



**NORTH
LINCOLNSHIRE
GREEN
ENERGY PARK**

Planning Act 2008

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(Applications
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North Lincolnshire Green Energy Park

Volume 9

9.8 Applicant's Response to Written
Questions

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Contents

1. INTRODUCTION	3
1.1 Overview	3
1.2 The Proposed Development.....	3
1.3 Structure of the Responses to Written Questions	4
2. RESPONSES TO WRITTEN QUESTIONS	6

Appendices

Appendix A – Response to Question Q4.0.5

Acronyms and Abbreviations

Name	Description
AGI	Above Ground Installations
CBMF	Concrete Block Manufacturing Facility
CO2	Carbon Dioxide
dDCO	Draft Development Consent Order
DHPWN	District Heat and Private Wire Networks
EIA	Environmental Impact Assessment
ERF	Energy Recovery Facility
ES	Environmental Statement
EV	Electric Vehicle
ExA	Examining Authority
H2	Hydrogen
ha	Hectare
IDB	Internal Drainage Board
NLGEPL	North Lincolnshire Green Energy Park Limited
NPSs	National Policy Statements
NSIP	Nationally Significant Infrastructure Project
PINS	Planning Inspectorate
PRF	Plastic Recycling Facility
PV	Photovoltaic
RHTF	Residue Handling and Treatment Facility
SoS	Secretary of State for Business, Energy and Industrial Strategy
SUDs	Sustainable Drainage System

1. INTRODUCTION

1.1 Overview

- 1.1..1 This report responds to the Examining Authority's (ExA) further written questions, issued on 23 November 2022.
- 1.1..2 The report responds to each of the questions that were addressed to the Applicant.
- 1.1..3 Where there were questions addressed to specific Interested Parties, the Applicant has not responded directly. However, once these responses have been made available for review then a review will be conducted.

1.2 The Proposed Development

- 1.2..1 The Project will include the following Associated Development to support the operation of the NSIP:
 - A bottom ash and flue gas residue handling and treatment facility (RHTF);
 - A concrete block manufacturing facility (CBMF);
 - A plastic recycling facility (PRF);
 - A hydrogen production and storage facility;
 - An electric vehicle (EV) and hydrogen (H2) refuelling station;
 - Battery storage;
 - A hydrogen and natural gas above ground installations (AGI);
 - A new access road and parking;
 - A gatehouse and visitor centre with elevated walkway;
 - Railway reinstatement works including, sidings by Dragonby, reinstatement and safety improvements to the 6km private railway spur, and the construction of a new railhead with sidings south of Flixborough Wharf;
 - A northern and southern district heating and private wire network (DHPWN);

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- Habitat creation, landscaping and ecological mitigation, including green infrastructure and 65-acre wetland area;
 - New public rights of way and cycle ways including footbridges;
 - Sustainable Drainage Systems (SuDS) and flood defence; and,
 - Utility constructions and diversions.

1.2.2 Additional information regarding the proposed development can be found in Chapter 1 and Chapter 3 of the submitted Environmental Statement (APP-049 and APP-051).

1.3 Structure of the Responses to Written Questions

1.3..1 This remainder of this report has been structured to set out clearly all responses to the EXA's questions, and a response to each question is grouped by topic.

1.3..2 The responses are set out in the form of a table in section 2. The table is split into each question topic area which is set out in the following list:

- Part 1: General and cross-topic questions
- Part 2: Agriculture
- Part 3: Air Quality and Emissions
- Part 4: Alternatives
- Part 5: Biodiversity, ecology, and natural environment
- Part 5.1: Habitats regulation assessment
- Part 6: Climate Change
- Part 7: Compulsory Acquisition, temporary possession and other land or rights considerations
- Part 7.1: Draft Development Consent Order (dDCO)
- Part 7.2: Electricity Connections and other utility infrastructure
- Part 8: Ground Conditions, Contamination, and Hydrogeology
- Part 9: Historic Environment
- Part 10: Landscape, Visual Effects and Design
- Part 10.1: Lighting
- Part 11: Major Accidents and Hazards
- Part 12: Noise and Vibration
- Part 13: Other Strategic Projects and Proposals

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- Part 14: Policy
 - Part 15: Socio-economic effects
 - Part 16: Transportation and Traffic
 - Part 17: Water Environment
 - Part 17.1: Flood Risk

2. RESPONSES TO WRITTEN QUESTIONS

EXQ1	TO:	QUESTION:	APPLICANTS RESPONSE:
1. GENERAL AND CROSS-TOPIC QUESTIONS			
Q1.0.1	The Applicant (i), NLC (ii)	<p>Consultation</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>	<p>One of the key ‘tests’ that the Planning Inspectorate (PINS) applies in deciding whether or not to accept an application is the adequacy of the consultation carried out. In forming this view, PINS must have regard to the local authority consultees’ view on whether the consultation carried out by the Applicant met the statutory requirements.</p> <p>The Applicant would like to draw attention to the adequacy of consultation response from North Lincolnshire Council (NLC) dated 21 June 2022 which states: <i>“Having reviewed the Consultation Report and appendices submitted by the applicant I can confirm that North Lincolnshire Council consider that the consultation undertaken by the applicant is adequate to comply with the statutory requirements under Section 42, 47 & 48 of the Planning Act 2008 (as amended) and is acceptable.”</i></p> <p>Adequacy of consultation responses were also received from Bassetlaw District Council, Lincolnshire County Council and West Lindsey District Council, all of which confirmed that the consultation carried out was adequate and complied with the statutory requirements. There were a number of other adjoining councils, further from the Application site, who confirmed that they had no comments to make. No councils replied stating that they considered the consultation to be inadequate.</p>

			<p>(i) The Applicant has undertaken extensive pre-application consultation in preparing its DCO application across a period of around two years. This is set out in detail in the Consultation Report [APP-076].</p> <p>This included early engagement with stakeholders and the community to introduce the Project (summarised in section 3.2 of the Consultation Report [APP-076], a period of non-statutory consultation (summarised in sections 3.3 – 3.5 of the Consultation Report [APP-076]), a period of statutory consultation to meet the requirements set by the 2008 Act (summarised in chapter 5 of the Consultation Report [APP-076]), and targeted statutory consultation in relation to changes made to the Project prior to the submission of a DCO application (summarised in section 5.7 of the Consultation Report [APP-076]).</p> <p>The non-statutory consultation was held between 26 May 2020 and 14 July 2020. This consultation introduced the Applicant and sought consultees' views on the initial proposals for the Project and environmental considerations. The consultation primarily sought views from the local community, its elected representatives and stakeholders local to the Project. As such, while there was not a statutory requirement to seek local authority input into consultation activity at this stage, the Applicant did seek advice from NLC on its proposed approach to the non-</p>
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			<p>statutory consultation, including meetings on 9 April 2020 and 21 April 2020.</p> <p>The Applicant conducted consultation in fulfilment of statutory requirements over the period from 14 June 2021 to 25 July 2021. The Applicant confirms that it considers this consultation adequate and that it met the legislative tests required. Evidence is presented in the Consultation Report [APP-076] as follows:</p> <ul style="list-style-type: none"> • preparation and publication of a Statement of Community Consultation (section 5.2) • consultation under s42 of the 2008 Act (section 5.3) • the notification of PINs under s46 of the 2008 Act (section 5.4) • consultation with the local community in accordance with the SoCC as prescribed by s47(7) of the 2008 Act (section 5.5) • publicity under s48 of the 2008 Act (section 5.6) <p>The Applicant then conducted a period of targeted statutory consultation in relation to changes to the Order limits. This involved consulting parties whose interest in land under s42(1)(d) of the 2008 Act was potentially affected by the changes from 15 September to 13 October 2021. Further details are provided in section 5.7.2 of the Consultation Report [APP-076].</p> <p>The Applicant confirms that it has had due regard to all responses received through consultation. Details of the</p>
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			<p>regard had to consultation responses are provided at section 3.5 of the Consultation Report [APP-076] for the non-statutory consultation and chapter 7 of the Consultation Report [APP-076] and Appendix I-1 of the Consultation Report [APP-094] for statutory consultation.</p>
Q1.0.2	The Applicant	<p>Project Areas</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</p>	<p>(i) Figure 3 of The Non-Technical Summary [APP-048] is primarily intended to show how the Application Land has been divided into four distinct geographical areas each relating to the specific elements of the Project. Each area is named, and the nomenclature is carried through certain chapters of the ES where it is convenient to relate baseline features that could be affected temporarily or permanently by the Project footprint to specific Project elements. This was used as a more easily understandable alternative to simply referring to the 'Project site'. The figure does not form the basis for assessment of effects or constitute a plan for approval, merely it is designed to assist the reader in understanding geographically where certain effects are likely to occur. The basis for assessment is set out in Table 1: Project Element Parameters for ES Assessment in Chapter 3 of the ES [APP-051].</p> <p>(ii) Paragraph 1.3.1.13 of APP-042 and paragraph 2.5.1.2 of APP-051 are describing the railway line as opposed to the element of the Project defined as the 'Railway Reinstatement Land'. There are no implications to the ES, as this doesn't change the assessment of effects, just how</p>

		basis for the ES.	<p>they are presented.</p> <p>The Applicant will carry out a thorough review of the ES as to whether there are any other chapters which take this approach and provide any updates at Deadline 3 as necessary.</p> <p>(iii) Please note that the Project areas illustrated in Figure 3 of the Non-Technical Summary [APP-048] are not the basis for assessment but rather the way in which the Application Land has been divided into four geographic areas to facilitate the baseline descriptions and associated impact assessment for some EIA topics. The labelling of these areas is thus used in a limited way, and, for example, such references are not applied in the draft DCO (AS-006). The Applicant does not consider that this warrants a Plan to be provided.</p>
Q1.0.3	The Applicant	<p>ES Documents</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>	<p>(i) APP-057 contains an error in the formatting of third level section headings (8.2.2, 8.2.3 etc); however, this has no consequences in terms of cross referencing. APP-054 has two Table 2s. While this is a clear formatting error, the contents of these tables and the way they are referred to in the text means that it is impossible for a reader to confuse one for the other.</p> <p>(ii) We do not consider that it is necessary to update the Chapter on the basis that the formatting error does not lead to any confusion in the assessment or which table is being referred to in each case. However, updates can be made, and the documents resubmitted at a future deadline if required.</p>

			The Applicant has checked the other ES documents and can find no further 'flags' other than the ones referred to.
Q1.0.4	The Applicant	<p>Documents</p> <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) (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>	<p>(i) The document as submitted included complete words in the tables referred to at Appendix E, but the file appears to have corrupted on the PINS website. As there are no changes to the document, the Revision number has not been updated, but the Applicant has re-provided the original document as part of the Deadline 2 submission.</p> <p>(ii) As above. The Applicant has checked the submitted version and this does not have the 'L' missing. As there are no changes to the document, the Revision number has not been updated, but the Applicant has re-provided the original document as part of the Deadline 2 submission.</p>
Q1.0.5	The Applicant	<p>Plans</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</p>	<p>A revised plan has been prepared and is being submitted at Deadline 2 [Document reference 4.6 Rev 1].</p> <p>The key has been amended on Sheet 6 [APP-024] and the revised Indicative Landscape and Biodiversity Plans is being submitted at Deadline 2 [Document reference 4.10 Rev 1].</p>

		<p>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>Plans</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>	<p>(i) The redline extends up to the timber protection / edge of the wharf as delineated on OS mapping. This is so as to provide operational access over the entire wharf area for loading and unloading. This is shown on Works Plans A, Plan A1 [AS-009].</p> <p>(ii) An answer is not required, given the response to (i) above.</p>
Q1.0.7	The Applicant	<p>Cross referencing within documents</p> <p>i) When cross referencing within documents please ensure that not only the document is referenced,</p>	<p>(i) The Applicant notes this and will include appropriate references in this and future submissions.</p> <p>(ii) This was an erroneous reference carried forward in error from an earlier draft. The Applicant will provide a comparison of</p>

		<p>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>	<p>the substances on Site with the thresholds in the Hazardous Substances Regulations at Deadline 3.</p>
Q1.0.8	The Applicant	<p>Glossary of Terms and Bibliography</p> <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 [APP037] under heading of Resource Efficiency remains unclear, please clarify and add to the Glossary.</p>	<p>(i) This is an error and the Acronym should read as CCUS (meaning Carbon Capture Utilisation and Storage).</p> <p>(ii) The Applicant is not able to find any reference to Department of Planning and Community Development in any of the referenced documents, however we can confirm that any reference to DPCD should refer to the Design Principles and Codes and Document [APP-046]. The table in Appendix A in APP-074 is essentially the list of mitigation measures and securing mechanisms for the construction phase only as taken from Table 1 of [APP-067] which is ES Chapter 19: Mitigation.</p> <p>(iii) It is confirmed that the RTFO referenced in the Planning Statement refers to the Renewable Transport Fuel Obligation</p> <p>(iv) TBA means ‘to be advised’. The Applicant is reliant on other parties regarding the anticipated timescales. To the extent</p>

		<ul style="list-style-type: none"> ii) (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. iii) Please confirm RTFO referenced in the Planning Statement [APP-035] relates to Renewable Transport Fuel Obligation or explain this term. iv) Please advise what TBA means as referenced in Table 2.1 of [APP-042] Consents and Licences Document 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>practicable, APP-042 will be updated to reflect current status before the end of Examination.</p> <p>(v) The Applicant can confirm that they will provide a bibliography of external reference documents for inclusion in the examination library at Deadline 3.</p>
Q1.0.9	The Applicant	Definition of the Proposed Scheme	The plan at p.46 of the Combined Heat and Power Assessment

		<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>	<p>[APP-038] was prepared at an early stage in the project to identify potential future heat users from a district heating scheme. It is therefore not intended to be an up-to-date plan of the project that is now being applied for. The potential future users have been informed by the Lincolnshire Lakes Area Action Plan, adopted by NLC in May 2016. This is referenced in paragraph 7.1.4.1 of APP-038.</p> <p>The single design definition of the Proposed Scheme and the basis of assessment is set out in es Chapter 3: Project Description and Alternatives, pages 6-23 [APP-051].</p> <p>Where an assessment has taken a different approach, this is clearly stated, for example, es Chapter 13: Traffic and Transport [APP-061] which assumes that 100% of freight comes by road, notwithstanding the inclusion of the rail reinstatement works in the project description (see paragraph 4.1.1.4 of APP-061).</p>
Q1.0.10	The Applicant	<p>Accurate Description of the Proposed Development</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 the construction and operation of a combined heat and power (CHP)</p>	<p>The Applicant considers that the Project Description used across all referenced documents is consistent but acknowledges that they are in varying degrees of detail dependent on what was required for that document.</p> <p>(i) The Applicant agrees that the description of the Proposed Development as set out in the dDCO is the most comprehensive of all the documents and is therefore the correct one to use.</p>

		<p>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>Public Rights of Way (PRoW)</p> <p>(i) Two footbridges are indicated on [APP-045] sheet 3 and the Transport Chapter [APP061] at paragraph 7.3.11 9th bullet point</p>	<p>i. It is intended to have one level crossing and two footbridges. One of the footbridges will reinstate the public right of way FLIX 178 whereas the other footbridge will be private and will be used to maintain access between adjacent farmland.</p>

		<p>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>	<p>ii. We have updated Work No 3 to include reference to the footbridges and level crossing works and added in a new requirement to secure the delivery of Work No 3 in a specific timeframe.</p> <p>iii. See (ii) above.</p> <p>iv. Please refer to response to Q7.1.15. Further detailed design of the bridges has not been progressed at this stage but will be submitted for approval by the local planning authority under requirement 3 of the draft DCO [APP-007].</p> <p>v. The Landscape and Visual Impact assessment [APP-059] assessed the effects of railway reinstatement works as shown hatched yellow on Works Plans C in the whole as opposed to specific small parts of it. One footbridge is within circa 100 m of the large DHL warehouse and the other is a little further away on a section of the route that is quite heavily wooded on either side. Given their scale and the local context it is considered that neither warranted individual assessment as they would not lead to likely significant effects on landscape or visual amenity. Similarly, the Ecology and Nature Conservation assessment [APP-058] considered the effects (e.g. habitat loss and disturbance) of railway reinstatement and construction works and railway operation. It is not considered that installation of the footbridges would have effects that differed in nature and significance from the general works along the route. The footbridges are not</p>
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			<p>relevant to any other EIA topic.</p> <p>vi. The footbridges will include ramps for disability access. The design of the footbridges will follow the Design Manual for Roads and Bridges (DMRB) Design Criteria for footbridges CD353 (March 2020) which states that the maximum gradient on the bridge and approach ramps shall not be steeper than 1 in 20 (CD 353, paragraph 5.8). The detail of this will be secured by requirement 3 of the draft DCO, referred to above.</p>
Q1.0.12	The Applicant (i and ii), Network Rail (i only)	<p>PRoW</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>	<p>i. It is not proposed to provide specific illumination for either of the proposed footbridges or level crossing and the existing footpaths and access that cross the railway are not lit. Nevertheless, the Indicative Lighting Strategy [APP-071] page 51 provides a calculation of the impact of artificial lighting on buffer areas of up to 5m adjacent to the railway track, which has informed the assessments in the Environmental Statement. Furthermore, any lighting would need to accord with the principles in the Lighting Strategy and the details to be submitted in accordance with requirement 5 of the draft DCO [AS-006]. This includes for the railway reinstatement works that lighting should aim to provide the necessary levels of light without over illuminating and that luminaires should use accurate optical distribution and glare control elements to direct the light where it is strictly necessary.</p>

			<p>ii. The Environmental Statement assesses the effects of the Proposed Development assuming lighting on the railway reinstatement works and that the measures set out in Indicative Lighting Strategy [APP-071] to minimise and mitigate artificial light emissions will be in place.</p>
Q1.0.13	NLC	<p>PRoW</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>PRoW</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</p>	<p>The ExA has not misunderstood this. Paragraph 6.6.2.1 of APP-062 is incorrect. FLIX304 goes under the railway line. The only level crossing over the railway line is located in FLIX 175.</p>

		ordnance survey extract identifying the location of the level crossing.	
Q1.0.15	NLC	PRoW 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?	
Q1.0.16	NE, EA, NLC, UK Health Security Agency (i and ii only) The Applicant (iii)	Refuse Derived Fuel (RDF) (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. (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?	i. The Applicant notes that questions i) and ii) are for others to answer, although it is noted that the Applicant has confidence in the assumed composition, given the experience in the sector of Solar21 and its consultant team. ii. The 760,000 tpa throughput figure is a worst case, based on a calorific value of received fuel at the bottom end of the range. The 650,000 tpa figure is the design throughput, based on a calorific value of 14MJ/kg. The majority of chapters in the Environmental Statement use the higher tpa figure as this would represent the worst case assessment, e.g. in terms of emissions and transport. ES Chapter 6: Climate [APP-054] uses the lower figure on the basis that this would be the worse cast in terms of contribution towards mitigating the effects of climate change.

		<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>Operational Environmental Management Plan (OEMP) (Annex 8 Doc 6.3.8) [APP-075]</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> <p>(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.</p>	
Q1.0.18	The Applicant	Licences and Permits	i. The Applicant will provide updates on progress with

		<p>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:</p> <p>(i) Provide updates on progress with obtaining these consents, licences and permits throughout the Examination;</p> <p>(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</p> <p>(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.</p>	<p>obtaining the consents, licences and permits throughout the Examination.</p> <p>ii. The Applicant will provide a section providing an update on any consents, licences and permits in any relevant SoCGs as appropriate.</p> <p>iii. The updates in the relevant SoCGs will include progress with regard to any statement that the relevant authority may make on whether they would not advise against the granting of the DCO.</p>
Q1.0.19	The Applicant	<p>Licences and Permits</p> <p>(i) In light of the RR from Jotun Paints can the Applicant provide an explanation of the</p>	<p>i. HSE's consultation response noted that where people will be potentially located in the Project is not within the consultation zones of any major accident hazard site or major accident pipeline. This response was based on the</p>

		relationship to this COMAH site and what advice has been received from the HSE during consultation	<p>configuration of the Project as illustrated in the Masterplan at page 8-9 of the document 'North Lincolnshire Green Energy Park, Summer 2021 Public Consultation Information' which does not materially differ in terms of where people may be potentially located from that described within ES Chapter 3: Project Description and Alternatives [APP-051].</p> <p>ii. The Applicant has engaged with Jotun Paints with a view to producing a Statement of Common Ground which will include the agreements for addressing the risk mitigation Jotun Paints have in place for their COMAH site.</p>
Q1.0.20	The Applicant, NLC, EA, NE	<p>The Environment Act</p> <p>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?</p>	The Applicant has checked all provisions now in force in the Environment Act (2021) and is in the process of confirming any implications for the Proposed Development. It is intended that the Applicant will provide a more complete response to this question at Deadline 3 (12th January 2023) to allow time to fully consider each relevant provision, but notes that many of these provisions will have been taken into account in the submitted Application as they came into force in January 2022.
Q1.0.21	The Applicant	<p>Works Plans</p> <p>(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</p>	As there is overlap of works within certain areas, then the works plans have been split into three different sets for ease of reference, relating to the three key elements of the project. Works Plans A [AS-009] which relate to the energy park, Works Plans B [APP-017] which relate to the district heat and private wire network and Works Plans C [APP-018] which relate to the railway reinstatement works.

		<p>[APP-017], while a further set of plans for Work Nos 12, 12A and 14 are provided in [APP-018].</p> <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>	<p>Some Work Nos. are split across the three sets, for example Work No. 14 as noted. Where this is the case, then the cut lines cross refer to the relevant plan showing the continuation of the work. For example, plan B4 of Works Plans B, which shows Work No. 14, cross refers to plan A6 of Works Plans A, which shows the continuation of Work No. 14 in a northerly direction. The definition of the works plans in the dDCO reflects the fact that the three sets of plans together make up the works plans and are all to be certified documents.</p> <p>The different works plans show different areas of the site and different works. The drawings have different numbers for ease of reference.</p> <p>Utility construction is for the construction of the 132kV connection cable, rather than the private wire connection. This is why the routing ends at the substation, rather than following the route of the private wire network.</p>									
Q1.0.22	The Applicant	<p>Energy generation</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) A table is provided below, based on ES Chapter 3 [APP-051] and the values that the Applicant has committed to. These loads are unlikely to be coincident, and assume a worst-case value (i.e the electrolyser operating at peak load).</p> <table border="1" data-bbox="1153 1268 1933 1396"> <thead> <tr> <th>Facility</th> <th>Generation</th> <th>Consumption</th> </tr> </thead> <tbody> <tr> <td>ERF</td> <td>95.00</td> <td>9.50</td> </tr> <tr> <td>CCS heat loss</td> <td></td> <td>1.52</td> </tr> </tbody> </table>	Facility	Generation	Consumption	ERF	95.00	9.50	CCS heat loss		1.52
Facility	Generation	Consumption										
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		(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.	<table border="1"> <tr> <td>CCS parasitic</td> <td></td> <td>1.33</td> </tr> <tr> <td>RHTF</td> <td></td> <td>0.19</td> </tr> <tr> <td>CBMF</td> <td></td> <td>0.14</td> </tr> <tr> <td>Hydrogen</td> <td></td> <td>10.81</td> </tr> <tr> <td>Batteries</td> <td></td> <td>30</td> </tr> <tr> <td>PRF</td> <td></td> <td>3.8125</td> </tr> <tr> <td>Electric Vehicle charging</td> <td></td> <td>3.45</td> </tr> <tr> <td>DHN parasitic</td> <td></td> <td>0.09725</td> </tr> <tr> <td>Total</td> <td>95.0</td> <td>60.8</td> </tr> </table>	CCS parasitic		1.33	RHTF		0.19	CBMF		0.14	Hydrogen		10.81	Batteries		30	PRF		3.8125	Electric Vehicle charging		3.45	DHN parasitic		0.09725	Total	95.0	60.8
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Q1.0.23	The Applicant	<p>Area of land to the east of the proposed Access Road</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 “Large areas of land within the Order Limits will remain undeveloped, although it is unclear whether any works are proposed” you direct the reader to a figure within Chapter 3. Please confirm this refers to</p>	<p>i) The response on page 17 within Table 2 ES Chapter 10: Ecology and Nature Conservation does intend to refer to Figure 4 in ES Chapter 3: Project Description and Alternatives [APP-051].</p> <p>ii) Reference to this land is made throughout the FRA [APP-070], in particular Section 5.1.23 (Site East) and Section 5.1.24 - 5.1.29.</p> <p>ES Chapter 3: Project Description and Alternatives [APP-051] refers to the new area of wetland at paragraph 3.2.3.42, as follows:</p> <p><i>“The wetland will be designed to create opportunities for protected and notable species including amphibians, birds, bats, water vole, otter, other small animals and invertebrates. Long-term management of the wetland will maintain its productivity and help secure long-term gains for biodiversity. The wetland landscape will incorporate a number of informal paths that facilitate</i></p>																											

		<p>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>	<p><i>physical activity, play, and relaxation through improved quality and access to open space/nature for both local residents and people working at the Project and Flixborough Industrial Estate.”</i></p> <p>ES Chapter 14: Economic Community and Land Use [APP-062] refers to the wetland area at paragraph 7.2.13, where mitigation measures are listed, as follows:</p> <p><i>“the areas identified for future mitigation and an area of wetlands created beside the River Trent will allow for public access and this will result in a net increase in open space provision.”</i></p> <p>Paragraph 8.3.5.4 of APP-062 also notes that the Applicant is in discussions with the Lincolnshire Wildlife Trust about potential future management of the wetland area.</p> <p>The wetland area is secured through the Outline Landscape and Biodiversity Management and Monitoring Plan (LBMMP) [APP-041] in particular at paragraph 4.1.10 onwards. Requirement 7 of the draft DCO [AS-006] requires the submission and approval of the Landscape and Biodiversity Management and Monitoring Plan, to be in accordance with the Outline LBMMP plan submitted with the Application.</p>
Q1.0.24	The Applicant	<p>Tree Planting and Ecological Enhancement</p> <p>Figure 3 of ES Chapter 1 Introduction</p>	<p>i) Use of the word ‘potential’ here (and also in Appendix A of APP-051, ES Chapter 3: Project Description and Alternatives) is erroneous and carried forward from early</p>

		<p>[APP-049] identifies ‘Areas for Potential Future Mitigation’.</p> <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>	<p>drafts.</p> <p>These areas have been set aside for ecological mitigation and enhancement as set out in the Outline Landscape and Biodiversity Management and Monitoring Plan (LBMMP) [APP-041] and Indicative Landscape and Biodiversity Plan [APP-024].</p>
Q1.0.25	The Applicant	<p>Exterior Storage Tanks</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>	<p>i) The fire water tank is Work No. 1(p). Under section 38(1) of the Fire and Rescue Services Act 2004, a fire and rescue authority may enter into an agreement - (a) to secure the use of water under the control of a person other than a water undertaker; (b) to improve access to any such water. The size of the fire water tank will therefore be secured by an agreement with the Humberside Fire and Rescue Service.</p> <p>ii) Available guidance (for example contained in NFPA 850) suggests a minimum requirement in line with NFPA 850 for this facility is calculated to be 1,485 m³ of fire water. The facility has been designed to contain a tank with a capacity of 1,780 m³. 20% additional margin has been allowed for in the design. This additional margin is a buffer to aid firefighting efforts if required, and to allow for flexibility in the design, allowing for the integration of</p>

			additional fire hoses or sprinkler equipped areas.
Q1.0.26	Applicant	<p>Health</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>	<p>(i) Section 6.5 is a summary of the possible <i>residual</i> health effects and the applicable mitigation, taking into account the implications for all determinants of health relevant to the surrounding population and the way all aspects of the proposed development might influence these. The conclusion of Section 6 is that there are <i>no significant health effects</i>, including those arising from emissions to air from the incineration of waste and the carbon capture plant. (See Section 6.2.8 for these specific conclusions.) Note that the specific case of exposure to Nitrosamines emitted from the carbon capture plant are dealt with in Section 4.8 of Appendix B, which presents an estimate of the carcinogenic risk to a hypothetical individual.</p> <p>Section 6.5.1.5 is intended to advise the reader that the only possible health effects of significance that might arise are those related to anxiety in some members of the local populations from the presence of the new development, but that this anxiety can be mitigated by proactive engagement.</p> <p>(ii) Criteria for the 'unacceptability' of risk for members of the public are, perhaps, relatively rare in guidance published by national regulatory bodies. In the UK, bodies responsible for industrial emission regulation, such as the Environment Agencies and its predecessors, have not favoured the use of quantitative risk assessment for exposure to pollutants, preferring thresholds of harm for all pollutants. For industrial safety, the Health and Safety</p>

			<p>Executive, in contrast, embraces the concept of risk, eg the risk of explosions. An HSE document 'Reducing Risks, Protecting People' (2001) sets out the principles and approaches that are recommended in the context of risks posed industrial hazards and their potential effects on workers and members of the public. In this document, the key recommendation occurs in paragraph 132 and states that: <i>'For members of the public who have a risk imposed on them 'in the wider interest of society' this limit [of unacceptability] is judged to be an order of magnitude lower – at 1 in 10 000 per annum.</i> Later on, the document states at paragraph 138: <i>' Thus, in the case of most housing developments, for example, HSE advises against granting planning permission for any significant [industrial] development where individual risk of death for the hypothetical person is more than 10 in a million per year and does not advise against granting planning permission on safety grounds for developments where such individual risk is less than 1 in a million per year.</i> This refers to circumstances where an industrial facility is in proximity to a proposed housing development. This is the best proxy we have for the case of exposure to pollutants from airborne pollutants from new industrial facilities.</p> <p>The nuclear industry also expresses its impacts in terms of risk, given the nature of radioactivity and its human health effects. The HSE published an earlier document in 1992, 'The Tolerability of Risk from Nuclear Power Stations', that also used this criterion of 1 in 1 million per annum as being a 'broadly acceptable' risk for a member</p>
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			of the public.
Q1.0.27	The Applicant	<p>Land Reinstatement Policy</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>	<p>This reference was erroneously carried forward from an earlier draft and should have referred to the Soil Management Plan (an outline of which is provided in [APP-074]). Please note that similar erroneous references occur in [APP-067] (e-page 56) and [APP-062] (paragraph 7.2.1.3, e-pages 61 and 62).</p> <p>The Applicant will review the Outline SMP [APP-074] and ensure that it adequately covers soil reinstatement and submit an updated version, if necessary, at Deadline 3.</p>
Q1.0.28	The Applicant	<p>Working Hours</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> <p>(i) Can the Applicant confirm whether agreement with NLC would be required for any works between 19:00-23:00?</p>	<p>The Applicant agrees that agreement with NLC would be required for evening works (between 19:00 and 23:00) on weekdays as well as nighttime works.</p> <p>The CoCP [AS-011] will be amended accordingly and submitted at Deadline 3.</p>
Q1.0.29	North Lincolnshire Council (NLC)	<p>Cumulative Effects</p> <p>Does North Lincolnshire Council agree with the plans or projects that have</p>	

		been included within the cumulative effects assessment (ES Chapter 18)?	
Q1.0.30	The Applicant	<p>In combination effects</p> <p>(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?</p> <p>(ii) Please provide answers to this in respect of both Options A and option B and highlight any differences that may arise</p>	<p>i. The concurrent installation of the DHPWN with the grid connection to be provided by the DNO would not increase the working width for laying the High Voltage cable. The installation timescales would be no longer compared to the installation of the DHPWN alone, as separate work crews would install the export cabling.</p> <p>ii. Neither Option A nor Option B would require an increased working width or installation timescales.</p>
Q1.0.31	The Applicant	<p>Code of Construction Practice</p> <p>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?</p>	<p>The Applicant proposes that the core construction hours will be:</p> <ul style="list-style-type: none"> • 07:00 to 19:00 on weekdays (excluding public holidays); and • 07:00 to 13:00 on Saturdays. <p>These hours align with the noise assessment [APP-055] which in turn followed the significance criteria set out in Table E.1, Annex E of BS5228 Code of Practice for noise and vibration control on construction and open sites - Part 1: Noise. The CoCP (AS-011) will be amended accordingly and submitted at Deadline 3.</p>
Q1.0.32	NLC	<p>Adverse effects during construction</p> <p>(i) Does NLC agree with the</p>	

		<p>Applicant's assessment of adverse effects caused by the construction of the proposed scheme regarding those matters for which it is the regulatory authority?</p> <p>(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)?</p>	
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2. AGRICULTURE			
Q2.0.1	DM & A Green	<p>Church Farm, Flixborough</p> <p>(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</p> <p>(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.</p>	

Q2.0.2	The Applicant	<p>Agricultural Land Classification (ALC) and loss of Best and Most Versatile (BMV) land</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 >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>	<p>(i) The Applicant is in the process of reconfirming the Agricultural Land Classifications within the Application Land based on existing available information and will update Figure 9 of ES Chapter 14: Economic, Community and Land Use Impacts [APP-062] as required. The Applicant will also reconfirm the areas of BMV land that will be taken out of agricultural production by the permanent operational footprint of the Project. The areas will be broken down by Agricultural Land Classification (Grade 1, 2, 3, 4 etc) and by Project use (built infrastructure and hardstanding, flood management, landscaping and habitat enhancement) and this information tabulated.</p> <p>(ii) Based on the above exercise, the Applicant will revisit the assessment of the effects, also taking into consideration the new IEMA guidance (A New Perspective on Land and Soil in Environmental Impact Assessment' published in February 2022). The Applicant anticipates that this information will be provided at Deadline 3.</p>
Q2.0.3	The Applicant, NE	<p>ALC</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</p>	<p>(i) The Applicant thanks NE for drawing attention to this document. While it does not cover all the Application land it does cover a large part of it and provides better granularity on classification than the mapping resources used so far for the ES. The Applicant will take this fully into consideration in updating the assessment and make clear the extent of the Application Land that is covered by</p>

		application site are not covered by the figure please could this be clarified and Figure updated/provided as appropriate.	this particular mapping resource. An updated figure will be provided if required at Deadline 3.
Q2.0.4	The Applicant	<p>Flood Risk Effect on Agriculture</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>	<p>(i) The agricultural land to the east of the access road is at risk from flooding from overtopping of the existing flood defenses over the lifetime of the development (See Section 5.1.23 of the Flood Risk Assessment [APP-070]). Flooding of winter sewn cereal crops will usually recover if the flood waters do not remain for more than one week.</p> <p>In order to ensure the flood risk is not increased to agricultural land to the south of the development and the Industrial Estate to the north, additional flood mitigation measures have been proposed. As a result, this increases the flood depth in the agricultural fields to the east of the site by a further 53mm, across fields that are already at risk of flooding to a depth of approximately 1.2m (see Section 5.1.29 of the Flood Risk Assessment [APP-070]). The fields affected will continue to be farmed as they are today, with the same risk of a breach in the existing flood defenses or an overtopping due to a tidal surge causing the land to flood up to a depth of 1.2m. The marginal effect is the additional 53mm of flood water depth. The volume of water will remain the same and will be pumped back into the River Trent once the river levels recede.</p>

Q2.0.5	The Applicant	<p>Agricultural Land Area</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>	<p>As set out above an update to the assessment of effects on agricultural land will be provided at Deadline 3) and will include this requested information.</p>
3. AIR QUALITY AND EMISSIONS			
Q3.0.1	The Applicant	<p>Refuse Derived Fuel (RDF)</p> <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</p>	<p>(i) These paragraphs describe the same delivery system, with an apparent discrepancy introduced through the use of shorthand. Waste will be baled and wrapped, and where these bales will be delivered in containers, those containers will be sealed and this is the basis of the assessment in the ES.</p> <p>(ii) Section 4 of Annex 8 of the Environmental Statement (Operational Environmental Management Plan (OEMP)) [APP-075] is a table which sets out a record of the environmental commitments that relate to the operation of the project, which must be incorporated into the detailed operational environmental management plan. The second row of this table on page 2 provides that RDF deliveries will be containerised, wrapped or baled. Requirement 4 sub-paragraphs (5) to (7) of the dDCO secures the submission of a detailed operational environmental management plan in accordance with the OEMP for approval and that the maintenance and operation of the authorised development must be carried out in accordance with the approved detailed operational environmental management plan.</p>

		<p>might be and support any explanation with evidence.</p>	<p>(iii) Odour from waste in curtain sided lorries will be contained by the nature of the curtains themselves, which prevent the circulation of air over waste bales during transit and prior to unloading at the facility. Curtains will be opened only within a negative pressure environment, which will prevent the escape of odour.</p> <p>(iv) The Environmental Management System that will be developed and maintained for the operational Proposed Development as required by the Environmental Permit will include procedures for the management of waste in accordance with relevant legislation. It should be noted that a similar requirement was not imposed on other ERFs permitted through the NSIP process (e.g. South Humber Bank) and in this case the Statutory Nuisance Statement confirmed that fuel will be delivered in enclosed or covered containers (not sealed) that will prevent the loss of materials during transit into the Site. This was to be controlled through the Environmental Permit.</p> <p>Paragraph 4.10.3 of NPS EN-1 states:</p> <p><i>“In considering an application for development consent, the [then IPC] should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. The</i></p>
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			<p><i>IPC should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them.”</i></p> <p>Requiring the containers to be sealed would in the Applicant’s view go beyond what is required to address any likely significant effects and, in any event, likely to be required by the Environmental Permit, but in any case, the procedures for transporting the waste is a matter for the Environmental Permit, not the DCO Application.</p>
Q3.0.2	The Applicant	<p>Amines</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 CO₂. It states that the bonded solution is reheated to release CO₂ 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>If the latter, how will it be disposed of?</p>	<p>(i) The amine solvent is regenerated on site. This is achieved using a separate piece of equipment, called a stripper or a regenerator. This process involves heating the amine solution, to break the chemical bond with the CO₂. The amine which is left is then recirculated to the absorber, in which it is used to capture more CO₂ from incoming flue gas.</p> <p>A small quantity of amine will be removed as it will become saturated with pollutants and impurities. This amine will be stored on site and removed by tanker to an approved disposal site. The vehicle numbers associated with this would be very low, approximately one vehicle every two weeks.</p>

Q3.0.3	The Applicant	<p>Air Quality Assessment 6.2.5 [APP-053]</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]). These values would seem to meet the Defra criteria for requiring assessment</p>	<p>(i) For the purposes of the air quality assessment undertaken, the relevant sections of TG(22) are the same as those within TG(16), namely the criteria for screening road traffic in Table 7.1 - Screening Assessment of Road Traffic Sources. On this basis, the superseding of TG(16) is not material to the assessment.</p> <p>(ii) The Project location and new access road are characterised by low baseline NO₂; few sensitive receptors; no receptors within 20m of the junction and few receptors close to the new road. The IAQM criteria guidance is designed to assess where there may be a significant increase in air pollution. This includes heavily trafficked roads and areas with NO₂ close to, but not above the air quality standards, i.e. not in an AQMA. Therefore, as a first screening step this is appropriate. The IAQM guidance (paragraph 6.16) indicates that where an air quality assessment is identified as being required, this can be a 'Simple Assessment' or a 'Detailed Assessment' whereby exceeding a screening criterion in Table 6.2 of the IAQM guidance would not necessarily require dispersion modelling approaches. The Guidance goes on to say the use of a Simple Assessment may be appropriate if it is sufficient for reaching a conclusion on the significance of effects on local air quality. Therefore, using the IAQM criteria in this case to go straight to detailed modelling is considered inappropriate given the low NO₂ baseline</p>
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		<p>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</p>	<p>and the absence of roadside receptors. The IAQM guidance does not refer to the Defra criteria but does make general reference to Defra technical guidance.</p> <p>(iii) The Defra guidance was therefore considered as a second screening step.</p> <p>The Defra screening criteria for where a change in traffic flows may be significant is:</p> <ul style="list-style-type: none"> • 25% traffic increase on roads > 10,000 vehicles/day - exposure within 10m from kerb <p>There are no roads affected by the project during construction and operation that have a traffic flow of >10,000 vehicles per day, and have a traffic increase of greater than 25%.</p> <p>(iv) The Defra screening for a junction is:</p> <ul style="list-style-type: none"> • <i>10,000 vehicles/day – exposure within 10m from kerb</i> <p>The nearest kerbside receptor is more than 50 m from the junction.</p> <p>The Defra screening criteria for where traffic on a new road may be significant is:</p> <ul style="list-style-type: none"> • <i>A new road with >10,000 vehicles/day and receptors within 10m</i> <p>There are predicted to be in 2038 as the worst case 6,968 vehicles/day and therefore below the screening</p>
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		<p>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>	<p>threshold.</p> <p>As none of these criteria are met by the Project for either existing roads or the proposed new road, no further assessment of road traffic impacts is required. These criteria are unchanged in TG(22).</p> <p>Furthermore, a hydrogen fueling station is proposed at NLGEP. This will be available for both project and non-project vehicles. As hydrogen HGVs use fuel cells these are zero emission at point of use. As both the IAQM and Defra screening criteria are based on HGV traffic being diesel fueled, the screening criteria are particularly pessimistic.</p> <p>(v) See also response to part (ii) and (iii). The baseline NO₂ for the assessment is derived from Defra background mapping for the location. Defra mapping data is widely accepted for use in this type of assessment, and indeed the provision of mapping data is to avoid the unnecessary collection of baseline data where a project does not warrant a bespoke NO₂ baseline survey.</p> <p>As discussed in the Applicant's response part (ii) the project is not predicted to result in air quality standards being exceeded and pragmatic application of the screening criteria (particularly in light of the proposed use of hydrogen vehicles) also preclude significant impacts. As such, the collection of bespoke baseline is</p>
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			<p>considered to be unnecessary, and Defra mapping data is considered to be a reasonable representation of the baseline that is aligned with the level of detail required for the assessment considering the absence of significant impacts.</p> <p>(vi) Terrain has been included in the modelling for the main plant sources (ERF stacks, back-up boilers, diesel generators) and the rail and ship sources. Terrain is not required for the modelled access road as this is to the south of Flixborough in flat terrain.</p> <p>(vii) The project incorporates Best Available Techniques (BAT) as this is the legal minimum requirement for the project to obtain an Environmental Permit. The ERF plant will, in practice, operate below the BAT emission limits. In the case of ammonia, sulphur dioxide and hydrogen chloride the actual emissions are typically only 20% to 40% of the actual emission limits. NO_x emissions are typically managed to be at around 90% of the emission limit to minimise the amount of ammonia dosing needed in the Selective Catalytic Reduction (SCR) system. As such, the impacts of the plant operations are overstated compared to actual operations.</p> <p>Furthermore, the transport emissions are also overstated. As the model split between train, ship and road is not known, the air quality impact assessment has taken, as the extreme worst case that all deliveries of</p>
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			<p>refuse derived fuel arrive by road and by rail and by ship. Clearly, in practice, this will not occur, and as such the associated emissions have been overestimated.</p> <p>This is discussed further in detail in the ecology section which also considers the condition of each sensitive habitat site.</p> <p>As such, the design of the project is considered appropriate, and no further mitigation of design is needed.</p>
Q3.0.4	The Applicant	<p>Defra Guidance</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>	<p>TG(16), not TG(22) is relevant principally to the screening of where a detailed assessment of road traffic is required. See response to Q3.0.3(ii) and (iii) for details.</p>
Q3.0.5	The Applicant	<p>Air Quality effects from HGV Movements</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</p>	<p>(i) The Applicant has taken a robust and, arguably, ultra-conservative approach to the air quality effects from HGV movements. A detailed response on the applicability of the IAQM guidance to the Project is provided in the Applicant's response to Q3.0.3.</p>

		<p>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 to exceed 100 Annual Average Daily Traffic (AADT) movements during the operational phase.</p> <p>(i) Please can the Applicant explain why these links have therefore not been modelled?</p>	
Q3.0.6	The Applicant	<p>Air Quality effects from HGV Movements</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 >10,000 vehicles/day and increase in traffic is <25% of the baseline or (ii) where total HGVs are >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>	<p>(i) The Defra guidance referred to states:</p> <ul style="list-style-type: none"> - 2,500 HDVs/day - exposure within 10m from kerb (20m in conurbations > 2m inhabitants) <p>The links where the 2.500 HDV criterion is exceeded are the A1077 south of the B1216, the A1077 south of the A18, the M181 and the M180. None of these links have receptors within 10 m from the kerbs. Typical separation distanced are in excess of 500 m. Therefore, there is no need to model these links.</p>

4. ALTERNATIVES

Q4.0.1	The Applicant	<p>The Applicant has provided two options for the Northern District Heat and Private Wire Networks (DHPWN) 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>	<p>(i) There are no differences between Options A and B in terms of Traffic and Transport [ES Chapter 13] effects. The main difference is that, following consultation with NLC, the Applicant was advised that Option A would require working outside of normal daytime hours to avoid perceived traffic disruption and therefore Option B was introduced by the Applicant. Option B results in less potential disruption to traffic during normal daytime hours. The requirement by NLC for night-time working for Option A has the potential to result in more noise disturbance to local residents.</p> <p>(ii) The Applicant will continue to work with NLC to agree which option is preferred and will make this decision before the close of examination. For the avoidance of the doubt, the draft DCO [AS-011] envisages that only one Option will be consented through the DCO.</p>
Q4.0.2	The Applicant, NLC	<p>(i) In considering the alternative Option A and B for the DHPWN 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</p>	<p>(i) The Applicant's preference would be Option A which provides the shortest and most practical route for the grid connection and DHPWN and it should be noted that if Northern Power Grid were to deliver the High Voltage grid connection using their own statutory powers, they would route the cable along Option A. Even for works consented under the DCO, NLGEP would need to liaise with NLC as highway authority to ensure that that the cable laying works can be carried out with minimum disruption to traffic (as would any statutory undertaker carrying out utilities works within the highway boundary).</p>

		<p>the alternative mitigation that you have considered in addressing the identified adverse effects.</p>	<p>NLC’s advice was therefore that Option A would require night-time working. On this basis, the ExA should assume that Option A would require night-time working. The consideration is therefore not traffic v noise, but rather whether the noise effects of Option A are considered to be acceptable.</p> <p>In this regard, the noise chapter of the ES [APP-055] states at paragraph 8.1.3.14:</p> <p><i>“However, the significance of the noise effect is derived by taking into account factors such as the short duration of the works. Noise levels are expected to be above the Category B criterion for a maximum of up to three weeks (after which the noise impacts would be small magnitude). The short duration of this noise impact has been taken into account and overall the significance of the work has been considered to be moderate.”</i></p> <p>ii) In carrying out this balancing exercise, the Applicant would invite the ExA to consider the relatively short period (3 weeks) over which the works would take place and that what is proposed is not materially different than works which are carried out from time to time within the highway boundary under normal circumstances to lay and maintain utilities connections.</p> <p>The noise assessment [at APP-055] also confirms that a worse case assessment has been undertaken at 8.1.3.15:</p>
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			<p><i>“It is noted that the above conclusions are based on an analysis of the noisiest plant at the closest likely location to the receptors (i.e. a worst case), and that as the plant moves past the receptor this noise level will reduce rapidly.”</i></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.	<p>The Applicant considers that the wording in Article 23(2) of the draft DCO provides certainty that the undertaker may only acquire rights in land for either Option A or Option B and not both Options. In addition the other Articles contained in Part 4 (Compulsory Acquisition) of the draft DCO make the distinction between the two different Options as well.</p> <p>In addition, there is no distinction in the works that would be carried out as between Option A and Option B: both Options would allow for Work Nos. 10 and 11 to be carried out. The only distinction between the two options is the route that the district heating and private wire networks would take in order to reach the end-user. On that basis the Applicant does not consider it necessary to include a Requirement that adds further control to the DCO as drafted.</p> <p>If the Secretary of State considers that there should be a Requirement dealing with Option A and Option B, the Applicant considers that the following would be appropriate:</p> <p>Options A and B <input checked="" type="checkbox"/>.—(1) The undertaker may only acquire compulsorily any part of the land required for either: (a) Option A; or (b) Option B.</p>

			<p>(2) In the event that the undertaker acquires compulsorily any part of the land required for Option A, then the undertaker must not acquire compulsorily any part of the land required for Option B which is not also required for Option A (being those plots identified on Sheet 10B of 10 on the land plans).</p> <p>(3) In the event that the undertaker acquires compulsorily any part of the land required for Option B, then the undertaker must not acquire compulsorily any part of the land required for Option A which is not also required for Option B (being those plots identified on Sheet 10A of 10 on the land plans).</p> <p>(4) The undertaker must not commence those parts of Work No. 10 and Work No. 11 to be carried out on any part of the land required for Option A or Option B until notification has been submitted to the relevant planning authority as to whether the undertaker intends to install the DHPWN works along the route for Option A or for Option B</p>
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 nthe dDCO that should be presented to the SoS?	We will consider what alternative wording would be appropriate in the articles of the dDCO in the event that the ExA recommend only one option to the SoS. We have drafted Schedule 10 in two separate parts for Option A and B so one of these could be removed from the Order as appropriate.
Q4.0.5	The Applicant	<p>Site Selection</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>	See response at Appendix A.

		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.	
Q4.0.6	The Applicant	<p>Site Selection</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>Please state where the assessment of the environmental, social, and economic effects are set out for these alternative sites.</p>	<p>Paragraph 4.4.2 requires the Applicant's ES to provide information about the main alternatives that they have studied. It should be noted that there is no policy requirement to consider alternative sites other than in relation to where there is an effect on the integrity of European protected sites, flood risk in relation to the sequential test and with respect to the compulsory acquisition of land.</p> <p>The Applicant carried out a site selection exercise, which is set out in the ES to provide background information on how the Applicant arrived at their preferred site, but the sites on the long list at paragraph 9.4.2.3 of the ES [APP-051] are not presented as alternatives as none of them were considered suitable or available for an ERF for the reasons described in the Applicant's response to Q4.0.5.</p> <p>Nevertheless, the Applicant considered a range of criteria which are consistent with the factors influencing site selection by applicants in NPS EN3 (see response to Q4.0.5). These included certain environmental, social and economic considerations such as a preference for brownfield sites, environmental designations, proximity to urban areas and ability to connect to CHP and CCUS.</p>

			<p>The main alternative locations within the site considered by the Applicant are explained at Section 9.6 of ES Chapter 3: Project Description and Alternatives [APP-051] which explains how potential impacts of flooding was a key consideration in the design of the development and the consideration of alternative layouts.</p> <p>Table 4 then summarises the alternatives considered and the relevant environmental reasons for decisions taken. This is principally based on physical environmental effects, but some social and economic considerations applied, including locating the ERF close to the wharf but seeking to avoid impacting more of the businesses at the port than necessary, and with regard to the location of the visitor centre and route of the District Heating and Private Wire Network.</p>
Q4.0.7	The Applicant	<p>Alternatives [APP-051] ES Chapter 3 6.2.3 Project Description and Alternatives</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</p>	<p>i) Reference is made to the response to Q4.0.6 in relation to the policy requirement for the assessment of alternative sites.</p> <p>The Applicant’s long list was identified according to commercial judgement and industry knowledge. A range of criteria were then applied informed by the factors influencing site selection in NPS EN3 and other planning and environmental considerations.</p> <p>ii) Of the two shortlisted sites, the Application site had the key environmental benefit of enabling connection by river, as well as road and rail and was commercially available.</p>

		<p>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>	<p>However, the alternative site was not commercially available, and the landowner made it clear that they did not want to consider an ERF on their site, for a number of reasons including that it was a COMAH site. Although the DCO process includes compulsory purchase provisions, the Applicant reasonably pursued the site which had the most potential of securing the site with the landowner, particularly given its benefits in terms of river access.</p> <p>Although 9.4.3.6 refers to performance in planning terms, the ability to transport materials by river is also a key environmental benefit.</p> <p>The other key difference with the alternative British Steel Site is that it would have required substantial upgrades to enable the project to be connected to the grid. NPG's Scunthorpe Central Substation had already reached maximum import capacity with no available capacity for export.</p> <p>iii) Whilst the Applicant did not undertake a viability assessment of this Site, given the lack of landowner interest, this would have significantly added to the cost of the Project, estimated to the Applicant to be in excess of £10m.</p>
Q4.0.8	The Applicant	<p>Site Selection</p> <p>(i) Of the long listed sites, which might be regarded as suitable to meet the needs of the Yorkshire</p>	<p>i) The Applicant refers to its answer to Q.4.0.5 which demonstrates that none of the other sites considered were feasible alternatives to the Application site. On this basis, none would be capable of meeting the needs of</p>

		<p>and Humber and East Midlands region?</p> <p>ii) Of the sites identified which if any were not in Flood Zone 3?</p>	<p>the Yorkshire & Humber and East Midlands region. However, in terms of the pure geographic proximity, the Applicant has assumed that a site that is within 100 miles of the region would in theory be capable of meeting its needs.</p> <p>ii) The table below provides the long list of sites considered by the Applicant and also notes which sites are in flood zone 3, however, in terms of compliance with the sequential test, none are available and suitable alternatives to meet the need identified by the Applicant. Of the eight sites that fall within a location potentially capable of meeting the needs of the Yorkshire & Humber and East Midlands region, two, including the Application site fall within, or partly within Flood Zone 3, two are not of sufficient size to accommodate an ERF. One is being developed for alternative mixed-use schemes and two are being developed for EfWs. Of the two sites that would potentially meet the regional need and are not being developed for alternative uses, none are commercially available or accessible by river. It should also be noted that for the site selection exercise, the Applicant considered the characteristics of sites at a relatively high level and therefore there may be other reasons, as well as availability, that these two sites may not be suitable for an ERF, but they have not been explored in the level of detail that the Application site has.</p>
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			Site	Would site be suitable to meet needs of Yorkshire & Humber and East Midlands Region?	In Flood Zone 3?	Summary of availability and suitability
			Energy Recovery and Visitor Centre - Riverside Waste Transfer and Recycling Centre, Jameson Road, Fleetwood, FY7 8TW	Yes	No	Site does not meet minimum size requirement of 5 ha.
			Shoreham Recycling, Cement Works, Southwick, Shoreham-on-Sea	No	No	Site being developed for alternative uses and within National Park.
			Easter Langlee Farm Landfill Site, Galashiels, TD1 2NU	No	No	Greenfield site, only accessible by road and would not meet regional need.
			Hanson Non-Operational Brickworks, Stairfoot, Barnsley, South	Yes	No	Site not commercially available and only accessible by road.

			Yorkshire, S70 3NS			
			Pilkington Glass Site, Land at Cowley Hill Works, St Helens, Merseyside	Yes	No	Site being developed for alternative uses.
			GEEC Site, Fort Industrial Park, Dunlop Way, Castle Bromwich, Birmingham	No	Yes	Site does not meet minimum size requirement of 5 ha.
			Aecom Site, land at Seal Sands, Billingham, Teesside	Yes	No	Site being developed for alternative EfW.
			British Steel Site, Brigg Road, Scunthorpe, North Lincolnshire, DN16 1XA	Yes	No	Site not commercially available and only access by road and rail.
			Tata Chemicals Site, Lostock Gralam, Rudheath, Northwich CW9 7ZR	Yes	Partly	Site being developed for alternative EfW.
			Tata Steels Site, Port Talbot, SA13 2NG	No	No	Site not commercially available and

					would not meet regional need.	
			Carlton Forest Distribution Centre, Blyth Road, Worksop, S81 0TT	Yes	No	Site does not meet minimum size requirement of 5 ha.
			Flixborough Wharf, RMS Ports, Flixborough, DN15 8TH	Yes	Yes	Application site.

5. BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT (INCLUDING HABITATS REGULATIONS ASSESSMENT (HRA))

Q5.0.1	The Applicant	<p>Surveys</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>	All ecological surveys are complete and details of these are included in the ES Chapter 10: Ecology and Nature Conservation (APP-058). The reference to 'surveys underway' should have been omitted from the latest version of the chapter. Migratory bird surveys were the last surveys to finish and were completed in April 2022.
Q5.0.2	Natural England, Environment Agency	<p>Hatfield Moor SAC</p> <p>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</p>	

		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?	
Q5.0.3	Applicant	<p>Natural England Relevant Representation</p> <p>i) 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>	<p>A response to Natural England's RR was provided at Deadline 1 (REP1-012).</p> <p>Further discussions regarding the RR were undertaken with Natural England at a virtual meeting on 21st November 2022. Following this a draft Statement of Common Ground is in preparation which clarifies particular concerns and identifies where any required amendments will be made.</p>
Q5.0.4	The Applicant	<p>Great Crested Newt Surveys</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,</p>	<p>i. Repeated requests to survey the ponds in question have had access denied, therefore no further attempts will be made during the examination to survey these ponds.</p> <p>ii. Assuming these ponds support GCN, the worst-case effects arising from the development are considered to be not significant. This is due to the distance of the ponds</p>

		<p>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>	<p>from the development (>400 m from the closest pond, P30); the largely unsuitable intervening habitat (arable fields) which GCN are unlikely to cross; and the presence of more favourable terrestrial habitats closer to the ponds (hedgerows surrounding the land parcel and habitats within the biodiversity improvement area to the east). Proposed works in the planting/biodiversity enhancement area will be undertaken in line with mitigation measures, including careful timing of works and use of handheld tools and machinery, applicable to conservation activities (outlined in the Great Crested Newt Conservation Handbook). These measures will be secured via the Landscape and Biodiversity Management and Monitoring Plan. Assuming GCN are present, this will avoid the need for any licensable actions such as newt fencing in this area.</p> <p>iii. In addition to the favourable habitats referred to above, there are small areas of potentially suitable habitat, restricted to rough grassland surrounding the arable drainage ditches, within 0.5 km of the ponds.</p>
Q5.0.5	The Applicant	<p>Risby Warren SSSI</p> <p>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?</p>	<p>The key acid grassland habitat type (U1a lichen grassland) covering the vast majority of the site (approximately 151 ha out of 157 ha) has been lost from the SSSI already, as described in the unit condition assessment - – <i>“Following re-assessment in December 2018 of habitat extent, scrub extent and U1a feature, the following additional features are assessed as in unfavourable condition: both geomorphological features (due to too much scrub), lichen grassland U1a (no longer present on the site due to atmospheric pollution/Nitrogen deposition)”</i>.</p>

			<p>It is difficult to assess the effects on a habitat type, the majority of which has been lost.</p> <p>Given the above the Applicant is keen to explore opportunities with Natural England to implement measures that would assist in the recovery of the lost habitat on the SSSI (eg through scrub clearance, clearance of accumulated organic material, re-seeding). NLGEP has an agreement with Lincolnshire Wildlife Trust (LWT) to undertake such activities and it is likely they could assist with the delivery of the measures on the ground.</p>
Q5.1.1	The Applicant	<p>Request for Documents</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>	<p>The Applicant has compiled the relevant NE data sheets into Document Reference 9.11 - SPA and SCA Citations. This forms part of the Deadline 2 submission.</p>
Q5.1.2	The Applicant	<p>Request for Documents</p> <p>Can the Applicant please submit a copy of Appendix 1 (matrices summarising screening and assessment of adverse</p>	<p>The Applicant has updated Document 5.9: Report to Inform the Habitats Regulations Assessment (APP-043) to include Appendix 1 – Matrices summarising screening and assessment of adverse effects on integrity. This forms part of the Deadline 2 submission.</p>

		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.	
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Q5.1.3	The Applicant	<p>Request for Documents</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>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>	<p>(i) The Applicant has provided Appendix B to APP-053 at Deadline 2.</p> <p>The Critical Loads that were used in the assessment at the time of the DCO submission remain the same with one exception. APIS indicates that the Critical Load Max N Level for the effects of acid deposition on acid grassland at Risby Warren is 0.9 keq ha⁻¹ yr¹, rather than 0.6 keq ha⁻¹ yr¹ that was used in the assessment report. Given the assessment was undertaken on a precautionary basis using the Critical Load Min N value, the PC as a % of the Critical Load figure of 2.7% stated in the assessment report remains unchanged.</p>
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Q5.1.4	The Applicant	<p>Relationship to Humber Estuary</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>	<p>The Project will involve closing the section of highway on Stather Road between Flixborough Industrial Estate and the existing surface water pumping station north of Neap House and replacing it with a new access road. The existing road runs for approximate 1 km of its length within circa 100 m of the Humber protected site. The new access road for the majority of its length is substantially more than 200 m from the Humber protected site and will be used for both construction and operational traffic. As well as the new access road, the Project will use internal project roads, roads within the existing port and industrial areas, along with existing traffic. Overall the Project will result in a reduction of road traffic locally transiting within less than 200 m of the Humber protected site. The access road and internal Project roads are shown on the Indicative Highways Drawings (APP-028) and Indicative Site Layout for the ERF and Associated Development (APP-025).</p>
Q5.1.5	The Applicant	<p>River and Sea Lamprey</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 provides a detailed explanation by reference to relevant guidance and criteria as to how the conclusion to screen out this impact has been</p>	<p>There will be no piling in the River Trent and hence no effects on lamprey species.</p> <p>Piling on land will be bored piling and barely perceptible even typically at about 10-20 m away from the source.</p> <p>Transfer of vibration from land to water is insignificant due to the difference in the acoustic properties of the land and the water, and any effects on water (underwater sound) is typically scoped out if only piling on land is being carried out. Piling on land and then dredging to expose the piled wall is sometimes used as a mitigation measure to avoid high levels of underwater sound in the water. However, as stated, in this case there is no requirement for piling in the water.</p>

		<p>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>	<p>The Project will not represent a new source of impact but will rather add (potentially) to any impacts from the existing level of vessel movements on the River Trent. Over the years 2000 to 2019 vessel movements ranged between 999 and 2,637 (see Table 3.2 of ES Annex 6: Navigation Risk Assessment, APP-073, noting 2020 value omitted as likely to have been an artefact of the COVID pandemic). The numbers have declined in recent years ranging between 999 and 1,216 over the past five years. In theory the Project could result in 580 additional vessel movements at Flixborough wharf per year (APP-073, Section 7.1). The total (Project plus more recent baseline) number of movements would be comfortably within the recent (past 20 years) baseline levels of vessel movements along the River Trent. It is reasonable to assume that even should the scientific evidence base suggest potential effects on lamprey as a result of vessel passage, that effects against background fluctuations would be indiscernible.</p> <p>The Applicant proposes to update the Report to Inform Habitats Regulations Assessment (APP-043) once an SoCG has been concluded with NE.</p>
Q5.1.6	The Applicant	<p>Response to NE Relevant Representation</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>	<p>A response to Natural England's RR was provided at Deadline 1 (REP1-012).</p> <p>Further discussions regarding the RR were undertaken with Natural England at a virtual meeting on 21st November 2022. Following this a draft Statement of Common Ground is in preparation which clarifies particular concerns and identifies where any required amendments will be made.</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> <p>(i) 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.</p> <p>(ii) 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.</p> <p>(iii) The ExA notes that the parameters of the stacks for the main</p>	
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		<p>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.</p> <p>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.</p>	
Q5.1.8	NE	<p>Condition of European Sites</p> <p>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.</p>	

Q5.1.9	NE	<p>River and Sea Lamprey</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>	
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6. CLIMATE CHANGE			
Q6.0.1	The Applicant	<p>Committee on Climate Change</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>	<p>i) No, the progress report of the CCC reinforces the key conclusions with respect to waste in its 2020 report. Principal amongst these are the need to divert waste, and in particular biodegradable components of waste, from landfill, and to raise the waste recycling rate.</p>
Q6.0.2	The Applicant	<p>Greenhouse Gas Emissions Guidance</p>	<p>i) IEMA's updated guidance would not materially affect the assessment method adopted, nor the results presented. In</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>	<p>the EIA context, the update provides relative significance descriptions to assist assessments, describing five distinct levels of significance which are not solely based on whether a project emits GHG emissions alone, but how the project makes a relative contribution towards achieving a science-based 1.5°C aligned transition towards net zero. The carbon balance for the facility shows a net reduction in greenhouse gas emissions as a result of avoiding the landfill of residual waste, and as a result of recovering materials and energy that offset those from other sources. The IEMA guidance significance criteria describe a project that causes GHG emissions to be avoided or removed from the atmosphere having a beneficial effect that is significant.</p>												
Q6.0.3	The Applicant	<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 CO₂ 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 (CO₂) prior to emission into the atmosphere.”</p> <p>[APP-051] at paragraph 7.3.2.2 states a</p>	<p>i) Carbon dioxide (CO₂) formed on the combustion of waste is stripped from cleaned flue gases as they are emitted, using amine technology. Initially, the carbon dioxide captured in used in the development’s activities as presented in the table below.</p> <table border="1" data-bbox="1146 922 2094 1230"> <thead> <tr> <th></th> <th>tCO₂e</th> <th>% of carbon capture</th> </tr> </thead> <tbody> <tr> <td>CO₂ captured from flue gases</td> <td>54,387</td> <td></td> </tr> <tr> <td>CO₂ used in horticulture</td> <td>48,664</td> <td>89.5%</td> </tr> <tr> <td>CO₂ used in block manufacture</td> <td>5,723</td> <td>10.5%</td> </tr> </tbody> </table> <p>The CO₂ used in horticulture is retained only for a short time, rather than captured for the long term. However, it avoids the use of natural gas for greenhouse heating. A net carbon benefit is</p>		tCO ₂ e	% of carbon capture	CO ₂ captured from flue gases	54,387		CO ₂ used in horticulture	48,664	89.5%	CO ₂ used in block manufacture	5,723	10.5%
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	<p>small quantity of the CO₂ will be utilised in the CBMF, whilst the remaining CO₂ will be transported off site by train or ship.</p> <p>Table 6 of [APP-054] identifies that a total of 54,387 t CO₂ will be captured from the ERF with a further 48,664 t CO₂ 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 CO₂ per annum. While Requirement 19 stipulates that Work 1B must capture a minimum quantity of CO₂ which equates to the lesser of 54,387 tonnes per annum and 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 CO₂ 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</p>	<p>secured because of the biogenic carbon content of the fuel, as natural gas does not need to be extracted from reserves and fossil carbon emissions are avoided. The benefit of using of 48,664 tonnes of carbon dioxide captured is 42,109 tCO₂e, as reported in Table 11 of [APP-054].</p> <p>The CO₂ used in block manufacture is captured for the long term through mineralisation of raw materials.</p> <p>Requirement 19 has been amended in the updated draft DCO submitted at Deadline 2 to include monitoring and to ensure that the minimum quantity of carbon captured is captured.</p> <p>(i) The table is as requested by ExA. It does not include those emissions of CO₂e that are avoided because of activities at the development, eg offset electricity generation and material production and avoided methane emissions from landfill. In total, these are significant, as presented in full in Table 11 of [APP-054].</p> <p>The table includes emissions of biogenic CO₂ that are not reported in Table 11 of [APP-054], where they are omitted because by convention they are ‘carbon neutral’. This refers to the understanding that biogenic carbon emissions are balanced by uptake by crops and forests in a short-term cycle that does not impact the atmospheric carbon sink.</p> <p>In practice, no distinction is made in the CO₂ captured between CO₂ of fossil and biogenic origin. In the table below, tCO₂e capture values are allocated between according to the ratio of their emissions. Total captured CO₂ emissions are 54,387 tonnes.</p>
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		<p>quantities of CO₂ 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 CO₂ 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 CO₂ generation from the different elements of the scheme and the subsequent amount which will be captured from each element.</p> <p>iii) Please define the term 'waste throughput' in respect of Requirement 19 or clarify if this is referring to CO₂ only.</p>	<table border="1"> <thead> <tr> <th data-bbox="1151 236 1473 312">Development element</th> <th data-bbox="1473 236 1668 312">tCO₂e emitted</th> <th data-bbox="1668 236 1910 312">% of emissions*</th> <th data-bbox="1910 236 2089 312">tCO₂e captured*</th> </tr> </thead> <tbody> <tr> <td data-bbox="1151 312 1473 395">Waste transport to the facility</td> <td data-bbox="1473 312 1668 395">4,083</td> <td data-bbox="1668 312 1910 395">0.45</td> <td data-bbox="1910 312 2089 395">0</td> </tr> <tr> <td data-bbox="1151 395 1473 507">Direct emissions of fossil CO₂ from fuel combustion</td> <td data-bbox="1473 395 1668 507">356,629</td> <td data-bbox="1668 395 1910 507">38.88</td> <td data-bbox="1910 395 2089 507">22,599</td> </tr> <tr> <td data-bbox="1151 507 1473 619">Direct emissions of biogenic CO₂ from fuel combustion</td> <td data-bbox="1473 507 1668 619">501,649</td> <td data-bbox="1668 507 1910 619">54.70</td> <td data-bbox="1910 507 2089 619">31,788</td> </tr> <tr> <td data-bbox="1151 619 1473 730">Direct emissions of N₂O from fuel combustion</td> <td data-bbox="1473 619 1668 730">982</td> <td data-bbox="1668 619 1910 730">0.11</td> <td data-bbox="1910 619 2089 730">0</td> </tr> <tr> <td data-bbox="1151 730 1473 842">Indirect CO₂ associated with raw materials consumed</td> <td data-bbox="1473 730 1668 842">53,321</td> <td data-bbox="1668 730 1910 842">5.81</td> <td data-bbox="1910 730 2089 842">0</td> </tr> <tr> <td data-bbox="1151 842 1473 922">Raw materials transport</td> <td data-bbox="1473 842 1668 922">301</td> <td data-bbox="1668 842 1910 922">0.03</td> <td data-bbox="1910 842 2089 922">0</td> </tr> <tr> <td data-bbox="1151 922 1473 1002">Plastics waste transport</td> <td data-bbox="1473 922 1668 1002">194</td> <td data-bbox="1668 922 1910 1002">0.02</td> <td data-bbox="1910 922 2089 1002">0</td> </tr> <tr> <td data-bbox="1151 1002 1473 1042">Total</td> <td data-bbox="1473 1002 1668 1042">972,159</td> <td data-bbox="1668 1002 1910 1042">100.00</td> <td data-bbox="1910 1002 2089 1042">54,387</td> </tr> </tbody> </table> <p data-bbox="1151 1042 2089 1082">*Rounded to two decimal places</p> <p data-bbox="1151 1082 2089 1329">(ii) The 54,387 tonnes of carbon dioxide captured per annum is approximately 6.3% of the total direct emissions of carbon dioxide from the combustion of fuel. 7.5% was an indicative design value.</p>	Development element	tCO₂e emitted	% of emissions*	tCO₂e captured*	Waste transport to the facility	4,083	0.45	0	Direct emissions of fossil CO ₂ from fuel combustion	356,629	38.88	22,599	Direct emissions of biogenic CO ₂ from fuel combustion	501,649	54.70	31,788	Direct emissions of N ₂ O from fuel combustion	982	0.11	0	Indirect CO ₂ associated with raw materials consumed	53,321	5.81	0	Raw materials transport	301	0.03	0	Plastics waste transport	194	0.02	0	Total	972,159	100.00	54,387
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			(iii) Waste throughput refers to the throughput of RDF fuel through the ERF.
Q6.0.4	The Applicant	<p>Carbon Capture</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>During the intervening period how will</p>	<p>(i) No, the ES has not assessed the ERF operating for periods without these elements in place.</p> <p>(ii) The assessment represents a case where CCUS and the CBMF are operational, since this will be the case for the majority of the operating lifetime of the facility. The benefits provided by both facilities in terms of avoided greenhouse gas emissions are included in the assessment (42,109 and 37,680 tCO₂e, per annum respectively). However, the assessment also includes the emissions associated with production of cement and fillers for the CBMF. These would not be incurred by the facility until the CBMF became operational. Over the 25-year lifetime of the facility, a maximum 18 month period where neither facility is in operation is the equivalent of a reduction in benefit of <4800 tCO₂e per year. Where the ash is recovered at a similar facility off-site, the 37,680 tCO₂e benefit would still be secured, although offset by the impact of transport. The reduction in benefit associated with only CCUS operations being delayed by 18 months is <26000 tCO₂.</p> <p>(iii) In the intermediate period before the CBMF is commissioned, ash will be transported off-site for treatment at similar facilities, using either road, rail or ship to transport the ash. The impact on traffic is lesser than the case in the ES, which considered the fully operational facility. In this case, the facility receives cement and aggregates and separate collections of concrete blocks.</p>

		the ash and other by products from the operation of the ERF be dealt with?	
Q6.0.5	The Applicant	<p>Climate [APP-054] 6.2.6 ES Chapter 6</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</p>	<p>(i) The assumed composition of RDF is indicative of current composition since it is based on recently reported data on the material composition of residual municipal and commercial & industrial waste. Whilst waste composition will vary by individual load and source, the blended fuel composition will be very similar to this breakdown.</p> <p>(ii) The facility is designed to use as a fuel RDF with a range in its specification. A fuel specification will be part of the contract with providers. In practice, sourcing and blending of RDF would be used to deliver a fuel as close as possible to optimum characteristics. The assessment can be regarded as conservative, since it assumes current levels of fossil-fuel based plastics in waste. Over the lifetime of the facility, policy measures addressing waste plastics, in particular single use packaging and other items, will act to reduce this component of residual waste. At the same time, we expect an increasing proportion of plastics to be manufactured using biomass feedstocks, which are carbon neutral on combustion. Neither issue driving improvement in the overall carbon balance of the plant has been included in the analysis. An adverse case fuel composition for the facility would be a higher proportion of kitchen and garden waste and a higher moisture content, reducing calorific value and leading to an increase in fuel throughput. The counterfactual, where residual waste with an increased biodegradable material content is landfilled, would have higher greenhouse gas emissions, and the overall balance for the facility would be improved as a result.</p>

		<p>described in the RDF supply assessment?</p> <p>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>	<p>(iii) Natural gas-fuelled CCGT with CCUS has not been modelled in the assessment.</p> <p>(iv) The monitoring regime would entail a periodic sampling of delivered RDF for compositional analysis, consistent with the demands of the Environmental Permit and with the RDF Operators' Code of Practice.</p> <p>(v) The base case in the assessment assumes that 50% of the RDF is transported a one-way distance of 75km and 50% is transported 200km by rail. If all of the RDF were to be transported 100km by road, this contribution to the overall carbon balance would increase from c4000tCO₂e to c.5000tCO₂e. Either figure is a very small contribution to the overall carbon balance and should be seen in the context of the assumed transport distance to landfill in the counterfactual. Furthermore, the assessment is based on 2021 emission factors, whilst that for road transport will improve over time with the introduction of more efficient engines, cleaner fuels and an increasing penetration of hydrogen-fuelled and electric vehicles.</p> <p>In our opinion, the most significant conservative assumption in the assessment is consideration of the impact of methane in landfill gas over a 100-year time frame. This is the conventional approach, but methane has a much higher global warming potential over the short time, i.e. 20 years. As a result, the diversion of waste from landfill offers the opportunity for a more significant climate change benefit in the timeframe of net zero commitments than as reported in the assessment over the longer term. This is consistent with the urgency of the Committee on</p>
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			<p>Climate Change's call for diversion of biodegradable waste from landfill.</p> <p>The RDF specification used is indicative of what the facility can be expected to source as a fuel now and is also indicative of future composition. In practice, there will inevitably be some variation (for example delivery by delivery), but over the longer-term, volatility will be dampened, and fuel sourcing, contracted fuel specifications and fuel blending will act to deliver a specification close to that used in the assessment.</p>
Q6.0.6	The Applicant	<p>Greenhouse Gas Emissions</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>	<p>The intention at [APP-054] 9.1.1.6 was to be completely objective with respect to the theoretical prospect of removing biological fines from residual waste. Were they to be removed, they would not report to landfill, and some of the carbon balance benefit of the facility would be displaced. We see very little prospect of this occurring in practice, since it would require substantial infrastructure developments that are not evident in the planning pipeline.</p> <p>i) Monitoring the biogenic content of the RDF informs the operator with respect to fuel composition and is a mechanism for ensuring contracted fuel specifications are met. It allows the operator to control fuel composition through rejecting out of specification deliveries and preferentially sourcing wastes with a demonstrated high organic fines content (see also below).</p> <p>ii) Separate collections of kitchen and garden waste, provision of household waste recycling centres for householder delivery of garden waste and initiatives to encourage home composting all act to reduce the proportion of organic fines in residual waste. This proportion is not controlled. Nonetheless, the effect of these initiatives is balanced by</p>

			<p>those that encourage the separation for recycling of plastics containing fossil carbon.</p> <p>iii) Waste will be sampled at source and on receipt to ensure that contracted fuel specifications are met. The operator can preferentially target sources with a known high organic fines content, or where this becomes apparent through monitoring. Whilst this is not a precise control of biogenic carbon content, it allows this parameter to be managed along with other priority fuel specification parameters.</p>
Q6.0.7	The Applicant	<p>Monitoring of Carbon content</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>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>	<p>Specific controls on waste types will be detailed in the Environmental Permit using appropriate EWC codes to ensure the that facility meets the waste hierarchy and does not accept recyclable wastes. This follows the approach in the Riverside Energy Park Order 2020. The Permit will require monitoring of waste received and the EA should be able to confirm that this is a standard permit condition. Permit conditions are enforced by the EA through periodic inspection. We have included an alternative to requirement 15 in the updated dDCO which includes a requirement for waste composition analysis.</p> <p>The facility design allows for variation in its operating parameters, including received fuel specification, within its firing envelope. A fuel specification will be agreed in each contract with a fuel provider, and these are included in those MOU already in place. Waste will be sampled at source and as received to ensure that, once blended, the fuel composition is controlled within the facility's limits of acceptability. The facility is able to reject any waste delivered that lies outside the fuel specification. This gives the</p>

			operator the facility to control closely the composition of the fuel once blended.
Q6.0.8	The Applicant, National Grid Carbon Ltd.	<p>Zero Carbon Humber</p> <p>What weight do you consider the ExA can give to the potential for a connection to this potential pipeline?</p> <p>Are you able to quantify what additional benefit may result in terms of quantum of CO₂ that it would be possible to store/transport via this route from this site and over what time period?</p>	<p>The Applicant considers that the ExA can give moderate weight to the potential for a connection to this pipeline in the future. The Humber Low Carbon Pipelines (HLCP) project is currently at its statutory stage of consultation and its delivery is a fundamental part of Government policy to decarbonise the Humber and facilitate the introduction of a dedicated hydrogen network. Its purpose is to decarbonise major generators of carbon in the Humber area and the proposed pipeline passes within 3km of the south of the southern DHPWN. The Applicant has made representations to National Grid Carbons Venture's consultation to seek an amendment to their proposals to facilitate this. However, even if an amendment is not made, given the very close proximity, it is reasonable to assume that the project could be connected to the HLCP in the future, given the strength of policy to support this.</p> <p>The Applicant does however propose that the ExA place substantial weight on the CO₂ to be captured by the Project from the outset, which can be achieved without the HLCP connection.</p> <p>The current proposals (explained in greater detail in question 6.0.3) show a potential for 46,652 tpa of CO₂ for sequestration from the outset.</p> <p>If the CCS was scaled up to full capture by 2027 there is potential for storing up to 679,037 tpa of CO₂.</p>
Q6.0.9	The Applicant	<p>Zero Carbon Humber</p>	We have submitted a response to National Grid Carbon Ltds Humber Low Carbon Pipeline projects statutory consultation

		<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>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 CO₂ to make it acceptable for injection into the CO₂ pipeline and how this is intended to be secured.</p>	<p>requesting that they consider amending their DCO to include an extension to our pipeline to allow connection. We have also welcomed further engagement on this point so that we can work together to agree a way forward to connection and are working towards a Statement of Common Ground to cover this matter also.</p> <p>The pipeline will require CO₂ at high pressure (at least 90 barg) and a compressor will be required to achieve this. There are also limits on pollutant content which would require post-processing of CO₂ using desiccant dryers, oxygen separators and process control. This will be secured in a separate consent.</p>
Q6.0.10	The Applicant	<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>	<p>(i) and (ii)</p> <p>The Energy Networks Association (ENA), which represent all electricity and gas networks in UK and Ireland, published their Hydrogen Blending Delivery Plan in January 2022, which clearly stated the commitment of all energy networks to enable hydrogen blending by the end of 2023.</p> <p>Page 12 refers to the benefit of hydrogen blending in industrial clusters.</p> <p><i>“Blending improves the investment case for hydrogen production at industrial clusters by adding a new source of demand. Hydrogen producers at clusters can sell excess hydrogen into the grid, giving more demand certainty, reducing production curtailment, raising load factors, and reducing production costs, ultimately</i></p>

			<p><i>encouraging more investment in hydrogen production capacity, and yielding cheaper hydrogen.”</i></p> <p><i>The British Energy Security Strategy (BESS), April 2022, also includes ambitious targets for hydrogen, stating that they will offer long term signals and immediate support to:</i></p> <ul style="list-style-type: none"> • doubling our ambition to up to 10GW of low carbon hydrogen production capacity by 2030, subject to affordability and value for money, with at least half of this coming from electrolytic hydrogen. By efficiently using our surplus renewable power to make hydrogen, we will reduce electricity system costs • designing, by 2025, new business models for hydrogen transport and storage infrastructure, which will be essential to grow the hydrogen economy • levelling the playing field by setting up a hydrogen certification scheme by 2025, to demonstrate high-grade British hydrogen for export and ensure any imported hydrogen meets the same high standards that UK companies expect. <p>This level of ambition cannot be achieved without projects like the NLGEP including measures for its introduction, i.e. you have to start somewhere.</p> <p>The Applicant therefore suggests that the ExA place moderate weight on the benefit of the inclusion of a technology which there is strong policy support for and clear industry recognition that hydrogen blending will be achievable by the end of 2023.</p>
Q6.0.11	The Applicant	Transport Modal Split	The base case in the assessment assumes that 50% of the RDF

		<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>is transported a one-way distance of 75km and 50% is transported 200km by rail. If all of the RDF were to be transported 100km by road, this contribution to the overall carbon balance would increase from c4000tCO₂e to c.5000tCO₂e. Either figure is a very small contribution to the overall carbon balance and should be seen in the context of the assumed transport distance to landfill in the counterfactual. Furthermore, the assessment is based on 2021 emission factors, whilst that for road transport will improve over time with the introduction of more efficient engines, cleaner fuels and an increasing penetration of hydrogen-fueled and electric vehicles.</p> <p>(i) In the unlikely worst case of all transport by road for 100km one way there would be no material change to the conclusions presented in ES Chapter 6: Climate (APP-054).</p>
7. COMPULSORY ACQUISITION, TEMPORARY POSSESSION AND OTHER LAND OR RIGHTS CONSIDERATIONS			
Q7.0.1	The Applicant	<p>Compulsory Acquisition Schedule</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>	<p>Please see the updated Compulsory Acquisition Schedule submitted at Deadline 2 with document reference 9.3.</p>
Q7.0.2	The Applicant	<p>Land Plans</p>	<p>The Land Plans (REP1-005) have been updated with this request</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]	and will be submitted at Deadline 2.
Q7.0.3	The Applicant	<p>Compulsory Acquisition and Temporary Possession Information</p> <p>Please will the Applicants ensure that the BoR [APP-010], SoR [APP-011] and Land Plans [APP-014] are:</p> <ul style="list-style-type: none"> ii) 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; iii) 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 iv) supplied with unique revision numbers that are updated 	Noted. The Applicant only proposes to submit an updated version of the BoR, SoR, and Land Plans if any changes are made prior to each deadline. Where any changes are made the Applicant will ensure that points i), ii) and iii) are complied with.

		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.	
Q7.0.4	The Applicant	<p>Compulsory Acquisition and Temporary Possession Information</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>iii) 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>iv) summarises any objections by the Affected Person to the powers being sought by the Applicant, and the Applicant's responses;</p> <p>v) identifies whether voluntary agreement has been reached;</p>	<p>[The Applicant is not aware of having received any such blight claims to-date. However if any are received, the Applicant will comply with the request set out in points i), ii), iii) and iv) of this question.]</p> <p>The progress on discussions in respect of CA, TP and voluntary agreements is set out in the Compulsory Acquisition Schedule (9.3). An update on the progress of discussions with statutory undertakers is set out in the Status of Negotiations with Statutory Undertakers (Document 9.10). Both documents have been submitted and updated at Deadline 2.</p>

		<p>vi) 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>Book of Reference (BoR)</p> <p>Please advise whether the Book of Reference (BoR) [APP-010] is fully compliant with DCLG Guidance.¹</p>	The Applicant confirms that the Book of Reference is fully compliant with the DCLG Guidance i.e. Annex D – of the Planning Act 2008, Guidance related to procedures for the compulsory acquisition of land, DCLG, September 2013.
Q7.0.6	All Affected persons (APs)	<p>BoR</p> <p>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.</p>	
Q7.0.7	All APs	<p>Compulsory Acquisition and Temporary Possession Powers</p> <p>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?</p>	

Q7.0.8	The Applicant	<p>Area of land to the east of the proposed Access Road</p> <p>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.</p>	<p>The area of land to the east of the proposed Access Road, comprising Plots 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88 and 4-95, has been included within the Order limits as the Applicant requires the permanent acquisition of new rights and the imposition of a restrictive covenant over this land.</p> <p>The Applicant does require rights over this land in order to:</p> <ul style="list-style-type: none"> • drain on, in and/or through the land to and from adjoining land (which includes such other parts of the land within the Order limits required for the authorised development); • enter onto the land for the purposes of carrying out the authorised development, and to construct, retain, maintain, install, use, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; and • a restrictive covenant to over the land for the benefit of the remainder of the Order land to prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may interfere with the right to drain. <p>No other rights are sought over this land by the Applicant. This is detailed in Schedule 10, Parts 1 (see pg 60) and 2 (see page 72) of the draft DCO (2.1).</p> <p>The requirement for the right to drain stems from the flood model that was approved by the Environment Agency in early consultation on the location of the elements of the Energy Park. The approved flood model made clear that physical works could not be carried out on Plots 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88 and 4-95 without there being a negative</p>
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			<p>impact on the potential for flooding in the surrounding areas and that this area was required to remain undeveloped.</p> <p>The right to carry out works in respect of drainage, managing waterflows, watercourses and culverts sits alongside the rights to drain so that the Applicant may enter onto the land to, for example, rectify any issues with the existing drainage so that the right to drain is not interfered with.</p> <p>This has informed the compulsory acquisition requirements for the Scheme and is the justification for the Applicant seeking to impose restrictive covenants on this land to prevent anything being done in or upon any part of the land which could reasonably foreseeably interfere with the right to drain.</p> <p>In addition, the Applicant has not sought any permanent freehold acquisition of this land as the Applicant does not anticipate there being any permanent works to be carried out on this land. This, coupled with the Applicant seeking only rights for drainage and associated works, demonstrates that the Applicant has adopted a proportionate approach and sought to limit the interests to be acquired from landowners for the Scheme to a level that meets the tests of necessity and proportionality.</p> <p>Furthermore the Applicant has agreed Heads of Terms in place with the landowner of these Plots and is in the process of negotiating an option agreement over this land for the voluntary acquisition of rights.</p>
Q7.0.9	Applicant	<p>Funding Statement</p> <p>Please explain how the wetlands, structured planting and biodiversity net</p>	<p>This has been addressed in paragraph 2.4.1(g) of the updated Funding Statement (Document Ref: 3.3) submitted at Deadline 2.</p>

		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	<p>Crown Land</p> <p>(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.</p> <p>(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.</p>	<p>The Applicant's position is that Homes England is not Crown Land for the purposes of the Planning Act 2008, and as such consent is not required from Homes England pursuant to section 135 of the Planning Act 2008 (2008 Act).</p> <p>Homes England was originally established as the Homes and Communities Agency (HCA) under section 1 of the Housing and Regeneration Act 2008. This established the HCA as a non-departmental government body. The HCA was re-branded as Homes England in January 2018 and remains a non-departmental government body.</p> <p>Sections 227(2) of the 2008 Act defines a "Crown land" as land and in which there is a Crown interest or a Duchy interest.</p> <p>Section 227(3) of the 2008 Act defines "Crown interest" as any of the following—</p> <ol style="list-style-type: none"> 1. an interest belonging to Her Majesty in right of the Crown or in right of Her private estates; 2. an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department; 3. an interest belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty for the purposes of the Scottish Administration by such an office-holder;

			<ol style="list-style-type: none"> 4. the interest of the Speaker of the House of Lords in those parts of the Palace of Westminster and its precincts occupied on 23 March 1965 by or on behalf of the House of Lords; 5. the interest of the Speaker of the House of Commons in those parts of the Palace of Westminster and its precincts occupied on 23 March 1965 by or on behalf of the House of Commons; 6. the interest in any land of— <ol style="list-style-type: none"> a. the Corporate Officer of the House of Lords; b. the Corporate Officer of the House of Commons; c. those two Corporate Officers acting jointly; 7. such other interest as the Secretary of State specifies by order. <p>Government guidance on public bodies (ref: https://www.gov.uk/guidance/public-bodies-reform) makes clear that a non-departmental government body "<i>is a body which has a role in the processes of national government, but is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm's length from ministers.</i>"</p> <p>As such Homes England does not fall within any of the categories within Section 227(3) of the 2008 Act and accordingly its interest in land within the Order limits is not capable of being treated as Crown Land.</p>
Q7.0.11	Statutory Undertakers	Protective Provisions A number of Statutory Undertakers, including Network Rail (NR); Northern Powergrid; Anglian Water Services	

		<p>Limited, Etc., have either noted:</p> <ul style="list-style-type: none">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; oriii) that site specific circumstances in regard to Protective Provisions have not been taken into account. <p>The ExA would ask all Statutory Undertakers to:</p> <ul style="list-style-type: none">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;b) where relevant, advise what site-specific circumstances, in regard to Protective Provisions, have not been taken into account; andc) 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.	
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Q7.0.12	The Applicant	<p>Protective Provisions</p> <p>The BoR [APP-010] includes a number of Statutory Undertakers with interests in land. The ExA would ask the Applicant to:</p> <p>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;</p> <p>ii) State whether there are any envisaged impediments to the securing of such agreements; and</p> <p>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.</p>	<p>i) Please see the Status of Negotiations with Statutory Undertakers (Document Reference: 9.10).</p> <p>ii) The Applicant does not envisage there being any impediments to reaching agreement with the Statutory Undertaker's and hopes that all outstanding objections can be resolved before the close of the examination.</p> <p>iii) save for Associated British Ports (ABP) that were flagged as potential statutory undertakers in respect of their role as harbour authority for Flixborough Wharf, no other statutory undertakers have been identified as having interests in the Application Land.</p>
Q7.0.13	The Applicant, Associated British Ports (ABP)	<p>Protective Provisions</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</p>	The Applicant is willing to consider that protective provisions may be required and has made contact with ABP on a number of occasions to discuss this. However a response from ABP has not been forthcoming. ABP were most recently contacted on 8 December 2022 and a response is awaited.

		provide a brief explanation	
Q7.0.14	The Applicant	<p>Objections from Statutory Undertakers</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> <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.</p> <p>Justification would be needed to show that extinguishment or removal would be necessary.</p> <p>(i) Please indicate when, if the objections from Statutory</p>	<p>The Applicant is working with statutory undertakers to resolve any issues and their objections, including negotiating protective provisions where these have been requested. The Applicant hopes that all objections from statutory undertakers can be withdrawn prior to the close of the Examination. However, if this is not the case, the Applicant would look to make submissions on sections 127 and 138 of the Planning Act 2008 by Deadline 9 (10 May 2023).</p>

		Undertakers are not withdrawn, this information would be submitted into the Examination.	
Q7.0.15	The Applicant	<p>Land Interests</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>	<p>I) The Applicant's Land Referencing consultants (Ardent) erected site notices on or close to all unregistered land as part of the Stage 2 Consultation and at Section 56 acceptance stage. Additional consultation methods have been employed (including local and national newspaper adverts/notices, press releases and posters) in order to raise awareness of the scheme to all parties with a potential interest in the relevant land. Further to this, Ardent issued Request for Information letters which contained questionnaires requesting known parties to provide details of all other parties benefitting from an actual or potential interest. The Book of Reference identifies instances where the Applicant has been unable to obtain details of names and addresses despite the exercise described above.</p> <p>II) The Applicant considers that sufficient diligence has been undertaken to-date to identify and notify unknown landowners or interests. However, as discussions with known parties continue and further inspections and onsite meetings take place as part of ongoing negotiations and further information is provided to the Applicant, any currently unknown parties as may be identified will be added to the Book of Reference.</p>
Q7.0.16	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</p> <p>(i) Please explain further why it is considered why more land might</p>	<p>The Applicant has provided further commentary in respect of the compulsory acquisition powers sought and in response to this question at:</p> <p>(i) sections 7.5 – 7.7;</p>

		<p>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>	<p>(ii) section 7.7.2; and</p> <p>(iii) section 7.6, of the updated SoR (Ref: 3.2) submitted at Deadline 2.</p>
Q7.0.17	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</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>	<p>(i) The Applicant has included further commentary at section 7.12.25 of the SoR (Ref: 3.2) submitted at Deadline 2 which details the restrictive covenants that are sought over land within the Order Limits.</p> <p>(ii) The Applicant is seeking to agree the rights needed over land within the Order Limits with the affected landowners where possible. In the course of discussions and the detailed heads of terms the Applicant will be seeking approval of the rights and restrictive covenants that are sought over the land with those parties. The Applicant's view is that a requirement for consultation with the landowners once powers are conferred within a DCO is not necessary as this could have the potential to delay the carrying out of the authorised development. Given that the Scheme is a nationally significant infrastructure project, the Applicant cannot be beholden to individuals that may seek to</p>

			<p>delay the Scheme. Owners and occupiers have had the opportunity to engage with the Applicant as part the statutory consultation and continue to do so as part of the Examination of the application. Compensation for rights acquired and restrictive covenants imposed if done so compulsorily will be determined in accordance with the Compensation Code.</p>
Q7.0.18	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</p> <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>	<p>The drafting of Article 37, and in particular the requirement to give 14 days' notice, is a precedent which can be found in a number of recently made DCOs made, including in:</p> <ul style="list-style-type: none"> • The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (see Article 15(2)) which was made on 7 December 2022; • The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (see Article 22(2)); • The Sizewell C (Nuclear Generating Station) Order 2022 (see Article 27(2)); • The Little Crow Solar Park Order 2022 (see Article 10(2)). <p>In addition, 14 days' notice is provided for in The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (Article 16(2)).</p> <p>Finally primary legislation also provides for the giving of 14 days' notice to enter onto and survey land including in:</p> <ul style="list-style-type: none"> • Section 174(1) of the Housing and Planning Act 2016; • Section 53(4) of the Planning Act 2008; and • Section 290(3) of the Highways Act 1980 (which provides for 7 days' notice). <p>As such, the Applicant believes that 14 days' notice for entering onto land is not an unusual request and is consistent with</p>

			timescales provided for in statute.
Q7.0.19	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</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> <p>(i) The need to seek such a power and whether all such rights and easements have been specifically identified;</p> <p>(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?</p> <p>(iii) The nature and extent of any delay to the project that might otherwise result?</p> <p>(iv) What alternatives to this approach have been explored?</p>	<p>(i) The Applicant explains in Paragraph 7.24 of the SoR (Ref: 3.2) the reasons that it is necessary to seek such a power to extinguish or override rights and covenants over the Application Land. In summary, the Project is a nationally significant infrastructure project (NSIP) and in the event that the Applicant is granted development consent to carry out the Project, it cannot be in a position whereby the Project is held up as a result of a beneficiary of a right or easement seeking to enforce their rights.</p> <p>The Applicant has included all known identified rights and easements within the BoR, and where there are unknown or historical rights, the Applicant has erected site notices at the relevant locations within the Application Land to notify those persons who may be beneficiaries of the existence of the Project and the present Application.</p> <p>If any affected beneficiaries come forward to claim alleged rights that had not already been identified, these will be added to the BoR and the Applicant will engage with those persons to seek to acquire their interest voluntarily. In addition where the Applicant is aware of persons having rights or easements over the Application Land, the Applicant has written to those persons to invite them to discuss the voluntary extinguishment/acquisition of those rights. The update on those voluntary discussions is set out in the Compulsory Acquisition Schedule (Ref: 9.3) submitted at D2.</p> <p>(ii) Article 26 of the draft Order allows for the overriding or extinguishment of such rights or easements subject to notice by the Applicant. It is necessary to include such powers in order to</p>

			<p>provide a clean title so that existing beneficiaries are not able to interfere with the construction or operation of the authorised development. The Applicant is making all practical attempts to engage with the beneficiaries of rights and where it is possible (and it will not interfere with the delivery of the Project) is seeking to agree terms that the rights will not be extinguished or that similar terms will be regranted to the beneficiary.</p> <p>Precedent for similar provisions can be found in the following recently made Orders:</p> <ul style="list-style-type: none"> • The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 – see Article 22 • The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 - see Article 29; and • The Sizewell C (Nuclear Generating Station) Order 2022 (see Article 30); <p>(iii) It is not possible to say for certain at this stage the nature or extent of any delay that might result but, as an example, National Highways has the benefit of rights in respect of drainage, light, apparatus and other easements in Plot 2-9. The Applicant requires this plot in order to lay the necessary apparatus for the DHPWN (Work Nos 10 and 11). There could be the potential for those rights of NH to interfere with the rights the Applicant is seeking if NH were to seek to exercise their existing rights and easements over the plot, which could result in a delay to the laying of the DHPWN whilst the issues are resolved. However the Applicant is liaising with National Highways in respect of agreeing how their rights can be protected whilst also still allowing for the Applicant to obtain the relevant rights it requires for the delivery of the Project.</p>
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			(iv) The Applicant is seeking to agree the acquisition or extinguishment of rights by agreement wherever possible and the use of the powers set out in Article 26 of the draft Order will be a last resort only. The Applicant's ongoing discussions with those persons with an interest in the land is set out in the Compulsory Acquisition Schedule (Ref: 9.3).
Q7.0.20	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</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> <p>(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</p> <p>(ii) Explain the justification for the extinguishment of rights over such land</p>	<p>In respect of Plots 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88 and 4-95, these are discussed in more detail in response to Q7.0.8 above, including the Applicant's justification for extinguishment of rights over these plots.</p> <p>The Applicant will be preparing a table detailing all of the Plots in which it is seeking compulsory acquisition of land interests and the purpose and justification for which the plot is required. This will be submitted at Deadline 3 and the Applicant hopes that this will assist the ExA's consideration of the Applicant's case for compulsory acquisition.</p>
Q7.0.21	The Applicant	<p>The scope and purpose of the Compulsory Acquisition Powers sought</p>	The Applicant's position is that there are already time limits for use of temporary possession powers within the draft DCO.

		<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>	<p>Article 24 of the draft DCO (Ref: 2.1) deals with the time limits for exercising rights to acquire land and rights compulsorily save that Article 24(2) applies to temporary possession of land under Article 31. Article 24(2) makes clear that where the undertaker has taken possession temporarily before the time limit in Article 24(1), the undertaker may remain in possession beyond the period of 7 years from the grant of the DCO.</p> <p>Article 31 (Temporary use of land for carrying out the authorised development) deals with the temporary possession of land during the construction of the authorised development. In exercising powers under Article 31(3), the undertaker must not remain on the land for longer than is reasonably necessary and must not, without the agreement of the owners, remain in possession of the land following the period of one year beginning with the date of completion of the relevant part of the authorised development, unless the undertaker serves either a notice of entry under section 11 of the 1965 Act or has made a declaration under section 4 of the 1981 Act in relation to that land.</p> <p>Under Article 32(1) (Temporary use of land for maintaining the authorised development) the undertaker is able to take temporary possession of the relevant land if that is reasonably required for the purposes of maintaining the authorised development and constructing such temporary works as may be necessary for that purpose. The powers for the undertaker only apply for the first 5 years following the first export of electricity to the national electricity transmission network. Under Article 32(5) the undertaker may only remain in possession of the land for so long as is reasonably necessary to carry out the maintenance and this only applies within the 5 year maintenance period, as the proviso</p>
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			in Article 24(2) does not apply to Article 32.
Q7.0.22	The Applicant	<p>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</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>	<p>The Applicant acknowledges that there may be impacts on individuals and businesses as a result of the Project but considers that the significant public benefits that will arise outweigh any harm to those individuals.</p> <p>In determining the extent of land over which compulsory acquisition powers are required in the draft Order the Applicant has considered the impacts on Affected Persons and sought to minimise the land interests that are required wherever possible. If it has not been possible to avoid the effects on Affected Persons, the Applicant has sought to mitigate those impacts on those persons.</p> <p>The below points are examples of how the Applicant has carried out an assessment of the effect on Affected Persons and the evidence that the balancing exercise between public benefit and private loss has been carried out.</p> <ul style="list-style-type: none"> • Wharfside Court (Plots 5-40, 5-43, 5-46, 5-47, 5-51, 5-52, 5-50, 5-48, 5-49, 5-45, 5-44, 5-42, 5-41) – the Applicant is aware of the impacts on the businesses at Wharfside Court and this was included as part of the assessment of socio-economic effects set out in Chapter 14 of the Environmental Statement (APP-062) (see paragraph 8.2.1 onwards) which highlighted that the Project may include the loss of up to 40 jobs if the businesses are not able to relocate within the local impact area. However, it was also considered that notwithstanding the potential 40 job losses, there would be a net increase of 2940 jobs over the construction phase of

			<p>the Project as a result of the Project. Therefore it was considered that whilst it would be unfortunate that there may be some job losses if the businesses cannot be relocated, overall there would be a net increase in jobs as a result of the Project and that this justified the Applicant seeking compulsory acquisition of land at Wharfside Court. The Applicant has been working to identify alternative locations for the businesses within Wharfside Court in order to mitigate those potential job losses through retention and discussions with local landowners in respect of this are ongoing.</p> <ul style="list-style-type: none"> • Rainham Steel (Plot 5-17) - the Applicant has considered the impacts on the operators of Rainham Steel in respect of the inclusion of the land it occupies within the Application Land. The assessment of the impacts in Chapter 14 of the Environmental Statement (APP-062) (see paragraph 8.2.1 onwards) found that Rainham Steel's operations could potentially be re-located outside of the Application Land and still allow for the continuation of their steel-stockholding business operations and employment to continue. The Applicant is in discussions with both NLC and other landowners in the area regarding the potential to relocate Rainham Steel to another location in proximity to the port. The Applicant considers that the private impacts on Rainham Steel in acquiring its land would be outweighed by the benefits to the public of the Project as whole, which are concluded in paragraph 9.3 of Chapter 14 of the Environmental Statement (APP-062). • AB Agri (Plot 5-54) – the Applicant is seeking temporary possession of this plot in order to carry out the construction of Work No 13. Initially a greater area of land owned by AB
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			<p>Agri was included in the red line boundary for the Project but following discussions with AB Agri, the Applicant was able to reduce the land-take required, and only seek possession of land on a temporary basis. Work No 13 is the construction of flood defences that will benefit the Project but also the remaining areas of the Flixborough Industrial Estate that fall outside of the Application Land. On the basis that the land is required only on a temporary basis, the Applicant's assessment of the effects on AB Agri was that the benefits for the public outweighed the temporary loss of rights of AB Agri.</p> <p>Notwithstanding the above the Applicant's clear position is that the public benefit of the scheme as a whole outweighs the potential extent of private loss to individuals and businesses. This is backed up with the policy position in respect of new energy projects and specifically it is set out in NPS EN1 that there is an urgent need for nationally significant energy projects. The Applicant's position in respect of the policy for the Project is set out in the Planning Statement (APP-035).</p>
Q7.0.23	The Applicant	<p>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</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</p>	<p>Through engagement with landowners affected by the Project, the Applicant has been able to alter and/or reduce the level of land-take required for compulsory acquisition.</p> <p>For example,</p> <ul style="list-style-type: none"> following discussions with AB Agri, the landowner altered the design of the flood defences (Work No. 13) from a form of bunding to a flood defence wall. This had the effect of reducing the overall land required from AB Agri and of limiting the land that is required to only temporary possession (rather than permanent acquisition) for the

		<p>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>	<p>construction of Work No 13. In addition through further discussions with AB Agri the Applicant has a greater understanding of the potential impacts of the Project on AB Agri's business and is taking steps to identify and agree further mitigation to address this where possible. The current position on discussions with AB Agri is set out in the draft SoCG (Doc 8.2.6).</p> <ul style="list-style-type: none"> discussions were held with RMS Ports in the early stages of the Project development. The Applicant has subsequently taken an option over their land, which includes the existing railway. Whilst the Applicant has sought to carry out as much development on existing brown-field land, the Project was designed intentionally to keep the railway line and the port in place so that the Applicant could make use of the intermodal transport options. It is planned that the port will remain operational and RMS Ports will have the opportunity to continue their operation at the port, but if they choose not to RMS Ports will be able to relocate their existing operations to facilities at Gunness and Althorpe, thereby minimising their private loss. <p>(iii) In addition to the responses above, the Applicant has responded to this question in its response to Q 7.0.22 above.</p>
Q7.0.24	The Applicant	<p>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</p> <p>What weight has the Applicant attached to the compensation that would be available to those entitled to claim it</p>	<p>The level of compensation payable is not a matter for the Secretary of State to take into account in their assessment of the Scheme. The Secretary of State need only consider that there is a Compensation Code in place, that this has been considered and accounted for by the Applicant as part of its justification for the use of compulsory acquisition powers when assessing any private loss.</p>

		under the relevant provisions of the national Compensation Code in its assessment of private loss?	
Q7.0.25	The Applicant	<p>Whether all reasonable alternatives to Compulsory Acquisition have been explored</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> <p>(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.</p>	<p>The Applicant is seeking in the first instance to agree the voluntary acquisition of all land and rights, and to-date the Applicant has agreed HoTs in respect of 60% (by area) of the Application Land. The latest position in respect of the discussions with landowners is set out in the Compulsory Acquisition Schedule (Ref: 9.3).</p> <p>In addition to the above, the Applicant has sought to minimise the land interests that are required by way of compulsory acquisition by seeking rights over land only or temporary possession only. For example:</p> <ul style="list-style-type: none"> • In relation to the Plots required for the DHPWN (Work Nos 10 and 11), the Applicant is seeking only rights in land to carry out, maintain and access the Works, together with a restrictive covenant to protect the apparatus. In addition, the Applicant seeks only temporary possession of land required for the construction and laydown areas. This is rather than permanent acquisition of the freehold of the same as this would not meet the tests of necessity. • In respect of the Plots referenced at Q7.0.8 above the Applicant requires this land for flooding mitigation and for drainage. As no physical works are required over this land the Applicant is not seeking the permanent freehold acquisition of this land. However, the Applicant is seeking to impose a restrictive covenant over this land in order to

			<p>restrict any works being carried out here that would interfere with the ability to drain this area. This land is subject to agreed HoTs with the landowners and an option for this land is currently being negotiated, as an alternative to the compulsory acquisition.</p> <ul style="list-style-type: none"> • The Flixborough Wharf and railway land is required on a permanent basis and has been included in the Land Plans and BoR on this basis. However, this is already subject to an option agreement between the Applicant and landowner and as such compulsory acquisition powers will not be required to be exercised in respect of this land. <p>The Applicant also discusses modification made to the Project further in the response to Q7.0.22 and 7.0.23 as well.</p>
Q7.0.26	The Applicant	<p>Whether all reasonable alternatives to Compulsory Acquisition have been explored</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>Please provide any examples of location/route changes and changes to</p>	<p>The Applicant has carried out a number of rounds of consultation both on a statutory and non-statutory basis as are detailed in the Consultation Report (APP-076). Appendix I-1 of the Consultation Report (APP-094) sets out the regard had to consultation responses. The Applicant can demonstrate that regard has been had to consultation responses in relation to acquisition of land in the following examples:</p> <ul style="list-style-type: none"> • Public Health England suggested that the use of allotment land and the assessment of the impacts on this land should be reconsidered. The Applicant responded by designing out the Project to remove any impacts on allotment land from the Project (see page 63 of Appendix I-1).

		<p>design development options within the application scheme in response to public consultation.</p>	<ul style="list-style-type: none"> • Environment Agency – extensive discussions have been held with the EA in respect of the flood modelling and flood risk assessment of the Project on the Application Land. A number of locations were considered for the site of the Energy Recovery Facility (ERF) and associated development but the present location is the only site that was acceptable in respect of impacts of flooding on the Application Land and the neighboring sites. This is considered further in the Chapter 3 of the Environmental Statement (APP-051) (see paragraph 9.6). • North Lincolnshire Council – extensive consultation was held with the Council in respect of the location of the Project and the ERF in particular. This is considered in more detail in Chapter 3 of the Environmental Statement (APP-051) (see paragraph 9.6.2) which discusses the options for the location of the ERF. The Council in particular considered that the ERF would be better placed south of the existing railway line in order to occupy a greater area of brownfield land, be sited closer to the Flixborough Industrial Estate and to tie in the railway and wharf locations. Because of the functional operation of the ERF, the Residue Handling and Treatment Facility and the Concrete Block Manufacturing Facility all three elements of the Project are required to be connected to each other, which has informed the necessary location of those elements within the Application Land. This also has the benefit of reducing the environmental impacts (as is discussed further in Environmental Statement). The CCS and the ERF have to be adjoining to allow for the exchange of process fluids. The space required for CCS and the requirement to keep land available in the port pushed the ERF eastwards, requiring the land in Wharfside
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			<p>Court. Further details of the mitigation that is being undertaken to reduce the impacts on Wharfside Court is set out in the response to Q7.0.22 above.</p>
Q7.0.27	The Applicant	<p>Whether all reasonable alternatives to Compulsory Acquisition have been explored</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>	<p>(i) The Applicant has engaged locally based experienced land agents who operate within the area of the Scheme who are liaising and negotiating with affected landowners and occupants to try to acquire land or interests by agreement. Discussions have been ongoing with key landowners for a number of years and the current status of the position with the affected landowners is set out in the Compulsory Acquisition Schedule (Ref: 9.3) submitted at Deadline 2.</p> <p>Heads of Terms have now been agreed with a number of landowners, with formal agreements documenting the agreement to follow.</p> <p>The Applicant will continue to engage with those persons with land interests to look to acquire land under private commercial agreement as far as possible.</p> <p>Where new interests have arisen following submission of the Application, the Applicant has notified persons under s102A of their interest in land affected by the Scheme and advised them of their right to be involved in the Scheme.</p> <p>(ii) As part of commercial discussions the Applicant has sought to offer a variety of solutions to seek to acquire the necessary interests and has flexed its approach depending on the preference of the party concerned. A further option which the Applicant will explore where appropriate and needed is to offer minimum price contracts with the final price to be determined by ADR should agreement not be reached.</p>

Q7.0.28	The Applicant	<p>Whether adequate funding is likely to be available</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>	<p>The Applicant will continue to apply for grant aid in relation to CCUS with Phase 3 of the BEIS Cluster Sequencing Process, the Green Heat Network Fund and the Low Carbon Hydrogen Supply 2 Competition. NLC has allocated funds under the Scunthorpe Town Investment Fund for the PWN and DHN.</p> <p>The Applicant refers to paragraph 2.3.1 of the Funding Statement (Document Ref: 3.3) submitted at Deadline 2 where sufficient funds are available for the CA powers and is engaging with some established large infrastructure funds who have expressed interest in securing the right to fund the Project through to full operation. These entities would then hold a majority shareholding.</p>
Q7.0.29	The Applicant	<p>Whether adequate funding is likely to be available</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>	<p>The Applicant refers to paragraph 2.3.1 of the Funding Statement (Document Ref: 3.3) submitted at Deadline 2 where the Applicant confirms that it has sufficient funds on account to exercise compulsory acquisition powers (should that be required) and pay compensation for all of the interests to be acquired within the statutory timescale. The preference is to acquire by agreement without recourse to the exercise of compulsory acquisition powers.</p>
Q7.1.1	The Applicant	<p>PART 1 Preliminary Articles</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</p>	<p>(i) and (ii) CEMP is not currently defined in the dDCO as the full term “construction environmental management plan” is used throughout the relevant requirement (requirement 4). The dDCO follows drafting convention that if a defined term is first used within the articles of the dDCO then it is included within article 1 (Interpretation), whereas if a defined term is first used within the requirements then it is included in requirement 1 (Interpretation) in Schedule 2. This is for ease of reference, so that the reader</p>

		control document to which other documents were subservient. (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?	does not need to return to the start of the dDCO to look up definitions used only in relation to the requirements. This approach has precedent, for example The South Humber Bank Energy Centre Order 2021.
Q7.1.2	The Applicant	Interpretation 'authorised development' '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.	Section 106 of the 1991 Act states that for the purposes of Part 3 of the 1991 Act, apparatus is to be defined in accordance with sections 89(3) and 105(1) of the 1991 Act. Section 89(3) defines apparatus as including a sewer, drain or tunnel and section 105(1) states that apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus. Therefore the additional wording in the definition of apparatus in the dDCO is required in order to extend the meaning of apparatus for the purposes of the dDCO. There is precedent for this wording in The South Humber Bank Energy Centre Order 2021. Section 79 is to do with recording the location of apparatus and is a requirement for an undertaker to record the location of every item of apparatus belonging to him. It does not change or affect the meaning of apparatus itself, which remains as defined above.
Q7.1.3	The Applicant	Interpretation 'authorised development' Should associated development include 'other associated development'? Please provide a more detailed justification for the approach taken	The definition of "authorised development" refers to Part 2 of Schedule 1 (which lists the other associated development), however for clarity the dDCO submitted at Deadline 2 has been amended to explicitly include reference to "other associated development".
Q7.1.4		Definition of 'maintain' (i) Is the extent of alternatives included	(i) (ii) and (iii) The activities that form part of the definition of "maintain" have been widely drawn, however the Applicant has

	The Applicant, NLC	<p>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</p>	<p>only sought to include any maintenance works that may be needed. For example, the intention behind the inclusion of the wording “remove”, “reconstruct” or “replace”, is in case a particular part of the authorised development such as a steam turbine or generator needs to be removed/reconstructed or replaced as part of the maintenance of the authorised development. However, the Applicant notes the ExA’s concerns and can confirm the definition is not intended to enable the decommissioning and constructing of a new generating station. The Applicant would not be able do anything in breach of either the requirements or the permit in any event, which may provide some comfort, however the Applicant is content to amend the definition of maintain in the dDCO submitted at Deadline 2 so that it is in line with that in the South Humber Bank Energy Centre Order 2021. This separates out the wording so that “inspect, repair, adjust, alter, refurbish or improve” applies to the whole of the authorised development, but that “remove, reconstruct or replace” only applies in relation to any part but not the whole of the authorised development and provided that such works do not give rise to materially new or materially different environmental effects.</p>
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		<p>maintenance causing environmental effects?</p> <p>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 suggestion above would deal with any concern and give reasons?</p> <p>(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>Order land</p> <p>(i) Should the Order land be defined to align with the BoR? Please explain the omission if this is not agreed</p>	A definition of "Order land" has been added to the dDCO submitted at Deadline 2.
Q7.1.6	The Applicant	<p>Preliminary works</p> <p>(i) Would it be preferable to limit activity in line with S155 of PA2008 and re-title this as 'pre- commencement activity'?</p> <p>(ii) Should this include reference to archaeological investigation?</p>	(i) The Applicant has used the definition of "preliminary works" rather than "pre-commencement activity" as the definition of preliminary works includes some activities which may possibly trigger commencement, for example site clearance. These works have been separated out into preliminary works as they need to be carried out at an early stage, so before a full CEMP is submitted. The Applicant has therefore made provision for submission and approval of a PPDW CEMP relating to these

			works (requirement 4(1)). (ii) Archaeological investigation is included in preliminary works (see e.g. paragraph 5.3.1.1 of the Code of Construction Practice, AS-011).
Q7.1.7	The Applicant	Undertaker Should this not also include the Company registered postal address?	The dDCO submitted at Deadline 2 has been amended to include the registered office address.
Q7.1.8	The Applicant	Article 2 (2) 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.	(i) and (ii) It is an error that the EM does not include reference to the parameters in article 5. The EM submitted at Deadline 2 has been amended to correct this.
Q7.1.9	The Applicant	Article 2 (3) 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.	The Applicant considers that the wording in Article 2(3) is boilerplate wording, precedent for which can be found in the following made Orders: The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 – see Article 2(8)

			<p>The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (see Article 2(5)); The Sizewell C (Nuclear Generating Station) Order 2022 (see Article 2(4)); The Little Crow Solar Park Order 2022 (see Article 2(2)).</p> <p>The Applicant refers to "approximate" areas in the BoR and in Article 2(3) because the Applicant's land referencing agents use the Land Plans (Doc REP1-005) to calculate the area of the plots which are taken from an OS base without measuring the areas of land in person. This is an industry standard approach to land referencing. The Applicant has sought to measure areas to 2 decimal places and the land plans also delineate the extent of the land to be acquired.</p>
Q7.1.10	The Applicant	<p>Part 2 principal powers 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>	<p>ERF – sized from first principles based on RDF throughput where possible. Where not possible (turbine hall, boilers, FGT), based on layouts of precedent, built facilities and extents are the maximum stated by different technology providers.</p> <p>ABCs/ACCs - sized based on thermodynamic modelling of ERF. The size is based on providing the efficiency required by the facility.</p> <p>Visitor Centre – Sized based on indicative floor layouts for requirements of facility, limits of deviation for movements of facility.</p> <p>CCS – sized conservatively based on discussions with contractors. There is significant uncertainty in size due to the early stage of development of the technology. Space has been allowed for various configurations and end uses, and space has</p>

			<p>been included for CO2 storage and export equipment.</p> <p>RHTF/CBMF - sized from first principles for the quantity of materials which pass through the facility, for maturation of ash and for the process buildings required to reprocess residues and manufacture the concrete blocks. Heights are to allow for storage of reagents required for the process and to allow for minimisation of footprint.</p> <p>Railway – The extent of works are for a) vegetation clearance, b) access for construction staff and plant c) providing clearances for train operating staff when working at ground level alongside the trains (eg opening and closing crossing gates, wagon inspections, coupling or uncoupling).</p> <p>Railhead – The size of the railhead is determined by a) the length of the trains anticipated to be delivering material to site b) the turning circle width of the container handling equipment (reachstackers) and internal road vehicles, and c) the ability to store empty containers along the eastern boundary to ensure sufficient numbers are available.</p> <p>Road – The size of the highway is determined by the width of the carriageway lanes, verges, shared footways , the roundabout to the south and the extent of the earthworks to increase the road levels. It also includes a working width for in works limits with lateral deviation to avoid physical obstacles.</p> <p>PRF – Conservatively sized to allow for storage of material within the building and to allow for various configurations of the equipment within the building footprint. The extent shown on the works plans is larger than that required to construct the facility, and is to allow for flexibility in detailed design.</p> <p>Hydrogen electrolyser (for both works 7 & 8) – sized based on</p>
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			<p>contractor quotes for a 10MW electrolyser, within limits of deviation to allow for variation in configuration of short term storage and cooling, based on first principles calculations and discussions with contractors with an allowance for flexibility in detailed design. Gas AGI (works 7 & 8) sized based on worst case requirements for gas injection equipment.</p> <p>Vehicle refueling station – sized based on requirement for number of chargers/refueling bays, and space required for maneuvering.</p> <p>Battery Storage – sized based on precedent facilities and from first principles (quantity of battery units required) for quantity of energy to be stored.</p> <p>DHPWN - sized based on calculations of loads for pipe/cable diameters, and then on total cable trench width. Working width allowed for in works limits with lateral deviation to avoid physical obstacles.</p> <p>Utilities – The size of the utilities is based on the size of the ducts, pipes and the trench width. It also includes a working width for in works limits with lateral deviation to avoid physical obstacles. For the existing utilities that will be diverted, it has been considered the width of the easement and the mentioned working width for in works limits.</p> <p>Landscaping –The limit of deviation for Works 12 has been established through the combination of a number of considerations including:</p> <ul style="list-style-type: none"> Landscape and Visual mitigation; Surface Water Drainage System; Ecological mitigation; Enhancing ecological and landscape corridors;
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			<p>The landscape limits of deviation have accounted for the LoD for the buildings so to allow for the structural landscape planting to be implemented in accordance with the Design Principles and Codes document.</p> <p>Flood defences and SuDS– The works plan identifies the areas required to locate the new flood defence structures and surface water drainage design required as part of the flood risk mitigation strategy as set out in the FRA [APP-070] and Indicative Drainage Strategy [APP-072]. It also includes a 3m – 5m working width for in works limits with lateral deviation to avoid physical obstacles.</p> <p>Construction compounds have been sized to allow for necessary stockpiling of material where required at strategic positions throughout the order limits. The compound size includes sufficient space for welfare arrangements additionally.</p>
Q7.1.11	The Applicant	<p>Part 2 principal powers</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>	<p>The dDCO submitted at Deadline 2 has been amended to reflect this.</p>
Q7.1.12	The Applicant, NLC (ii)	<p>DCO- Vertical Limits of Deviation</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</p>	<p>i) Requirement 5(1)(a) provides that the lateral deviations as show on the works plans will apply to the rest of the authorised development. All works numbers are referenced in Article 5 to control vertical deviations.</p> <p>ii) N/A</p>

		limitations as currently drafted appropriately control the potential extent of works proposed?	
Q7.1.13	The Applicant	<p>DCO – Vertical Limits of Deviation</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>	<p>i) The vertical alignment parameters are controlled by article 5 which specifies the limit of vertical deviations and cross refers to the vertical parameter plans and the parameters table in Part 3 of Schedule 1 where applicable.</p> <p>ii) There is no need to refer to the indicative highways drawings as requirement 5(2) provides an AOD range for construction of the road and is not by reference to the levels shown on the indicative highways drawing.</p>
Q7.1.14	The Applicant	<p>Vertical Parameters - Highways</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</p>	<p>(i) Figure 5.12 within the Design and Access Statement (APP-037) illustrates the widths of various elements of the road corridor. The 7m refers to the width of the carriageway not the height of the carriageway. The height of the carriageway on the section is shown as 3.9m which is within the LoD as described within Article 5 of the dDCO.</p> <p>The levels shown in the indicative highways drawing fall within the range set out in the Article 5 of the dDCO. Please note levels shown on the indicative highways drawings are indicative and can change during detailed design but they have to fall within the range set out in the Article 5 of the dDCO.</p>

		<p>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>	<p>(ii) The proposed road will tie into existing road. Please note that the existing levels where it is proposed to connect the road are within the range specified in the Article 5 of the dDCO,</p>
Q7.1.15	The Applicant	<p>Vertical Parameters – Rail</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> <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>	<p>Work Plan C3 includes the locations of the footbridges. One is clearly shown as a boxed out area hatched yellow as part of the railway reinstatement works. The second one is within the hatched yellow area as well. The Applicant will provide updated indicative railway drawings to more clearly indicate the location of the footbridges.</p> <p>Further detailed design of the bridges has not been progressed at this stage but will be submitted for approval by the local planning authority under requirement 3 of the draft DCO [APP-007].</p> <p>i) The lateral dimensions of the footbridges are contained within the yellow hatched areas shown on Works Plan C3 and the vertical parameters are shown on the indicative railway drawings where the vertical deviations are controlled by Article 5(1)(d) i.e. a vertical deviation upwards of a maximum of 1 metre and downwards of 1 metre. The Applicant will be producing updated Indicative Railway Drawings to correctly show the vertical position of the footbridges.</p> <p>ii) The Landscape and Visual Impact assessment (APP-059) assessed the effects of the railway reinstatement works in</p>

			<p>the whole as opposed to specific small parts of it. One footbridge is within circa 100 m of the large DHL warehouse and the other is a replacement of an existing concrete footbridge a little further away on a section of the route that is quite heavily wooded either side. Given their scale and the local context it is considered that neither warranted individual assessment as they would not lead to likely significant effects on landscape of visual amenity.</p>
Q7.1.16	The Applicant	<p>Operation of authorised development Article 7</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>	<p>i) Based on their ordinary meaning the two have a slightly different meaning. Use is to put something such as a building to a particular purpose and operate is to cause something to work or be in action. There is precedent for this wording in The South Humber Bank Energy Centre Order 2021.</p> <p>(ii) and (iii) The wording of 7(2) is for clarity/avoidance of doubt, and so would not relieve the undertaker of any requirement outside of the dDCO to obtain any permit or licence required to authorise the operation of the other elements of the development. The Applicant is nevertheless content to include the suggested amendment to make this clearer and it has been included in the dDCO submitted at Deadline 2.</p>


Q7.1.17	The Applicant	<p>Consent to transfer benefit of the Order Article 10 (1) (a)</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>	<p>i) Article 10(1)(a) would potentially allow the transfer of the benefit of works separately which is considered to be appropriate.</p> <p>ii) However, we consider there is adequate control in Article 10 such that the SoS must give consent to the transfer of the benefit of any part of the Order outside of the very limited terms of (4) and under (6) the SoS can impose restrictions, liabilities or obligations on the transferee to ensure continued interdependence of certain works as appropriate.</p>
Q7.1.18	The Applicant, NLC	<p>Article 10 (7)</p> <p>Is five working days agreed?</p>	<p>This timescale has been proposed by the Applicant however the Applicant is happy to receive North Lincolnshire Council's comments on it.</p>
Q7.1.19	The Applicant, NLC	<p>Public Rights of Way Article 15 (1) (b)</p> <p>Should a time period be specified for the notification of the highway authority and for the subsequent period of diversion?</p>	<p>In relation to a time period for notification of the highway authority, the Applicant does not consider this necessary due to the wording of the article. The Applicant must reach agreement with the relevant highway prior to exercising the powers in 1(b) and (c), and therefore the imperative will be for the Applicant to work with the relevant highway authority in order to try and reach agreement within sufficient time to fit the Applicant's proposed timescale.</p> <p>It is not possible to fix a single time period that would apply in relation to every temporary stopping up/temporary substitution under this article, as these will be dependent on the reason for each individual stopping up/substitution (e.g. if required whilst a particular work is being carried out). However, the Applicant has</p>

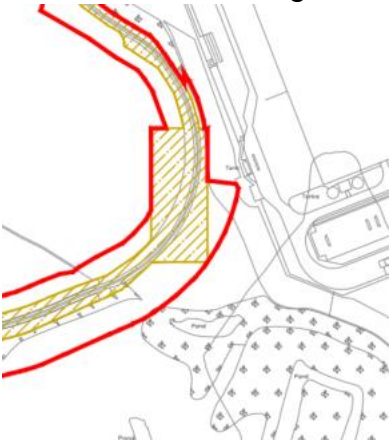
			amended article 15 to provide that the powers may be exercised “for any reasonable time”, which accords with the drafting of similar articles (relating to temporary stopping up) in the Riverside Energy Park Order 2020 and the South Humber Bank Energy Centre Order 2021.
Q7.1.20	The Applicant, NLC	Accesses Article 16 (3) Is the 28-day period agreed?	This timescale has been proposed by the Applicant however the Applicant is happy to receive North Lincolnshire Council’s comments on it.
Q7.1.21	The Applicant, NLC	Part 4 Compulsory Acquisition Funding - 22 (4) 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	The Applicant agrees that in the event of a 7 year period to exercise rights a 15 year limitation in respect of funding is appropriate. The dDCO at Article 22(4) has been amended accordingly.
Q7.1.22	The Applicant, NLC	Time Limit for exercise of authority to acquire land and rights Article 24 (1) 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	The Applicant has updated the justification for 7 years in an updated version of the Statement of Reasons to be submitted at Deadline 2. Paragraphs 7.5 to 7.7 of the SoR deal with this point.

Q7.1.23	The Applicant	<p>Time limit Article 24 (2) As drafted, this would suggest it could be permanent should there not be a time limitation to ensure that it is temporary?</p>	<p>Article 24(2) follows the model provision, which does not include a time limitation. Whilst article 24(2) does not itself include a time limitation, it relates to the exercise of the power provided in article 31. Article 31(3) provides that the undertaker must not remain in possession of any land for longer than reasonably necessary, and in any event must not (without agreement from the owners of the land) remain in possession of the land after the end of one year beginning with the date of completion of the relevant part of the authorised development (as specified in column 4 of Parts 1 and 2 of Schedule 12).</p>
Q7.1.24	The Applicant, NLC	<p>PART 5 Supplemental Powers 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>	<p>Please refer to the Written Scheme of Investigation for trial trench evaluation (Appendix F), Paragraph 5.7.1.5:</p> <p>“Should human remains be uncovered during the works, all work will cease, and H.M. Coroner and the local police will be contacted. Any human remains will be left in situ, covered and protected until the police are satisfied they are not of recent origin. If it is necessary to remove any human remains, a licence must be obtained from the Ministry of Justice in accordance with the Burial Act 1857. The archaeological contractor will be responsible for obtaining all necessary permits.”</p>
Q7.1.25		<p>PART 7 Miscellaneous and General Operational Land Article 42 (i) Is it correct to interpret this as facilitating extensive permitted development rights for the whole of the</p>	<p>(i) The effect of article 42 is that the Order limits are to be treated as “operational land” and therefore benefit from permitted development rights (PD rights) for operational land under the Town and Country Planning (General Permitted Development) England Order 2015 (GPDO). PD rights relate to certain limited building works and changes of</p>

	The Applicant, NLC	<p>Order land?</p> <p>(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?</p> <p>(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>	<p>use for which it has been deemed acceptable that they can be carried out without the need to apply for specific planning permission. However, for this reason, PD rights are subject to exceptions, conditions and limitations (in Schedule 2 of the GPDO) to control impacts and protect local amenity. There are also more general restrictions within article 3 of the GPDO. For example, under article 3(10) GPDO, any Schedule 1 or 2 development within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) is not permitted unless the LPA has adopted a screening opinion/Secretary of State has adopted a screening direction that the development is not EIA development.</p> <p>(ii) Due to the exceptions, conditions and limitations within the GDPO itself, the Applicant considers that the application of PD rights in relation to the Order Land is reasonable and arguably even more appropriate for nationally significant development than development benefitting from planning permission. If the Secretary of State considers it necessary to limit this Article, it ought to at least include those parts of the Order limits on which the energy park works, new access road and railway reinstatement works are to be carried out.</p> <p>(iii) The ES has assessed the Project in all its elements as proposed including its construction, operation and maintenance, and, where relevant, decommissioning. Article 3(10) above ensures no development with likely significant effects could take place under the GPDO powers.</p>
Q7.1.26	Applicant. NLC, Associated British Ports	<p>Certification of Plans Article 44)</p> <p>(i) Should this include the Design and Access Statement (DAS) and Navigation Risk</p>	<p>(i) and (ii) The Applicant is continuing discussions with Associated British Ports (ABP) in respect of the Statement of Common Ground and whether ABP considers any amendments are</p>

		<p>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>	<p>required to the dDCO in respect of the NRA. The Applicant does not believe it includes any specific controls that need to be secured in the dDCO to address navigation risks.</p> <p>(i) and (ii) The Applicant does not consider it is appropriate to include reference to the DAS in the dDCO as there are no requirements linking to the DAS and the DAS contains a number of illustrative aspects. The Design Principles and Codes document will include all necessary design measures that need to be secured and is being updated accordingly.</p>
Q7.1.27	The Applicant, EA	<p>Water Discharges 36 (1)</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>	<p>(i) The wording of this article follows the model provision and 36(3) and (4) essentially operate to limit the power in 36(1). However, the Applicant is content to make this amendment if it is considered that it would provide clarity and so the dDCO submitted at Deadline 2 has been amended to reflect this.</p> <p>(ii) The wording “carrying out” is used in the model provision (although it is not included as a definition in the interpretation of the model provisions). The Applicant’s view is that it would cover both construction and operation of the authorised development. The Applicant is content to amend the wording to instead refer to construction and operation for clarity and the dDCO submitted at Deadline 2 includes this amendment.</p>
Q7.1.28	The Applicant, EA	<p>Work No. 1</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</p>	<p>Work No. 1 in the dDCO submitted at Deadline 2 has been amended to include reference to an annual throughput of up to 760,000 tonnes.</p>

		Environmental Permit? (This was recommended in the South Humber Bank Energy Centre rDCO)	
Q7.1.29	The Applicant	Work No 1 (i) (i) Should this be air cooled condenser or air blast chiller? (ii) Is this a duplication of Work 1D Please explain if both Work 1D and Work No 1 (i) are required	(i) Both should be included, air blast chiller would be needed if the plant uses a water cooled condenser for a large heat export. (ii) (ii) Work No. 1(i) is a duplicate of Work No. 1D. The dDCO submitted at Deadline 2 has been amended to remove Work No. 1 (i).
Q7.1.30	The Applicant	Work No 2 Should there be reference to the elevated walkway as in Work No 1 and Work No 1C?	There is no separate work for the elevated walkway, so it should also be referenced in Works 2, 5 (the section spanning the road) and 6. The Applicant has amended the dDCO submitted at deadline 2 to reflect this.
Q7.1.31	The Applicant	Work No.3 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' (i) Please clarify the position with how this area of land is intended to be used both during construction and subsequent operation. (ii) Please advise where this use has been assessed within the ES.	(i)  The spur running west to east between Dragonby (ii) The area referred to is an existing access road/track running from the B1430 Normanby Road to the Dragonby sidings. The only EIA topic of relevance is access during construction from the public highway.

Q7.1.32	The Applicant	<p>Work No.3</p> <p>This work makes no reference to a footbridge or bridges. Should this be specifically added?</p>	<p>A proposed footbridge is shown on Work Plan C3 as indicated below. The second footbridge is also on Work Plan C3 and works are all within the yellow hatched area but it isn't clearly indicated and so updated indicative railway drawings will be produced to show location and parameters. The Applicant has also added reference to footbridges in Work No 3 in the updated dDCO.</p> 
Q7.1.33	The Applicant	<p>Work No.3 and Work No. 4</p> <p>There do not appear to be any laydown areas within either of these work areas, is this correct?</p>	<p>A laydown area is shown on Works Plan C5 (APP- 018) within the Dragonby Sidings.</p> <p>Laydown areas within Works Plans A (particularly A16 – APP-016) may also be used for this purpose.</p>
Q7.1.34	The Applicant	<p>Work No. 4</p> <p>(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?</p> <p>(ii) Are any buildings required?</p>	<p>(i) Refer to APP-045 para 3.3.12 which states that “reachstacker” mobile container handling machines would be used, each approximately 11.2m in length, 6m in width and 4.8m in height when at rest.</p> <p>(ii) No buildings would be required.</p>

Q7.1.35	The Applicant	<p>Work No. 4</p> <p>[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.</p> <p>(i) Should this be plural?</p> <p>(ii) Please explain what is meant by railhead, what would be included in terms of structures, buildings, equipment etc.</p>	<p>This is an error and is corrected on the updated Work Plans C.</p> <p>(i) Refer to APP-045 para 3.3.12. A single railhead will be constructed at the wharf capable of handling multiple containerised commodities as required.</p> <p>(ii) (ii) Refer to APP-045 para 3.3.12 which describes the railhead in dimensions and equipment. See also note above in answer to question Q7.1.34.</p>
Q 7.1.36	The Applicant, IPs, NLC	<p>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</p>	<p>No response required.</p>

		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	<p>Indicative Surface Water Drainage Plan</p> <p>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'.</p> <p>(i) Can the Applicant explain why this is the case?</p>	(i) The Indicative Surface Water Drainage Plan is illustrative and may change during detailed design. The control document for Requirement 8 is the Indicative Drainage Strategy (ES Annex 5, APP-072), which the details for the permanent surface water drainage systems must be in accordance with.
Q7.1.38	The Applicant	Work No. 5	The base course layer is the layer immediately beneath the final

		<p>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.</p> <p>Can the Applicant confirm how dust from a base course would be controlled?</p>	<p>tarmacadam/bituminous surface. The base course lies immediately beneath the final working surface and therefore experiences severe loading. Consequently the material in a base course has to be of very high quality and its construction carried out to strict specifications. Typically, base courses are made up of:</p> <ul style="list-style-type: none"> • bituminous bound base layers; or • hydraulically bound base layers, where the mineral aggregate is bound with cement or lime. <p>The mineral aggregate mixtures used are typically uncrushed gravel or coarse aggregate, chippings, sand or recycled construction materials.</p> <p>The nature of the base course is not therefore one that is a ready source of fine dust and no specific measures of dust control are necessary beyond those normally applied on open construction sites. Dust levels arising from traffic moving over the base course would for example be much less than that arising from construction vehicles moving across bare soils on open ground (which would also be mitigated in accordance with a Dust Management Plan included as part of the Permitted Preliminary Development Works Construction Environmental Management Plan (CEMP) and subsequent CEMPs (see DCO Requirement 4, page 35 of Draft Development Consent Order, Document Reference 2.1, APP-007.</p>
Q7.1.39	The Applicant	<p>Work No.7 and Work No.8</p> <p>Please explain the lack of consistency of wording in respect of the hydrogen production process or adjust accordingly?</p>	<p>The dDCO has been amended so that the description of the hydrogen production process in these two works is consistent.</p>
Q7.1.40	The Applicant	<p>Work No. 12A</p>	<p>(i) The updated Compulsory Acquisition Schedule provided at Deadline 2 will include an update on the progress of these</p>

		<p>(i) Please provide an update on the progress on negotiations with the land owner towards achieving a licence.</p> <p>(ii) In the event this matter is resolved by agreement in this way, is it intended to submit the Licence into the Examination?</p> <p>If this is not the case what regard can the ExA have to such an agreement?</p>	<p>negotiations.</p> <p>(ii) The Applicant will provide a copy of the relevant agreements to the Examination once agreed.</p>
Q7.1.41	Applicant, NLC, EA	<p>Refuse Derived Fuels (RDF)</p> <p>(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?</p> <p>(ii) Is the content of RDF monitored and if so by whom?</p> <p>(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.</p> <p>(iv) The basis of the assessment appears to be an assumed composition of the RDF described</p>	<p>(i) RDF is defined only by the Environment Agency in 'Guidance on the classification and assessment of waste', drawing on the European Waste Code list of wastes as code 19 12 "<i>wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified</i>" and sub-code 10 "<i>combustible waste (refuse derived fuel)</i>" The facility will receive RDF from a range of sources where sorting and separation has been carried out that results in a residual waste that would then be subject to further sorting as appropriate and bulked and compacted for transport. As the specific waste types will be more particularly defined in the Environmental Permit, we consider it is preferable to cross refer to the specific controls on waste types that will be detailed in the Permit using appropriate EWC codes to ensure the facility meets the waste hierarchy and doesn't accept recyclable wastes.</p> <p>(ii) Periodically, RDF delivered to the facility would be sampled for compositional analysis. Composition of waste might also be monitored by some waste producers and upstream treatment facilities producing RDF. The Applicant has</p>

		<p>at 5.4.2.11, other operating assumptions (Tables 6-10) supported by sensitivity analysis. - How is this secured/controlled?</p>	<p>included an alternative to requirement 15 in the updated dDCO which includes a requirement for annual waste composition analysis. The Environmental Permit will also require monitoring of waste and the EA should be able to confirm this is a standard permit condition.</p> <p>(iii) The Applicant has substituted requirement 15 with a waste hierarchy requirement (as per the one in the Cory Riverside DCO) as we consider this to be a more appropriate means of controlling the waste that can be used as a fuel at the generating station. The specific wastes that the facility is able to receive will be further controlled and limited by its Environmental Permit. This is enforced by the Environment Agency through periodic inspection.</p> <p>(iv) The facility design allows for variation in its operating parameters, including received fuel specification. A fuel specification will be agreed in each contract with a fuel provider. Fuel will be sampled at source and as received to ensure that, once blended, its composition is controlled within the facility's limits of acceptability. The facility is able to reject waste delivered that lies outside the fuel specification operating parameters.</p>
Q7.1.42	Applicant	<p>Decommissioning</p> <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</p>	<p>(i) Decommissioning is addressed in the ES to the extent that it is possible to at this time (see e.g.: Section 8 of APP-051; Section 8.4 of APP-097; Sections 8.2.8, 8.3.3 and 8.4.3 of APP-057; Section 4.1.5 of APP-058; and paragraph 4.1.1.4 of APP-064). The effects of decommissioning are considered to be similar to those of construction and no worse in environmental terms. The environmental performance of the Project will be managed in accordance with the Environmental Permit. At the end</p>

		<p>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>	<p>of operational life the environmental permit will need to be surrendered according to a formal surrender procedure which needs to be followed. The surrender process will dictate to a large extent what needs to be done with the site from an environmental perspective. The Applicant will need to demonstrate to the EA that as permit holder it has taken all measures to:</p> <ul style="list-style-type: none"> • avoid any pollution risk resulting from the operation of the regulated facility; and • to return the site at the regulated facility to a satisfactory state which considers the condition of the site before the permit was granted. <p>A Permit Surrender Plan will be prepared for submission to the EA, in consultation with NLC for approval.</p> <p>(ii) Requirement 16 deals with decommissioning and requires the submission of a decommissioning plan to the relevant planning authority for approval, including a timetable for its implementation and a decommissioning environmental management plan.</p>
Q7.1.43	The Applicant, EA, NLC, Scunthorpe and Gainsborough Water Management Board	<p>Requirement 16</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</p>	<p>(i) and (ii) The Applicant is happy to receive comments in respect of the drafting from any of the parties noted.</p>

		changed please provide an alternative wording.	
Q7.1.44	The Applicant	<p>Schedule 1 Part 3 Parameters Table Column 2</p> <p>(i) is there an accepted convention as to width x depth? If not, should this be made clear?</p>	Although the table does not specify which is the width and which is the depth (in order to retain flexibility as to orientation where possible) they are effectively fixed by the extents on the Works Plans.
Q7.1.45	The Applicant, NLC	<p>Requirements</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>	<p>(i) Where there is uncertainty in design and/or the need for flexibility the EIA has adopted the Rochdale envelope approach and therefore in such instances assesses worst case effects and the Applicant has then included measures to mitigate these effects. Certain operational parameters will also be controlled by the setting of limits through the Environmental Permit including types of waste and emission limit values. There is no need to duplicate these controls. For the construction phase, taking noise as an example, it is anticipated that as part of developing the Construction Environmental Management Plan (CEMP) that noise limits and action levels at sensitive receptors will be agreed with NLC (see also e-page 43 of AS-011). Traffic related matters are addressed in the outline Construction Logistics Plan (Appendix D to APP-061) which will be developed in detail by the EPC contractor to include a Construction Traffic Management Plan and Construction Workers Travel Plan. These documents will be submitted to NLC for review and approval at which time limits may or may not be set out.</p> <p>(ii) The current approach essentially allows the incorporation of suitable limit values for construction activities at the time of submission of the CEMP to NLC for its review and approval</p>

			as opposed to their inclusion in the draft DCO. Requirement 4 of the draft DCO (APP-007) secures the CEMP and therefore the means for suitable limit values to be agreed with NLC (and certain other statutory consultees).
Q7.1.46	The Applicant, NLC (iv and v), EA (vi)	<p>Permitted preliminary development works construction environmental management plan (PPDW CEMP)</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> <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</p>	<p>(i) The intention is to provide one PPDW CEMP for the proposed development.</p> <p>(ii) Please see the Applicant's response to Q7.1.6 which explains why the definition is to remain as "preliminary works". As a result, the suggested amendments are not appropriate.</p> <p>(iii) Construction traffic management is secured under Requirement 10 (APP-007) through the Construction Logistics Plan (CLP) (see also Appendix D of ES Chapter 13, Traffic and Transport, APP-061). The Applicant proposes to add an outline Noise Management Plan to the CoCP (AS-011) and therefore a detailed Noise Management Plan would form part of the CEMP(s) and be secured through Requirement 4.</p> <p>(iv) The wording of requirement 4(4) is that all construction works must be carried out in accordance with the approved CEMP unless otherwise agreed with the relevant planning authority. Whilst this means that the planning authority could override its previous approval of a CEMP, the reasoning behind this is that it is a mechanism to acknowledge that the undertaker may need to change details which have been approved by the planning authority, but ensuring that the "compliance" part of the requirement will relate to the amended details. This is necessary to ensure that the obligation to comply with approved details evolves with any details that change, rather than always requiring compliance with the details that are first approved under the requirement. It is common on projects such as this one for the construction methodology or details of</p>

		<p>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>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>	<p>particular parts of the scheme to change over the course of the build period. Similarly it is common for operational stage details to change, in response to changing circumstances or 'on the ground' experience. It is therefore essential to allow for these likely – but unknown - changes within the dDCO, subject to adequate control over them, which is that they need to be agreed by the local authority. The wording in requirement 4(4) has precedent in other DCOs including The South Humber Bank Energy Centre Order 2021.</p> <p>(v) The outline management plans appended to the CoCP (AS-011) make reference to including the internal and external triggers and process for the plan to be maintained up to date and relevant. It is an inherent assumption therefore that NLC and other consultees would be involved in material amendments to the CEMP and/or any of its supporting management plans. The Applicant can include wording to this effect in an update to the CoCP.</p> <p>Environmental Permit (EP) and Operational Environmental Management Plan (OEMP): the Project is a complex one with multiple operational elements. At this stage it is not clear to what extent those Project elements will fall within the remit of the EP. Therefore, the OEMP is proposed as a safeguard for the environmental performance of any operational actions of the Project that fall outside the remit of the EP. In the event that the entirety of all the environmental aspects and impacts of the Project are encapsulated by the EP and addressed by the Environmental Management System required by the permit then the OEMP may not be required.</p>
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Q7.1.47	The Applicant, EA, NLC	<p>Requirement 2</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>	<p>Requirement 4 deals with this - it provides that no part of the authorised development may commence until a CEMP for that part has been submitted to and approved by the relevant planning authority. The submission of CEMPs is linked to parts of the authorised development rather than phases as there may be separate parts within a phase.</p>
Q7.1.48	The Applicant, EA (i and ii)	<p>Requirement 4 Environmental management</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>	<p>(i) See above in terms of interaction between the OEMP and permit requirements.</p> <p>(ii) Requirement 4(6) requires that the detailed OEMP must be in accordance with the conditions in the permit to ensure there is no conflict.</p> <p>(iii) Requirement 4(4) should refer to a CEMP rather than a CMP. The dDCO submitted at Deadline 2 has been amended to reflect this.</p> <p>(iv) The wording of the EM reflects the wording of requirement 4(2) (that no part of the development may commence, save for the preliminary works, until a CEMP has been approved by the relevant planning authority). However, the EM should also include reference to requirement 4(1), which requires that the preliminary works may not commence until a PPDW CEMP has been approved by the relevant planning authority. The EM submitted at Deadline 2 has been amended to reflect this.</p> <p>(v) The Applicant has amended requirement 4 in the dDCO submitted at Deadline 2 to include the railway reinstatement works.</p>
Q7.1.49	The Applicant, NLC, EA, WMB	<p>Requirement 4 (6) (c) Environmental management</p>	<p>(i) The surface water drainage strategy has been developed to manage stormwater flood risk from the site during operation</p>

		<p>(i) What relationship does the surface water strategy have with the construction flood management plan, FRA etc.?</p> <p>(ii) Should they be cross referenced within requirements and the dDCO?</p>	<p>and therefore also forms part of the FRA [APP-070]. The construction flood management plan will be developed by the contractor and will not require direct reference to the surface water drainage strategy. The Code of Construction Practice (CoCP) [AS-011] sets out the codes and guidance to be referred to. This includes BS 6031:2009 that sets out detailed methods for controlling drainage from construction sites. Section 4.5.1.3 also states that drainage performance including surface water management will require monitoring during construction.</p> <p>(ii) It is not considered that the surface water drainage strategy, construction flood management plan or FRA needs to be specifically cross referenced in the requirements and dDCO.</p>
Q7.1.50	The Applicant	<p>Requirement 5 – Lighting scheme</p> <p>What controls would be in place during construction and how would this be managed and enforced if appropriate?</p>	<p>The lighting during the construction stage shall adhere to the recommendations of the ILP GN01:21 Guidance for the reduction of obtrusive light.</p> <p>The lighting performance as per those of the BS EN 12464-1 & 2 - Light and lighting - Lighting of work places Part 1: Indoor work places and Part 2: Outdoor work places.</p> <p>Construction lighting is addressed in the Code of Construction Practice (AS-011) and will be controlled through the preparation of a Construction Environmental Management Plan (CEMP).</p>
Q7.1.51	NLC	<p>Requirement 6 – Landscape design</p> <p>Is the term ‘must be based on’ regarded as sufficiently precise?</p>	
Q7.1.52	The Applicant	<p>Requirement 6 (3) - Landscape design</p>	<p>(i) The dDCO submitted at Deadline 2 has been amended to include a definition of “coming into operation”/“come into</p>

		<p>(i) Is 'coming into operation' defined, if not please provide an explanation/definition?</p> <p>(ii) Should a minimum maintenance period be specified?</p>	<p>operation" for clarity.</p> <p>(ii) Requirement 6(3) provides that the scheme must be maintained as approved during the operation of the authorised development, so for the lifetime of the development.</p>
Q7.1.53	The Applicant	<p>Requirement 7 - Landscape and ecology management</p> <p>(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.</p>	<p>(i) The dDCO submitted at Deadline 2 has been amended to refer to "come into operation" to reflect the new definition that has been included.</p>
Q7.1.54	The Applicant	<p>Requirement 7(2) – Landscape and ecology management</p> <p>(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.</p> <p>(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?</p>	<p>(i) The dDCO submitted at Deadline 2 has been amended to include a new requirement 7(3) requiring the approved landscape and biodiversity management and monitoring plan to be implemented as approved and in accordance with the timetable during the operation of the authorised development.</p> <p>The outline LBMMP specifically refers to the BNG as included in the scope of the plan and states "<i>The temporal scope of the outline LBMMP includes monitoring and maintenance extending to 30 years, which is the commitment required for the purposes of maintaining biodiversity net-gain.</i>" (paragraph 1.2.1.4). Further, paragraph 5.5.1.3 describes how in addition to annual monitoring there will be substantive five-yearly surveys and reviews. "<i>The results of the surveys will be analysed in order to identify any</i></p>

		(iii) in light of the Natural England RR, please address the need for a commitment to 10% BNG and how this could be delivered.	<p><i>necessary revisions to the management prescriptions. This includes assessing all habitats that contribute to the Biodiversity Net Gain (BNG) target of 10%, to ensure that the intended condition target for each will be reached. Revised prescriptions would then be produced to guide the next five years. This information would be presented as a 'Five Year Monitoring Report' to be shared with relevant stakeholders, including North Lincolnshire Council, Natural England, the Environment Agency and any others deemed relevant. Feedback and suggestions from these stakeholders would be used to guide the next five-year plan."</i></p> <p>(ii) There is no defined operational period for the operation of the authorised development which restricts how long it can remain operational. If material works are required in the event that the ERF is repowered in the future this will require a change to the DCO.</p> <p>(iii) The 10% commitment for BNG for the 30 year period is secured by requirement 7 and the need for the LBMMP to be in accordance with the principles in the outline LBMMP as referred to in (i) above.</p>
Q7.1.55	The Applicant, NLC, EA, WMB	<p>Requirement 8 – Surface water drainage</p> <p>Should there be prior consultation with NLC, the Water Management Board and or EA?</p>	The dDCO submitted at Deadline 2 has been amended to require prior consultation with NLC, the WMB and EA on matters related to their function.
Q7.1.56	The Applicant, NLC, EA, WMB	<p>Requirement 8 – Surface water drainage</p> <p>Do you consider the timing appropriate such that it would ensure that the</p>	The timescale in the requirement is for the details of the permanent surface water drainage systems to be submitted and approved prior to commencement of the energy park works (as these works must not be commenced until the details have been

		mitigation/plan is in place in a timely manner?	approved). The Applicant considers this to be an appropriate trigger.
Q7.1.57	The Applicant, NLC, EA, WMB	Requirement 9 – Foul water drainage Do you consider the timing appropriate such that it would ensure that the mitigation/plan is in place in a timely manner?	The timescale in the requirement is for the details of the permanent foul water drainage systems to be submitted and approved prior to commencement of the energy park works (as these works must not be commenced until the details have been approved). The Applicant considers this to be an appropriate trigger.
Q7.1.58	The Applicant	Requirement 10 – Construction traffic management (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?	(i) The construction workers travel plan relates to the construction of the development as a whole rather than just Work No. 1. The dDCO submitted at Deadline 2 has been amended to reflect this. (ii) The dDCO submitted at Deadline 2 has been amended to reflect this.
Q7.1.59	The Applicant	Requirement 11 – Archaeology (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,	(i) The intention of the requirement is to prevent any work commencing, including the preliminary works. This wording is to assure NLC and Historic England that the Applicant is committed to undertaking the necessary archaeological evaluation and mitigation work required in advance of any ground disturbance activities. The exploratory work mentioned is currently underway (trial trench and geoarchaeological evaluation). Further stages of exploratory work will, however, be scheduled post consent but in

		<p>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?</p>	<p>advance of any preliminary works that may have the potential to impact buried archaeology. This has been discussed and agreed with NLC heritage advisor in recent meetings and correspondence.</p> <p>The wording in the EM is an error and the EM submitted at Deadline 2 has been amended to reflect this.</p> <p>(ii) Requirement 11(2) provides that the programme of archaeological mitigation measures is to be informed by the further exploratory investigations referred to in subparagraph 1 but also by earlier phases of investigation. The Applicant is working closely with the North Lincolnshire Council in relation to archaeology and notes the further comments in the NLC LIR and will update the wording in requirement 11 in consultation with NLC for the next deadline.</p>
Q7.1.60	The Applicant, EA, NLC	<p>Requirement 12 – Flood risk</p> <p>(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?</p>	<p>(i) The timescale in the requirement is for the flood management plan to be submitted and approved prior to commissioning of the energy park works (as these works must not be commissioned until the plan has been approved). The flood management plan is in respect of the <u>operation</u> of the energy park works and therefore the Applicant considers this to be an appropriate trigger.</p>
Q7.1.61	The Applicant, NLC	<p>Requirement 14 – New highway access</p> <p>What ensures that the road is completed to an appropriate standard and made available for the use by the</p>	<p>Pursuant to Article 13(2)(a), the Applicant cannot stop up the street specified in column (2) of Schedule 4 unless the new street to be substituted for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use (13(2)(b) allows for a temporary alternative route to be provided and maintained</p>

		public?	<p>until the completion and opening of the new street in accordance with 13(2)(a)).</p> <p>The street identified in column (2) of Schedule 4 is part of Stather Road (from points A1 to A2 on the rights of way and access plans sheets 4 and 5) and the new street to be substituted as identified in column (4) is the new access road (from point B1 to B2 on the rights of way and access plans sheets 4 and 5). The ERF is being built over part of Stather Road and therefore this road has to be stopped up in order for the development to proceed and the Applicant will need to comply with article 13(2) in order to be able to do so.</p>
Q7.1.62	The Applicant, NLC, EA	<p>Requirement 15 – Fuel</p> <p>Would it not be more appropriate to restrict the waste to non-recyclable wastes to ensure compliance with the 2011 Waste Regulations?</p>	<p>The Applicant has substituted requirement 15 with a new requirement on the waste hierarchy (as used in the Cory Riverside DCO) as it considers this to be a more appropriate approach and to leave the specific waste types to be controlled by the Permit which will explicitly exclude recyclable wastes from being used as fuel at the generating station. This will avoid duplication and confusion as between the DCO and the Permit. The Environment Agency should be able to confirm this approach and the Applicant will seek to cover this in the SOCG with the EA.</p>
Q7.1.63	The Applicant	<p>Requirement 19 – Carbon capture</p> <p>(i) 54,387 tonnes per annum and? Should this and be or?</p> <p>(ii) (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</p>	<p>(i) The use of “and” is correct as a drafting convention. The requirement sets out that the minimum quantity of CO2 captured must equate to the lesser of the two values listed (54,387 tonnes and 8.37% of the ERF waste throughput).</p> <p>(ii) ERF Waste throughput refers to the waste throughput, i.e. the feedstock of the ERF.</p> <p>(iii) There is only one carbon capture process, but the RHTF would use carbon dioxide. The requirement secures the</p>

		<p>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>	<p>capture of a minimum quantity of CO2 which would be metered. The Applicant has added to requirement 19 to confirm that monitoring of the CO2 will take place and provided to the RPA. It would be for the RPA to enforce any breach of the requirement.</p>
Q7.1.64	The Applicant, NLC	<p>Schedule 2 PART 2 Procedure for discharge of requirements</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>	<p>The dDCO submitted at Deadline 2 has been amended to include a requirement in respect of paying the discharging authority's fees in relation to discharge of requirements.</p>
Q7.1.65	Applicant and Natural England	<p>Biodiversity Net Gain (BNG)</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>	<p>See response to WQ 7.1.54 above</p>
Q7.1.66	The Applicant, NLC	<p>[APP-040] The Statutory Nuisance Statement.</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>	<p>(i) The dDCO submitted at Deadline 2 has been amended in line with the Applicant's written response to agenda item 5 in the Applicant's Written summaries of oral submissions put at Issue Specific Hearing 2 (REP1-016). This amendment narrows the list of categories of nuisance in relation to which the defence would apply.</p>
Q7.1.67	The Applicant/	<p>Defence to proceedings of statutory</p>	<p>(i) and (ii) article 43 is based on the model provision, which does</p>

	NLC	<p>nuisance</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>	<p>not include any wording along the lines suggested. The Applicant considers that the safeguard in article 43(1)(b) (which provides that the undertaker (as defendant) may only rely on the defence if it shows that the nuisance cannot reasonably be avoided) would mean that it could not rely on the defence if it was not constructing/operating the authorised development in accordance with the control documents and that if it was doing so this would avoid causing the nuisance.</p>
Q7.1.68	The Applicant, NLC (ii)	<p>Code of Construction Practice (CoCP)</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>	<p>On reflection the Applicant has decided to add an outline Noise Management Plan as an appendix to an updated Code of Construction Practice (CoCP) (AS-011). The outline plan will set out the required content of the detailed Noise Management Plan(s) to be included in the CEMP(s). The outline plan will set out how noise monitoring will be approached. The detail in terms of such matters as monitoring locations for each Project phase, duration, frequency, techniques and reporting, together with how the Project will respond to exceedances of action levels and limits, will be determined in consultation with NLC in the detailed plan as part of the CEMP.</p>
Q7.1.69	The Applicant	<p>CoCP</p> <p>Each Appendix of the CoCP [APP-074] has a section entitled 'Monitoring, Inspection and Auditing', except the Invasive Species plan</p>	<p>It is worth noting that monitoring, auditing and inspection are activities that take place to demonstrate that a pre-agreed plan is being adhered to and properly implemented. 'Monitoring' therefore covers a range of activities from checking and observing that mitigation measures are in place and being implemented</p>

		<p>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>	<p>through to deploying measuring equipment to quantify impacts that result from certain activities. In this context it will be appropriate for some plans to contain monitoring measures that reference action levels and limits. The plans appended to the CoCP (AS-011) are outline plans. Detailed plans will be prepared as part of the CEMPs. As stated in the outline Dust Management Plan (Appendix B of AS-011) at paragraph 5.4.1.2 “Suitable action level criteria would be agreed with NLC”. Paragraph 5.3.1.2 provides action levels suggested by the Greater London Authority Best Practice Guide that could form the basis for agreeing levels with NLC. The remaining outline plans comprise:</p> <ul style="list-style-type: none"> • Remediation Strategy; • Spill Response Plan; • Asbestos Management Plan; • Construction Flood Management Plan; • Waste Management Plan; • Protective Species Management Plan; • Invasive Non-Native Species (INNS) Management Plan; and • Soil Management Plan. <p>The focus of monitoring, auditing and inspection in the following plans will be to demonstrate that the pre-agreed plan, including specific mitigation measures, is being adhered to and properly implemented.</p> <ul style="list-style-type: none"> • Spill Response Plan;
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			<ul style="list-style-type: none"> • Construction Flood Management Plan; • Waste Management Plan; • Protective Species Management Plan; • Invasive Non-Native Species (INNS) Management Plan; and • Soil Management Plan. <p>The topics covered by the above plans do not lend themselves to quantifying impacts through instrumental monitoring approaches.</p> <p>The outline Asbestos Management Plan does not set out quantified trigger levels but rather takes a risk management approach and a watching brief that in turn triggers a series of actions in the event that potential asbestos containing material is encountered. The actions include cessation of work.</p> <p>Similarly the outline Remediation Strategy takes a risk management approach to identifying and addressing potential areas of ground contamination and taking appropriate actions. Measurement and quantification of potential ground contamination is addressed in the outline Soil Management Plan which in paragraph 4.2.1.3 commits to adopting The Definition of Waste: Development Industry Code of Practice (DoWDICoP), which provided a clear and concise process to determine whether excavated materials on a development site constitute waste (and therefore addressed in accordance with the outline Waste Management Plan) in the first instance, and to identify the point when treated waste can no longer be considered as waste.</p>
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			<p>The Applicant proposes to add an outline Noise Management Plan to the CoCP (APP-072), which will suggest action levels and limits to be agreed with NLC.</p> <p>It is important to note that the entire purpose of the CEMP and its supporting detailed management plans will be to avoid, minimise and reduce impacts and thus ensure, to the extent practicable, that there are no exceedance of any limit values. The main purpose of monitoring, inspection and auditing measures that will also be set out in the detailed plans is to demonstrate that the plans are being properly implemented and that the mitigation measures committed to by the Applicant are in place and working as intended. The Applicant proposes to amend the CoCP to set out clear overarching principles to be followed regarding responses to exceedance of action levels and limits, remedial actions to be taken for such exceedances and remedial actions to be taken in any other instance where a management plan and its mitigation measures have not been properly implemented or have failed in some way. However, it will be the function of the CEMP and its supporting detailed management plans to set out and agree the detail of</p> <p>such matters with NLC (and EA and NE and others as appropriate), including ‘triggers’ for an activity to be ceased.</p>
Q7.1.70	The Applicant	<p>Other Associated Development</p> <p>The whole of this section if retained would allow for a considerable range of additional development.</p>	<p>(i) and (ii) The Riverside Energy Park Order 2020 (page 31), South Humber Bank Energy Centre Order 2021 (page 22) and Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (page 33) all include similar lists of further associated development permitted within the Order limits in connection with</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>	<p>and in addition to the numbered works. Such further associated development is required to ensure the undertaker has sufficient powers in order to be able to construct, operate and maintain the authorised development.</p> <p>(iii) Whilst there is no explicit limitation as to size, any further associated development would need to comply with the wording requiring that it not give rise to any materially new or materially different environmental effects from those assessed in the ES.</p>
Q7.1.71	The Applicant	<p>Other Associated Development</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>	<p>(i) The Applicant has amended the other associated development in the dDCO submitted at Deadline 2 to delete reference to the laydown areas.</p>
Q7.1.72	The Applicant	<p>Statement of Reasons (SoR)</p> <p>Paragraph 3.18 of the SoR [APP-011] makes reference to the provision of</p>	<p>See response to WQ 7.1.15. Work No 3 is being updated in the dDCO to include the footbridges.</p>

		<p>footbridges.</p> <p>Footbridges do not appear in the description of development or in the schedules within the dDCO.</p> <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>SoR</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>	The Applicant has updated the SoR to refer to RDF rather than waste.
Q7.1.74	The Applicant, NLC	<p>SoR</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</p>	<p>(i) The reference to the Lincolnshire County Council Joint Municipal Waste Management Strategy is an error as the Joint Waste Partnership does not include North Lincolnshire Council. The SoR has been updated along with the Planning Statement. Revision 1 of the SoR and Planning Statement have been submitted alongside the response to these Written Questions.</p> <p>(ii) In light of the above comments, Chapter 2 has not been updated to refer to the Lincolnshire County Council Joint</p>

		document as necessary or provide an explanation. (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.	Municipal Waste Management Strategy. (iii) The Joint Waste Partnership does not include North Lincolnshire Council, therefore no clarification has been provided.
Q7.1.75	The Applicant	Explanatory Memorandum (EM) The EM provides no explanation as to why the inclusion of 'other authorised development' should be regarded as an appropriate approach. 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.	The Applicant will continue to review and consider the ExA's requests further in relation to linking the other associated development with more precise areas of the Order limits.
Q7.1.76	The Applicant	EM 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	The reference in the EM to the PPDW CEMP are in error. The EM submitted at Deadline 2 has been amended to correct this.
Q7.1.77	The Applicant	Book of Reference (BoR) (i) Paragraph 1.6 of the BoR – should this refer to Article 23? (ii) Paragraph 1.7 of the BoR –	i), ii), iii), iv), v) – these points are agreed with, and will be corrected in the Deadline 2 version of the Book of Reference. vi) – Plot 4-95 does not contain any easements or private rights

		<p>should this refer to Article 25?</p> <p>(iii) Paragraph 1.9 of the BoR – should this refer to Article 31?</p> <p>(iv) Paragraph 1.10 of the BoR – should this refer to Article 32?</p> <p>(v) Paragraph 1.11 of the BoR – should this refer to Article 37?</p> <p>(vi) Land Plot 4-95 – should this also be in Part 3?</p>	<p>considered relevant for Part 3 of the Book of Reference, hence does not appear in this table.</p>
Q7.1.78	The Applicant (i), NE (ii)	<p>Natural England Relevant Representation</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</p> <p>(ii) Please can Natural England propose a form of words that they consider would address this concern.</p>	<p>The Air Quality Impact Assessment includes multiple worst case assumptions in order to ensure that the predicted impacts are overstated. Worst case assumptions include:</p> <ul style="list-style-type: none"> - The ERF plant will, in practice, operate below the BAT emission limits. In the case of ammonia, sulphur dioxide and hydrogen chloride the actual emissions are typically only 20% to 40% of the actual emission limits. NO_x emissions are typically managed to be at around 90% of the emission limit to minimise the amount of ammonia dosing needed in the Selective Catalytic Reduction (SCR) system. As such, the impacts of the plant operations are overstated compared to actual operations. - The results presented for ecology impacts are based upon the worst of five years of meteorological data. As impacts to ecology typically arise over a long period this will overstate impacts. - The transport emissions are overstated. As the model split between train, ship and road is not known, the air quality impact assessment has taken, as the extreme worst case that all deliveries of refuse derived fuel arrive by road and by rail and by ship. Clearly, in practice, this will not occur, and as such the associated emissions have been overestimated.

			<ul style="list-style-type: none"> - The impacts presented are compared to the lower range Critical Loads and therefore are compared to the most stringent Critical Load criteria. <p>In terms of design and embedded mitigation:</p> <ul style="list-style-type: none"> - The project incorporates Best Available Techniques (BAT) as this is the legal minimum requirement for the project to obtain an Environmental Permit. The BAT emission limits are designed for the protection of human health and ecology - The project is designed with the maximum feasible stack height, considering Landscape and Visual impacts, to manage impacts on ecology sites <p>Within the ecology assessment an appropriate assessment process is undertaken that further discusses the actual effect of air quality impacts on the designated sites of interest.</p> <p>Table 1 within ES Chapter 19 Mitigation (APP-067) e-page 11 also references that the mitigation measures will be secured by the EP – Environmental Permit, which will be the ultimate mechanism of securing such mitigation. In applying for a permit the Applicant will be required to demonstrate best available techniques (BAT) for an operation of this nature and the ability to mitigate its emissions in accordance with, for example, the European Commission (2019) Best Available Techniques (BAT) Reference Document for Waste Incineration. Natural England will be a consultee to the EP.</p>
Q7.1.79	The Applicant (i), NE (ii)	<p>Natural England Relevant Representation</p> <p>The requirement for a dust management plan has been included within the draft DCO under</p>	<ul style="list-style-type: none"> (i) Requirement 4(2) provides that the CEMP (which must incorporate a dust management plan pursuant to subparagraph (3)) is to be submitted to and approved by the relevant planning authority following consultation with Natural England to the extent the CEMP relates to matters

		<p>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</p> <p>(ii) Please can Natural England propose a form of words that they consider would address this concern.</p>	<p>relevant to their functions.</p>
Q7.1.80	The Applicant (i), NE (ii)	<p>Natural England Relevant Representation</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</p> <p>(ii) Please can Natural England propose a form of words that they consider would address this concern.</p>	<p>(i) The Applicant is happy to reinstate the COMP and agree specific construction activities with Natural England that would require it to be implemented. The CoCP [AS-011] will be updated accordingly.</p>
Q7.1.81	The Applicant	<p>Natural England Relevant Representation</p>	<p>The outline Soil Management Plan (Appendix J of the CoCP, [AS-011]) commits to a detailed management plan to be prepared as</p>

		<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>	<p>part of the CEMP. Paragraphs 4.1.1.1 to 4.1.1.3 outline some sustainable soil management considerations. In addition, as noted in paragraph 1.1.1.3 of the outline Soil Management Plan (SMP), the detailed SMP will be developed in accordance with the 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites' (Defra, 2009) and the BS3882: Specification for Topsoil (British Standards Institute, 2007). The detailed SMP to be provided in the CEMP will therefore contain extensive additional information on the sustainable management of soils during construction. In accordance with draft DCO Requirement 4 part 2 (APP-007), Natural England will review and approve the CEMP.</p>
Q7.1.82	The Applicant	<p>Natural England Relevant Representation</p> <p>Please clarify if the Operational travel Plan would provide any form of mitigation and what this might be.</p>	<p>While no quantitative analysis can be undertaken to determine the overall effect of a Travel Plan, it is widely acknowledged that a successful Travel Plan is likely to have a beneficial effect on influencing sustainable travel modes. By encouraging employees to travel by active and sustainable modes, this would subsequently lead to a potential reduction in vehicle trips and thus, potentially reduce the impact on the highway network. The potential use of rail and river modes to transport operational freight would also seek to reduce the number of road trips.</p>
Q7.1.83	The Applicant	<p>Environment Agency Relevant Representation</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</p>	<p>The Applicant proposes to add an outline Foundation and Piling Plan as an Appendix to the CoCP [AS-011] which addresses EA's requirements as set out in points (i) and (ii). As with the other management plans the outline Foundation and Piling Plan would be developed into a detailed plan as part of the CEMP for each part/phase of the Project and the EA would be consulted for its approval of the risk assessment approach and method statements contained therein.</p>

	<p>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>	<p>The mitigation of risks associated with piling and foundations and similar works will therefore be secured through Requirement 4 parts (1) to (4).</p>																							
Q7.1.84	<p>The Applicant (note – columns have been merged to allow all suggested changes to be viewed)</p> <p>DCO Suggested Changes for consideration</p> <p>DCO</p> <p>Reference/ Page No.</p> <table border="0"> <thead> <tr> <th>1</th> <th>Index/Page</th> <th>Suggested Change</th> </tr> </thead> <tbody> <tr> <td></td> <td>3</td> <td>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.</td> </tr> <tr> <td></td> <td>2 5 (2) page 8</td> <td>Suggested Change ‘between 2.1m AOD and 5.2m AOD’</td> </tr> </tbody> </table>	1	Index/Page	Suggested Change		3	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.		2 5 (2) page 8	Suggested Change ‘between 2.1m AOD and 5.2m AOD’	<table border="0"> <tbody> <tr> <td>1</td> <td>The Applicant has made this change</td> </tr> <tr> <td>2</td> <td>The Applicant has made this change</td> </tr> <tr> <td>3</td> <td>The Applicant has made this change</td> </tr> <tr> <td>4</td> <td>The Applicant has not made this change. The defence is in respect of court proceedings and therefore to rely on the defence the undertaker (as defendant) would need to show compliance with (1)(a)(i) or (ii) to the court rather than to the LPA’s satisfaction.</td> </tr> <tr> <td>5</td> <td>The Applicant has made this change</td> </tr> <tr> <td>6</td> <td>The Applicant has made this change</td> </tr> <tr> <td>7</td> <td>The Applicant has explained above in response to WQ 7.1.26 that it would not be appropriate to include the DAS as this</td> </tr> </tbody> </table>	1	The Applicant has made this change	2	The Applicant has made this change	3	The Applicant has made this change	4	The Applicant has not made this change. The defence is in respect of court proceedings and therefore to rely on the defence the undertaker (as defendant) would need to show compliance with (1)(a)(i) or (ii) to the court rather than to the LPA’s satisfaction.	5	The Applicant has made this change	6	The Applicant has made this change	7	The Applicant has explained above in response to WQ 7.1.26 that it would not be appropriate to include the DAS as this
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	<p>3 12 (1) page 11</p> <p>4 43 (ii) (b)/ page 28</p> <p>5 Part 3 parameter s table Page 33</p> <p>6 3 (1) (a)/page 35</p> <p>7 3 (2)/ page 35</p> <p>8 3 (3)/ page</p>	<p>Suggested Change street at its junction with such a streets – delete s</p> <p>Suggested Change to reword as follows ... 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> <p>Suggested Change Column 4 title delete ‘from’</p> <p>Suggested Changes insert , after the siting Omit ‘following commissioning’</p> <p>Suggested Change Design principles and codes add .’and the Design and Access Statement’ and after ground investigations add ‘including ongoing archaeological investigations’?</p> <p>Suggested Change</p>	<p>includes illustrative materials and it is solely the DP&C document that will deal with specific design requirements. The DP&C document will be updated for the next Deadline to ensure it adequately includes all design measures that need to be secured.</p> <p>The Applicant has made the change with respect to reference to ongoing archaeological investigations.</p> <p>8 The Applicant has made this change</p> <p>9 The Applicant has made this change</p> <p>10 The Applicant has made this change</p> <p>11 The Applicant has made this change</p> <p>12 The Applicant has made this change</p>
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	35	delete space before final full stop	
9	4 (4)/ page 36	Suggested Change Add 'environmental' after construction	
10	7(3)/ page 37	Suggested Change Clause needs to be added to ensure works are undertaken in accordance with the approved scheme/details. Insert (3) The scheme approved under sub- paragraph (1) must be implemented and delivered as approved and in accordance with the approved timetable.	
11	New Highway works 14/ page 38	Suggested Change Add 'and connected to the highway'	
12	Schedule 2 Part 2 Procedure for Discharge of requirements/ page 40	Suggested Change 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,	

		<p>agreement or approval; or 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 decision with the notice of the decision.</p>	
Q7.2.1	The Applicant	<p>(i) Please provide an update on the negotiations with the operators and whether the initial contract agreed is to be superseded/replaced.</p> <p>(ii) Are these negotiations likely to conclude in advance of the close of the examination?</p>	<p>(i and ii) The Applicant has been in discussion with Northern PowerGrid (NPG) to increase the existing 132kv connection offer to secure 95MW of export capacity and 50MVA of import capacity. This has been achieved by amending the existing contract and making a new application for the additional capacity. The existing connection agreement is being amended to secure 63MW of export capacity with 30MVA of import capacity. The new application will provide the additional 32MW of export capacity and 20MVA of import capacity. Both the amended contract and the new contract will be signed and agreed before the close of the examination.</p>
Q7.2.2	The Applicant	<p>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.</p>	<p>There are no overhead line connections proposed as part of the authorised development or to facilitate the connections to the substations.</p> <p>The current connection offer includes the full works based on NPG using their delegated powers to deliver the 132kv connection to the Project. This can only be done using existing highway routes. The construction of the new access road will</p>

			provide an alternative cable route rather than using the existing Stather Road. The cable routing will be amended once the DCO has been consented.
Q7.2.3	The Applicant	(i) Please provide an update on the negotiations with the operators for the potential connection to the gas network.	Cadent Gas has provided a quotation for connections to the medium and low-pressure networks and has approved the location of the AGI. These quotations continue to be negotiated and refined and will be finalised before the end of examination.
8. GROUND CONDITIONS, CONTAMINATION AND HYDROGEOLOGY			
Q8.0.1	The Applicant	<p>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.</p> <p>(i) Should these investigations be explicitly secured as a Requirement within the DCO?</p> <p>ii) If not, can the Applicant confirm how their undertaking will be secured?</p>	<p>Paragraph 2.1.1.1 (e-page 107) of Appendix C (Outline Remediation Strategy) of the Code of Construction Practice (CoCP) (AS-011) acknowledges that access to parts of the site covered in hardstanding was not possible and that there is a residual risk of encountering contamination during construction. The main purpose of a detailed Remediation Strategy to be produced as part of the Construction Environmental Management Plan (CEMP) is to address this risk. Paragraph 4.1.1.1 (e-page 109) explains that the Remediation Strategy will include a risk assessment and that this assessment will be informed by any pre-construction investigation work. The reference to a further geotechnical investigation in paragraph 9.1.1.6 (e-page 48) states: <i>“A further detailed geotechnical investigation is planned. If required as part of the Remediation Strategy, further environmental samples will be obtained during this investigation to provide cover for previously inaccessible areas which will in turn inform the detailed design and development of the detailed CEMP.”</i> As further noted in paragraph 5.3.1.1 (e-page 30) of APP-074, environmental surveys, including of ground conditions, will be part of the Permitted Preliminary Development Works (and its CEMP). Thus these investigations will take place pre-</p>

			<p>construction and the results feed into the Remediation Strategy risk assessment, the results of which will advise intrusive groundworks.</p> <p>(i) The investigations are secured by Requirement 4 for the Applicant to prepare a CEMP (containing a detailed Remediation Strategy) which will be submitted to NLC for approval.</p> <p>(ii) Not applicable.</p>
Q8.0.2	The Applicant	<p>Ground Investigations</p> <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?</p> <p>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?</p> <p>iii) If further reports are to be undertaken when can these be expected to be submitted into the</p>	<p>(i) The eight rounds of ground gas investigations are reported in Appendix F of APP-097 (e-page 729 onwards). With the exception of one round where atmospheric pressure was high, the atmospheric pressure during the investigations ranged between 1,006 and 1,020 millibar with an average of 1,009.3 millibar versus a standard atmospheric pressure at sea level of 1,013.2 millibar.</p> <p>(ii) At the time of chapter drafting one of eight rounds of ground gas investigation had been completed and reported in Appendix E (Phase II Site Investigation) of APP-097 (see e-page 520). By the time of submission of the application documents, the eight rounds of investigation had been completed. The results are reported in Appendix F of APP-097; unfortunately for some reason this appendix has not been referenced in the text.</p> <p>(iii) No further reports are to be submitted, however for Deadline 3 the Applicant will provide a succinct up to date summary of the situation regarding ground gas and whether this affects any ES conclusions.</p>

		Examination?	
9. HISTORIC ENVIRONMENT			
Q9.0.1	The Applicant (i) only Historic England, NLC (ii) and (iii) only	<p>Mitigation</p> <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.</p> <p>(i) Please explain how this is secured</p> <p>(ii) Do you consider the current mechanism for securing a protocol to suspend works is sufficiently robust?</p> <p>(iii) In the event that the current mechanisms are not considered sufficient what change would you seek?</p>	<p>i) This will be described in the Written Scheme of Mitigation Measures. Upon drafting, detailed procedures for the temporary suspension of works in the event of an archaeological discovery will be outlined. This will include a commitment on the part of the Project to secure the site, consult with heritage advisors and carry out the necessary site works within an appropriate timescale. This would also include a program of post excavation analysis and archiving and an assessment of the significance of the newly discovered asset.</p> <p>The Written Scheme of Mitigation Measures is secured by requirement 11 of the draft DCO [AS-007].</p> <p>ii) This question is not for the Applicant.</p> <p>iii) This question is not for the Applicant.</p>
Q9.0.2	The Applicant	<p>Programme of future Archaeological Works</p> <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.</p> <p>(ii) Within the Appendices of Chapter 12 [APP-060] reference is made to ongoing works (Appendix E</p>	<p>i) The fieldwork described in ES Chapter 12, Appendix E (APP-060) consists of a geoarchaeological evaluation (borehole transects). This was completed in September 2022. A draft report, including a high resolution deposit model, has been submitted and reviewed by NLC's heritage advisor.</p> <p>Radiocarbon and OSL dating samples from this geoarchaeological fieldwork have been submitted, the results of which are expected in late December.</p>

		<p>and F) has this now concluded and does it alter any of the conclusions set out into the findings presented so far?</p>	<p>One small part of the geoarchaeological investigation is still to be complete – the Electrical Resistivity Tomography (ERT) survey, which was postponed twice due to crop cover and then deep ploughing. The final geoarchaeological report including dating results and ERT results can be expected before the end of February 2022.</p> <p>A small amount of additional magnetometer survey was also undertaken in the late autumn 2022, the aim being to cover as many of the remaining areas as possible that could not be accessed earlier in the year.</p> <p>ii) The Written Scheme of Investigation for the trial trench evaluation (Chapter 12, Appendix F) has been revised twice since the submission of the DCO following in-depth discussions with NLC’s heritage advisor.</p> <p>The last round of discussion involved making sure the implications of the deposit model and the latest magnetometer survey results were feeding into the methodology. An agreement on approach was reached between the Applicant and NLC in late November and the evaluation commenced on 5th December 2022. The final report can be expected by the end of March 2022.</p> <p>None of the recently completed and ongoing evaluations substantially change any of the findings presented in the DCO submission.</p>
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			The new deposit model adds more detail but otherwise corroborates and adds weight to the zoning of the landscape into broad areas of archaeological potential as presented in the DCO submission (Chapter 12, Appendix C).
Q9.0.3	The Applicant	<p>Site Investigation Surveys</p> <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>	<p>(i and ii) See previous response. All newly identified assets will be assessed for significance and potential impact by the proposed development and reported in the same format as the previously submitted ES Chapter 12 as an addendum. Mitigation measures will be considered for these new assets and likely residual effects reported.</p> <p>An addendum report will also be produced to present any new findings that change the cultural heritage value of any previously reported assets or alter the manner in which the proposed development may impact on previously reported assets.</p>
Q9.0.4	NLC and Historic England	<p>Written Scheme of Investigation (WSI)</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>Assessment of heritage Assets and any Impacts</p> <p>With the limitations identified in section 5.5 of [APP-060] are you satisfied that</p>	

		the ES has fully assessed the likely adverse effects on cultural heritage	
Q9.0.6	NLC and Historic England	<p>Mitigation</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>Mitigation</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>	<p>i) The Written Scheme of Mitigation was so called to differentiate it from all the many other Written Schemes of Investigation that have already been produced for the ongoing evaluations phase of archaeological work.</p> <p>ii) The Written Scheme of Mitigation will be co-designed with NLC's heritage advisor upon completion of all the archaeological evaluations. It will be informed directly by the results of the investigations described in the Written Schemes of Investigation reported in Appendix C-H and outlined above in response to Q9.0.2.</p>
Q9.0.8	The Applicant	<p>Enhancement</p> <p>(i) [APP-060] has a section on proposed enhancement. Please explain in further detail what is envisaged to be provided</p>	<p>i) To date, there have been no detailed discussions with Historic England or NLC about potential enhancement offers and as such there are none secured through the DCO at present.</p> <p>ii) (ii) On the basis that there is no current package of</p>

		and how this would be secured. (ii) What weight do you consider the ExA should give to the enhancement offered in considering this package of measures?	additional enhancement measures related to the historic environment, this would not currently be given any weight in the decision-making process. The Applicant will continue to discuss appropriate enhancement measures through the SoCG with Historic England and NLC and, if appropriate, will confirm such measures and the securing mechanism before the end of the examination.
Q9.0.9	The Applicant	Noise 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	The methodology specified that the contribution of the existing sound environment to the significance of the heritage asset would be considered where relevant. Noise from the Project was not considered to be a relevant consideration affecting the significance of any heritage assets. The nearest designated assets are Grade II listed buildings in Amcotts and Flixborough. These and other heritage assets in the vicinity of the Project are affected by noise from existing activities (such as port operations, industry and traffic). The Project would not introduce a material change in the sound environment that could affect their significance.
Q9.0.10	The Applicant (I and ii), NLC and Historic England (iii)	Significance of Effect [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. 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	(i-ii) See response to Q9.0.9 (iii) This question is not for the Applicant.

		<p>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>Degree of Harm</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>	<p>i) Yes, as noted in Chapter 12, Paragraph 8.1.2.2- 8.1.2.6, this is considered a moderate adverse impact, which equates to a significant effect. We went on to describe in Paragraph 9.3.1.4 that though we consider these effects to constitute a significant effect, we believe this is equivalent to less than substantial harm. In summary, there are no views into or out of the woods, which partly cover the site. However, at the southern edge of the woods, there are views to the west across the Trent Valley. In the eighth to ninth century these views may have been important in terms of security (this was the time of the Viking invasion of eastern Britain). The assessment of this view presented in ES Chapter 11: Landscape and Visual Impact (APP-059) indicates that the Proposed Development will have some impact on these westward views across the valley. It must also be considered that the Flixborough Industrial Estate already</p>

			<p>represents a modern industrial presence within this view from the vantage point of the asset. There are also no upstanding remains associated with this scheduled monument, which derives its significance almost exclusively from the extant buried remains. For these reasons it was concluded that the changes in this view will only have a slight impact on the significance of this heritage asset.</p> <p>ii) This question is not for the Applicant.</p>
Q9.0.12	Applicant, NLC	<p>Conservation Areas</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>	<p>i) There will be no significant impact on any Conservation Areas owing to their distance from the proposals. The NPS EN-1 (para 5.8.8) requires that ‘the applicant should provide a description of the significance of the heritage assets affected by the proposed development’. In our view no Conservation Areas will be affected and therefore no specific descriptions of Conservation Areas have been provided.</p> <p>ii) No conservation areas were appraised within the assessment.</p>
Q9.0.13	The Applicant (i and iii), NLC and Historic England (ii and iii)	<p>Historic Landscape Character Assessment (HLCA)</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</p>	<p>(i) No, the banding of importance of assets within ES Chapter 12: Archaeology and Cultural Heritage (APP-060) acknowledges that HLCA’s can have differing levels of importance depending on individual circumstances. Please refer to Table 4 in this document, which notes that “well preserved historic landscape character areas, exhibiting considerable coherence, time-depth or other</p>

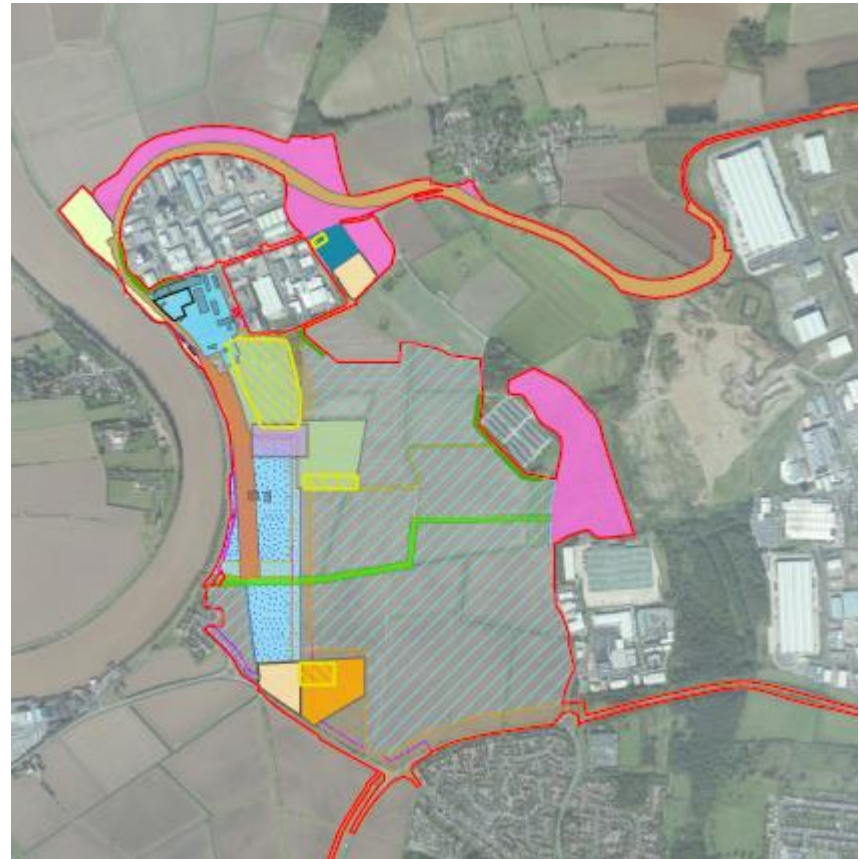
		<p>value'. Is it correct to assume the value you attribute to each HLCA as moderate?</p> <p>(ii) Do the Council and Historic England agree that the Axholme Fens and Normanby Scarp HLCA has moderate value??</p> <p>(iii) What weight should this assessment have within the planning balance?</p>	<p>critical factor(s)” can be considered high value for example. And, conversely, that “historic landscape character areas whose value is limited by poor preservation and/or poor survival of contextual associations” can be considered of low value.</p> <p>(ii) This question is not for the Applicant.</p> <p>(iii) Noting the requirements of NPS EN-1 paragraph 5.8.15 it is important to weigh any harmful impact on the significance of a designated heritage asset against the public benefits of the development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Whilst both heritage assets are considered of moderate value, the ES [APP-060] only identifies significant effects at Axholme Fens HLCA. In line with NPS EN-1 Paragraph 5.8.14 and Paragraph 202 of the NPPF, this effect is considered to constitute less than substantial harm.</p> <p>The weight of this assessment should be proportionate to the level of harm to the significance. The Applicant would therefore suggest that less than substantial harm to a heritage asset of moderate value should be given limited to moderate weight in the planning balance. In the Applicant ‘s view, when applying the planning balance, it is considered that the significant public benefits of the Project outweigh the significant effects identified to the Axholme Fens HLCA during the stages of the Project’s limited lifetime.</p> <p>It should be noted that the ExA’s report for the Keadby 3 DCO, which was made on 7th December 2022 and is located on the other side of the River Trent from the</p>
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			<p>Application site, found that there was harm in this case to the Isle of Axholme Special Historic Landscape Area (note this is a different heritage asset which has been afforded special status because it is so well preserved), but “that even though the Proposed Development results in less than substantial harm to the significance of designated heritage assets and harm to non-designated heritage assets, that harm is clearly outweighed by the public benefits of the Proposed Development (paragraph 6.3.6 ExA’s recommendation report for Keadby 3) and the Secretary of State agreed with this conclusion.</p>
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Q9.0.14 Applicant

Plan request

Please provide a plan showing the area of land to which paragraph 6.7.1.2 of [APP-060] refers.



It is the area of land hashed with blue lines which denotes the area of Flood Management as described in Chapter 1 of the Environmental Statement. This is an excerpt of Figure 3 from Chapter 1, showing project elements.

10. LANDSCAPE, VISUAL EFFECTS AND DESIGN

Q10.0.1	The Applicant	<p>Design Approach</p> <p>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.</p> <p>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</p>	<p>i) The Applicant has adopted an approach to good design that was guided by, and incorporated design policy from good practice, industry guidance, and national policy relating to creating good design. A key aim for the Proposed Development and the Project is ‘good design’ as defined in:</p> <ul style="list-style-type: none"> • NPS EN-1 For New Energy Infrastructure, Section 4.5; • NIC guidance on design principles ‘Design Principles for National Infrastructure’, published by the National Infrastructure Commission (February 2020); and • In accordance with references to good design in the NPPF, National Design Guide (NGD), and new National Model Design Code (NMDC). <p>The value of good design was recognised by the Applicant from the outset of the project and implemented through the engagement of the design team selected for track records in delivering good design in new energy projects of national significance.</p> <p>The project design approach is outlined in the Design and Access Statement (DAS) principally under sections 4.3, 5.1, 5.2 & 5.3. The DAS is the appropriate place for the narrative describing the design approach and process, and the DAS includes sections that set out the findings from the design and consultation process and the design outcomes that relate to the Proposed Development.</p>
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		<p>Value in construction, operation and where relevant, decommissioning.</p>	<p>The Applicant proposes that further explanation focused on the overall design process and design approach will be provided in amendments to the DAS, most likely in the form of an annotated design process diagram and narrative, that sets out the context for the findings and outcomes currently presented in the DAS.</p> <p>To avoid complexity and repetition, the Design Principles and Codes document sets out the Principles and Codes, which are required to guide the detailed design of the Project. The description of the approach to design found in the DAS, is not repeated in the Design Principles and Codes document but Sections 3.0 of the Design Principles and Codes document provide an overview of the design process and application of the Design Principles. However, the document does explain the approach to the Project's Design Principles in reference to the NIC's Design Principles for National Infrastructure on which they are based and closely reflect, with the rationale that this is important introduction to the project Principles.</p> <p>The Applicant acknowledges the request to connect information provided in the DAS to information set out in the DPC to aid with the understanding of how the principles and codes have been established. The Applicant does not intend to certify the DAS as the illustrative material contained with the DAS is an expression of how the Project could be implemented when applying the principles and codes as required by Requirement 3 of the DCO.</p>
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			<p>The Applicant will amend the Design Principles and Codes document and the DAS to provide adequate cross referencing between the two documents, and signpost where contextual information is located, along with reference to the guidance, good practice, and policy to which it relates, wherever possible avoiding unnecessary repetition.</p> <p>ii) The amendments will refer to the objectives listed in Section 4.5 of NPS EN-1, NPPF, and will ensure the project's adoption/ endorsement of NIC guidance on design principles 'Design Principles for National Infrastructure' as already explained is highlighted further where necessary. The National Design Guide (NDG) expectations and approach relating to good design, have been enveloped in the project under the NIC principles which are considered appropriate and more comprehensive for the type of development. Being based on the NIC principles, the project specific design Principles incorporate NDG expectations under the NIC headings.</p>
Q10.0.2	The Applicant, NLC, Parish Councils	<p>Design Approach</p> <p>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</p>	<p>i) The provision of a 'Design Champion'</p> <p>The Applicant agrees that there is merit in committing to a Design Champion role that will take ownership of design and delivery of good quality sustainable design through the different stages of the project. A Design Champion role will help to ensure that consistency and complimentary design quality will be achieved across different parts of the project. It is acknowledged that different parts of the project may be</p>

		<p>design, construction and operation phases:</p> <ul style="list-style-type: none"> (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. 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>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>	<p>delivered by different specialist constructors and designers, and over different time periods; the Applicant is conscious that a single design champion for the whole project over extended or competing design/ construction time periods may be complicated but is committed to ensuring there is a requirement for a Design Champion for each phase.</p> <p>The Design Champion(s) will enable clearer articulation and discussion about design quality and sustainable design internally between design teams, and externally with community, local authorities, and stakeholders.</p> <p>The Applicant will include a requirement for and the role of the Design Champion within the Design Principles and Codes document (APP-046), requiring the Applicant to demonstrate to the Local Planning Authority within the Design Codes Compliance Statement how this role has influenced the detailed design.</p> <ul style="list-style-type: none"> ii. A 'design review panel' to provide a 'critical friend' role <p>The Applicant agrees that a design review process is a good idea. The Applicant will include the requirement for the detail design to be subject to a design review panel within the Design Principles and Codes document (APP-046) which will be evidenced by the Applicant within any subsequent applications in accordance with Requirement 3 of the DCO.</p> <p>The design review panel will add scrutiny to the design outcomes and is likely to draw-in experience from similar scale and types of project/ design, with ability to bring local through to national expertise and relevance.</p>
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			<p>The design review process will be led and coordinated by the Design Champion for each phase.</p> <p>iii. Design Codes</p> <p>The Applicant has included the Design Principles and Codes document (APP-046) as a submission document to help ensure that Good Design is delivered at the detailed design stage. It was recognised by the Applicant that whilst the application followed the Rochdale Envelope, it was important to develop and submit with the application the Design Principles and Codes document to help demonstrate how the Scheme has and will deliver good design with the parameters of the Rochdale Envelope. The purpose of the Design Principles and Codes document is to provide clarity over what constitutes acceptable design quality and compliance with the Design Principles and Codes Document will ensure a high-quality outcome is achieved as envisaged.</p> <p>The Applicant has committed in the Design Principles and Codes document that a Design Codes Compliance Statement (DCCS) will be prepared and submitted with the subsequent applications to discharge Requirement 3 of the DCO which secures compliance with the DPC document.</p>
Q10.0.3	The Applicant, NLC	<p>Design Approach</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</p>	<p>i) The Design Principles and Codes document (APP-046) captures key decisions that have informed the masterplan framework and illustrative design presented within the Design and Access Statement (DAS) (APP-037). The DAS is descriptive and illustrates an achievable project outcome when applying the Design Principles and Codes</p>

		<p>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>	<p>within the parameters of the Scheme.</p> <p>The two documents are intended not to duplicate information wherever possible.</p> <p>The Design Principles and Codes Document is a control document and Requirement 3 of the dDCO (AS-006) requires the detail design to be in accordance with the principles and codes set out within the Design Principles and Codes Document.</p> <p>It should also be noted that the spatial distribution of the components of the Scheme (as described in Section 5.1-5.10 in the DAS) are controlled through the Limits of Deviation shown on the Works Plans.</p> <p>ii) Paragraphs 1.1.11 and 4.9.2 of the Design Principles and Codes Document explains that the DAS includes illustrative design material which has been submitted to demonstrate how the parameters have been tested and set for the scheme and to also provide a context and understanding of scheme. The Applicant will expand on this and include further explanatory text within the DPC document clarifying the relationship between the DPC and the DAS.</p> <p>Section 8 of the DAS explains how sustainability has been part of the design process and how the Design Principles and Codes secure sustainable design against the six sustainability themes identified in Figure 8.1 of the DAS.</p>
Q10.0.4	The Applicant	<p>Design and Access Statement (DAS)</p> <p>(i) The DAS specifies that the buildings will be constructed using</p>	<p>i) The DAS is too specific and should have used 'should', 'could', or 'would be appropriate'. It isn't expected that the DAS becomes a certified document, and the statement(s)</p>

		<p>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>	<p>is written to illustrate an appropriate outcome. The Design Principles and Codes Document (paragraphs 5.5.4 and 5.5.7) (APP-046) includes a guidance on Detailing & Colouring and Materials that is to be used at the detailed design stage and requirement 3(1)(b) of requirement 3 specifically refers to colours, materials and surface finishes.</p> <p>ii) As above this is descriptive in the DAS and included with a statement to assist later interpretation as to why it is appropriate (against the sky). The Applicant will include the need for a colour study to be undertaken at the detailed design stage to confirm the precise colours referenced within DPC document and requirement 3(1)(b) will also apply to ensure the colour for the stack is approved by the relevant planning authority.</p>
Q10.0.5	The Applicant	<p>Design Approach</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>	<p>There is commentary on colours in the DAS (section 5.24.2) (APP-037) however this is high level and was carried out to inform the illustrative material included in the DAS.</p> <p>The LVIA includes mitigation measures relating to colours, however isn't secured within the Design Principles and Codes document (APP-046).</p> <p>The Applicant will include a commitment for a Colour Study to be undertaken at the detailed design stage, to confirm the precise colours and requirement 3(1)(b) ensures that colours are approved by the relevant planning authority.</p>
Q10.0.6	NLC	<p>Design Approach</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</p>	

		Development which would lead to the delivery of a quality scheme as envisaged by the NPS EN-1 tests on Design?	
Q10.0.7	The Applicant	<p>Design Principles</p> <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>	<p>The Design Principles and Codes Document (APP-046) includes measures that reflect the architectural design considerations listed in paragraph 7.1.1.8 of ES Chapter 11 Landscape and Visual Impact (APP-059). For example DC_ARC 1.02 requires the built form to be visually structured and visually broken up and DC_ARC 1.04 requires roof shapes to minimise the visual impact of buildings with flat or low-pitched roofs, potentially in combination with curved roof shapes.</p> <p>The Design Principles and Codes Document will be updated to ensure that there is greater clarity on where the architectural design considerations listed in paragraph 7.1.1.8 of Chapter 11 Landscape and Visual Impact are secured.</p>
Q10.0.8	NLC	<p>Design Principles</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</p>	

		<p>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>Visual Barrier at the railhead</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</p>	<p>i) In carrying out the LVIA it has been assumed that the visual barrier would be constructed as an integral part of the Proposed Development. The Design Principles and Codes document [APP- 046] includes a section on Thresholds / Boundaries (paragraph 5.4.3) and Security (paragraph 5.5.6). The Applicant will provide further text to clarify the role and function of the visual barrier around the ERF as shown in the visualisations within the updated Design Principles and Codes document. The design and timing of the installation of the visual barrier will be considered alongside the detailed design and construction of the retaining wall in accordance with Requirement 3 of the dDCO.</p> <p>ii) The potential location and appearance of the visual barrier is shown in Figure A1 accompanying the LVIA [APP-059], Page 75 (computer generated view towards ERF) and Figure 5.21 of the Design and Access Statement [APP-037]. The LVIA photomontage shows the illustrative design model as seen from Amcotts village. The visual barrier is depicted in a light brown colour in front of the ERF building. The barrier can be seen to screen the lowest level of the building, thereby screening views of operational ground</p>

		clearly shown please provide a visualisation to aid in understanding of this element of the proposed development.	<p>level storage and activity such as loading bays and vehicles movements.</p> <p>iii) N/A see ii above.</p>
Q10.0.10	The Applicant	<p>Levels within the Site</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>	<p>(i) A visualisation, similar to those within the DAS [APP-037] of the section referred to here will be produced and included within the updated DAS at Deadline 3.</p> <p>Along Bellwin Drive the design outcome was not to include the height of the development platform contiguous with the building façade (i.e., in compliance with DC_LAN 4.03 in the Design Principles and Code document (APP-046)), as this was considered likely to be un-neighbourly to the public highway and industrial estate. The stepped platform better integrates the change in scale from highway/footway level to the building ground level, especially next to the pedestrian footway.</p> <p>The retaining wall will be ameliorated with planting as mitigation with inclusion of appropriate planting strips and support for suitable planting as shown on Figure 5.24 of the DAS (APP-037). The Applicant will include a commitment within the Design Principles and Codes Document (APP-046) that secures the principle explained above.</p> <p>ii) The visual effect arising from the change in levels on Bellwin Drive has not been assessed within the LVIA. The proposed level change will be within the context of the existing Flixborough Industrial Estate. Visual receptors will be people travelling to and from places of work, and would therefore be considered to have low susceptibility to changes in view. The existing view is of little or no value,</p>

			therefore receptors would be of low sensitivity. A significant effect, that would demand mitigation, is therefore not likely. As shown in Figure 5.24 [APP-037], the potential for planting has been included along the retaining wall to soften the appearance of the retaining wall and security fence.
Q10.0.11	The Applicant	<p>Nighttime assessment</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>	<p>i) The LVIA (APP-059) does not present a separate assessment of effects of lighting on landscape character, but these are considered as part of the Proposed Development as a whole. Where significant effects on landscape character are reported, it can be assumed these apply equally to day time and night time effects.</p> <p>ii) The Indicative Lighting Strategy (APP-071) provides details of the baseline lighting conditions and evaluation of the proposed lighting.</p>
Q10.0.12	The Applicant (i) and (ii) NLC (ii) only	<p>Visual Plumes</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</p>	<p>i) The LVIA (APP-059) has considered visible plumes throughout the assessment of effects on views. The potential for visible plumes to occur is noted in paragraph 4.1.1.3, and under Section 8.2.3. The potential for visible plumes to be seen as part of the Proposed Development is noted under each viewpoint assessment (Tables 25 to 35). The ZTV is based on the height of the chimney stack and not the plume, as the latter would be transient and of uncertain size. For the same reason,</p>

		<p>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>no plume can be depicted in visualisations.</p> <p>ii) The LVIA does not attribute effects specifically to the plume, but to the Proposed Development as a whole. There are therefore no significant effects arising from the plume alone that would require mitigation. The primary mitigation available would be to build the stack at the lowest height practicable, as noted in [APP-059] paragraph 7.1.1.2, bullet point 4.</p>
Q10.1.1	The Applicant	<p>Lighting Strategy</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>	<p>i) The LVIA (APP-059) was undertaken based on the assumptions set out in the Indicative Lighting Strategy (APP-071). The effects of high level luminaires have not been separately assessed, but lighting is addressed as part of the Proposed Development as a whole. Indicative Lighting Strategy [APP-071] paragraph 2.9.11 refers specifically to views from Amcotts, Viewpoint 1 in the LVIA. Lighting is clearly referenced in the assessment of effects on Viewpoint 1, presented in Table 25 of APP-059.</p>
Q10.1.2	The Applicant, Anna Flewker (i) only, NLC, Flixborough Wharf Limited (i), (ii) and (iv)	<p>Flixborough Wharf Lighting</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>(i – ii) Searches of North Lincolnshire Council’s online planning application database have been undertaken by the Applicant and no record of an application for flood lighting at Flixborough Wharf has been found. Communication with RMS Ports indicate that the Floodlights have been in situ for over 30 years and that they are unable to provide planning permission due to the extensive period.</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>	<p>(iii) The Landscape and Visual Impact assessment (APP-059) considered the existing industrial part of the study area in general terms rather than any specific individual features, including elements of the existing lighting infrastructure.</p> <p>(iv) This question is not for the Applicant.</p>
Q10.1.3	The Applicant, (i) NLC, Flixborough Wharf Limited, ABP (ii) only	<p>Requirement 5</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</p>	<p>i) Details are outlined within The Indicative Lighting Strategy (APP-071) which does include reference to existing lighting and as such the scheme to be approved under requirement 5 will take into account the existing lighting.</p> <p>ii) The various clarification of lighting treatment and performance criteria are noted within the Indicative Lighting Strategy (APP-071). Each area i.e. access and operational lighting are defined within the lighting strategy. The Indicative Lighting Strategy makes reference to safety considerations in the design and use of lighting including instances where safety is a primary consideration (see for example paragraph 6.2.4, e-page 54 of APP-071). Seeking the precise balance between competing interests of safety (and to some extent security) versus off-site light spillage will be a matter for detailed design. The safety aspect will at the least meet the minimum requirements of workforce safety for the various different working locations; from there the detailed design will consider how</p>

		in support of the approach taken.	best to mitigate off-site spillage and any associated effects on people's amenity and nature conservation.
Q10.1.4	The Applicant	<p>Lighting during construction</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>	<p>i) The effects of construction stage lighting are not assessed separately within the LVIA [APP-059] but are considered as part of the Proposed Development as a whole. Where significant construction stage effects on views are identified in the LVIA (refer to Table 36 for a summary), then there is the potential for significant effects to arise from lighting, should working hours extend into the hours of dusk/darkness.</p> <p>ii) Construction lighting is addressed in the Code of Construction Practice (APP-074) and will be controlled through the preparation of a Construction Environmental Management Plan (CEMP).</p>
11. MAJOR ACCIDENTS AND HAZARDS			
Q11.0.1	The Applicant, HSE (iii)	<p>ES Chapter 16 6.2.16 [APP-064] Major Accidents and Hazards</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</p>	<p>i) The HSC application will be prepared during the detailed design stage once detailed inventories of hazardous substances are known including vessel locations/sizes, storage conditions etc.</p> <p>ii) As per question (i), the HSC application will be prepared and submitted during detailed design when the required hazardous substance inventory information is available.</p> <p>iii) Detailed hazard and risk assessment studies will be carried out at the FEED / detailed design stages when the required level of detail is available to carry out the assessments.</p>

		<p>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>	<p>The HSE scoping and consultation responses are included in Section 3 of the chapter and the HSE will be a statutory consultee on the HSC application.</p>
<p>12. NOISE ANF VIBRATION</p>			
Q12.0.1	The Applicant	<p>Guidance 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</p>	<p>i) The relevant guidance has been used to assess the key noise sources. BS 5228 has been used to assess construction site noise, and BS 4142 has been used as the primary method of rating industrial noise from the site. Neither of these methods provides a method of assessing noise from vehicle movements outside of the site boundary. Whilst EN1 gives examples of guidance (as stated in the question), it also refers to other guidance, and so does not rule out the use of the DMRB. The part of DMRB that has been used is the definition of magnitude of significance of</p>

		6472 could be used to assess the impact of road traffic noise caused by the construction and operation of the proposed scheme?	impact from changes in traffic noise, which allows impacts to be described using terminology which is consistent with other parts of the ES.
Q12.0.2	The Applicant and NLC	<p>Construction noise assessment and the ABC method</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</p>	<p>i) 9.1.1.8 of APP-055 acknowledges that a significant noise impact is predicted for evening time works at the main site, however, work outside of core daytime hours would be discussed with NLC to establish which works could be performed with a low likelihood of significant effects. It then goes on to explain that the effect of the further mitigation described cannot be quantified at this stage because the works have not been designed in detail, and that in order to take a robust approach the assessment of construction noise assumes that further mitigation will not reduce the noise levels during construction.</p> <p>ii) For the reasons above it has not been possible to fully explore the mitigation that would constitute best practicable means at this stage. In order to manage construction noise, construction works will be undertaken in accordance with a Construction Environmental Management Plan (CEMP) secured by requirement 4 of the dDCO (AS-006). The CEMP will set out detailed measures to minimise construction noise as far as is reasonably practicable and will be agreed with North Lincolnshire Council before construction work is undertaken. With mitigation, construction noise impacts are likely to be no higher than moderate at most. Given that reductions in noise levels may be possible, this may allow for evening works to be carried out without significant impacts occurring. The Applicant proposes to add an outline Construction Noise Management Plan to an update of the CoCP (AS-011).</p>

		<p>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>	<p>iii) It is suggested that the proposed CEMP will provide sufficient control and flexibility to allow construction works to be carried out at appropriate times.</p>
Q12.0.3	The Applicant	<p>Assessment of other kinds of occupied premises</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>	<p>5.2.2.5 of APP-055 describes the construction noise impact thresholds for non-residential premises in the vicinity of the scheme (which comprise offices) that have been adopted which include the use of BS 8233.</p> <p>5.3.2.8 of APP-055 describes the operational noise impact thresholds for non-residential premises in the vicinity of the scheme (which comprise offices) that have been adopted which include the use of BS 8233.</p> <p>The nature of the area closest to the project is primarily non-residential in character with commercial properties that are relatively insensitive to noise, or those that have potential office spaces/offices as a primary use. The standards that are applied are based on a stringent approach. Therefore, the conclusions of</p>

			the assessment would not be expected to change if new building uses were identified. The detailed use of buildings may need to be revisited during detailed design of mitigation measures.
Q12.0.4	The Applicant	<p>Guidance</p> <p>Paragraph 5.2.3.3 of [APP-055] 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>	<p>BS5228 is an appropriate standard for assessing construction vibration and gives examples of assessment criteria that can be used to assess the potential vibration impacts. Therefore, it has not been necessary to consider the effects of using other standards in order to assess the potential vibration impact during the construction phase.</p> <p>5.3.2.3 of APP-055 discusses the potential for significant impacts from operational vibration from the main site including the loading and unloading operations and states that "Significant sources of vibration are not expected from these activities during operation and an assessment of vibration effects has therefore been scoped out."</p> <p>5.3.4.1 of APP-055 discusses the potential for significant effects from operation of the railway, and notes that impacts are unlikely based on the fact that "As the nearest sensitive receptors to the railway (in Flixborough), are situated at a distance of approximately 70 m, significant vibration effects are considered unlikely and have been scoped out of further assessment.</p> <p>Given the lack of significant operational source of vibration close to receptors, it is not expected that a fully quantitative study using BS 6472 would result in any changes to the conclusions and would not be proportionate to the potential for vibration impacts</p>

			during operation.
Q12.0.5	The Applicant	<p>Impact thresholds</p> <p>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>	<p>The WHO 2018 guidelines are not UK policy documents, and as such they do not apply directly to new development. Also, they do not apply to industrial noise and therefore would not be relevant to the assessment of on-site noise. However, they do offer guidance for railway noise and road traffic noise.</p> <p>In terms of Table 9 (railway noise thresholds) the following are proposed: 44 L_{night}; and 54 L_{DEN}.</p> <p>These are less stringent than LOAEL thresholds adopted for night in the ES. It is also noted that there are no night-time train movements proposed close to receptors.</p> <p>Given the service patterns for the railway assumed in the ES during the day and evening, the L_{DEN} would be slightly higher than the equivalent L_{Aeq} (by 0.1 dB at the closest receptors). However, the criterion for L_{DEN} of 54 dB proposed in the WHO 2018 guidelines is 54 dB, i.e. 4 dB higher than the proposed daytime LOAEL (of 50 dB L_{Aeq}, 16 hour) in the ES (Table 9). Therefore, the use of L_{DEN} would be less stringent than the thresholds adopted in the ES.</p> <p>For road traffic noise the criteria from DMRB have been used to determine the significance of noise impacts according to the</p>

			change in noise level, rather than a fixed threshold. As noted above, the WHO 2018 guidelines are not UK policy requirements, and for the planning stage the consideration of changes in existing traffic noise levels has been adopted as the most appropriate method of assessment.
Q12.0.6	The Applicant and the EA	<p>Operational noise 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>	<p>There is some sense in the proposal to deal with the EA for noise if 1) the EA would have responsibility for all of the noise sources that would be considered for planning purposes (e.g. not just air emission sources) and 2) permitting is going to happen later in the process when further clarity is available on the noise levels for specific technology, for example.</p> <p>At the moment requirement 4(6) of the dDCO requires a noise management plan as part of the OEMP. We can discuss with the EA and NLC as part of the SOCG discussions whether this is required.</p>
13. OTHER STRATEGIC PROJECTS AND PROPOSALS			
Q13.0.1	The Applicant, National Grid Carbon Ltd.	<p>Relationship to the proposed Humber Carbon Capture Pipeline</p> <p>(i) In light of the RR on behalf of National Grid Carbon Ltd. Please advise of any discussions taking place</p>	The Applicant has submitted a response to National Grid Carbon Ltd's Humber Low Carbon Pipeline projects statutory consultation requesting that they consider amending their DCO to include an extension to NLGEP to allow connection. The Applicant has also welcomed further engagement on this point so that they can work

		between the parties that might facilitate a connection in the event that both schemes progress	with National Grid Carbon Ltd. to agree a way forward to connection and are working towards a Statement of Common Ground to cover this matter also.
14. POLICY			
Q14.0.1	The Applicant, NLC	<p>Planning Policy 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 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>	<p>There is a requirement to provide road signage outside of the Order Limits, which it was understood would be secured via an agreement under Section 111 of the Local Government Act 1972. The draft Section 111 was submitted with the Application (the Draft Deed of Development Consent Obligations) and the Applicant is awaiting comments from NLC legal team.</p> <p>The obligation in the S111 is for payment of a contribution (figure to be confirmed) to be used towards improvements to the junction in the vicinity of Neap House, which the Applicant understands the Council considers to be necessary as a result of the authorised development. Please refer to response to Q16.0.1.</p> <p>The Applicant will continue to discuss the position with NLC and confirm the position prior to the close of the examination.</p>
Q14.0.2	Applicant	<p>Planning Policy – Waste 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</p>	<p>(i) The Applicant notes that it submitted a revised version of the RDF Supply Assessment (Document reference 5.2) to PINS on 14th December 2022. The report by Footprint Services, referenced in both this and earlier versions of the RDF Supply Assessment, The North Lincolnshire Green Energy Park: Regional Waste Assessment (August 2021) is</p>

		<p>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"> 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. 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? iii) The RDF Supply Assessment at 3.1.1.2: Of the ‘866,000 tonnes were received by 	<p>provided at Deadline 2 as Document Reference 9.14. For completeness, the Footprint Services: North Lincolnshire Green Energy Park Supplementary Information document, which is referred to in the recent RDF Supply Assessment document (Revision 2) is also submitted at Deadline 2 as Document Reference 9.15.</p> <p>(ii) In practice, waste does not obey administrative boundaries and is transported to one of the nearest appropriate facilities to the extent that transport costs do not become prohibitive, in some cases, especially where rail transport is an option, crossing the country to a treatment facility. The 100 mile ‘catchment’ represents a practicable distance for waste to be delivered to the facility by road. In considering the basis for the assessment it is also useful to consider how the Examining Authorities and Secretary of State have approached the supply assessment for other Energy Recovery Facilities. For the South Humber Bank Energy Centre (report to Secretary of State 10 August 2021) paragraph 4.11.44 states that ‘National Planning Policy explicitly recognised the fact that new facilities such as the proposed Development sever catchment areas wider than just the WPA in which they are located and that it is consistent with the policies set out in the National Planning Policy for Waste (2014)’.</p> <p>It should be noted that the Fuel Availability and Waste Hierarchy Assessment for South Humber Bank was based on fuel availability for the Yorkshire and Humber and East Midlands and for England. These regions were selected because they were within two hours road travel distance (by HGV).</p>
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		<p>landfill sites in North Lincolnshire and within 25 miles of the Project' in 2019 how much would be to the RDF composition specified?</p> <p>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?</p> <p>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?</p> <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>The Examining Authority's Report for Ferrybridge Multifuel (July 2015) also concluded that the Applicant has analysed fuel availability in the region from sources that would otherwise go to landfill and concluded that there is adequate availability of fuel (paragraph 4.33.17). This analysis was also done on a regional basis.</p> <p>(iii) The significant majority of the 866,000 tonnes received at North Lincolnshire landfill sites would have an aggregate composition consistent with the indicative values assumed for RDF received at the facility. Both the RDF Supply Assessment, and the Footprint Services Report, from which the 866,000 tonnes figure is taken, examine non-recyclable, combustible wastes which could be used as feedstock for RDF (see 3.3.1.4 of the RDF Supply Assessment).</p> <p>(iv) Facilities producing or capable of producing RDF which has rail connections include the following:</p> <ul style="list-style-type: none"> • Barking (BIFFA) • Bredbury (SUEZ for Greater Manchester Combined Authority) • Brentford (SUEZ for West London Waste Authority) • Brindle Heath (SUEZ for Greater Manchester Combined Authority) • Bristol (Bristol City Council, disused) • Knowsley (SUEZ) • Newton Heath (SUEZ for Greater Manchester Combined Authority)
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		<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>	<ul style="list-style-type: none"> • Northenden (SUEZ for Greater Manchester Combined Authority) • Northolt (SUEZ for West London Waste Authority) • Rossington (Eco-Railfreight) <p>A maximum of 3-5 trains per day can be accommodated by rail. Each train would carry 1000 tonnes of waste fuel. As a result, the facility is capable of receiving all of its design throughput fuel by rail. In practice, the amount received from rail will depend on agreeing contracts with waste producers and suppliers who are rail-served.</p> <p>(v) The RDF Supply Assessment was based on the local area constituted by the Yorkshire & Humber and East Midlands regions because ERFs typically do not operate at the local authority scale. There are around 54 ERFs in operation in the UK, compared to 398 local authorities in England, Scotland, Wales and Northern Ireland. The supply of waste therefore needs to be considered at a broader scale.</p> <p>This approach is in accordance with the 'proximity principle', as referred to in the NPPW (2014) and described in the Waste (England and Wales) Regulations 2011, which requires waste to be managed in one of the nearest appropriate installations (Schedule 1, Part 1, 4).</p> <p>The ability to source waste from a range of locations/organisations helps ensure existing capacity is used effectively and efficiently, and importantly helps maintain local flexibility to increase recycling without resulting in local overcapacity. On this basis, it is not</p>
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			<p>considered useful to carry out a supply assessment for the NLC area, or NLC and neighbouring authorities only.</p> <p>Nevertheless, as noted in the Applicant's written summaries of oral submissions put at ISH1 [REP1-015] the Local Waste Needs Assessment 2020 notes that NLC currently receives 2 million tonnes of waste per annum from other local authorities and, with the closure of Roxby and Crosby landfills in the mid-2020s and 2039 respectively, there will be a significant shortfall in landfill capacity.</p> <p>The Project offers the opportunity to make up a significant proportion of this shortfall and move it up the waste hierarchy in line with national policy.</p> <p>(vi) The RDF Supply Assessment has considered as fuel the principal non-recyclable combustible residual waste streams, as constituents of C&D waste that might be separated for processing as RDF, for example carpets, wood wastes etc. Since in practice, it is difficult to assess the proportion of waste that would be suitable, these have been excluded from the RDF supply assessment, consistent with its conservative approach.</p> <p>The figure of 650,000 tpa is the design throughput of the ERF at a calorific value of the fuel of 14MJ/kg. If the received fuel has a lower calorific value, then throughput would be greater, potentially up to a maximum of 760,000 tpa, since the ERF is designed in terms of the energy content of its fuel, rather than its mass.</p>
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Q14.0.3	The Applicant, Northern Powergrid (iii), (iv) and (vi)	<p>Electricity Generation</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</p>	<p>i) The ERF will generate up to 95MW of electricity, which provides sufficient energy to power the equivalent of 221,000 homes (NLGEP Consultation Booklet, Summer 2021). The net generation per year is 641,896 MWh. In terms of the contribution of the Project to the need for low carbon electricity, either can be used, but the net output and its contribution in terms of equivalent number of homes that could be potentially be powered, is a useful way of articulating the need. For comparison, the population of North Lincolnshire is approximately 172,000.</p> <p>ii) The users listed in Table 6 of [APP-054] are taken from a heat demand study carried out by the Applicant and included those off-takers identified as potentially feasible at the time that the heat demand study in the CHP Assessment [APP-038] was undertaken. This position has now moved on and the glass houses and a vertical farm are now no longer proposed, but the conclusions of the CHP Assessment [APP-038] remain valid. An updated table showing the heat and power relating to the NSIP and Associated development has been provided to answer 14.0.3 (vii) below.</p> <p>iii) The Applicant has been in discussions with NPG since 2018, when the initial connection agreement for 63MW of export and 2MVA of import capacity was signed and the deposit paid. The Applicant has requested an amendment to the 2018 connection agreement (ENQ5359613) to include 30MVA of import capacity which has been agreed and a formal amended offer will be received early in 2023. A new application to provide an additional 32MW of export and 20MVA of import capacity has been agreed and applied</p>
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		<p>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>for and a formal offer of this additional capacity will also be received in March 2023. This increased additional export capacity (63MW + 32MW) will deliver a total of 95MW export and 50MVA of import (30MVA + 20MVA). The new total import and export capacity will be supplied over the same 132kv cables from Scunthorpe North Substation to the Project.</p> <p>iv) NPG is duty-bound to offer the Applicant the most cost-effective and closest direct route for a supply. The cost of providing a new substation from an overhead 132kv network would normally be cost-prohibitive. The option chosen also enables the best use of existing infrastructure at the existing substation, which is a central plank of Government infrastructure policy. NPS EN1 provides helpful context to this at paragraph 3.7.10 which states:</p> <p><i>“The IPC should consider that the need for any given proposed new connection or reinforcement has been demonstrated if it represents an efficient and economical means of connecting a new generating station to the transmission or distribution network, or reinforcing the network to ensure that it is sufficiently resilient and has sufficient capacity (in the light of any performance standards set by Ofgem) to supply current or anticipated future levels of demand. However, in most cases, there will be more than one technological approach by which it is possible to make such a connection or reinforce the network (for example, by overhead line or underground cable) and the costs and benefits of these alternatives should be properly considered as set out in EN-5 (in particular section 2.8) before any</i></p>
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consuming this level of energy would be very unlikely to happen and only in the event that the grid doesn't need much electricity from the Project, with the batteries charging at full capacity and generating the maximum quantity of hydrogen. In the converse, where the Project needed to generate more electricity, the batteries would be exporting up to 30MW, providing a total energy output of 106.2MW.

Facility	Heat Export	Generation	Consumption
ERF		95.00	9.50
Heat export	70.12		
CCS heat loss			1.52
CCS parasitic			1.33
RHTF			0.19
CBMF			0.14
Hydrogen			10.81
Batteries			30
PRF			3.8125
Electric Vehicle charging			3.45
DHN parasitic			0.09725
Total		95.0	60.8

Q14.0.4	The Applicant, EA	<p>Planning Policy</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>	<p>The large combustion plant directive (LCPD) does not apply to this facility. The facility is an energy from waste development and is governed by the Industrial Emissions Directive (IED).</p>
Q14.0.5	The Applicant, NLC	<p>Planning Policy</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>	<p>The National Policy Statement (NPS) for Ports (January 2012) (the ‘ports NPS’) has effect in relation to port development where the estimated incremental capacity exceeds:</p> <ul style="list-style-type: none"> • 0.5 million twenty-foot equivalent unit for a container terminal; • 250,000 movements for roll-on roll off (ro-ro); • 5 million tonnes for other (bulk and general) traffic; <p>or</p> <ul style="list-style-type: none"> • a weighted sum equivalent to these figures taken together. <p>In this case, the Application is proposing to use an existing wharf and is not proposing any changes to the permitted number of vessel movements or any additional works to facilitate physical use of the port. On this basis, the policies in the ports NPS do not apply to the Application.</p>

			<p>Nevertheless, there is relevant policy in the ports NPS that provides support for the proposed use of the river to transport materials.</p> <p>Paragraph 3.3.5 states:</p> <p><i>“And the Government wishes to see port development wherever possible:</i></p> <ul style="list-style-type: none"> • <i>being an engine for economic growth;</i> • <i>supporting sustainable transport by offering more efficient transport links with lower external costs; and</i> • <i>supporting sustainable development by providing additional capacity for the development of renewable energy.”</i> <p>Paragraph 5.4.14 encourages access to ports by sustainable modes:</p> <p><i>“The modal share of traffic entering and leaving the port needs to be considered objectively in the context of external congestion and environmental costs. Broadly speaking, rail and coastal or inland shipping should be encouraged over road transport, where cost-effective, but requirements or obligations, if they are necessary in order to avoid significant detriment to network users, should be evidence-based and present efficient incentives.”</i></p>
Q14.0.6	The Applicant (I and ii), NLC (i)	<p>Planning Policy</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</p>	<p>The Applicant addressed the need to be given to the suite of draft NPSs in their written summary of oral submissions to ISH1 [REP1-015], which states:</p> <p>i) The current status of draft NPSs is as follows:</p> <ul style="list-style-type: none"> • Published in September 2021.

		<p>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>	<ul style="list-style-type: none"> House of Commons Select Committee commented in February 2022. They generally endorsed the draft NPSs, but said that the policy should be stronger to ensure that Net Zero was met. Revised drafts are expected, but not yet available. The ExA can place weight on the draft NPSs as a statement of Government intent, but not yet give them the weight of Government policy. <p>The Applicant's view is that in their current form (i.e. published but not yet having responded to consultation) the ExA can only place limited weight on draft NPS EN-1, EN-3 and EN-5.</p> <p>ii) The Applicant also submitted at Deadline 1 an NPS tracker [REP1-013] which considers compliance of the proposals against adopted and draft NPS EN-1, EN-3 and NPS EN-5, including highlighting any changes between the adopted and draft documents.</p>
Q14.0.7	Applicant, ORR, NR, HSE	<p>Planning Policy – Transport Infrastructure Rail</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> <p>(i) Based on the information contained in the Rail</p>	<p>(iii) The operation of railways and other guided systems, regardless of ownership, would fall within the scope of the Office of Rail & Road (ORR) with regard to their licensing, condition and safe operation. The ORR would be expected to approve any new or reinstated rail infrastructure for operation prior to the start of rail services, in line with the provisions of the Railways Act 1993 and the Railways and Other Guided Transport Systems (Safety) Regulations 2006.</p>

		<p>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?</p> <p>(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?</p> <p>(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?</p> <p>(iv) Has it been confirmed by NR that the impact on the wider rail network of the proposed development would be 'minor or not</p>	<p>(iv) The involvement of ORR in licensing and safety approval would not take place until much closer to the start of works on site, at which point engagement with ORR would occur to advise on the proposed scope, specification and programme for the works. The ORR would then attend site prior to the start of services, typically with the lead rail Freight Operating Company engaged to operate the rail infrastructure and services over it on behalf of the Applicant, to review and approve the works as fit for purpose. This has been the approach for other rail-related NSIPs including the Strategic Rail Freight Interchanges at Daventry International Rail Freight Terminal phase III, East Midlands Gateway, Northampton Gateway and West Midlands Interchange, which have variously involved construction of brand new branch lines and rail freight interchange facilities, where in all cases the ORR was not a stakeholder in the DCO process, but was (or will be) engaged further downstream as part of the implementation phase.</p> <p>(v) See answer to question (ii) above.</p> <p>(vi) Refer to APP-045 section 4, para 4.2.2 which notes that the Applicant's timetable study, which considered the ability of the wider rail network to cater for the additional rail traffic generated by the site, was undertaken to a remit agreed with Network Rail, who also reviewed the report's findings on completion (and raised no objections to the findings). Further information is contained in the draft Statement of Common Ground with Network Rail.</p>
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		significant' as described in the Rail Operations Report 5.11 [APP-045]?	
Q14.0.8	Applicant	<p>Planning Policy – Transport Infrastructure Road</p> <p>A new access road forms part of the proposed development</p> <p>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?</p> <p>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?</p> <p>Assuming a commitment to delivery by road and rail is achieved, at what point would the road no longer be necessary?</p>	<p>(i) There is a description of this in the Transport Assessment Chapter 4.3 and in the ES Traffic and Transport Section 6.2.13 Para 4.2.2. The proposed New Access Road is intended to serve both the Project as well as the existing Flixborough Industrial Estate and Flixborough Wharf area – this New Access Road has been provided in order to replace the existing access via Stather Road, which is being stopped up to facilitate the proposed development. NLC (the highway authority) are supportive of the proposed New Access Road saying that it will offer significant benefits to road users and residents at Neap House in particular.</p> <p>(ii) The Applicant is committed to making the best use of the wharf and indeed this was a central driver in selecting a site with access by river. Likewise, the Applicant has proposed a new requirement in the draft DCO to ensure that Work no.3 (reinstatement of the railway line between Flixborough Wharf and the Dragonby sidings including new sidings) is operational by the date of commissioning of the ERF at the latest. The Applicant would be investing a significant sum in delivering the railway reinstatement works and it would therefore be within their interests to maximise the use of rail as much as possible, having invested in the works. It is however not possible at this stage to provide a commitment for a specific throughout through the wharf or railway, as this would need to be determined according to practical and commercial negotiations which would follow the grant of the DCO.</p>

			(iii) The road is necessary to secure ongoing access to the port and Flixborough Industrial Estate once Stather Road is closed, which is a requirement of all port users, not just the Applicant. The road would be required for employees to get to work as well as for the transport of goods.
Q14.0.9	NLC	<p>Policy Approach</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>Policy Approach</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 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</p>	<p>An NPS Tracker (REP1-013) was prepared for Deadline 1 as requested by the Examining Authority. The document contains the requirements of NPS EN-1, EN-3 and EN-5 that the Applicant considers relevant to the North Lincolnshire Green Energy Park application and its determination.</p> <p>The NPS Tracker will be updated and submitted at each Examination deadline as specified in the Examination Timetable.</p>

		supplements to the Applicant's position on NPS compliance demonstrated by submissions during the Examination.	
Q14.0.11	The Applicant	<p>Safeguarding of Aerodromes</p> <p>NPS EN-1 states that the IPC (SoS) should be satisfied that aerodromes are safeguarded (paragraph 5.4.14).</p> <p>(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>	The Applicant has contacted the CAA, all local aerodromes, the MOD and RAF and all authorities have confirmed that the proposed development does not impact their operations.
Q14.0.12	The Applicant	<p>Associated Development</p> <p>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</p>	<p>Page 8 of the Explanatory Memorandum [APP-009] sets out the detail of why the PRF is considered to be associated development.</p> <p>Section 115 of the Planning Act 2008 provides that, in addition to the development for which development consent is required under Part 3 of the Act ("the principal development"), consent may also be granted for associated development. Associated development is defined in the Planning Act as development which is associated with development that requires development consent (the principal development). Sub-sections (2) to (4) of 115 of the Planning Act set out other requirements relating to associated development and the PRF meets these other legal requirements.</p> <p>The Guidance on Associated Development (2013) has been prepared to assist the Secretary of State in making a determination on whether development can be associated development. It</p>

		<p>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>confirms that the Secretary of State will determine if the proposed development is associated development on a case-by-case basis and should take into account a number of 'core principles'. These are not statutory requirements.</p> <p>In terms of the first core principle, it provides that "the definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts."</p> <p>It is considered that the PRF will support the operation of the ERF. The Explanatory Memorandum states, "The RDF will be purchased by the Applicant in bulk and will include an element of plastic materials which are capable of being recycled, but which nevertheless usually end up being recovered through the ERF. By delivering a PRF as part of the Project, the Applicant will be able to ask for the waste seeking to maximise recycling of waste. The PRF will not receive plastic from any other sources, it will only accept plastic from the RDF waste stream purchased for the ERF, making it subordinate to the Principal Development." NLC in their LIR [REP1-019] support the inclusion of the PRF alongside the principal development (paragraph 16.14).</p> <p>The aim is to encourage RDF suppliers to segregate out more plastic from the RDF to be delivered to the ERF. In turn this will also have the potential to reduce the impact of the ERF by reducing the proportion of plastic waste that is used as a fuel in the ERF. As a result of removing plastics from the fuel, its fossil carbon content will fall and the overall carbon balance of the facility will improve, raising still further this significant benefit.</p>
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			<p>Paragraph 6 also provides that "it is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development...". Further paragraph 2.5.15 of EN-3 provides that " some development proposals may also incorporate additional features such as waste transfer facilities." There is support in waste management policy for the co-location of facilities and the efficiencies that are derived from this.</p> <p>North Lincolnshire Council's Core Strategy Policy CS20 (Sustainable Waste Management) outlines the general sequential approach to the location of waste management facilities, which includes at point 3 – the encouragement of the co-location of waste facilities. Furthermore, emerging Policy WAS1 (Waste Management Principles) encourages and supports minimisation of waste production, and the re-use and recovery of waste materials. It goes on to state that proposals for waste management facilities will be encouraged based on a number of principles, including by promoting opportunities for on-site management of waste where it arises and encouraging co-location of waste developments that can use each other's waste materials.</p>
15. SOCIO-ECONOMIC EFFECTS			
Q15.0.1	The Applicant, Mr Andrew Gravel, Lee and Elizabeth Norris	Businesses at Wharfside Court [APP-062] 9.1.1.3 Economic, Community and Land Use Impacts appears to identify a temporary significant adverse effect on	(i) There are 14 units each averaging 1000 sq ft the majority of which are privately owned by six landlords with only two of the units being owner occupied. Current estimates show up to 35 employees. The nature of the businesses include car repairs, tyre stockist, hospitality supplies, Rentokill, joinery and distribution. The Applicant is able to release a

		<p>businesses at Wharfside Court.</p> <p>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.</p> <p>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?</p> <p>In order to reduce this impact could provision be made within the Order limits to provide alternative premises?</p>	<p>list of the owners and occupants with a description of their business only with the owners and occupants' express agreement. Some of the units are the subject of short-term leases and at this stage no detailed assessment has been made of any potential financial loss.</p> <p>The Applicant is working to identify potential alternative premises/sites in the area (see response to question ii). However, the socio-economic impact of complete loss is included within [APP-062] which states at paragraph 8.2.1.6:</p> <p><i>“The Applicant has consulted each of the affected businesses in Wharfside Court and there are currently a number of relocation opportunities within the local area which are being explored. There would be a direct loss of up to 40 jobs associated with the relocation of the businesses at Wharfside Court 1 unless these businesses are able to relocate locally within the LIA. For the purposes of assessment, it has been assumed that all of these jobs will be lost.”</i></p> <p>This compares to 3,550 jobs created during construction of the Project (see Table 16 of APP-062) and 290 direct jobs during operation (see Table 19 of APP-062). Although APP-062 describes the effect as temporary, it would be permanent if these businesses are not able to find alternative premises. However, the overall calculation of benefit/loss assumes that all of these jobs would be lost,</p>
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			<p>although this is considered a worst case for the reasons given above. The impact in terms of jobs is still overall net beneficial and the loss of 40 jobs, whilst important to the businesses that provide them, is not considered significant in the context of the number created.</p> <p>(ii) The Applicant has looked at the options for alternative accommodation in the area and some occupants have identified that they could re-locate with some financial assistance. The Applicant is looking to negotiate a private commercial agreement with the owner/occupiers and all the occupants and is in discussions with all of the landowners at Wharfside Court. In the unlikely event that no suitable alternative premises are located there is a risk of some permanent loss.</p> <p>(iii) The Applicant did originally set land aside for the re-location of any displaced businesses to be delivered as part of the DCO, however there was a concern that this may not meet the tests of associated development, particularly given the relatively low numbers of jobs associated with the premises and that a significant environmental effect had not been identified. The Applicant is therefore working with local landowners and NLC to try and secure alternative facilities around the Flixborough Industrial Estate using the Town and Country Planning Act 1990 planning process.</p> <p>The Applicant will provide an update on progress with the provision of alternative premises during the examination.</p>
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Q15.0.2	The Applicant, NLC (ii)	<p>Annual Monitoring Report</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> <p>i) Can the Applicant explain how the monitoring is therefore secured?</p> <p>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?</p>	<p>(i and ii) An Economic & Employment Group has been established to help ensure that the economic benefits of the scheme are maximised locally. The group includes various regional stakeholders, such as North Lincolnshire Council, DWP, Hull and Humber Chamber of Commerce, North Lindsey College, CATCH, Greater Lincolnshire LEP, HETA and Lincolnshire Chamber of Commerce.</p> <p>It's objective is to:</p> <ul style="list-style-type: none"> • maximise job opportunities for local people; • maximise supply chain opportunities for local businesses; • work with local training providers to ensure that local people have the right skills to take advantage of the opportunities the Project presents, including reskilling people that are unemployed; and • raise awareness of the green jobs offered by the Project and encourage local people, particularly under-represented groups, to consider a career in ‘net zero’ industries. <p>The Applicant will prepare an Employment and Skills Policy to maximise the uptake of local employment opportunities and in addition is committed to supporting training and apprenticeship schemes. This will be agreed with North Lincolnshire Council as part of the Construction Environmental Management Plan (CEMP). An Annual Monitoring Report will be produced which reports on the criteria set in the Employment and Skills Policy, including the</p>

			<p>number of local people employed during the construction and operational periods and as apprentices. Progress against targets set out in the Employment and Skills Policy will be reviewed by the Economic & Employment Group on a quarterly basis with a report published annually.</p> <p>The CoCP [AS-011] will be amended to reflect the above considerations so that they become requirements for the CEMP.</p>
Q15.0.3	Rajan Marwaha	<p>Relevant representation [RR-055]</p> <p>i) Please provide a plan identifying the land which you refer to in the RR and the local authority planning reference number.</p> <p>(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?</p>	
16. TRANSPORTATION AND TRAFFIC			
Q16.0.1	The Applicant, NLC	<p>Draft Obligation</p> <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</p>	<p>i) The draft deed of development consent obligation has been sent to North Lincolnshire Council and the Applicant is waiting to receive the Council's comments in respect of the deed.</p> <p>ii) The Council has advised that improvements to the junction in the vicinity of Neap House are required as a result of the development. The deed is drafted so that the contribution towards these highway works is payable prior to commencement pursuant to the DCO and that</p>

		considered necessary and how the works that it would deliver would be secured and in what timeframe.	commencement shall not take place until it has been paid (Schedule 2 paragraphs 12.1-12.2). The Council is required to use the contribution only for the purpose for which it has been paid (for improvements to the junction in the vicinity of Neap House) (Schedule 3 paragraph 2) and must return the contribution if it has not been expended within five years from the date of payment.
Q16.0.2	The Applicant	<p>6.2.13 ES Chapter 13 Traffic and Transport [APP-061] – operational traffic and HGV volumes in particular</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</p>	<p>i) 558/1065 gives an increase of 52.4%, which is correct and matches the description in the text – but there do appear to be some errors in the percentage increases shown in Tables 20 and 21 – these tables have been corrected and submitted at Deadline 2 in the form of a revised ES Chapter 13: Traffic and Transport (Revision 1.0) – these corrections do not alter the overall conclusions.</p> <p>Para 8.2.1.3 describes the change / increase on B1216 Ferry Road West – the text here refers to the correct percentages.</p> <p>ii) As above – Tables 20 and 21 have been updated, please see the revised ES Chapter 13: Traffic and Transport (Revision 1.0).</p> <p>iii) The flows shown for the New Link Road are for a location midway on the road - and therefore exclude the flows to the EV / Hydrogen station located at its southern end adjacent to the B1216 – the new roads within the Project have been suitably designed to cater for the type / volume of vehicles anticipated.</p>

		<p>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.</p> <p>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>	<p>iv) Para 7.4.14 of the Transport Assessment (TA) (in Appendix B of APP-061) describes the results of the sensitivity test analysis undertaken as part of the TA for 2038 (as agreed with NLC which includes for 3,000 residential dwellings at Lincolnshire Lakes) – however this isn’t comparable with Para 8.2.1.7 in the ES Transport Chapter which describes the effects of the predicted increase during the opening year (2028) - the A1077 / B1216 Ferry Road West Signal Junction is shown to operate with a DoS below 90% on all approaches in 2028 with queuing within acceptable limits (as described in Para 7.4.13 in the TA) - whilst there is some congestion at this signal junction during peak periods, this is unlikely to have a significant impact on the operation / capacity of the adjoining highway links.</p> <p>It is noted that whilst a DoS may be above 85% on a particular approach at a junction, this needs to be considered alongside the queuing results for that approach / link, the operation of the other approaches at the junction and the overall Practical Reserve Capacity (PRC) at the junction – the queuing at the A1077 / B1216 Ferry Road West Signal Junction in 2028 is shown to be within acceptable limits (i.e. within the available lane /storage space), the RFC is above 85% on a particular approach (with 85% or below on the remaining approaches) and there is also a positive PRC, which indicates spare capacity at the junction.</p>
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			<p>v) The capacity analysis undertaken as part of the TA for the A1077 / B1216 Ferry Road West Signal Junction includes for all vehicle increases, including HGVs – the proposed highway improvements at this junction allow for the provision of a new staggered toucan crossing on the A1077 as well as minor kerbing alterations to ensure that all vehicle turning movements can be accommodated (including HGVs / full size articulated vehicles).</p> <p>vi) Whilst using the 707 figure would show a higher increase in HGVs on the New Access Road, the assessment conclusion would be unaffected – this road is proposed to serve the proposed development (and cater for any diversion in traffic from Stather Rd) and new roads within the Project have been suitably designed to cater for the type / volume of vehicles anticipated.</p>
Q16.0.3	The Applicant	<p>NPS EN-1 Paragraph 5.13.8 states: “Where mitigation is needed, possible demand management measures must be considered and if feasible and operationally reasonable, required, before considering requirements for the provision of new inland transport infrastructure to deal with remaining transport impacts.</p>	<p>(iii) See response to Q14.0.8. Paragraph 5.13.8 refers to the need to consider demand management measures on existing infrastructure, before proposing new roads. In this case, the new road is required to replace an existing road (Stather Road) which serves the existing port and industrial estate and is being stopped up as a result of the proposals and therefore demand management measures would not address this requirement.</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	
Q16.0.4	The Applicant	<p>NPS EN-1</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>	<p>The Applicant has selected a site with road, river and rail access in order to maximise use of more sustainable modes of travel. As noted in our response to Q.14.0.8, having invested substantial sums in delivering the rail reinstatement works, it is within the Applicant’s interests to make the most of this mode of travel.</p> <p>It is also important to note that there are no works required to the wharf in order for this mode of transport to be used by the proposed development and the pNRA (APP-073) (which is a near final document) does not raise any issues or concerns for ABP to enable vessels to be used for the proposed development subject to capacity at the wharf.</p> <p>Paragraph 4.1.1.2 of the Traffic and Transport Chapter of the ES [APP-061] notes the significant possibilities afforded by river and rail access during construction:</p> <p><i>“Construction materials are expected to be transported by a combination of road, river and rail. Preliminary investigations have indicated that it may be possible to import some of the fill material via the river during the construction phase but the practicalities of this have yet to be evaluated in detail. The potential for this would</i></p>

			<p><i>be favourable from an environmental perspective as it would replace a large amount of road traffic.</i></p> <p><i>Rail offers scope to move materials such as construction spoil, aggregates, sand, cement, reinforcement bar and other structural steel. The key dependencies will be the phasing of the works to reinstate the disused branch line from Dragonby Sidings through to the Project, as well as the availability of suitable rail-linked sources of material at sufficient scale and/or distance from Project to make rail viable for transportation. The use of rail during construction will be explored further as the scheme develops.”</i></p> <p>Nevertheless, many goods and services can only arrive by road. This includes materials supplied by the local supply chain, which would predominantly come by road. It is therefore important to have a multi-modal strategy which provides flexibility across all three options, depending on the most appropriate mode of transport. However, having access to the river and rail offers the opportunity to significantly reduce road movements than would otherwise be the case.</p> <p>Whilst the Applicant would seek to maximise the % of materials during construction and operation that would come by river and rail, it is not possible to commit to a specific amount at this stage, as this would be subject to commercial and practical discussions with the rail operator, ABP, waste operators and once a contractor was on board.</p>
Q16.0.5	The Applicant,	6.2.13 ES Chapter 13 Traffic and	See answer to Q16.0.5 above. It is not possible to determine

	NLC	<p>Transport [APP-061] - sustainability and modal split</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>	<p>preferred modal splits at this stage, although use of the river and rail would be maximised for the reasons given above.</p>
Q16.0.6	Applicant, ABP	<p>Navigation Risk Assessment (NRA)</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>	<p>i) The Applicant does not believe the Navigation Risk Assessment includes any specific controls that need to be secured in the dDCO to address navigation risks. We are continuing our discussions with ABP to agree whether there is any need to include anything in the dDCO to secure a final NRA but note that at the ISH2 ABP confirmed the draft NRA is largely in final form already.</p> <p>ii) During a meeting with RMS ports (21/04/2021) – wind and visibility were identified as a cause/contributing effect in adverse weather conditions – rather than a specific hazard. Wind and visibility data were requested from ABP; but none was available. It is advised that limited stacking of containers be undertaken. The effect of the winds will need to be monitored under the standard navigation processes. Associated British Ports may be able to respond further with general sailing standards as it will be their pilots who assist in the sailing and if conditions are not favourable then they will make the call as to either it is possible to sail there or not.</p>

			iii) The port operator at Flixborough (RMS Ports), PD Ports and the Harbour Master (ABP) have been consulted throughout the process and no specific concerns have been identified to date.
Q16.0.7	ABP	<p>NRA</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>DCO Requirements</p> <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>	
17. WATER ENVIRONMENT			
Q17.0.1	The Applicant	<p>Clarification</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</p>	That is correct, Figure 7 does not show these features. The cross reference was made in error and should have in fact referred to the Indicative Surface Water Drainage Strategy [APP-030].

		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.	
Q17.0.2	The Applicant, Environment Agency (EA)	<p>Discharge to River Trent</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>	<p>i) A new outfall to the River Trent is not envisaged. As noted in paragraphs 8.2.4.6 to 8.2.4.8 of APP-057 all elements of the Project within the Energy Park Land will be connected into a surface water drainage system. The proposed surface water drainage strategy will be to convey the water at a restricted rate (1.4 l/s/ha) and discharge to the existing drains within the site that eventually connects to the existing Lysaght’s Drain where surface water discharges to the River Trent via an existing outfall.</p> <p>ii) The proposed surface water drainage strategy will discharge to the existing drains within the site . There will be no direct discharge of aqueous effluent to the River Trent (or abstractions from it). Clean aqueous effluent discharges from the Project will eventually reach the River Trent along with run-off and drainage from agricultural land and other sources, but will have no significant adverse effects.</p>
Q17.0.3	The Applicant (ii, iii), EA (i) and (ii)	<p>The Water Framework Directive (WFD)</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) This question is not for the Applicant.</p> <p>ii) This wouldn’t necessarily be secured but is a limitation/constraint of the time and tides of the river as well as size of the wharf. At Flixborough, ABP consider that a maximum of 4no vessel movements could occur on a single spring high tide (2no vessels arriving and 2no departing). Vessel tracks in the River Trent (for 2015) were obtained from Automatic Identification System (AIS) data and were used for baseline vessel routes. The number of vessel movements per wharf in the River Trent is shown in Table</p>

		<ul style="list-style-type: none"> i) Do the EA agree that there is no need for a WFD compliance assessment? ii) How is the limitation of 2 additional vessels per day secured and against what baseline figure does this rely? 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 CO₂. 	<p>3-3 of the NRA (APP-073). It is noted that information supplied by ABP has shown a decrease in overall vessel movements over the last 20 years; with vessel movements dropping from around 2,500 in 2000 to around 1,000 in 2020.</p> <p>iii) Based on initial high level estimates and assumptions set out in the Navigational Risk Assessment, Table 4-1 of APP-073 shows the estimated vessel movement which could be accommodated at the wharf depending on the operating hours (12/24 hours per day) and operating days (5/7 days per week). Based on the 2020 vessel movements at the wharf and the additional 580 movements estimated during operation this results in approx. 827 vessel movements at the wharf and total vessel movements in the River Trent at 1,345. Both these numbers sit within the range of numbers presented in the table and as mentioned in the NRA that based on the capacity assessment presented in the NRA, the increase of vessel movements during the operational phase can be accommodated at Flixborough Wharf with the existing two berths available.</p>
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			<p>4.2.5 A breakdown of the maximum capacity in terms of vessel movements associated with the different scenarios are provided in Table 4-1:</p> <p>Table 4-1 - Summary of results for estimating wharf capacity in vessel movements</p> <table border="1"> <thead> <tr> <th>Operating hours</th> <th>Operating days</th> <th>No. of vessels movements (one day rotation)</th> <th>No. of vessels movements (mix 1 day and 2-day rotations)</th> </tr> </thead> <tbody> <tr> <td rowspan="2">12-hour day (1 high tide)</td> <td>5 day a week</td> <td>842</td> <td>562</td> </tr> <tr> <td>7 day a week</td> <td>1,182</td> <td>786</td> </tr> <tr> <td rowspan="2">24-hour day (2 high tides)</td> <td>5 day a week</td> <td>1684</td> <td>1,124</td> </tr> <tr> <td>7 day a week</td> <td>2,364</td> <td>1,572</td> </tr> </tbody> </table>	Operating hours	Operating days	No. of vessels movements (one day rotation)	No. of vessels movements (mix 1 day and 2-day rotations)	12-hour day (1 high tide)	5 day a week	842	562	7 day a week	1,182	786	24-hour day (2 high tides)	5 day a week	1684	1,124	7 day a week	2,364	1,572
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Q17.0.4	The Applicant, EA, NLC	<p>Water Disposal</p> <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</p>	<p>i) The methods of water disposal will be secured under the Environmental Permitting (England and Wales) Regulations 2016. A ‘Bespoke Permit’ will be required for the discharge to surface water of any construction site drainage, run-off or dewatering effluent that is not classed as ‘clean water’ (see also e-page, Table 2.1 of Consents and Licences Document, APP-042).</p> <p>ii) There are no planned construction (or operational) discharges directly to the River Trent. In the event that any sort of discharge was needed, a licence would be required from the EA before any discharge could occur.</p> <p>iii) This question is not for the Applicant.</p>																		

		approval. Do either NLC or EA consider this appropriate?															
Q17.0.5	The Applicant	<p>Water Courses</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>A revised Figure 7 of ES Chapter 9: Water Resources and Flood Risk [APP-057] has been submitted at Deadline 2. The figure now shows all the watercourses listed in Table 6 of same chapter. Please note that to avoid cluttering the image, Figure 7 uses abbreviated names which can be logically linked to the full names set out in Table 6, as follows:</p> <table border="0"> <tr> <td>Figure 7</td> <td>Table 6</td> </tr> <tr> <td>WB (1 to 3)</td> <td>Winterton Beck (Tributaries 1 to 3)</td> </tr> <tr> <td>BF (1 to 4)</td> <td>Burton and Flixborough (Tributaries 1 to 4)</td> </tr> <tr> <td>L (1 to 10)</td> <td>Lysaght's Drain (Tributaries 1 to 10)</td> </tr> <tr> <td>NH (1 to 3)</td> <td>Neap House Drain (Tributaries 1 to 3)</td> </tr> <tr> <td>J (1 to 4)</td> <td>Jaques's Drain (Tributaries 1 to 4)</td> </tr> <tr> <td>UD (1 to 15)</td> <td>Unnamed Drains 1 to 15</td> </tr> </table> <p>Please note that in the course of making this check one watercourse shown on the map was not included in Table 6: Soak Mere Drain is an agricultural drain crossed by the Southern DHPWN and is of low sensitivity according to the criteria used to compile Table 16: Summary of effects of the construction activities associated with the Southern DHPWN. Like Earl Beauchamp's Warping Drain just to the south, Soak Mere Drain may require temporary damming and over-pumping or trenchless excavation to facilitate the construction of the pipeline and associated utilities. The impacts are predicted to be small and the effects not</p>	Figure 7	Table 6	WB (1 to 3)	Winterton Beck (Tributaries 1 to 3)	BF (1 to 4)	Burton and Flixborough (Tributaries 1 to 4)	L (1 to 10)	Lysaght's Drain (Tributaries 1 to 10)	NH (1 to 3)	Neap House Drain (Tributaries 1 to 3)	J (1 to 4)	Jaques's Drain (Tributaries 1 to 4)	UD (1 to 15)	Unnamed Drains 1 to 15
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			<p>significant.</p> <p>The works that will affect Lysaght's drain will be the crossing by the Southern DHPWN and access road at a location approximately midway between L8 and L9 as shown on Figure 7.</p>
Q17.1.1	The Applicant, NLC	<p>National Policy Statement EN-1 and PPG on Flood Risk</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>	<p>Paragraph 5.7.6 of NPS EN-1 refers to the PPG and states:</p> <p><i>“Further guidance can be found in the Practice Guide which accompanies Planning Policy Statement 25 (PPS25), TAN15 for Wales or successor documents.”</i></p> <p>Although PPS25 has now been overtaken by the NPPF, the PPG therefore forms guidance and is an important and relevant consideration, but does not have the weight attributed to policy in the NPS.</p>
Q17.1.2	The Applicant	<p>Planning Practice Guidance (PPG)</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>	<p>The August 2022 PPG follows the same main principles as the PPG published at the time of the FRA [APP-070]. The changes include further weight placed on above ground multi-functional SuDS; review of definition of the functional floodplain; and promotion of Natural Flood Management. It is considered that as Flood Zone 3b, functional floodplain, was defined by NLC rather than a particular return period, it still meets the new definition provided in the 2022 PPG. A review of the 2022 PPG indicates that the assessment outlined in the FRA and surface water drainage strategy [APP 072] meets the requirements of the 2022</p>

			PPG.
Q17.1.3	The Applicant	<p>Sequential test</p> <p>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> <p>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.</p>	<p>The Applicant refers to the response to Q4.0.8.</p> <p>As noted in this response, in terms of compliance with the sequential test, none of the long list sites identified by the Applicant are available and suitable alternatives to meet the need identified by the Applicant. There are therefore no suitable and available sites outside of Flood Zone 3 which would meet the need for residual waste capacity in the Yorkshire & Humber and East Midlands region.</p> <p>Notwithstanding this, although the Application site falls within Flood Zone 3, the FRA [APP-072] only identifies a slight increase in flood depth in those areas that are already at risk of flooding and no increase in hazard or frequency. (See response to Q.17.1.10).</p> <p>Details of the sequential test and approach to site selection is detailed in paragraphs 5.7.15 to 5.7.31 of the Planning Statement [APP-035].</p> <p>Section 9.6 of the ES Chapter 3: Project Description and Alternatives [APP-051] and Section 3.2 of the Flood Risk Assessment [APP-070] provides further details.</p>
Q17.1.4	The Applicant	<p>Flood Risk Assessment (FRA)</p> <p>Can you confirm that the FRA has been</p>	<p>The FRA [APP-070] has been undertaken in consultation with the Environment Agency from an early stage. This included agreeing the most appropriate and up-to-date flood model to use as part of</p>

		<p>undertaken with the latest data on:</p> <ul style="list-style-type: none"> (i) Detailed hydraulic modelling for the River Trent, (ii) Latest Climate Change allowances, and (iii) Sensitivity testing for the Humber Extreme Water Levels produced by the EA 	<p>the assessment. This included basing the assessment on:</p> <ul style="list-style-type: none"> • The NLC Lincolnshire Lakes Flood Defence Scheme model, 2017. • EA Humber 2100+ Extreme Water Levels model, 2020 • Climate change allowance for sea level rise based on the UKCP18 latest EA guidance (July 2020). • Climate change allowance for peak river flow based on the UKCP09 pre-July 2021 EA guidance. This guidance included a more onerous value to be assessed (30% increase in peak flow) compared to the latest EA guidance of 23%. However, this does not make a significant impact to the site due to the main flood risk to the site being tidal. This was discussed and agreed with the EA. • Sensitivity testing approach used in the EA Humber Extreme Water Levels study was used in this study for the H++ scenario. <p>Further information can be found in Appendix B of the FRA [APP-070].</p>
Q17.1.5	EA, Applicant	<p>Flood Defences</p> <p>The Proposed Development will make use of the existing flood defences.</p> <ul style="list-style-type: none"> (i) Please provide details of the current condition of these assets, and proposals for maintaining them in the future. <p>APP-070 at paragraph 5.1.10 states that the existing defences are due to be</p>	<ul style="list-style-type: none"> (i) Further information on the condition of the existing flood defences can be found in paragraph 5.1.9 FRA [APP-070]. The condition ranges between Good, Fair and Poor. This information was provided from the EA Assets team who have a maintenance and inspection regime in place for maintaining them. (ii) The Applicant is not aware of any updates, the EA will hopefully be able to provide more information on this. (iii) The Applicant has discussed the maintenance of new defences proposed as part of the scheme with the EA and

		<p>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>	<p>agreed that the Applicant would be responsible for maintaining these. It is the Applicants understanding that the existing flood defences will be maintained by the EA. The ongoing maintenance of the new flood defences will be secured as part of the flood management plan, specifically the flood resilience implementation plan pursuant to requirement 12 of the dDCO.</p>
Q17.1.6	The Applicant	<p>FRA</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>	<p>(i) The Applicant does not currently have a plan that distinguishes between 3a and 3b grade land. For the purpose of the EIA the Applicant has assumed that all land is 3a and therefore the EIA has considered a worst case scenario.</p> <p>(ii) The site is currently protected from flooding due to the defences. However, in the future the site is at risk of flooding from overtopping of the defences. Figure 5.6 in FRA [APP-070] provides an image that shows approximately 75% of the agricultural land at risk of flooding in the future in the baseline condition.</p>
Q17.1.7	The Applicant, NLC, EA	<p>FRA</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</p>	<p>As a point of clarification, three mitigation options have been proposed for the warehouse in the AB Agri site, rather than the Steel Works warehouse. For both sites, the need for a Flood Evacuation and Management Plan has been proposed.</p> <p>(i) The Applicant has amended requirement 3 of the dDCO to add in reference to the flood risk assessment to ensure that the design measures included in the FRA form part of the</p>

		<p>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> <p>(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?</p>	<p>design approval process for all relevant parts of the authorised development.</p>
Q17.1.8	The Applicant, EA, NLC	<p>Flood Risk</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</p>	<p>i) The text provided in Table 2 refers to the reasoning why assessment of flood risk at the site in 100 years' time beyond the lifetime of the development is not practical to be undertaken now as it is likely that the management of flood risk by the EA or NLC in the wider area, beyond the site boundary, may change over the next 40 years. Therefore, if such an assessment is required in the future it should be undertaken closer to the end of the development life to ensure it captures the most up-to-date and relevant information. The assessment of flood risk undertaken in the FRA [APP-070] is based on the flood defences that currently exist and their current standard of protection, and that they're in place for the lifetime of the development. As these defences are maintained by the EA it is assumed that they will be in place for the lifetime of the proposed development. Therefore, the Applicant does not consider that unspecified additional measures can be considered at this time or need to be secured as part of this DCO.</p>

		<p>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>	<p>ii) As indicated above, the proposed development is not reliant on additional measures by the EA or NLC for the lifetime of the proposed development.</p> <p>iii) As indicated above the proposed development has been assessed based on the existing defences and does not assume that additional measures in the wider area are in place. Therefore, flood risk will not increase to offsite areas for the duration of the proposed development.</p>
Q17.1.9	The Applicant	<p>Flood Management</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>	<p>No physical work is proposed in this area with regard to flood management. However, this area is identified as being important for flood storage in the event of future overtopping of the defences or a breach in the defences. If any development is proposed in this area in the future, it will need to be assessed to ensure that the flood storage is retained in this area and flood risk is not increased to offsite areas.</p>
Q17.1.10	The Applicant, EA (iii)	<p>Off site Flood Risk</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) The FRA [APP-070] includes details of the proposed flood mitigation measures that have been introduced to ensure the proposed development is safe for its lifetime and to minimise the flood risk impact to surrounding areas. The steel storage shed located in the north of the port is at risk of flooding during the baseline with a slight increase in</p>

		<p>(i) Please explain how this conclusion meets with the tests set out on NPS EN-1 particularly paragraphs 5.7.3 <i>“Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall.”</i> (Type in bold is our emphasis). Paragraph 5.7.16 final bullet point which states <i>“a FRA must demonstrate that the project will be safe, without increasing flood risk elsewhere subject to the exception below”</i></p> <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</p>	<p>flood depth during one of the breach scenarios. There is no increase in hazard or frequency of flooding to the site. Both areas will be managed appropriately through the Flood Evacuation and Management Plan to ensure the safety of users.</p> <p>(ii) Paragraph 5.7.17 states that <i>“Exceptionally, where an increase in flood risk elsewhere cannot be avoided or wholly mitigated, the IPC may grant consent if it is satisfied that the increase in present and future flood risk can be mitigated to an acceptable level and taking account of the benefits of, including the need for, nationally significant energy infrastructure as set out in Part 3 above”</i>.</p> <p>It is the Applicant’s view that this policy is engaged on the basis that the FRA identifies a slight increase in flood depth in those areas that are already at risk of flooding and no increase in hazard or frequency. This very marginal harm should be given limited weight when applied to the benefits of the Project.</p> <p>Information has been provided in the Exception Test in Chapter 6 of the FRA [APP-070]. Where flood risk is estimated to increase in offsite areas, these are areas already at flood risk and it is the depth that is estimated to marginally increase. Flood mitigation measures have been proposed to manage this risk as best as possible. The flood modelling results illustrating the impacts during the different scenarios tested and the different mitigation measures proposed were presented and discussed and agreed with the EA during meetings on the 22nd April 2021 and 26th August 2021, as summarised in the FRA Table 3-</p>
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		<p>evidence of precedent elsewhere.</p>	<p>8. It is considered that the benefit of the proposals outweigh the estimated marginal increase in flood risk.</p> <p>(iii) The paragraph that the ExA question refers to is 5.7.3 of NPS EN1 which states that where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall. The Applicant's approach to site selection, referred to in the Planning Statement [APP-035] and Chapter 3 of the ES [APP-051] and its responses to questions Q.4.0.5 to Q.4.0.8 was to identify a suitable and available site for an ERF which met the need for residual waste capacity in the Yorkshire & Humber and East Midlands region to reduce the level of waste going to landfill, an approach which is entirely consistent with Government policy. There are relatively limited sites that are suitable for ERFs and the Applicant reasonably focused on existing industrial sites that have a history of waste-related uses. The ability to secure access to transport materials by the river was also key, and supported by all levels of Government policy, and indeed it is this river-access which has led to a site being selected which is located in Flood Zone 3. It is therefore necessary for the site to be located in this particular location and therefore this paragraph of the NPS is complied with. In terms of the associated development; all of the associated development included within the application supports the construction and operation of the Project, or is required to mitigate its effects. On this basis, paragraph 5.7.3 applies equally to the associated development.</p> <p>An example of how this approach has been taken for other</p>
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			<p>types of infrastructure, is the approach taken to site selection by the Government in identifying potential suitable sites for nuclear power stations in NPS EN6. The strategic site assessment to NPS EN6 (Volume II, Annex C) identifies four potentially suitable sites in, or partially within, Flood Zone 3 – Hartlepool, Bradwell, Hinkley Point and Sizewell. Paragraph C.2.28 states that: <i>“The Government believes that the fact that a site is in Flood Zone 3 should not prevent a site from being considered potentially suitable for the deployment of a nuclear power station by 2025 if the independent regulator has advised that the site can potentially be protected.”</i></p> <p>Other useful precedent can be found in the ExA’s report in relation to the examination of the South Humber Bank DCO, which was for an ERF, also located in Flood Zone 3. Paragraph 4.16.65 of the ExA’s report states: <i>“From the evidence before me, having regard to the Sequential and Exception Tests, I am satisfied that the Proposed Development is acceptable in terms of its location and in regard to all matters related to water quality, flood risk and flood resilience.”</i> Whilst there are clearly site-specific considerations that apply, as they do for the NLGEP application, this provides precedent for an ERF and its associated development, being considered as acceptable in Flood Zone 3.</p> <p>The ExA’s report for the Keadby 3 DCO is also relevant. This site is located on the opposite side of the River Trent</p>
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			from the Application site and is also predominantly in Flood Zone 3, with a small section in Flood Zone 2. The ExA report states at paragraph 4.21.98: <i>“From the evidence before me, having regard to the sequential and exception tests, I am satisfied that the Proposed Development is acceptable in terms of its location and in regard to all matters related to water quality/ resources and flood risk/ resilience.”</i>
Q17.1.1, 1	NLC, EA	<p>Flood management</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>iii) 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>Strategic Flood Risk Assessment (SFRA)</p> <p>The FRA [APP-070] relies in part on the North Lincolnshire SFRA (2011).</p> <p>Is this SFRA the agreed starting point for flood risk in the area?</p> <p>Is this the most up to date information available?</p>	
Q17.1.13	The Applicant	Flood Mitigation	(i) Figures 3 of ES Chapter 1 [APP-049] and the corresponding Figure 4 in ES Chapter 3 [APP-051]

		<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>(iv) 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>(v) Explain the need for this area of land in meeting the safe mitigation of flood risk for the proposed development, and</p> <p>(vi) The management of this area of land for both ecological and flood management purposes.</p> <p>(vii) The apparent inconsistency with Plans included in [APP-024] and</p> <p>(viii) Whether this land is intended to be covered by the LBMMP [APP-041]</p> <p>(ix) How this area and the purposes it serves is secured within the</p>	<p>illustrate the new wetland landscape as blue hatched land, which is labelled Wetland / SuDS within the Legend on both drawings.</p> <p>(ii) The proposed wetland / SuDS are required to provide appropriate flood storage capacity during the future design storm event (1 in 100 year+40% allowance for climate change). These areas ensure that additional runoff created by the new hard landscaping areas and buildings is captured before being discharged at a controlled rate into the existing ditches as outlined in the stormwater drainage strategy [APP-072].</p> <p>(iii) A maintenance plan will be compiled as part of the next stage of design that sets out the minimum requirements to ensure that these areas function as designed.</p> <p>(iv) The new wetland landscape (blue hatched land), which is labelled Wetland / SuDS within the Legend in Figures 3 of ES Chapter 1 [APP-049] and the corresponding Figure 4 in ES Chapter 3 [APP-051] is the same as wetland habitat within the Indicative Landscape and Biodiversity Plans [APP-024]. It should be noted that due to the scale and overlapping colours, shown on Figures 3 of ES Chapter 1 [APP-049] and the corresponding Figure 4 in ES Chapter 3 [APP-051], the extent of the wetland habitat between the railhead and CBMF isn't as clear as the extents shown on the Indicative Landscape and Biodiversity Plans [APP-024].</p> <p>(v) The land is included in the LBMMP for the purposes of ecological management (see e-page 34 of APP-041).</p> <p>(vi) The area of land to be used for flood mitigation is secured and protected in the dDCO by virtue of the proposed drainage rights and a restrictive covenant set out in</p>
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		DCO?	Schedule 10 in both Part 1 Option A (page 59-60) and Part 2 Option B (page 72). The restrictive covenant will benefit the Order Land and prevent anything being done on the relevant plots as specified “which shall or which it is reasonably foreseeable may interfere with the rights to drain.”
Q17.1.14	EA, NLC (i) and (ii) The Applicant (ii) only	<p>Mitigation</p> <p>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?</p> <p>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?</p>	<p>(i) Note that in addition to requirement 12 the Applicant has also added in reference to the flood risk assessment in requirement 3 on design to ensure the mitigation measures are taken into account in the approval of design of each relevant part of the authorised development.</p> <p>(ii) It is the intention that consultation is undertaken with NLC Emergency Planning team during the next stage of design.</p>

APPENDIX A

RESPONSE TO QUESTION Q4.0.5

Policy Background

NPS EN3 makes it clear at paragraph 2.1.3 that *“it is for energy companies to decide what applications to bring forward and the Government does not seek to direct applicants to particular sites for renewable energy infrastructure other than in the specific circumstances described in this document in relation to offshore wind.”*

In this context, the Government sets out factors that may influence site selection of biomass and Energy from Waste (EfW) facilities at paragraphs 2.5.22 to 2.5.29 of NPS EN3 as:

- Grid connection – Noting that *“the technical feasibility of exporting electricity from a biomass or waste combustion plant is dependent on the capacity of the grid network to accept the likely electricity output together with the voltage and distance of the connection.”*
- Transport infrastructure – *“Government policy encourages multi-modal transport and [the IPC] should expect materials (fuel and residues) to be transported by water or rail routes where possible”... and “any application should incorporate suitable access leading off from the main highway network.”*
- Combined Heat and Power (CHP) – *“The IPC should not give development consent unless it is satisfied that the applicant has provided appropriate evidence that CHP is included or that the opportunities for CHP have been fully explored.”*
- Carbon Capture Readiness (CCR) – the IPC should require operators to *“retain control over sufficient additional space (whether on or near the site) for the carbon capture equipment”*.

It is therefore entirely consistent with Government policy on site selection for EfW facilities that sites should be located to enable adequate connection to the grid, be accessible by road (and preferably water and rail as well) and offer opportunities to enable the introduction of CHP and CCR.

Background to Solar21 and Commercial Site Finding Exercise

The Applicant’s approach to the consideration of Alternative Sites is set in out in Section 9.4 of Chapter 3 of the Environmental Statement [APP-051] and is consistent with national policy in NPS EN3.

Solar21 was established in 2010, initially investing in solar plants in Italy. They subsequently developed the Tansterne Biomass plant, a 23MW waste wood plant, which in 2017 was named the best Project/Installation at the Humber Renewables Awards and was commissioned in 2018. They then developed a biogas plant at Woodmansey, commissioned in 2020.

With this industry knowledge and experience, Solar21 undertook to identify suitable sites for Energy Recovery Facilities (ERF's).

Defining the Long List

The long list is set out at 9.4.2.3 of Chapter 3 [APP-051]. The primary consideration informing the long list was locations which were capable of addressing estimated capacity gaps for residual waste suitable for energy recovery. The focus was therefore on regions which currently had high amounts of waste going to landfill or export.

Following this initial consideration, the Applicant used their industry knowledge to identify existing and former industrial sites, which were within 3km of a suitable grid connection with adequate export capacity. This is recognised as a key factor influencing site selection in NPS EN3 (paragraph 2.5.22).

Each site on the long list was then screened in relation to:

- Site size of over five hectares. Five hectares was considered to be the minimum size necessary to deliver a viable ERF, traffic flow, CCR, on-site treatment of ash and CHP enablement.
- Whether the principal site was commercially available. This was informed through initial discussions between the Applicant and the landowners and didn't include consideration of all possible expansion land (including all of the land now within the NLGEP Order Limits).
- Potential for access by rail and/or river.
- Whether the site was primarily on greenfield or brownfield land.
- The proximity to potential off-takers of heat and power. This criterion was considered on the basis of professional judgement, but it was generally considered that sites within a 5 kilometres radius of a large urban conurbation would have good potential for connection to potential off-takers of heat and power.
- Potential availability of expansion land to enable Best Available Techniques, including potential for carbon capture, as recognised by NPS EN3.

The essential criteria were therefore that the site must be in a region where there was an identified capacity gap in the treatment of residual waste and that the site must be an existing or former industrial site within 3km of a grid connection, be of more than five hectares in size and be commercially available. The remaining criteria were desirable, and this is summarised in Table A1.

TABLE A1

CRITERION	ESSENTIAL	DESIRABLE
Within region where there is a capacity gap in treatment of residual waste	Yes	No
Existing or former industrial sites	Yes	No
Within 3km of suitable grid connection	Yes	No
Site greater than 5ha	Yes	No

Commercially available	Yes	No
Potential access by rail/river	No	Yes
Brownfield site	No	Yes
Proximity to potential off-takers of heat and power	No	Yes
LPA potentially supportive of ERF	No	Yes

Identifying the Short List

Table A2 (see below) provides the long list with a summary of performance against the above criteria and other considerations relevant to the availability and suitability of the site.

Conclusions

The Applicant identified a long list primarily informed by industry knowledge of potentially suitable sites within regions where there is an over-reliance on landfill and estimated capacity gaps in the treatment of residual waste.

The Flixborough Industrial Estate met all of the essential criteria and performed well against the desirable criteria. Its key benefit compared to the other sites in the long list, was the ability to access the wharf and the available of achieving the necessary grid capacity at 132kv with a Distribution Network Operator (DNO) substation without significant upgrades to the network. The full benefits compared to other sites in the long list are set out at paragraph 9.5.1.1 of Chapter 3 of the ES [APP-051].

TABLE A2

SITE	SITE SIZE 5 HA OR MORE	COMMERCIAL AVAILABILITY	POTENTIAL ACCESS BY RAIL AND/OR RIVER	PRIMARILY GREENFIELD OR BROWNFIELD	PROXIMITY TO POTENTIAL OFF-TAKERS OF HEAT AND POWER	COMMENTS AND OTHER PLANNING CONSIDERATIONS	SITE PROGRESS TO SHORTLIST
Energy Recovery and Visitor Centre - Riverside Waste Transfer and Recycling Centre, Jameson Road, Fleetwood, FY7 8TW	No	No	Too small not considered further.	-	-	Site is under minimum size necessary to deliver a viable ERF.	No
Shoreham Recycling, Cement Works, Southwick, Shoreham-on-Sea	Yes	Yes	Road only	Brownfield	Yes	Site is potentially commercially available but is only accessible by road. South Downs National Park Authority consulted	No

<p>[note – incorrect address is given in Chapter 3]</p>						<p>in April 2022 on the regeneration of the site to deliver mixed housing, employment and leisure uses.</p> <p>Closest homes within 200m of the site.</p> <p>Site is also located within the South Downs National Park.</p> <p>Considered challenging to achieve necessary political support for an ERF in this location and clear intention that the site is developed for other uses.</p> <p>Site is therefore not available or suitable for an ERF.</p>	
<p>Easter Langlee Farm Landfill Site,</p>	<p>Yes</p>	<p>Yes</p>	<p>Road only</p>	<p>Greenfield</p>	<p>No</p>	<p>Site is potentially commercially available but is only accessible by road.</p>	<p>No</p>

Galashiels, TD1 2NU						<p>Site located on greenfield site, compared to the others which are predominantly brownfield.</p> <p>Site is located approximately 150m from a residential area, but not in close proximity to large conurbation.</p> <p>Considered challenging to achieve necessary political support for an ERF in this location</p>	
Hanson Non-Operational Brickworks, Stairfoot, Barnsley, South Yorkshire, S70 3NS	Yes	No	Road only	Brownfield	Yes	Site is not commercially available and is only accessible by road.	No
Pilkington Glass Site,	Yes	Yes	Road and rail	Brownfield	Yes	Grid export capacity constrained and	No

Land at Cowley Hill Works, St Helens, Merseyside						<p>significant additional works required to achieve connection to the grid.</p> <p>Site identified for comprehensive housing, employment, leisure and retail regeneration in emerging St Helens Borough Council Local Development Plan. Outline planning permission granted in July 2021 (ref. P/2020/0083/OUEIA submitted).</p> <p>Site is therefore not available or suitable for an ERF.</p>	
GEEC Site, Fort Industrial Park, Dunlop Way, Castle Bromwich, Birmingham	No	Yes	Too small not considered further.	-	-	Site is under minimum size necessary to deliver a viable ERF.	No

Aecom Site, land at Seal Sands, Billingham, Teesside	Yes	Yes	Road and rail	Brownfield	Yes	<p>Planning permission granted in 2013 for a 24MW energy facility including gasification technology. A non-material amendment was approved in 2019, to allow preliminary site works to commence.</p> <p>Press activity suggests that construction is due to commence shortly and therefore the site is not available.</p>	No
British Steel Site, Brigg Road, Scunthorpe, North Lincolnshire, DN16 1XA	Yes	No	Road and rail	Brownfield	Yes	Site is not commercially available but considered worth exploring further because of potential for rail access.	Yes
Tata Chemicals Site, Lostock	Yes	No	Road and rail	Brownfield	Yes	Site is not commercially available.	No

Gralam, Rudheath, Northwich CW9 7WL						<p>Site is being developed for an Energy from Waste facility capable of generating circa 90MW of renewable electricity.</p> <p>An application was made to BEIS in October 2021 for a variation to the original consent under Section 36 of the Electricity Act to enable the plant to deal with more waste.</p> <p>The site is therefore not available and is being developed by another party.</p>	
Tata Steels Site, Port Talbot, SA13 2NG	Yes	No	Road and rail	Brownfield	Yes	Site is not commercially available.	No
Carlton Forest Distribution	No	Yes	Too small not considered further.	-	-	Site is under minimum size	No

Centre, Blyth Road, Worksop, S81 0TT						necessary to deliver a viable ERF.	
Flixborough Wharf, RMS Ports, Flixborough, DN15 8TH	Yes	Yes	Road, rail and river	Brownfield	Yes	<p>Site is commercially available and has the potential for access by road, river and rail.</p> <p>Grid connection available without significant upgrades.</p> <p>ERF is within an existing employment area and expansion land to the south benefiting from historical permission for an industrial business park, sewage treatment plant and fire and ambulance station (determined under call-in procedure - reference YH5264/219/19 and LPA reference 7/1021/89).</p>	Yes