		7	3 (2)/ page 35	<p><b>Suggested Change Design principles and codes</b> add .'and the Design and Access Statement' and after ground investigations add 'including ongoing archaeological investigations'?</p>	
		8	3 (3)/ page 35	<p><b>Suggested Change</b> delete space before final full stop</p>	
		9	4 (4)/ page 36	<p><b>Suggested Change</b> Add 'environmental' after construction</p>	
		10	7(3)/ page 37	<p><b>Suggested Change</b> Clause needs to be added to ensure works are undertaken in accordance with the approved scheme/details. Insert (3) The scheme approved under subparagraph (1) must be implemented and delivered as approved and in accordance with the approved timetable.</p>	

ExQ1	Question to:	Question:						
		<table border="1"> <tr> <td>11</td> <td><b>New Highway works 14/ page 38</b></td> <td><b>Suggested Change</b> Add 'and connected to the highway'</td> </tr> <tr> <td>12</td> <td><b>Schedule 2 Part 2 Procedure for Discharge of requirements/ page 40</b></td> <td><b>Suggested Change</b> Add (4) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may— (a) give or refuse its consent, agreement or approval; or (b) give its consent, agreement or approval subject to reasonable conditions, and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that <b>decision with the notice of the decision.</b></td> </tr> </table>	11	<b>New Highway works 14/ page 38</b>	<b>Suggested Change</b> Add 'and connected to the highway'	12	<b>Schedule 2 Part 2 Procedure for Discharge of requirements/ page 40</b>	<b>Suggested Change</b> Add (4) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may— (a) give or refuse its consent, agreement or approval; or (b) give its consent, agreement or approval subject to reasonable conditions, and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that <b>decision with the notice of the decision.</b>
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<b>7.2 Electricity Connections and Other Utility Infrastructure</b>								
Q7.2.1	The Applicant	(i) Please provide an update on the negotiations with the operators and whether the initial contract agreed is to be superseded/replaced. (ii) Are these negotiations likely to conclude in advance of the close of the examination?						
Q7.2.2	The Applicant	For clarity, please confirm that no overhead line connections are proposed as part of the proposed development or would be necessitated for the connections to the substations by the statutory undertakers.						
Q7.2.3	The Applicant	(i) Please provide an update on the negotiations with the operators for the potential connection to the gas network.						
<b>8. Ground Conditions, Contamination and Hydrogeology</b>								
Q8.0.1	The Applicant	On the basis that access to parts of the site was not possible during the pre-application stage, and ES Chapter 8 Ground conditions, Contaminated land, and Hydrogeology [APP-097] proposes further detailed geotechnical investigations.						

ExQ1	Question to:	Question:
		(i) Should these investigations be explicitly secured as a Requirement within the DCO? (ii) If not, can the Applicant confirm how their undertaking will be secured?
Q8.0.2	The Applicant	<p><b>Ground Investigations</b></p> (i) In light of the advice provided in Appendix C – ‘Third Party Ground Investigation’ in the final paragraph of the Executive Summary please explain which reports have been provided that advise on the recommended additional investigations? (ii) Can the ExA be assured that the findings presented in the ES are now complete and have been undertaken in line with the recommended guidelines or as indicated in paragraph 7.3.1.5 of [APP-097] are further reports to be completed? (iii) If further reports are to be undertaken when can these be expected to be submitted into the Examination?
<p><b>9. Historic Environment</b></p>		
Q9.0.1	The Applicant (i) only Historic England, NLC (ii) and (iii) only	<p><b>Mitigation</b></p> Within [APP-060] Section 7 on mitigation identifies at paragraph 5.5.4.2 that the archaeologist would have a mandate to stop work, and this is also referenced within the Written Scheme of Investigation paragraph 7.1.1.4. (i) Please explain how this is secured (ii) Do you consider the current mechanism for securing a protocol to suspend works is sufficiently robust? (iii) In the event that the current mechanisms are not considered sufficient what change would you seek?
Q9.0.2	The Applicant	<p><b>Programme of future Archaeological Works</b></p> (i) Please provide an update as to the progress of onsite archaeological investigations and any time frame that any additional information might be received. (ii) Within the Appendices of Chapter 12 [APP-060] reference is made to ongoing works (Appendix E and F) has this now concluded and does it alter any of the conclusions set out into the findings presented so far?
Q9.0.3	The Applicant	<p><b>Site Investigation Surveys</b></p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>(i) Please provide an update on any additional site investigation surveys that have been undertaken since the submission of the DCO?</p> <p>(ii) Please confirm how the findings will be incorporated into the existing assessments?</p>
Q9.0.4	NLC and Historic England	<p><b>Written Scheme of Investigation (WSI)</b></p> <p>(i) Please provide a critique of the WSI contained within appendices E and F of [APP-060].</p> <p>(ii) Are you satisfied that the content and level of detail would allow you to discharge your responsibilities?</p>
Q9.0.5	NLC and Historic England	<p><b>Assessment of heritage Assets and any Impacts</b></p> <p>With the limitations identified in section 5.5 of [APP-060] are you satisfied that the ES has fully assessed the likely adverse effects on cultural heritage</p>
Q9.0.6	NLC and Historic England	<p><b>Mitigation</b></p> <p>(i) Are you satisfied with the mitigation as proposed and content it is appropriately secured through the dDCO?</p> <p>(ii) In the event this is not the case please provide a proposed form of words for a requirement or other form of securing the necessary mitigation as appropriate.</p>
Q9.0.7	The Applicant	<p><b>Mitigation</b></p> <p>(i) Requirement 11 of the dDCO [APP-007] refers to a Written Scheme of Mitigation please clarify if this is correct. Appendix C-H of [APP-060] refer to Written Schemes of Investigation.</p> <p>(ii) If they are separate documents/processes please explain how they tie together and that both are secured within the DCO if appropriate</p>
Q9.0.8	The Applicant	<p><b>Enhancement</b></p> <p>(i) [APP-060] has a section on proposed enhancement. Please explain in further detail what is envisaged to be provided and how this would be secured.</p> <p>(ii) What weight do you consider the ExA should give to the enhancement offered in considering this package of measures?</p>
Q9.0.9	The Applicant	<p><b>Noise</b></p>

**ExQ1: 23 November 2022**

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ExQ1	Question to:	Question:
		Noise is identified as having the potential to have an adverse effect on heritage assets (Paragraphs 2.2.1.9 and 5.2.2.3) of [APP-060]. Please clarify where this potential adverse effect on heritage assets has been set out and assessed within the ES
Q9.0.10	The Applicant (I and ii), NLC and Historic England (iii)	<p><b>Significance of Effect</b></p> <p>[APP-060] at paragraphs 2.2.1.9 and 5.2.2.3 recognise that noise can have an adverse effect on heritage assets. This is not subsequently addressed within this chapter of the ES.</p> <p>(i) Can the Applicant point out where the assessment of noise and vibration on heritage assets can be found, giving the chapter and particular paragraph numbers.</p> <p>(ii) Within Table 3 of [APP-055] the Applicant confirms that there are no historic buildings near the proposed site works, how does this comment address any concerns regarding noise and or vibration for archaeology or other heritage interests?</p> <p>(iii) Are HE and NLC content with the assessment of heritage assets with regard to potential noise and or vibration effects?</p>
Q9.0.11	The Applicant (i) only Historic England, NLC (ii)	<p><b>Degree of Harm</b></p> <p>(i) Paragraph 8.2.1.6 of [APP-060] indicates that the assessment of effect on Flixborough Saxon Nunnery as moderate adverse, is this regarded as significant?</p> <p>(ii) Do you agree with the Applicant's overall conclusion at 9.3.1.4 that the effects would constitute less than substantial harm? Please explain your response as necessary.</p>
Q9.0.12	Applicant, NLC	<p><b>Conservation Areas</b></p> <p>(i) Section 8.3 of [APP-060] sets out the ES conclusions on impact upon Heritage Designated Sites. Can the Applicant set out where the assessment of effects on Conservation Areas can be found?</p> <p>(ii) Please provide copies of the Conservation Area Appraisals and Conservation Area Maps for each of the Conservation Areas addressed within the assessment.</p>
Q9.0.13	The Applicant (i and iii), NLC and Historic England (ii and iii)	<p><b>Historic Landscape Character Assessment (HLCA)</b></p> <p>(i) Within the ES [APP-060] paragraphs 8.4.1.2 and 8.4.1.3 the Applicant states 'If the HLCA is considered to be of moderate value'. Is it correct to assume the value you attribute to each HLCA as moderate?</p>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

ExQ1	Question to:	Question:
		(ii) Do the Council and Historic England agree that the Axholme Fens and Normanby Scarp HLCA has moderate value?? (iii) What weight should this assessment have within the planning balance?
Q9.0.14	Applicant	<b>Plan request</b> Please provide a plan showing the area of land to which paragraph 6.7.1.2 of [APP-060] refers.
<b>10. Landscape, Visual Effects and Design</b>		
Q10.0.1	The Applicant	<b>Design Approach</b> (i) Design is a matter which is cross-cutting in relation to various topics identified within the Initial Assessment of Principal Issues. Please explain the design approach undertaken in developing the design for the Proposed Development. Reference should be made to the objectives listed in section 4.5 of NPS EN-1 and how the proposed development seeks to address or exceed the expectations of good design as set out in the National Design Guide. (ii) Whilst noting that the NPS is the primary source of policy under which applications will be considered, reference should also be made to policy within the National Planning Policy Framework (NPPF) which also references the need for good design. In addition, please also have regard to ‘Design Principles for National Infrastructure’, published by the National Infrastructure Commission (February 2020) in respect of Climate, Places, People and Value in construction, operation and where relevant, decommissioning.
Q10.0.2	The Applicant, NLC, Parish Councils	<b>Design Approach</b> It is important that the proposal represents a good quality sustainable design which can be effectively integrated into the landscape. As such, please comment on whether the following measures would ensure this would be achieved in the detailed design, construction and operation phases: i) The provision of a ‘design champion’. Such a role would advise on the quality of sustainable design and the spatial integration of the Proposed Development into the landscape. ii) A ‘design review panel’ to provide a ‘critical friend’ role. Such a role would provide comment on the development of sustainable design proposals.

**ExQ1: 23 November 2022**

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ExQ1	Question to:	Question:
		<p>iii) The current approach relies on the production of an approved 'design code' which would establish the approach to delivering the detailed design specifications to ensure good quality sustainable design.</p> <p>Please advise on how such measures could be secured. In addition, please comment as to whether any other measures or approaches are considered necessary and provide your view on the quality and enforceability of the Design Code as drafted?</p>
Q10.0.3	The Applicant, NLC	<p><b>Design Approach</b></p> <p>(i) In preparing the Design and Access Statement much has been explained as to the approach taken. This though is then not subsequently referenced in the dDCO, nor does it obviously appear as a control document. In light of what it sets out, should not this provide the starting point for any submission of details to be agreed through subsequent approvals?</p> <p>(ii) Should the Design Codes link back to the Design and Access Statement as the document which sets out the vision for and the development of the approach to achieving sustainable design?</p>
Q10.0.4		<p><b>Design and Access Statement (DAS)</b></p> <p>(i) The DAS specifies that the buildings will be constructed using metal cladding, horizontal for steel, vertical for aluminium. How is this secured?</p> <p>(ii) The flue is indicated to be light grey. This is imprecise and does not include a recognised defined colour, or finish. Please provide clarity as to what is proposed both for this part of the scheme and other elements which are to be 'coloured' with detail setting out where a 'sky' shade is proposed.</p>
Q10.0.5	The Applicant	<p><b>Design Approach</b></p> <p>Can the Applicant advise if a colour palette of materials has been assessed and views sought from the Local Authority or other Interested Parties?</p>
Q10.0.6	NLC	<p><b>Design Approach</b></p> <p>Are the Council satisfied with the Design Code as drafted and confident it would give a robust framework for the control of the design of the Proposed Development which would lead to the delivery of a quality scheme as envisaged by the NPS EN-1 tests on Design?</p>
Q10.0.7	The Applicant	<p><b>Design Principles</b></p>

ExQ1	Question to:	Question:
		<p>Can the Applicant confirm where the architectural design considerations listed in paragraph 7.1.1.8 of Chapter 11 Landscape and Visual Impact have been incorporated into the Design Principles and Design Code [APP-046]?</p>
Q10.0.8	NLC	<p><b>Design Principles</b></p> <p>(i) Can the Council advise what their objective is in design terms and whether the method of assessment and delivery as set out would achieve this objective?</p> <p>(ii) In the event there are concerns please explain what you consider needs to be changed to aid in achieving the design objective?</p> <p>(iii) How do you propose to assess the quality of the scheme, and do you consider the dDCO, the requirements and control documents will aid you in doing this?</p> <p>(iv) If there are concerns or additional controls, you consider are appropriate please set out what they are.</p>
Q10.0.9	The Applicant, NLC	<p><b>Visual Barrier at the railhead</b></p> <p>(i) Chapter 11 proposes a visual barrier to be installed along the railhead edge or along the development platform of the ERF. This is referenced in the Outline Operational Environmental Management Plan [APP-075], however there are no timescales attached. Should the wording be strengthened to ensure that the barrier is constructed prior to commissioning of the Proposed Development?</p> <p>(ii) Do the visualisations currently provided include this barrier? Please advise which image provides greatest clarity to understand what the implications of this element are?</p> <p>(iii) In the event this is not clearly shown please provide a visualisation to aid in understanding of this element of the proposed development.</p>
Q10.0.10	The Applicant	<p><b>Levels within the Site</b></p> <p>Figure 5.24 of the DAS shows a section through Bellwin Drive which suggests a 2.4m difference in levels with a fence above.</p> <p>(i) Please provide a visualisation of this arrangement.</p> <p>(ii) Explain how this change in levels and the visual effect created has been assessed and mitigated if appropriate</p>

ExQ1	Question to:	Question:
Q10.0.11	The Applicant	<p><b>Nighttime assessment</b></p> <p>(i) Can the applicant provide details of any nighttime assessment of effects on the landscape that has been carried out and where this is set out within the ES?</p> <p>(ii) Please provide details of the baseline lighting across the site with lighting contours as existing and as proposed.</p>
Q10.0.12	The Applicant (i) and (ii) NLC (ii) only	<p><b>Visual Plumes</b></p> <p>NPS EN-1 at paragraph 5.9.20 states “The IPC should ensure applicants have taken into account the landscape and visual impacts of visible plumes from chimney stacks and/or the cooling assembly”</p> <p>(i) Please explain where the assessment of plumes is set out within the ES or explain why this has not been provided in this case.</p> <p>(ii) In the event that plumes could be generated by the Proposed Development what requirements might be appropriate to mitigate such effects?</p>
<p><b>10.1 Lighting</b></p>		
Q10.1.1	The Applicant	<p><b>Lighting Strategy</b></p> <p>Within the Indicative Lighting Strategy [APP-071] paragraph 2.9.11 states “the visual impact of the high level luminaires should be considered by the wider design team”</p> <p>(i) Please advise where this assessment has been set out within the ES.</p>
Q10.1.2	The Applicant, Anna Flewker (i) only, NLC, Flixborough Wharf Limited (i), (ii) and (iv)	<p><b>Flixborough Wharf Lighting</b></p> <p>Within the relevant representation from Anna Flewker reference has been made to the installation of floodlights at the Flixborough Wharf.</p> <p>(i) Are you able to advise when these floodlights were installed?</p> <p>(ii) Whether they were subject to or required planning permission?</p> <p>(iii) If the installation pre-dated the lighting assessment or were included as part of the assessment undertaken in support of the application.</p> <p>(iv) Can the Flixborough Wharf Company advise if the current lighting is designed to meet a specific standard at the wharf to ensure safe operations of the wharf and what this standard is?</p>

ExQ1	Question to:	Question:
Q10.1.3	The Applicant, (i) NLC, Flixborough Wharf Limited, ABP (ii) only	<p><b>Requirement 5</b></p> <p>(i) The current wharf is already illuminated, how would you anticipate Requirement 5 would engage with the current lighting and ensure that any lighting scheme as a whole met with the principles set out in the indicative lighting strategy?</p> <p>(ii) Do you regard the current wording would achieve an appropriate method of ensuring a balance between operational safety and protection of amenity?</p> <p>Please explain your response to (ii) by setting out how you have balanced the competing interests and what lighting/safety standards you rely upon in support of the approach taken.</p>
Q10.1.4	The Applicant	<p><b>Lighting during construction</b></p> <p>Electronic-page 18 of ES Chapter 11 Landscape and Visual Impacts [APP-059] notes the need for lighting during construction and operation. An assessment of effects from lighting has only been presented for the operational phase.</p> <p>(i) Can the Applicant comment on whether there would be any likely significant effects from construction phase lighting?</p> <p>(ii) What controls are in place to minimise adverse effects from construction lighting and how are these secured?</p>
<b>11. Major Accidents and Hazards</b>		
Q11.0.1	The Applicant, HSE (iii)	<p><b>ES Chapter 16 6.2.16 [APP-064] Major Accidents and Hazards</b></p> <p>i) During consultation the HSE advised 'Further information on HSC should be sought from the relevant Hazardous Substances Authority' and the Applicant responded that this information will be sought. Could the Applicant advise when this will happen?</p> <p>ii) At 2.2.2.3 the Applicant refers to a Hazardous substances consent list, where can this be found?</p> <p>iii) It appears that it will be necessary to import, export and store hazardous substances, including hydrogen and carbon dioxide. The associated hazards have been described in the HAZID study Table 4 and it is proposed to address them during the detailed engineering design. Has this approach been accepted by the HSE?</p>
<b>12. Noise and Vibration</b>		
Q12.0.1	The Applicant	<b>Guidance</b>

**ExQ1: 23 November 2022**

**Responses are due by Deadline 2, Thursday 15 December 2022**

ExQ1	Question to:	Question:
		<p>Paragraph 2.4.1.5 of [APP-055] lists guidance which are of relevance to the assessment of noise.</p> <p>(i) Given that the Design Manual for Roads and bridges (DMRB) is primarily aimed at road schemes, does the Applicant accept that the relevant guidance identified in EN1, namely BS 5228, 4142, 8233 and 6472 could be used to assess the impact of road traffic noise caused by the construction and operation of the proposed scheme?</p>
Q12.0.2	The Applicant and NLC	<p><b>Construction noise assessment and the ABC method</b></p> <p>It is noted that Table 5 on page 20 of [APP-055] is not the same as Table E1 in BS 5228. The BS5228 'ABC' method adjusts thresholds of potential significance according to the existing ambient noise level. The rural communities closest to the main site of the proposed scheme, being relatively quiet, fall into the lowest category: A.</p> <p>(i) Does the Applicant accept, and would NLC agree that according to the Applicant's assessment (Table 13 62dB v 55dB at R3) construction works in the evening would, subject to the works lasting for more than a month (implicit from BS5228 E.3.3), cause a likely significant adverse noise effect at some dwellings within those communities?</p> <p>(ii) On the reasonable assumption that the predictions account for best practicable means of noise control on site does the Applicant accept that limiting construction hours to 0700-1900 Mon - Fri and 0700-1300 Sat (public holidays excluded) would be the preferred method of avoiding this and achieve consistency with EN1?</p> <p>(iii) Any requirement can be drafted so that flexibility could be agreed to by NLC via existing statutory regimes. If the Applicant disagrees with the above approach, please provide further evidence or identify it within the submissions.</p>
Q12.0.3	The Applicant	<p><b>Assessment of other kinds of occupied premises</b></p> <p>Paragraph 5.2.2.4 of [APP-055]</p> <p>Impact thresholds do not appear to have been proposed for other kinds of occupied buildings, including educational, medical, and places of worship. If they had been and had any assessments been carried out would the conclusions be changed? Please provide a brief explanation or further information as necessary. This applies to both construction and operation.</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
Q12.0.4	The Applicant	<p><b>Guidance</b> Paragraph 5.2.3.3 of [APP-055]</p> <p>EN1 identifies guidance on human exposure to vibration: BS6472, which may lead to lower impact thresholds than those mentioned in the material presented in the Applicant's submission. If it had been used, would the conclusions of the vibration assessment be changed? Please provide a brief explanation or further information as necessary. This applies to both construction and operation.</p>
Q12.0.5	The Applicant	<p><b>Impact thresholds</b> Table 9 of [APP-055]</p> <p>To what extent, if any, are these values or any other noise impact thresholds, affected by the 2018 WHO guidelines, and hence the assessment and mitigation proposals?</p>
Q12.0.6	The Applicant and the EA	<p><b>Operational noise</b> Paragraph 7.3.1.1 [APP-055]</p> <p>On the basis that operational noise emissions will be regulated by the Environment Agency through the permitting regulations would the Applicant and the EA accept that it would be preferable for them to agree operational noise limits derived from relevant guidance, for example BS4142 and BS8233 to demonstrate consistency with the NPSs? This could be used to inform the subsequent design and procurement stages, and the operation and maintenance of the proposed scheme.</p>
<b>13. Other Strategic Projects and Proposals</b>		
Q13.0.1	The Applicant, National Grid Carbon Ltd.	<p><b>Relationship to the proposed Humber Carbon Capture Pipeline</b></p> <p>(i) In light of the RR on behalf of National Grid Carbon Ltd. Please advise of any discussions taking place between the parties that might facilitate a connection in the event that both schemes progress</p>
<b>14. Policy</b>		
Q14.0.1	The Applicant, NLC	<p><b>Planning Policy</b></p> <p>Paragraph 4.1.8 of EN-1 states "The IPC (now SoS) may take into account any development consent obligations that an applicant agrees with local authorities. These must be relevant to</p>

ExQ1	Question to:	Question:
		<p>planning, necessary to make the proposed development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects.”</p> <p>(i) Can both the Applicant and the Council set out how the proposed agreement offering a financial contribution towards highway works meets each of these tests.</p>
Q14.0.2	Applicant	<p><b>Planning Policy – Waste</b></p> <p>With respect to [APP-036] 5.2 RDF Supply Assessment, the specification of the RDF permitted to enter the ERF as described in the ES Climate chapter 6.6.2.6 [APP-054] at 5.4.2 Table 5, and in the context of EN-3 2.5.66 - 2.5.69, and the objectives set out in Schedule 1 of the Waste (England and Wales) Regulations 2011 which a planning authority must have regard to under regulation 18, in particular 4. principles of self-sufficiency and proximity:</p> <ul style="list-style-type: none"> <li>i) The RDF Supply Assessment at 3.1.1.2 appears to rely on the analysis presented in the referenced report “North Lincolnshire Green Energy Park: Regional Waste Assessment”, August 2021, Footprint Services the Applicant is asked to make this report available by the first deadline.</li> <li>ii) The RDF Supply Assessment at 3.1.1.2: Why not use waste authority areas, as stated in 2.5.68 of EN3 rather than 100 miles as the basis for the assessment?</li> <li>iii) The RDF Supply Assessment at 3.1.1.2: Of the ‘866,000 tonnes were received by landfill sites in North Lincolnshire and within 25 miles of the Project’ in 2019 how much would be to the RDF composition specified?</li> <li>iv) The RDF Supply Assessment at 3.2.1.1: With respect to rail, how many rail served facilities exist in England that currently produce RDF to the specified composition and what would be a realistic estimate of the amount of RDF (ktpa) that rail served facilities would provide by 2035?</li> <li>v) The RDF Supply Assessment at Tables 6 and 7: What would these Tables show if the assessment was carried out only for the RDF as specified, for the NLC area only, NLC and neighbouring waste authorities, England, and a proximity value put forward in guidance?</li> </ul>

ExQ1	Question to:	Question:
		<p>vi) If the ERF was allowed to accept a wider range of non-recyclable wastes, how would that affect the RDF supply assessment and topics assessed in the ES?</p> <p>(It is noted that the RDF Supply assessment has been undertaken on the basis of a throughput of 650,000 tpa, this is not consistent with other documents which refer to 760,000 tpa e.g. NTS paragraph 1.1.1.2 [APP-048], please ensure the discrepancy is explained)</p>
Q14.0.3	The Applicant, Northern Powergrid (iii), (iv) and (vi)	<p><b>Electricity Generation</b></p> <p>In NPS EN-1 at paragraph 3.2.3 the policy indicates that the IPC (now SoS) should attribute substantial weight to the consideration of need, with the weight attributed to considerations of need in any given case being proportionate to the anticipated extent of a project's actual contribution to satisfying the need.</p> <p>(i) In this case should this be the net generation – indicated at Table 6 of [APP-054] to be 641,896 MWh/yr as opposed to the gross output assumed to be up to 95 MW?</p> <p>(ii) Regarding the Combined Heat and Power Assessment 5.4 [APP-038] it appears that this assessment corresponds to a proposed development that includes glass houses and a vertical farm, see for example Table 6 and the plan p46 in the Appendices. Please could this document be reviewed and amended to represent the development as now proposed?</p> <p>(iii) The maximum exportable power according to the Northern Powergrid connection offer is 63 MWe [APP-039 Grid Connection Statement 4.1.1.1] what other connection options were investigated that would have allowed full export of 95 MWe plant capacity?</p> <p>(iv) The proposed connection involves undergrounding several kilometres of 132 kV cable, [APP-039 Grid Connection Statement 3.1.1.1] why was this the preferred connection option, for example compared with connecting into an existing 132kV overhead line?</p> <p>(v) The proposed connection also serves to provide security and continuity of supply to the private wire users [APP-039 Grid Connection Statement 4.1.1.2] how would any development necessary for this mode of operation be justified?</p> <p>(vi) To what extent does the connection at Northern Powergrid Scunthorpe North [APP-039 Grid Connection Statement 3.1.1.1] affect the geographic extent of electrical demand that may be served by the proposed development?</p>

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ExQ1	Question to:	Question:
		In undertaking this review please could all electrical and heat loads that form part of the proposed development be accounted for so that the amount of electrical power and electrical energy available nationally can be clearly understood?
Q14.0.4	The Applicant, EA	<p><b>Planning Policy</b></p> <p>Paragraph 4.7.10 of NPS EN-1 in dealing with policy on carbon capture and storage states “<i>all applications for new combustion plant which are of generating capacity at or over 300 MW and of a type covered by the EU’s Large Combustion Plant Directive should demonstrate that the plant is ‘Carbon Capture Ready’</i>”</p> <p>For clarity can you confirm whether the Large Combustion Plant Directive will apply</p>
Q14.0.5	The Applicant, NLC	<p><b>Planning Policy</b></p> <p>[[APP-050] Chapter 2 addresses the Policy and legislative context, however does not reference the National Policy Statement on Ports, the ExA invite your consideration on whether there should be reference to this National Policy, even as an associated policy statement and the consideration of any effects on river transport, ports or navigation issues?</p>
Q14.0.6	The Applicant (I and ii), NLC (i)	<p><b>Planning Policy</b></p> <p>Draft NPS EN-1, EN-3, EN-5 have been published as recognised in the ES Chapter 2 [APP-050] At the current time an examination of an NSIP should be considered against the extant NPS.</p> <p>(i) What weight if any do you consider the ExA and subsequently the SoS should attribute to the Draft NPS in preparing the recommendation report, and subsequently in taking the decision?</p> <p>(ii) Any emerging draft NPSs are potentially capable of being important and relevant considerations in the decision-making process. Identify any aspects of the proposed development which could be affected by wording in the draft energy NPSs, by comparison to the currently designated energy NPSs.</p>
Q14.0.7	Applicant, ORR, NR, HSE	<p><b>Planning Policy – Transport Infrastructure Rail</b></p> <p>The location of the proposed development appears to be consistent with EN-3 in as much as it is located adjacent to an existing navigable waterway and a railway line, albeit the latter is disused.</p>

ExQ1	Question to:	Question:
		<ul style="list-style-type: none"> <li>i) Based on the information contained in the Rail Operations Report 5.11 [APP-45] and any other relevant submissions could the Applicant or the ORR confirm whether the proposed railway line is within the scope of ORR regulation?</li> <li>ii) Has it been confirmed by the regulator (ORR or HSE) that the works proposed to re-instate the railway infrastructure are sufficient for it to be certified as compliant with relevant standards so it can support both the construction and operation of the ERF?</li> <li>iii) Has it been confirmed by the regulator that the operating proposals as set out in Rail Operations Report 5.11 [APP-45] would be adequate for a licence (or other operating permit as relevant) to be granted for its operation?</li> <li>iv) Has it been confirmed by NR that the impact on the wider rail network of the proposed development would be 'minor or not significant' as described in the Rail Operations Report 5.11 [APP-045]?</li> </ul>
Q14.0.8	Applicant	<p><b>Planning Policy – Transport Infrastructure Road</b></p> <p>A new access road forms part of the proposed development</p> <ul style="list-style-type: none"> <li>i) In light of the following paragraphs of NPS EN-1 5.13.8 and 5.13.10 and EN-3 2.5.25 can the Applicant set out where the justification for the provision of the road is set out within the ES?</li> <li>ii) Currently as drafted the dDCO does not provide for a commitment to the provision of using river or rail as a preferred method for delivery during construction or operation. What mechanism should be in place to secure this to meet the preference for these modes of transport set out in the NPS?</li> <li>iii) Assuming a commitment to delivery by road and rail is achieved, at what point would the road no longer be necessary?</li> </ul>
Q14.0.9	NLC	<p><b>Policy Approach</b></p> <p>If not already provided, please submit complete copies of all relevant development plan and emerging policies and indicate in LIRs whether the status of any of those plans has changed since the application was submitted.</p>
Q14.0.10	The Applicant	<p><b>Policy Approach</b></p> <p>The Applicant is requested to provide a more comprehensive NPS Accordance Table (NPS Tracker) for both EN-1, EN-3 and EN-5 setting out the relevant NPS paragraph number, the</p>

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ExQ1	Question to:	Question:
		<p>requirement of the NPS, the compliance with the NPS by way of reference to submitted documentation and summary explanation, together with any subsequent update. The updated tracker to be submitted at each Examination deadline as specified in the Examination Timetable. This should record any changes and supplements to the Applicant's position on NPS compliance demonstrated by submissions during the Examination.</p>
Q14.0.11	The Applicant	<p><b>Safeguarding of Aerodromes</b>            NPS EN-1 states that the IPC (SoS) should be satisfied that aerodromes are safeguarded (paragraph 5.4.14).            (i) Can you confirm that the Civil Aviation Authority, National Air Traffic Service or appropriate body has confirmed there will be no conflict with this policy requirement and no nearby aerodromes will be affected by the proposed development.</p>
Q14.0.12	The Applicant	<p><b>Associated Development</b>            Explanatory Memorandum Document 2.2 [APP-009], paragraph 3.7</p> <p>It appears that the use of the Principal Development by-products, in particular flue gas treatment residues, bottom ash, and carbon dioxide in the CBMF helps to address its impact. It also appears that the production of hydrogen and the charging of batteries supports the Principal Development by providing an alternative electrical load which store energy for later export.</p> <p>It is understood that the PRF will neither use any of the Principal Development by-products, thereby lessening its impact, nor will it support its operation by providing feedstock or storing energy in the form of heat or electricity, for later export. Whilst it would appear subordinate, please could the Applicant explain how the PRF supports the operation or construction of the Principal Development or helps to address its impacts or state where this information can be found in the Application?</p>
<p><b>15. Socio-economic Effects</b></p>		

ExQ1	Question to:	Question:
Q15.0.1	The Applicant, Mr Andrew Gravel, Lee and Elizabeth Norris	<p><b>Businesses at Wharfside Court</b></p> <p>[APP-062] 9.1.1.3 Economic, Community and Land Use Impacts appears to identify a temporary significant adverse effect on businesses at Wharfside Court.</p> <ul style="list-style-type: none"> <li>(i) Please provide a summary of these businesses and how it is anticipated each could be affected. Include if the information is available, the potential financial loss, number of employees who might be affected and explain how this has been included within the calculation of benefit/loss in socio economic terms.</li> <li>(ii) Could the Applicant explain how what appears to be a permanent loss of business premises be described as a temporary effect on the businesses assuming no alternative premises are found?</li> <li>(iii) In order to reduce this impact could provision be made within the Order limits to provide alternative premises?</li> </ul>
Q15.0.2	The Applicant, NLC (ii)	<p><b>Annual Monitoring Report</b></p> <p>Section 9.2 of Chapter 14 Economic, Community and Land Use Impacts [APP-062] proposes an Annual Monitoring Report against agreed criteria in the Employment and Skills Policy. This is stated to be secured through the CEMP. Whilst the CoCP [APP-074] refers to the “Preparation of an Employment and Skills Policy to maximise use of local suppliers and local employment opportunities” (e-page 76), there is no reference to the monitoring report.</p> <ul style="list-style-type: none"> <li>(i) Can the Applicant explain how the monitoring is therefore secured?</li> <li>(ii) Are the Council content that the production of an annual monitoring report would secure to an appropriate level the use of local suppliers and employment opportunities?</li> </ul>
Q15.0.3	Rajan Marwaha	<p><b>Relevant representation [RR-055]</b></p> <ul style="list-style-type: none"> <li>(i) Please provide a plan identifying the land which you refer to in the RR and the local authority planning reference number.</li> <li>(ii) What socio economic effects do you consider would occur in the event that the DCO were to be granted and the land in question acquired?</li> </ul>
<p><b>16. Transportation and Traffic</b></p>		
Q16.0.1	The Applicant, NLC	<b>Draft Obligation</b>

ExQ1	Question to:	Question:
		<p>(i) A draft deed of development consent obligation has been provided (Doc 5.13) [APP-047]. Please provide an update on the progress of this obligation.</p> <p>(ii) Please advise why this obligation is considered necessary and how the works that it would deliver would be secured and in what timeframe.</p>
Q16.0.2	The Applicant	<p><b>6.2.13 ES Chapter 13 Traffic and Transport [APP-061] – operational traffic and HGV volumes in particular</b></p> <p>i) 558/1065 gives 52% increase, compared with 34.4% stated in Table 21, please explain, as 8.2.1.3 seems to confirm interpretation as a 52 % increase, if increase is defined as additional number/baseline number. This would also appear to be confirmed by 5.4.7.4.</p> <p>ii) It appears that the development traffic has been included in the future baseline in order to calculate 34 % and the same method may have been used generally to calculate figures in this Table. Please could the Applicant review and update these Tables as necessary.</p> <p>iii) In Table 7 total operational HGV movements =707 compared with Table 21 figure of 558 suggesting a 66% increase following the same analysis unless the difference between 707 and 558 has some other explanation?</p> <p>iv) 5.4.7.3 explains that above 85% Degree of Saturation (DoS) may lead to congestion. 7.4.14 of Appendix B predicts 90 – 95 % DoS on the approaches to the A1077/B1216 junction east of the new access road. Could it be explained how this is consistent with the statement at 8.2.1.7 that the increase could be ‘absorbed satisfactorily’?</p> <p>v) Whilst changes to this junction appear to have been accounted for, e.g. the new toucan crossing, does the analysis take account of proportion of HGVs in calculation of capacity?</p> <p>vi) If the 707 figure is used instead of the 558 and any other reasonable worst-case considerations are accounted for, would the assessment conclusion be affected, and would this have consequences for the proposed mitigation, with respect to the A1077/B1216 junction?</p>
Q16.0.3	The Applicant	<p><b>NPS EN-1</b></p> <p>Paragraph 5.13.8 states: “Where mitigation is needed, possible demand management measures must be considered and if feasible and operationally reasonable, required, before</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>considering requirements for the provision of new inland transport infrastructure to deal with remaining transport impacts.</p> <p>(i) Please clarify where in the ES the assessment of demand management has been set out and the justification for the new road provided in light of that assessment and the test set out in the policy statement</p>
Q16.0.4	The Applicant	<p><b>NPS EN-1</b></p> <p>Paragraph 5.13.10 states “Water-borne or rail transport is preferred over road transport at all stages of the project, where cost-effective.”</p> <p>(i) In light of the location adjacent to the river Trent and the connection to the railway line proposed as part of the DCO, how can the DCO secure the use of these more sustainable patterns of transport development during both construction and operation?</p>
Q16.0.5	The Applicant, NLC	<p><b>6.2.13 ES Chapter 13 Traffic and Transport [APP-061] - sustainability and modal split</b></p> <p>i) What are the views on what would be a sustainable transport plan in terms of the proportion of materials imported and exported by river, rail and road during construction and operation?</p> <p>ii) How could this be represented and secured in the DCO?</p>
Q16.0.6	Applicant, ABP	<p><b>Navigation Risk Assessment (NRA)</b></p> <p>(i) The current NRA is identified as a draft or preliminary assessment, what secures the provision of a subsequent or final NRA?</p> <p>(ii) Windage is identified as a potential hazard, how is this to be resolved?</p> <p>(iii) Please confirm that other port operators have been consulted and advise if any concerns have been identified in respect of the relationship to or effect upon these port operations</p>
Q16.0.7	ABP	<p><b>NRA</b></p> <p>(i) Are there any safety concerns in respect of the handling of CO2 at the port or on the river?</p> <p>(ii) Do you have any comments or concerns in respect of the NRA submitted with the application or the identification of hazards?</p>
Q16.0.8	Associated British Ports (Humber)	<p><b>DCO Requirements</b></p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		<p>(i) Are you content with the controls delivered through the DCO as drafted and that these would deliver an appropriate Navigation Risk Assessment?</p> <p>(ii) Are the mechanisms to control lighting considered satisfactory to ensure no conflict with aid to navigation?</p>
<b>17. Water Environment</b>		
Q17.0.1	The Applicant	<p><b>Clarification</b></p> <p>[APP-057] Chapter 9 at paragraph 8.2.4.6 indicates that Figure 7 should show new attenuation basins to the west and east of the access road. This does not appear to be the case. Please advise where such a plan can be found or provide one or provide clarification on the position.</p>
Q17.0.2	The Applicant, Environment Agency (EA)	<p><b>Discharge to River Trent</b></p> <p>(i) At Table 2 [APP-057] it would appear that there will not be a new connection to the River Trent, but an existing connection may be utilised. Is this a correct understanding of the proposal?</p> <p>(ii) The third bullet point of paragraph 7.1.1.1 of [APP-057] states there would be no abstractions or discharges to the River Trent – please explain how this correlates with Table 2.</p>
Q17.0.3	The Applicant (ii, iii), EA (i) and (ii)	<p><b>The Water Framework Directive (WFD)</b></p> <p>Table 1 of [APP-057] states <i>“With the removal of the wharf extension from the Project and the limiting of vessels to an additional 2 per day, it has been agreed with the Environment Agency that a Water Framework Directive (WFD) compliance assessment is not required for the project.”</i></p> <p>(i) Do the EA agree that there is no need for a WFD compliance assessment?</p> <p>(ii) How is the limitation of 2 additional vessels per day secured and against what baseline figure does this rely?</p> <p>(iii) Please explain how this limitation corresponds with the Navigation Risk Assessment which would appear to allow for 350 vessel movements per year for the import of RDF, offloading of bulk materials and the loading of CO<sub>2</sub>.</p>
Q17.0.4	The Applicant, EA, NLC	<b>Water Disposal</b>

ExQ1	Question to:	Question:
		<p>(i) How are the methods of water disposal secured? Paragraph 8.2.1.3 states “Construction activities could require the disposal of water from the Application Land. Therefore, all construction contractors will be required, in conjunction with the Project, to reach an agreement with the EA with regard to detailed methods of disposal.”</p> <p>(ii) In light of the above can the ExA be confident there would not be discharge to the River Trent?</p> <p>(iii) As currently drafted the CoCP requires CEMPS to be submitted at each stage of development for NLGEP approval. Do either NLC or EA consider this appropriate?</p>
Q17.0.5	The Applicant	<p><b>Water Courses</b></p> <p>Can the Applicant provide a revised copy of Figure 7 of ES Chapter 9 Water Resources and Flood Risk [APP-057] to clearly identify the full names of watercourses included in the assessment. Can the Applicant confirm the location of the works to Lysaght’s Drain?</p>
<p><b>17.1 Flood Risk</b></p>		
Q17.1.1	The Applicant, NLC	<p><b>National Policy Statement EN-1 and PPG on Flood Risk</b></p> <p>At paragraph 5.7.6 reference is made to the Planning Practice Guide which at the time of publishing linked to Planning Policy Statement 25. Would the Applicant and the Council please set out their view on the weight to be attributed to the latest guidance and advise if it should be considered as part of the policy within the NPS, or as an important and relevant consideration?</p>
Q17.1.2	The Applicant	<p><b>Planning Practice Guidance (PPG)</b></p> <p>(i) On 25 August 2022 the Government published a comprehensive update to the Flood Risk and Coastal Change section of the PPG. Please advise what if any implications this may have for the Proposed Development or the assessment of flood risk.</p>
Q17.1.3	The Applicant	<p><b>Sequential test</b></p> <p>(i) Paragraph 9.4.2.3 of Chapter 3 [APP-051] provides for a long list of sites considered as a starting point for the scheme. Is the ExA to understand this is the sequential test of alternative sites considered to address the concerns of building on a site identified within Flood Zone 3 and identified in NPS-EN 1 at the second bullet point of paragraph 5.7.9.</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
		(ii) If this is not the case, please set out where within the ES the sequential test is set out in considering other sites not subject to flood risk or at a lower level of flood risk.
Q17.1.4	The Applicant	<p><b>Flood Risk Assessment (FRA)</b></p> <p>Can you confirm that the FRA has been undertaken with the latest data on:</p> <ul style="list-style-type: none"> <li>a) Detailed hydraulic modelling for the River Trent,</li> <li>b) Latest Climate Change allowances, and</li> <li>c) Sensitivity testing for the Humber Extreme Water Levels produced by the EA</li> </ul>
Q17.1.5	EA, Applicant	<p><b>Flood Defences</b></p> <p>The Proposed Development will make use of the existing flood defences.</p> <p>(i) Please provide details of the current condition of these assets, and proposals for maintaining them in the future.</p> <p>APP-070 at paragraph 5.1.10 states that the existing defences are due to be inspected and an improvement programme to be identified later in 2021.</p> <p>(ii) Please advise on any progress or updates on this work</p> <p>(iii) In the event the DCO is granted should there be a mechanism that supports the future maintenance of the flood defences from the DCO scheme?</p>
Q17.1.6	The Applicant	<p><b>FRA</b></p> <p>(i) Can you provide a plan which indicates the land within the DCO which is classed as 3a and 3b, or point out where this can be found if such a plan has already been provided?</p> <p>(ii) Paragraph 6.8.1.5 of APP-062] says much of the land represents the floodplain. How much of this land is floodplain?</p>
Q17.1.7	The Applicant, NLC, EA	<p><b>FRA</b></p> <p>The FRA proposes numerous design measures to be implemented (eg recommended flood levels which are not secured in the Parameters Table in Schedule 1 Part 3 of the draft DCO), as well as three mitigation options in respect of flood risk for the Steel Works warehouse. The ExA notes the need for a flood management plan to be submitted to and approved by the relevant planning authority prior to commissioning of the Proposed Development.</p>

ExQ1	Question to:	Question:
		(i) Would it be more appropriate for these measures to be determined at an early stage, ie during design, as opposed to only being required before the energy park works are commissioned?
Q17.1.8	The Applicant, EA, NLC	<p><b>Flood Risk</b></p> <p>Reference is made in Table 2 of [APP-057] of additional measures to be employed by EA or NLC over the next 40 years.</p> <p>(i) Please explain what these measures might include, how they are assessed and delivered and if they should be secured as part of this DCO.</p> <p>(ii) In the event that they are not to be secured through this DCO, what reliance does the FRA make on these future measures in ensuring the proposed development is not at flood risk through out the life time of the project?</p> <p>(iii) Are there implications for off site flooding in the event these measures do not occur?</p>
Q17.1.9	The Applicant	<p><b>Flood Management</b></p> <p>Figure 3 of ES Chapter 1 identifies an area to be used for flood management during operation (shown in blue lines) however neither the Flood Risk Assessment (FRA) [APP-070], ES Chapter 9: Water Resources and Flood Risk [APP-057] or the Works Plans [APP-016 to APP-018] identify flood management measures in this location.</p> <p>(i) Can the Applicant clarify what measures are to be implemented in this area, and how their implementation would be secured?</p>
Q17.1.10	The Applicant, EA (iii)	<p><b>Off site Flood Risk</b></p> <p>Paragraph 6.2.9 concludes “the effects of the project operation will result in a significant effect at just one receptor”</p> <p>(i) Please explain how this conclusion meets with the tests set out on NPS EN-1 particularly paragraphs 5.7.3 “Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe <b>without increasing flood risk elsewhere</b> and, where possible, by reducing flood risk overall.” (Type in bold is our emphasis). Paragraph 5.7.16 final bullet point which states “a FRA <b>must demonstrate that the project will be safe, without increasing flood risk elsewhere subject to the exception below</b>”</p>

ExQ1	Question to:	Question:
		<p>(ii) Does the Applicant seek to rely on the Exception set out under paragraph 5.7.17? If this is the case, please explain the benefits of the scheme and the relative weight to be applied to those benefits versus the potential harm of any flood risk.</p> <p>(iii) The NPS allows for an exception where energy infrastructure is exceptionally necessary. Should this exception also be applied to the associated development? In responding, please provide any evidence of precedent elsewhere.</p>
Q17.1.11	NLC, EA	<p><b>Flood management</b></p> <p>Chapter 9 [APP-057] at paragraph 9.1.1.3 states “To manage the areas where the increase in flood risk has not been mitigated, a Flood Management Plan will be developed for the Project.”</p> <p>(i) Please provide commentary on whether this approach is regarded as policy compliant in light of the approach set out in NPS EN-1 and EN-3</p>
Q17.1.12	EA, NLC	<p><b>Strategic Flood Risk Assessment (SFRA)</b></p> <p>The FRA [APP-070] relies in part on the North Lincolnshire SFRA (2011).</p> <p>(i) Is this SFRA the agreed starting point for flood risk in the area?</p> <p>(ii) Is this the most up to date information available?</p>
Q17.1.13	The Applicant	<p><b>Flood Mitigation</b></p> <p>Following on from Q1.0.23 [APP-051] at paragraph 3.3.3.41 states “create new wetland landscape to the east of the new access road which will provide flood mitigation and ecological mitigation.</p> <p>(i) Please confirm this relates to the blue hatched land identified in Figures 3 of ES Chapter 1 [APP-049] and the corresponding Figure 4 in ES Chapter 3 [APP-051].</p> <p>(ii) Explain the need for this area of land in meeting the safe mitigation of flood risk for the proposed development, and</p> <p>(iii) The management of this area of land for both ecological and flood management purposes.</p> <p>(iv) The apparent inconsistency with Plans included in [APP-024] and</p> <p>(v) Whether this land is intended to be covered by the LBMMP [APP-041]</p> <p>(vi) How this area and the purposes it serves is secured within the DCO?</p>

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<b>ExQ1</b>	<b>Question to:</b>	<b>Question:</b>
Q17.1.14	EA, NLC (i) and (ii) The Applicant (ii) only	<b>Mitigation</b> (i) Do the EA and the Council agree that the timing of the mitigation set out under Requirement 12 is appropriate to safeguard the site from flood risk? (ii) Should the Requirement also need the approval of the Council as Lead Local Flood Authority/Emergency Planning Authority or would prior consultation in advance of approval be sufficient?

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