



NORTH LINCOLNSHIRE GREEN ENERGY PARK

Planning Act 2008

Infrastructure Planning
(Applications
Prescribed Forms and
Procedure) Regulations
2009

North Lincolnshire Green Energy Park

Volume 9

9.16 Comments on responses to the
ExAs ExQ1

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GLOSSARY

| Acronym | Full term / Description |
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| 2008 Act | Planning Act 2008 |
| ABP | Associated British Ports |
| AGI | Above Ground Installations |
| BNG | Biodiversity Net Gain |
| CBMF | Concrete Block Manufacturing Facility |
| CCTV | Closed Circuit Television |
| CEMP | Construction Environmental Management Plan |
| CCUS | Carbon Capture, Utilisation and Storage |
| CLP | Construction Logistics Plan |
| CO ₂ | Carbon Dioxide |
| CoCP | Code of Construction Practice |
| CoPA | Control of Pollution Act |
| DCO | Development Consent Order |
| DHPWN | District Heating and Private Wire Network |
| EA | Environment Agency |
| EN-1 | Overarching National Policy Statement for Energy |
| EN-3 | National Policy Statement for Renewable Energy Infrastructure |
| EN-5 | National Policy Statement for Electricity Networks Infrastructure |
| EP | Environmental Permit |
| EV | Electric Vehicle |
| ERF | Energy Recovery Facility |
| ES | Environmental Statement |
| FRA | Flood Risk Assessment |
| FGTr | Flue Gas Treatment Residue |
| H ₂ | Hydrogen |
| IAQM | Institute of Air Quality Management |
| IDB | Internal Drainage Board |
| INNS | Invasive Non-Native Species |
| LVIA | Landscape and Visual Impact Assessment |
| LLFA | Lead Local Flood Authority |
| NPS | National Policy Statement |
| NSIP | Nationally Significant Infrastructure Project |
| NLC | North Lincolnshire Council |

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| NLGEP | North Lincolnshire Green Energy Park |
| OEMP | Outline Environmental Management Plan |
| PRF | Plastic Recycling Facility |
| PEIR | Preliminary Environmental Information Report |
| PRoW | Public Rights of Way |
| RLB | Red Line Boundary |
| RHTF | Residue Handling and Treatment Facility |
| SoS | Secretary of State |
| SoCG | Statement of Common Ground |
| SoCC | Statement of Community Consultation |
| SuDS | Sustainable Drainage Systems |
| TCPA | Town and Country Planning Act |
| WSI | Written Scheme of Investigation |

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1.0 INTRODUCTION

Overview

- 1.1 This report sets out North Lincolnshire Green Energy Park Limited's (the Applicant's) comments on the responses by other parties to the Examining Authority's written questions submitted at Deadline 2.

The Proposed Development

- 1.2 The North Lincolnshire Green Energy Park (NLGEP), located at Flixborough, North Lincolnshire, comprises an ERF capable of converting up to 760,000 tonnes of residual non-recyclable waste into 95 MW of electricity and a CCUS facility which will treat a proportion of the excess gasses released from the ERF to remove and store CO₂ prior to emission into the atmosphere. The design of the ERF and CCUS will also enable future connection to the Zero Carbon Humber pipeline to be applied for, when this is consented and operational, to enable the possibility of full carbon capture in the future.
- 1.3 The NSIP incorporates a switchyard, to ensure that the power created can be exported to the National Grid or to local businesses, and a water treatment facility, to take water from the mains supply or recycled process water to remove impurities and make it suitable for use in the boilers, the CCUS facility, concrete block manufacture, hydrogen production and the maintenance of the water levels in the wetland area.
- 1.4 The Project includes 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) refueling station;
 - battery storage;
 - a hydrogen and natural gas above ground installation (AGI);
 - a new access road and parking;
 - a gatehouse and visitor centre with elevated walkway;

- railway reinstatement works including; sidings at 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);
- 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.

1.5 The Project will also include development in connection with the above works such as security gates, fencing, boundary treatment, lighting, hard and soft landscaping, surface and foul water treatment and drainage systems and CCTV.

1.6 The Project also includes temporary facilities required during the course of construction including site establishment and preparation works, temporary construction laydown areas, contractor facilities, materials and plant storage, generators, concrete batching facilities, vehicle and cycle parking facilities, offices, staff welfare facilities, security fencing and gates, external lighting, roadways and haul routes, wheel wash facilities, and signage.

The Purpose and Structure of this Document

1.7 This document sets out the Applicant's comments on the answers submitted by other parties to the Examining Authority's written questions received by the Examining Authority at Deadline 2.

1.8 The document is structured as follows:

- Section 2: Environment Agency
- Section 3: North Lincolnshire Council
- Section 4: Historic England
- Section 5: Natural England
- Section 6: ADB Autotech
- Section 7: Associated British Ports
- Section 8: Cadent Gas Limited

- Section 9: National Grid Carbon Limited
- Section 10: Network Rail Infrastructure Limited
- Section 11: AB Agri Limited

2.0 APPLICANTS' COMMENTS ON THE ENVIRONMENT AGENCY'S WRITTEN QUESTION RESPONSES

2.1 The Applicant's Comments on the Environment Agency's response to the Examining Authority's written questions can be found below in Table 1.

Table 1: Applicants comments on the Environment Agency's response to the Examining Authority's written questions

| Environment Agency responses | Applicant's Comment |
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| <p>Q1.0.16</p> <p>(i) In Table 5 the operator presents data for the required specification of the RDF. The operator will control the inputs to the plant to materials meeting this specification or within acceptable tolerances. We have no specific concerns regarding potential changes to the characteristics of available waste streams in the future.</p> <p>(ii) The EA does not have a view on this issue.</p> | <p>The Applicant welcomes the EA's response on this matter.</p> |
| <p>Q1.0.17</p> <p>(i) The operator will be required by the environmental permit to operate to a written environmental management plan. This will be expected to cover all processes and procedures addressing actual or potential impacts on the environment. We will consider the following areas of potential harm, within the installation boundary, when assessing the permit:</p> | <p>The Applicant confirms that the matters set out by the EA will be addressed by the Environmental Permit application.</p> <p>The OEMP will consider and assess the environmental risks that fall outside of the permitted boundary of the installation/s. The environmental permit and its associated conditions will control and manage the activities that take place within a defined red line boundary. None of the scheduled activities, waste activities or directly</p> |

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| <ul style="list-style-type: none"> • Management - including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes • Operations - including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design. • Emissions - to surface water, sewer and air, odour, noise and vibration, monitoring and reporting of emissions <p>(ii) The EA cannot provide a view on the issues requiring control outside of the environmental permitting regime.</p> | <p>associated activities are permitted to have an unacceptable impact beyond the site boundary. This will be regulated by the Environment Agency.</p> <p>Prior to any scheduled activity taking place, a submission/s will be made to the Regulator (the Environment Agency) in full accord with EPR Permitting Guidance and BAT Reference Documents. This will outline the design of the facility and proposed approach for its operation in accord with the latest Sector Guidance and Best Available Techniques as appropriate.</p> <p>Once the Regulator has considered the application for the environmental permit/s and decided on whether to grant, the Operator will, where a permit is granted, operate the installation (defined by an agreed boundary) in accord with the permit application documents and must comply with all conditions written within the Environment Permit/s, including the requirement to operate in accord with a written management system. By operating in accord with the permit and a management system, the risk to the environment and area outside of the permit boundary, from the listed scheduled activities, waste activities and directly associated activities is minimised.</p> |
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| <p>Q1.0.20</p> <p>We are not aware of any particular implications for the submitted application documents.</p> | <p>The Applicant acknowledges the EA's response and notes that a more complete response to this question (implications of the Environment Act 2021) from the Applicant is being provided at this Deadline within Document Reference 9.18: Applicant's further responses to Written Questions (ExAQ1).</p> |
| <p>Q5.0.2</p> <p>We note that this question requests a response from the EA. However, as mentioned in paragraph 8.1 of our Relevant Representation [RR-060] the EA can only undertake a detailed review of the air quality modelling for a project when it determines the permit application to operate the site. Also, as the question relates to the potential impact on a designated site, we would defer to Natural England to provide a view on this issue.</p> | <p>The Applicant will continue to work with the EA on obtaining the necessary permits and will provide all required air quality modelling information as a part of this process.</p> |
| <p>Q7.1.27</p> <p>(i) Clause 36(7) acknowledges the requirement for an Environmental Permit before entry into controlled waters, which is considered adequate protection for the Environment Agency. However, the recently granted Keadby 3 Order does include a similar provision, that has been made conditional as the ExA is suggesting.</p> | <p>(i) and (ii) In the dDCO submitted at Deadline 2 the Applicant amended article 36(1) in line with the ExA's suggestion to make clear that the power is subject to paragraphs 36(3) and (4) and replaced the term "carrying out" with "construction" and "operation".</p> |

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| <p>(ii) The EA offers no explanation for this term but notes that it exists in most provisions relating to the discharge of water in other DCOs.</p> | |
| <p>Q7.1.28</p> <p>The EA notes that the inclusion of the annual throughput was recommended by the ExA in the South Humber Bank Energy Centre DCO, due to the absence of an environmental permit and the transport assessment (fuel deliveries) for that project. The maximum fuel throughput would be specified in an Environmental Permit to operate the site, if granted. The EA makes no request for the throughput to be included in the DCO and defers to the ExA and Secretary of State to decide if this is necessary.</p> | <p>While the EA has not requested that a throughput be included in Work No. 1, as a result of this question the Applicant updated Work No. 1 in the dDCO at Deadline 2 to include reference to an annual throughput of up to 760,000 tonnes.</p> |
| <p>Q7.1.41</p> <p>Waste is commonly referred to as RDF by operators when some form of pre-treatment is applied to it in order to control the waste characteristics such as moisture or calorific value. The operator will monitor waste/RDF inputs to ensure their plant will operate within the tight constraints imposed by the environmental permit. Waste inputs to the plant are controlled by the environmental permit specifying each waste type as applied for by the operator. The determination of waste type suitability depends on the operator's demonstration that the waste can be input to</p> | <p>The Applicant acknowledges and welcomes the EA's response on this matter.</p> |

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| <p>the plant without significant risk to emission standards specified by the permit at the permitting stage.</p> | |
| <p>Q7.1.43</p> <p>(i) The impact of decommissioning the site on flood risk has not been assessed within the submitted flood risk assessment. Requirement 16 refers to the implementation of a ‘decommissioning environmental management plan’. Whilst not explicit, it would be reasonable to expect a comprehensive environmental management plan to encompass matters relating to flood risk.</p> <p>(ii) for the avoidance of doubt it may be prudent to amend this requirement to read “...and a decommissioning environmental management plan to include, but not be limited to, matters such as flood risk”.</p> | <p>(i) and (ii) The Applicant notes the EA’s comments and will amend requirement 16 to ensure this will cover flood risk when the dDCO is next updated at Deadline 4.</p> |
| <p>Q7.1.46</p> <p>(vi) The EA did not request the inclusion of the Requirement for a detailed operational environmental management plan to be submitted under the DCO and cannot, therefore, provide any information in respect of how this will (or is intended to) interact with the Environmental Permit. For information, the operational environmental management system (EMS),</p> | <p>Environmental Permit (EP) and Operational Environmental Management Plan (OEMP, APP-075): the Project is a complex one with multiple operational elements. At this stage it is not clear that all 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</p> |

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| <p>required by an environmental permit, covers all environmental aspects of the permitted site operation.</p> | <p>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> |
| <p>Q7.1.47 Requirement 4(2) appears to secure the submission of a CEMP in advance of each part of the authorised development, to be approved by the relevant planning authority.</p> | <p>The Applicant agrees that Requirement 4 secures this.</p> |
| <p>Q7.1.48 (i) & (ii) Please see answer above for Q7.1.46</p> | <p>Environmental Permit (EP) and Operational Environmental Management Plan (OEMP, APP-075): 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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| <p>Q7.1.49</p> <p>The EA is unable to provide a view on this issue until the Applicant provides further information on the intended contents of the Construction Flood Management Plan to be submitted under Requirement 4 (the CEMP) and the Flood Management Plan to be submitted under Requirement 12.</p> | <p>Further to the Applicant's response to Q7.1.49, the Applicant will liaise with the EA during the next stage of design to agree and complete the details of the Flood Management Plan and agree the requirements for the Construction Flood Management Plan.</p> |
| <p>Q7.1.55</p> <p>The Environment Agency would be pleased to be included as a specific consultee to this Requirement to ensure that the surface water drainage does not cause pollution of controlled waters. However, the EA has no remit in respect of surface water flooding/risk assessment.</p> | <p>The Applicant confirms that the dDCO was updated at Deadline 2 to include the EA as consultees to Requirement 8 (see REP2-004).</p> |
| <p>Q7.1.56</p> <p>It is appropriate for Environment Agency purposes, but we would defer to the Lead Local Flood Authority (North Lincolnshire Council) for the definitive view as it is the lead for surface water management issues.</p> | <p>The Applicant acknowledges the EA's confirmation on this matter.</p> |
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| <p>Q7.1.57</p> <p>Yes</p> | <p>The Applicant acknowledges the EA's confirmation on this matter.</p> |
| <p>Q7.1.60</p> <p>Further to discussion during the Issue Specific Hearing on the dDCO (17th Nov 22) the Applicant agreed to consider the wording for this Requirement alongside that included in Requirement 4(3)(e), which seeks to secure a construction flood management plan.</p> <p>It is the EA's view that there is a need to secure a flood management plan prior to any development commencing in order to secure the detailed mitigation scheme in advance of construction taking place. Whilst the broad flood risk mitigation measures have been agreed and tested there remains a need to finalise the designs of some of these mitigation measures to ensure that they operate effectively and can be suitably maintained for the lifetime of the development.</p> <p>To not require such a scheme until the pre-commissioning stage would be too late to resolve any issues that need to be incorporated into the detailed design/construction of the project.</p> | <p>Further to the discussion held on the 17th November, the dDCO Requirement 3(2) was updated and submitted at Deadline 2 to include further clarity that the design details are to be submitted and approved by the relevant planning authority prior to commencement and must be in accordance with the flood risk assessment (FRA). The FRA [APP-070] includes the requirement for the Flood Management Plan. We will continue to engage with the EA to agree the wording in the dDCO relating to delivery of the physical mitigation measures and consider if any further amends are required to secure this.</p> |
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| <p>Q7.1.62</p> <p>The EA does not have a view on this question. For information, there is a standard condition for an environmental permit which limits input of separately collected fractions of recyclables.</p> | <p>The Applicant notes the EA's response and will continue to engage with them on this point within the SoCG. The plant will accept only residual wastes.</p> |
| <p>Q12.0.6</p> <p>Currently noise impact assessment is undertaken at a permit application stage using BS4142, and appropriate measures are agreed pre-design to reduce the risk of significant impact. Advice on this issue could be given to the Applicant under the EA's enhanced pre-application permit service, if required. Compliance assessment during operation may be undertaken where issues arise.</p> | <p>Consideration of noise at each permitted facility will be undertaken in advance of applying for the appropriate environmental permit / licence. The approach adopted will follow the relevant EA guidance and British Standard as appropriate. The assessment of noise will cover the operational activities at the site within the proposed and defined installation boundary and potential for impact off site at pre-identified sensitive receptors.</p> |
| <p>Q14.0.4</p> <p>If this plant is permitted as an incinerator/co-incinerator the Large Combustion Plant Directive will not apply.</p> | <p>The Applicant agrees that the Large Combustion Plant Directive will not apply.</p> |
| <p>Q17.0.2</p> <p>(i) This is the correct. The proposed drainage strategy predominantly utilises the existing Lysaghts Drain to dispose of surface water. The existing</p> | <p>(i) The Applicant acknowledges the EAs confirmation on this matter.</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</p> |

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| <p>Lysaghts pumping station pumps water from Lysaghts Drain into the River Trent.</p> <p>(ii) Table 2 refers to surface water. Paragraph 7.1.1.1 refers to the abstraction and discharge of treated operational water from the development.</p> | <p>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> |
| <p>Q17.0.3</p> <p>(i) During pre-application consultation the EA had discussions with the Applicant around the need for a WFD compliance assessment, which were based upon the physical footprint of the works proposed at that time. These were subsequently amended so that extension of the wharf and requirement to abstract from the river no longer forms part of the proposed development. On this basis, the EA agreed that a WFD compliance assessment was no longer required for the physical development. However, we also advised the Applicant that this does not preclude the need for a WFD compliance assessment should there be potential for significant discharge or pollution to any receiving waterbody as part of the operation of the proposed development. From the perspective of the physical development we can confirm that the Environmental Statement contains an adequate</p> | <p>As described in Table 2 of APP-057, Winterton Beck is the only Water Framework Directive waterbody with hydraulic connection to any of the proposed works. This water body will not be directly affected by any physical works and will not be affected by any construction or operational aspects of the Project that could affect its water quality.</p> <p>The Project does not include any new direct surface water discharge connections to Winterton Beck or the River Trent. SuDS will be used to manage surface water runoff and new wetlands will help improve the water quality before discharge to Lysaght drain and pumped to the River Trent.</p> <p>The proposed flood risk mitigation measures do not have direct impact to existing watercourses or Water Framework Directive waterbodies.</p> |

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| <p>assessment of the potential risk from the proposed development and proposes appropriate mitigation to manage those risks.</p> <p>(ii) The EA can provide no assistance in respect of this question, as its topic falls outside of our remit.</p> | |
| <p>Q17.0.4</p> <p>(i) The EA expects the Applicant to follow published guidance on the disposal of water from the site and apply for any relevant permits/consents/exemptions etc as required under the relevant environmental legislation.</p> <p>(ii) in light of the above the ExA can be confident that if a discharge to the River Trent were to be required this would be assessed/regulated through the relevant environmental legislation.</p> <p>(ii) The EA has no objection to the requirement to submit CEMPS prior to each stage of the development commencing – this appears to be standard practice in most DCOs.</p> | <p>The Applicant confirms that they will apply for any relevant permit / consent / exemption as required. It is noted that there are no planned construction or operation discharges directly to the River Trent but agree that if any discharge was needed, a licence would be required from the EA prior to discharge.</p> <p>It is acknowledged that the EA has no objection to submitting CEMPS prior to each stage of development commencing.</p> |
| <p>Q17.1.5</p> <p>(i)&(ii) The EA has undertaken ground investigation works on the River Trent embankments during the last year. We are still assessing this information, which will be used to inform future repair works or</p> | <p>Discussions with the EA will be maintained as the findings from the ground investigation work is completed. There is no desire by the</p> |

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| <p>improvements. However, we can confirm that these defences are not on any of the EA's concern registers or highlighted for any further investigation at this time.</p> <p>As long as the EA continues to receive Government funding to secure the maintenance of its flood defences, then the current standard of protection will be maintained.</p> <p>(iii) This has not been discussed with the applicant as it was not clear at the time what works, if any, may be required following the asset/ground investigation.</p> <p>Depending on what the asset investigations show this may be any opportunity for both parties to secure the long-term maintenance of the flood defence. However, as stated above, flood defence maintenance is currently funded by the Government so this may not be required unless there is a desire to raise the standard of protection by the Applicant.</p> | <p>Applicant to raise the standard of protection to the existing EA flood defences.</p> |
| <p>Q17.1.7</p> <p>Yes, the final designs of all the flood risk mitigation measures/flood management plan should be fully determined prior to construction work commencing.</p> | <p>In its response to Q17.1.7 the Applicant confirmed it has amended requirement 3 in the dDCO submitted at Deadline 2 to add in reference to the flood risk assessment to ensure that the design measures included in the FRA form part of the design approval process for all</p> |

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| | <p>relevant parts of the authorised development prior to construction commencing.</p> |
| <p>Q17.1.8</p> <p>(i) This is an assertion by the Applicant; the EA has given no indication to them of any likely future works to the defences in this location. In the short term our plans for the River Trent defences will be guided by the recently undertaken ground investigation works. Long term, the Humber Flood Risk Management Strategy (HFRMS) will support determination of the preferred options for these defences. We attached at Appendix A, a copy of the adopted HFRMS (please see pages 39-40 for information relevant to this location), but please note this is currently undergoing a comprehensive review and the final outputs and a revised strategy will not be available for 4-6 years.</p> <p>(ii) The proposed lifetime of the development is 40 years. The FRA has assessed the impact of the development over this period using the current standard of protection of these Trent defences. No assumptions have been included in the modelling with regards to potential future improvement works. The impact on flood risk of the decommissioning process, and the form of the land once decommissioning is complete, should be assessed</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> |

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| <p>as part of the decommissioning environmental management plan under Requirement 16.</p> <p>(iii) No.</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> |
| <p>Q17.1.10</p> <p>(iii) The EA does not take a definitive view and would defer to the decision maker on this issue. However, we would draw your attention to Annex 3 of the National Planning Policy Framework (flood risk vulnerability classifications) in respect of 'highly vulnerable' classifications (5th bullet point), for the types of development that may need to be co-located with facilities classified as 'essential infrastructure'. This may be relevant to your consideration of Work No. 2 parts (a) and (b). Part (c), offices are usually considered 'less vulnerable' development and are acceptable in flood zone 3, without application of the Exception Test (National Planning Practice Guidance, Flood Risk & Coastal Change section, paragraph: 079 Reference ID:7-079-20220825).</p> | <p>The Applicant's response to Q17.1.10 included the following additional information.</p> <p>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 [REP2-017] 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</p> |

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| <p>To assist further with your consideration of the Exception Test, we can also advise on the safety of the development and its impact on flood risk as follows:</p> <p>During the design flood event (100 year plus climate change), there is no increase in flood risk to third parties. The only increase in risk would be as a result of a breach or overtopping of the flood defences, which is a residual risk. The Applicant has detailed the increases in flood risk to the steel works (site B) during the breach event within table 5-5, p80 of the FRA [APP-070]. There is a post mitigation 120mm</p> | <p>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 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: “The Government believes that the fact</p> |
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| | <p>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.”</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: “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.” 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 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: “From the evidence before me, having regard to the sequential and exception tests, I am satisfied that the Proposed Development is acceptable in</p> |
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| | <p>terms of its location and in regard to all matters related to water quality/ resources and flood risk/ resilience.”</p> |
| <p>Q17.1.11</p> <p>The increased flood depth affects a ‘less vulnerable’ (Annex 3, National Planning Policy Framework, flood risk vulnerability classifications) property during a residual risk event. EN-1 states that the developer must demonstrate how residual risk has been taken into account, and that this can be safely managed. The developer proposes to manage this residual risk through provision of a flood management plan (more commonly referred to as a flood warning and evacuation plan) and the EA does not comment on or approve the adequacy of flood emergency response procedures accompany development proposals, as it does not carry out these roles during a flood – the relevant emergency planning authority would need to provide advice on this.</p> | <p>The Applicant notes the EAs response on this matter. The Applicant intends to liaise with the NLC Emergency Planning team during the next stage of design in order to develop the Flood Management Plan.</p> |
| <p>Q17.1.12</p> <p>(i) The Council’s SFRA is generally the agreed starting point.</p> <p>(ii) No, North Lincolnshire Council published an updated SFRA in November 2021. This SFRA uses updated modelling from the Lincolnshire Lakes development (a large urban extension proposed to the west of Scunthorpe) to update the SFRA. The applicant obtained a copy of North</p> | <p>The Applicant acknowledges the update to the NLC SFRA and potential update to the hydraulic flood model due to be completed towards the end of 2023. The Applicant will liaise with the EA and NLC before progressing the detailed design stage to ensure the latest, most up-to-date data is incorporated.</p> |

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| <p>Lincolnshire Council's Lincolnshire Lakes model for use in their Flood Risk Assessment, this is the best available data on flood risk at the current time. The Applicant would need to contact the EA before carrying out any further assessment work (post consent) to ensure this remains the best available data, as new model data is being produced and is expected to be available for use towards the end of 2023.</p> | |
| <p>Q17.1.14</p> <p>(i) As discussed during the ISH, the final details of the physical mitigation measures that need to be incorporated into the development and surrounding area will need to be agreed prior to construction commencing. Ideally, to ensure the increased risk to the commercial building is managed appropriately (and is acceptable to the relevant emergency planning authority), the flood management plan should be developed and approved prior to construction work commencing too.</p> | <p>The Applicant's response to Q17.1.14 confirms that reference to the FRA was added to Requirement 3 on design in the dDCO submitted at Deadline 2 to ensure the mitigation measures are taken into account in the approval of design of each relevant part of the authorised development.</p> |

3.0 APPLICANTS' COMMENTS ON NORTH LINCOLNSHIRE COUNCIL'S WRITTEN QUESTION RESPONSES

3.1 The Applicants Comments on North Lincolnshire Council's response to the Examining Authority's written questions can be found below in Table 2.

Table 2: Applicants comments on North Lincolnshire Council's response to the Examining Authority's written questions

| North Lincolnshire Councils responses | Applicant's Comment |
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| <p>Q1.0.1</p> <p>NLC previously confirmed that, based upon the Consultation Report and appendices submitted by the applicant, the consultation undertaken was adequate to comply with their statutory requirements.</p> <p>The council are still of the view that the scheme of consultation set out within the Consultation Reports and appendices is sufficient to meet the legislative tests at each round of consultation, provided that it has been carried out in full.</p> <p>However, NLC has recently received complaints that hard copy documents were not available to view at Crowle Market Hall, which was listed as a deposit location within the Consultation Report. We have also received complaints that those within Zone 1 (3km from the project) did not all receive a consultation document as stated. These complaints have been received from local residents within this consultation zone.</p> | <p>As outlined in the Consultation Report on 16 June 2021, the Applicant became aware that North Lincolnshire Council's library service had not been able to distribute consultation materials from the arranged point of delivery at Scunthorpe Central Library to Crowle Community Hub and Winterton Library.</p> <p>The Applicant therefore arranged for these materials to be distributed by hand to Crowle Community Hub and Winterton Library. The Applicant did not receive any enquiries checking arrangements for viewing materials at these locations prior to 16 June 2021 and copies of the materials were available at the other deposit points and the Project website throughout the consultation period. The Applicant therefore considers that no consultee was disadvantaged in accessing the consultation materials.</p> |



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| <p>The Applicant’s Consultation Report does identify at 5.5.13 and 5.5.14 that there was an issue with the distribution of consultation materials to Crowle Community Hub and Winterton Library; but that this was rectified after 2 days once the issue was identified. They confirm that they distributed the documents to these venues by hand and that they received no requests to view the documents prior to them being made available.</p> <p>Ultimately it is for the Applicant to demonstrate that they carried out the consultation set out in their Consultation Report and should this be the case then it is considered that the legislative tests will have been met.</p> | <p>The consultation materials were sent out by Royal Mail to all addresses within the 3km radius. The consultation materials were posted via Royal Mail to all addresses within Consultation Zone 1 as defined in the Statement of Community Consultation (SoCC). If the interested party is able to provide details for the addresses that they claim did not receive the materials the Applicant can check whether these addresses were within the mailing area.</p> <p>The Applicant kept consultees updated across a phased process of consultation. Specifically, with regards to September 2021 to November 2022, the Applicant was preparing its DCO application so there were no updates to provide ahead of the submission of the application – updates on that process were available on the PINS project page. T6</p> |
| <p>Q1.0.13</p> <p>(i) North Lincolnshire Council would be amenable and pragmatic with respect to any proposed necessary temporary closures, providing these were effected by appropriate legislative means, e.g. section 14 of the Road Traffic Regulation Act 1984 (though it should be noted that this provision permits the traffic authority to regulate traffic on footpaths for</p> | <p>(i) The Applicant agrees with NLC’s response that the PROW FP178 that connects with the footbridge and other PRoWs within the Order Limits are rural footpaths with essentially natural surfaces.</p> <p>The PROW footbridge is located more than 500m away from the nearest public highway, with FP178 traversing an agricultural field</p> |

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| <p>up to six months only, with extensions on application via the authority to the Secretary of State for Transport).</p> <p>(ii) of the 'protected characteristics' listed within section 4 of the Equality Act 2010, only disability appears to us to be relevant to a person's ability to use a public right of way as well as another not so categorised. We believe it should be borne in mind, however, that these are rural footpaths with essentially natural surfaces. It is our understanding that in providing services with regard to the 2010 Act, we must endeavour to make these accessible by all, but only if it is reasonable to do so; and that we should balance the operational needs of landowners too.</p> | <p>which is outside of the Order Limits for the Project. However the footbridges will include ramps for disability access.</p> <p>(ii) 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> |
| <p>Q1.0.15</p> <p>FP178 is indeed a dead end as represented on the definitive map, terminating as it does on the boundary between Flixborough and Scunthorpe. This situation is as a result of the Scunthorpe side of the boundary having been land classified as 'fully developed' when the definitive map was published in 1968 (under section 35 of the National Parks and Access to the Countryside Act 1949 and repealed by section 58 of the Wildlife and Countryside Act 1981). Historical mapping, a 1916 diversion agreement between the then rural district council and Lysaght</p> | <p>The Applicant notes NLCs response to this matter and subsequently met NLC's Public Rights of Way Officer on the 16th December to discuss the matter further. The Applicant has no objection to this in principle and is continuing dialogue with NLC regarding the status and accessibility of the Phoenix Parkway Local Nature Reserve (owned and managed by NLC) to agree the extent to be dedicated in perpetuity such that it be added to the definitive map.</p> |

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| <p>Ltd, a then steelworks owner, and a significant residual length recorded as a footway on the list of streets of highways maintainable at the public expense as per section 36(6) of the Highways Act 1980 indicate that this footpath in fact once continued a further approximately 2,700 metres southwards to Ferry Road, Crosby. North Lincolnshire Council are hopeful FP178's southern terminus can eventually once again be formally linked to a connecting highway. Meanwhile, however, we believe that the permissive footpath the applicant is offering along the southern side of the former mineral railway (and which he intends bringing back into use), which would lead west from FP178 to connect with FP177, about 460 metres distant only, should be instead dedicated as a footpath in perpetuity such that it be added to the definitive map.</p> | |
| <p>Q1.0.16</p> <p>(i) NLC agree that the anticipated change to RDF composition has been reasonably assessed based on the information currently available.</p> <p>(ii) NLC has no areas of concern to raise in this respect.</p> | <p>The Applicant welcomes NLCs confirmation on this matter.</p> |
| <p>Q1.0.17</p> <p>Having reviewed the OEMP, NLC are content that it will cover environmental pollution activities not covered by an environmental</p> | <p>The Applicant welcomes NLCs confirmation on this matter.</p> |

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| <p>permit. We have not identified any gaps between the planning and permitting regimes.</p> <p>It is anticipated that the EA would provide further clarification on this matter as the site would be regulated through an A1 permit.</p> | |
| <p>Q1.0.20</p> <p><u>Biodiversity Net Gain</u></p> <p>Schedule 15: “Biodiversity gain in nationally significant infrastructure projects” has not yet come into force. Nevertheless, the submitted Biodiversity Net Gain Assessment states that:</p> <p><i>“The Metric demonstrates a net-gain in biodiversity overall, with hedgerows and watercourses achieving well above the minimum target of 10%. Habitat delivery also exceeds 10% at 13.7%. This is despite the Order Limits incorporating large areas to the east of the Energy Park Land which will simply be retained as arable cropland, neutral grassland and unenhanced ditches [...]. The inclusion of these areas within the calculator is a significant constraint on achieving a higher net gain percentage for habitats, i.e. if they were excluded, the net-gain for habitats would be considerably higher”</i></p> | <p>The Applicant notes NLC’s observation that the implementation of Schedule 15 of the Environment Act 2021 would not materially affect the proposal.</p> |

Therefore, as the applicant is voluntarily offering to deliver Biodiversity Net Gain, the implementation of Schedule 15 would not materially affect the proposal.

Local Nature Recovery Strategies (LNRS)- Environment Act para 104

The LNRS for Greater Lincolnshire has not yet been produced. However, it is anticipated that the LNRS Habitat Map will evolve from the Biodiversity Opportunity Maps (BOM) already produced. The applicant's landscape and habitat proposals are largely compatible with the North Lincolnshire BOM and are likely to be compatible with the LNRS Habitat Map once it has been produced.

Species Conservation Strategies (para 109) & Protected Site Strategies (Para 110)

The applicant's ES has considered priority and notable species as well as protected species, so the measures proposed are likely to be broadly compatible with any Species Conservation Strategies that may be produced for the area. A Humber Estuary Protected Site Strategy is in production. Implementing any restrictions or conditions required by the Habitats Regulations Assessment should ensure that the project is compatible with the Protected Site Strategy.

The Applicant notes confirmation from NLC that the habitat proposals are largely compatible with the North Lincolnshire BOM and are likely to be compatible with the LNRS Habitat Map.

The Applicant notes that implementing any restrictions or conditions required by the Habitats Regulations Assessment should ensure that the project is compatible with the Protected Site Strategy.

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| <p><u>Schedule 16: Controlling the felling of trees in England</u></p> <p>Part 6 of the proposed dDCO would allow the applicant to fell trees and remove hedgerows. Therefore, Schedule 16 of the Environment Act 2021 would not affect the project.</p> <p><u>Environment Act 2021 Part 7: Conservation Covenants</u></p> <p>The applicant is not proposing to create a conservation covenant.</p> <p>The Environment Act 2021 brings in changes to the regulation of waste, air quality and water, but these do not appear to affect the proposal.</p> | <p>The Applicant acknowledges confirmation from NLC that Schedule 16 of the Environment Act 2021 would not affect the project.</p> <p>The Applicant notes confirmation from NLC that the change introduced from the Environment Act 2021 in relation to waste, air quality and water would not affect the project.</p> |
| <p>Q1.0.29</p> <p>The most appropriate plans or projects appear to have been included in the cumulative effects assessment.</p> <p>For in-combination effects in relation to the Habitats Regulations Assessment, it may be worth checking the Humber Nature Partnership in-combination database.</p> | <p>The Applicant notes NLCs confirmation on this matter.</p> <p>The applicant has not had the opportunity to access this data base which does not seem to be publicly available however they have contacted NLC asking about access to this in order to carry out a cross check. The search for other developments to assess from a cumulative effects perspective for the EIA was a very thorough exercise. The other developments that need to be considered for the HRA in-combination effects assessment is basically a subset of the EIA list comprising only those other developments within 4km of the Application land</p> |

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| | <p>boundary (for disturbance effects) and 30km from the main emissions source for other large combustion projects (for air quality impacts on protected habitats and species).</p> |
| <p>Q1.0.32</p> <p>(i) Yes, the impacts of construction (dust, noise) have been assessed using appropriate guidance. The assumptions have been developed with the project engineers to represent a reasonable worst case. To manage construction impacts, works will be undertaken in accordance with a CEMP. Lead contractors will submit the CEMP for agreement with North Lincolnshire Council. The CEMP will set out BPM measures to minimise construction noise and vibration, including control of working hours.</p> <p>(ii) A CEMP can offer sufficient control of adverse impacts during the construction phase. However, NLC have raised concerns, through our LIR, over the proposed noise measures listed in Appendix A of "Summary of Mitigation Measures and Securing Mechanisms during Construction" which are limited in nature and do not contain sufficient detail for a project of this nature.</p> <p>In addition, the proposed working hours include weekdays till 7pm during winter months, there is no mention of construction lighting</p> | <p>The Applicant notes NLCs confirmation that the impacts of construction have been assessed using appropriate guidance. The Applicant also notes that the CEMP will set out BPM measures to control noise and vibration impacts and working hours. The CoCP (AS-011) has been updated on the latter point to be more specific on working hours.</p> <p>The applicant notes NLC's concerns and has added an outline Construction Noise Management Plan to an updated revision of the CoCP (AA-011) to be submitted at Deadline 3. The detailed Construction Noise Management Plan to be prepared by the Construction Contractor for NLC's approval will be required to set out detailed mitigation measures for each type of activity and specific locations on the site.</p> <p>The CoCP includes requirements for the construction contractor to set out measures to control construction lighting on the site in the</p> |

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| <p>during hours of darkness and how this will be appropriately managed and controlled.</p> | <p>Construction Environmental Management Plan (CEMP) which will be reviewed and approved by NLC.</p> |
| <p>Q4.0.2</p> <p>(i) <u>Archaeology</u></p> <p>There are no archaeological implications for Options A and B as this land is previously disturbed by open cast workings.</p> <p><u>Ecology</u></p> <p>Option A would take the DHPWN down Normanby Road, where it would be necessary to consider the risk of spreading Japanese Knotweed which grows near the electricity substation. This invasive non-native species is listed on Schedule 9 of the Wildlife and Countryside Act 1981, and must not be allowed to spread in the wild.</p> <p>Option B would take the DHPWN down Bessemer Way, passing areas of open mosaic habitat on previously developed land (OMH- a priority habitat), Including Bessemer Way Brownfield Site Local Wildlife Site. If works are confined to the highway, this is not likely to be a problem. Indeed, disturbance of OMH is essential to maintain the early successional plant communities.</p> | <p><u>Archaeology</u></p> <p>The application notes NLC's confirmation that there are no archaeological implications for Options A and B.</p> <p><u>Ecology</u></p> <p>The Applicant notes the reference to the presence of Japanese knotweed. The CoCP (AS-011) includes an outline Invasive Non-Native Species (INNS) Management Plan which covers this issue.</p> |

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| <p><u>Highways</u></p> <p>Whilst the impact of noise and traffic on existing residents/businesses will be a key consideration in determining the most appropriate route, the suitability of each option for construction needs to be considered, along with traffic management requirements to facilitate the works. For example, the section of Normanby Road in question is predominantly dual carriageway, whereas the alternative routes are single carriageway. Depending upon the traffic management requirements to facilitate the provision of the DPHWN, then Normanby Road may be a more appropriate route as any traffic management may cause less disruption to road users and traffic flows.</p> <p>(ii) This part of the question is for the applicant to answer.</p> | <p><u>Highways</u></p> <p>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 [REP2-004] envisages that only one Option will be consented through the DCO.</p> <p>Construction traffic management is secured under Requirement 10 (REP2-004) through the Construction Logistics Plan (CLP) - an outline CLP has been submitted with the application (Appendix D to REP2-021) which seeks to minimise disruption to road users – this CLP will be developed in detail by the EPC contractor, and will include a Construction Traffic Management Plan, which will be submitted to NLC for review and approval prior to commencement of the works.</p> |
| <p>Q4.0.3</p> <p>NLC agrees that a requirement would be more appropriate and clearer than relying upon compulsory acquisition powers.</p> | <p>The Applicant has set out its position on this question in the Applicant's Response to First Written Questions (REP2-033 – page 46).</p> |
| <p>Q4.0.4</p> <p>NLC do not wish to offer any suggested amended wording but are happy to comment on any such alternative wording provided by the Applicant should this be necessary.</p> | <p>The Applicant has set out its position on this question in the Applicant's Response to First Written Questions (REP2-033 – page 47). The Applicant notes NLCs response to this matter and would liaise with</p> |

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| | <p>them regarding the wording of this article in the event that the ExA recommend one option.</p> |
| <p>Q7.0.6</p> <p>NLC is currently liaising with the Applicant and reviewing the submitted information to confirm that it is accurate with regards to the council’s land ownership. We will look to complete this review and provide confirmation in this regard as soon as possible.</p> | <p>The Applicant confirms that it is liaising with NLC on this matter.</p> |
| <p>Q7.0.7</p> <p>The council does not wish to raise concerns regarding the legitimacy, proportionality or necessity of the CA or TP powers sought by the Applicant at this stage. However, we are currently liaising with the Applicant regarding 2 parcels of land that the council is in the process of selling and whether these need to be included.</p> | <p>The Applicant confirms that it is liaising with NLC on this matter.</p> |
| <p>Q7.1.4</p> <p>(i) NLC believe that the extent of works included within the definition of ‘maintain’ is too wide and that this has not be reasonably justified.</p> <p>(ii) Allowing for the removal and rebuilding of any/all buildings and structures within the Order Limits would seem to go some way</p> | <p>(i)-(iv) Please see the Applicant’s response to this question in “9.8 The Applicant’s Response to Written Questions” (REP2-033). The Applicant would not be able to do anything in breach of either the requirements in the DCO or the permit. The Applicant amended the definition of maintain in the dDCO submitted at Deadline 2 so that it is in line with</p> |

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| <p>beyond what could reasonably be considered maintenance works. The council are not sure that the definition in its current form is accurate or would comply with Advice Note 15.</p> <p>(iii) The suggested alternative definition is agreed, this would limit the works to those that would normally be associated with maintenance and would restrict the more large-scale, intrusive works that should be subject to planning controls, such as the demolition and rebuilding of buildings/structures.</p> <p>(iv) As stated above the council would have concerns that the current definition would allow for the demolition and rebuilding of any and all elements of the consented development. We would have concerns that this could be undertaken without any requirement for further consent and/or review by the LPA and that structures that are replaced/rebuilt may not be subject to the same design considerations as the original development. The definition is considered to be too wide and would allow for uncontrolled development of the site in the future.</p> <p>The council's concern relates to the potential to remove and reconstruct elements of the scheme without approval. The alternative wording suggested by the ExA would remove these</p> | <p>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>elements from the definition and as such would resolve the council's concerns in this regard.</p> | |
| <p>Q7.1.12</p> <p>(i) The limits of deviation set out in Article 5 relate specifically to numbered works and do not appear to relate to other works or areas. It is assumed that the Applicant will clarify this point.</p> <p>(ii) It is agreed that the limitations as currently drafted control the extent of numbered works.</p> | <p>In Q7.1.12 the Applicant explains that Requirement 5(1)(a) provides that the lateral deviations as shown on the works plans will apply to the rest of the authorised development and that all works numbers are referenced in Article 5 to control vertical deviations (REP2-033).</p> |
| <p>Q7.1.18</p> <p>NLC have no comments to make regarding the five working days period in Article 10 (7). This relates to notification provided to the SoS prior to transferring benefits of the order and it is assumed that the SoS will determine whether this period of time is adequate.</p> | <p>The Applicant acknowledges NLCs response to this question.</p> |
| <p>Q7.1.19</p> <p>Article 15 (1) (b) appears to secure a substitute temporary right of way being provided prior to temporary stopping up of any existing right of way. It should also require that the temporary right of way is retained until the temporary stopping up has ceased. For clarity it would be</p> | <p>The Applicant is content in principle with the suggested changes and will consider how these amendments can be effected in the next version of the dDCO to be submitted at Deadline 4.</p> |

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| <p>helpful to have a time period for notification of the highway authority, which we would suggest 28 days would be reasonable.</p> | |
| <p>Q7.1.20 The 28 day period is agreed by the local highway authority.</p> | <p>The Applicant notes NLCs confirmation on this matter.</p> |
| <p>Q7.1.21 NLC are not sure why a 10 year limitation with regards to funding has been proposed or the justification for this. It is assumed that the Applicant will provide clarification on this point.</p> | <p>The Applicant has no further comments on this question beyond their response in REP2-033.</p> |
| <p>Q7.1.22 Again NLC would expect the Applicant to provide clarification on this point and has no comment to make at this stage.</p> | <p>The Applicant has no further comments on this question beyond their response in REP2-033.</p> |
| <p>Q7.1.24 Human remains found during programmes of archaeological works required by the DCO would be dealt with by the archaeological contractor undertaking the works. The relevant legislation and procedure for dealing with human remains should be set out in all</p> | <p>The Applicant has no further comments on this question beyond their response in REP2-033.</p> |

archaeological written schemes of investigation approved under the DCO Requirements, such as:

'Should human remains be discovered during the course of the excavations, the remains will be covered and protected and left in situ in the first instance, in accordance with current best practice. Should human remains be discovered, all works within the vicinity of the relevant area of the Proposed Development Site will stop until the remains have been removed. The Archaeological Contractor will notify H.M. Coroner with details of the remains immediately. The removal of human remains will only take place in accordance with a licence from the Ministry of Justice and under the appropriate Environmental Health regulations and the Burial Act 1857.'

The written scheme of investigation should also set out the methodology for the excavation, recovery, assessment and analysis of human remains according to current best practice and reference the relevant professional guidelines.

It is suggested that the overarching archaeological mitigation strategy provides that in the event that human remains are discovered where no archaeological works are being undertaken, the appropriate procedure would be that:

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| <p><i>'the remains will be covered and protected and left in-situ in the first instance, in accordance with current best practice. Should human remains be discovered, all works within the vicinity of the relevant area of the Proposed Development Site will stop until the remains have been removed. The Applicant will notify the H.M. Coroner with details of the remains immediately. The Applicant will liaise with the Applicant's Archaeological Representative in order to determine an appropriate mitigation strategy and to estimate the additional time and resources needed should removal of human remains be required. The removal of human remains will only take place in accordance with a licence from the Ministry of Justice and under the appropriate Environmental Health regulations and the Burial Act 1857.'</i></p> | |
| <p>Q7.1.25</p> <p>(i) As currently drafted Article 42 would see the entirety of the Order Limits be defined as operational land and this would confer significant permitted development rights as set out in Part 15 of Schedule 2 of the General Permitted Development Order.</p> <p>(ii) Given the size of the Order Limits and the extensive nature of permitted development rights for operational land it is not considered to be reasonable. NLC believe that the area of land to</p> | <p>The Applicant notes NLCs response to this question and has no further comments on this question beyond the Applicant's response in REP2-033.</p> |

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| <p>be classed as operational land should be clearly defined and restricted to those areas of the site that would be clearly associated with the ERF and the production/transmission of hydrogen.</p> <p>(iii) It is not clear that the extent of permitted development rights that could be achieved has been considered through the ES. A narrowing of the area defined as operational land and the associated limiting of the extent of permitted development that could be undertaken may address this point.</p> | |
| <p>Q7.1.26</p> <p>(i) NLC believe that Article 44 should include both the DAS and NRA.</p> | <p>The Applicant notes NLCs response to this question and has no further comments on this question beyond their response in REP2-033. ABP has also confirmed in its responses that they do not require the NRA to be added to Article 44.</p> |
| <p>Q7.1.41</p> <p>(i) NLC are not aware if there is a standard definition of RDF or any standardised composition. Hopefully the Applicant or the EA are able to answer this point.</p> | <p>The Applicant notes the deference to theirs and the EAs responses to these questions and has no further comments beyond their response in REP2-033.</p> |

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| <p>(ii) NLC are unable to answer this part of the question conclusively. It is assumed that the content of RDF would be monitored by the producer of the waste (in terms of calorific values etc.) and potentially by the EA if it is a permitted facility?</p> <p>(iii) Again we would defer to the Applicant/EA to answer this point.</p> <p>(iv) Again we would defer to the Applicant/EA to answer this point.</p> | |
| <p>Q7.1.43</p> <p>(i) Requirement 16 as currently drafted does not acknowledge the need to have due regard to flood risk. Although it may be intended that flood risk would be incorporated within the Decommissioning Plan or Decommissioning Environmental Plan.</p> <p>(ii) It is suggested that there should be an explicit reference to flood risk within Requirement 16 and approval of the LPA should be subject to consultation with the EA.</p> | <p>(i) and (ii) The Applicant notes NLC's comments and will amend requirement 16 to ensure flood risk is taken into account when the dDCO is next updated at Deadline 4.</p> |
| <p>Q7.1.45</p> <p>(i) NLC consider that impact limit values could be set to avoid significant effects during construction and operation. In particular we feel that there should be a limit on the import of operational waste.</p> | <p>The limit on operational waste will be secured by the environmental permit. Further, the Applicant amended Work No. 1 in the dDCO submitted at Deadline 2 to include reference to an annual throughput of up to 760,000 tonnes.</p> |

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| <p>(ii) This part of the question is for the Applicant to address.</p> | |
| <p>Q7.1.46</p> <p>(iv) The council could override the requirements within a CEMP/CMP if a statutory nuisance was determined from these activities.</p> <p>(v) It is agreed 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>The Applicant would refer to its answer to these questions in REP2-033. Confirmation from the Council that 4(2) is adequate is welcomed.</p> |
| <p>Q7.1.47</p> <p>(i) Requirement 4 secures the provision of a CEMP prior to each part of the authorised development commencing. These CEMPS will be approved by the LPA in consultation with the EA and NE where relevant.</p> | <p>The Applicant acknowledges NLCs response to this matter.</p> |
| <p>Q7.1.49</p> <p>(i) NLC would expect that the surface water drainage strategy would link to the flood management plan and FRA as these documents should be considering all types of flood risk (pluvial and fluvial).</p> <p>(ii) On this basis we would expect the documents to be cross referenced within the Requirements and the dDCO.</p> | <p>The surface water drainage strategy has been developed to manage stormwater flood risk from the site during operation 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</p> |

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| | <p>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>Q7.1.51</p> <p>The council are not sure that the term ‘must be based upon’ is sufficiently precise. An alternative approach would be as follows:</p> <p><i>“The scheme submitted and approved under sub-paragraph (1) must be in accordance with the indicative landscape and biodiversity plans... any departure from the indicative landscape and biodiversity plans shall be explained and justified in the landscaping scheme.”</i></p> | <p>The Applicant amended requirement 6 in the dDCO submitted at Deadline 2 to change the wording from “must be based on the indicative landscape and biodiversity plans” to “must be in accordance with the indicative landscape and biodiversity plans”.</p> |
| <p>Q7.1.55</p> <p>NLC are of the view that prior consultation with the EA and WMB should be required in advance of approval.</p> | <p>In the Applicants response in REP2-033 it is confirmed that the dDCO submitted at Deadline 2 was amended to require prior consultation with NLC as lead local flood authority, the WMB and the EA on matters related to their function.</p> |
| <p>Q7.1.56</p> <p>NLC are of the view that the surface water drainage should be submitted at an early stage so that it can be considered and incorporated into the</p> | <p>The Applicant notes NLCs response to this question and has no further comments on this question beyond the Applicant’s response in REP2-033.</p> |

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| <p>detailed design of the development. We would suggest that a wording along the following lines would be more appropriate:</p> <p><i>“No part of the authorised development may commence, save for preliminary works until details of the permanent surface water drainage systems...”</i></p> <p>We are content that the Requirements secures the implementation of the drainage scheme in full prior to operation and secures maintenance during operation.</p> | |
| <p>Q7.1.60</p> <p>(i) NLC consider that the timing in Requirement 12 is not appropriate. The flood management plan should be submitted at an earlier stage so that it can be incorporated into the detailed design of the development. It is considered that a wording along the following lines would be more appropriate:</p> <p><i>“No part of the authorised development may commence, save for preliminary works until a flood management plan...”</i></p> <p>It is anticipated that the EA will provide further advice on this Requirement.</p> | <p>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 operation of the energy park works and therefore the Applicant considers this to be an appropriate trigger.</p> <p>The dDCO Requirement 3(2) was updated and submitted at Deadline 2 to include further clarity that the design details are to be submitted and approved by the relevant planning authority prior to commencement and must be in accordance with the flood risk</p> |

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| | <p>assessment (FRA). The FRA [APP-070] includes the requirement for the Flood Management Plan.</p> |
| <p>Q7.1.61</p> <p>Further discussions with the applicant are probably required to understand this. Paragraph 5.2.9 of the Transport Assessment (Appendix A of ES Chapter 13) states that <i>“it is intended that the New Access Road would be constructed to adoptable highway standards to enable it to form part of the public highway maintained by NLC.”</i> Whilst NLC has agreed the alignment and layout of the road in principle, we have not seen any construction details. We would normally enter into a S38 agreement with the developer; however we would anticipate that the preference would be to include all aspects within the DCO. If this is the case, then it may be necessary to amend the requirements or include additional requirements, which ensure that detailed designs are submitted to NLC for approval prior to work starting on the access road and once designs have been agreed, the access road must be constructed in accordance with them. We would also want to see provision for NLC to undertake site inspections of the work and for a 12-month maintenance period to be included, prior to us formally adopting the New Access Road.</p> | <p>The approval of the detailed design of the road will be secured through requirement 3, which also requires the development to be carried out in accordance with the approved details. The Applicant also refers to the answer given to this question in the Applicant's Response to Written Questions (REP2-033), which explains how it is ensured the road will be completed to the appropriate standard. In terms of the request for site inspections and a maintenance period, the Applicant is content to discuss this further with NLC as part of the discussions on the SoCG.</p> |

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| <p>Q7.1.62</p> <p>NLC are not sure that it would be possible to ensure that no recyclable wastes formed part of the fuel or how this would be monitored. It is likely that regardless of the efforts of the producers of the RDF that there will always be some recyclable elements that are not able to be sorted/extracted. The ambition appears to be to ensure that as little recyclable material as possible is contained within the fuel, but as the Applicants will not be responsible for producing the RDF it would be difficult for them to control the exact composition.</p> | <p>The Applicant agrees with NLC's response on this matter and also refers to their response to this question in REP2-033 where they set out how Requirement 15 has been substituted with a new requirement on the waste hierarchy which it considers to be a more appropriate approach given the Permit will control specific waste streams that can be accepted at the ERF.</p> |
| <p>Q7.1.64</p> <p>(i) NLC would welcome a section on fees being included in Part 2 of Schedule 2 given the complexity of the scheme, the work that will be associated with the discharge of requirements and the timeframes for determining these applications. We would be happy to discuss this matter with the Applicant.</p> | <p>The Applicant would refer to its answer to this question in REP2-033 which confirms that the dDCO was revised at Deadline 2 to include a requirement in respect of paying the discharging authority's fees in relation to discharge of requirements.</p> |
| <p>Q7.1.66</p> <p>This would not be reasonable unless it is explained by the applicant why the remaining categories are not applicable. Those which may remain relevant include for example insects.</p> | <p>The Applicant would refer to its answer to this question in REP2-033. The dDCO submitted at Deadline 2 has been amended to narrow the list of categories of nuisance in relation to which the defence would apply to those referred to in the Statutory Nuisance Statement (APP-</p> |

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| | <p>040) as matters addressed by the Environmental Protection Act 1990 that have been assessed as having the potential for significant effects in respect of the project.</p> |
| <p>Q7.1.67 NLC agree that there should be reference to construction and operation being undertaken in accordance with the various control documents and in line with the mitigation offered.</p> | <p>The Applicant notes NLCs response to this question but has no further comments on this question beyond the Applicant's response in REP2-033.</p> |
| <p>Q7.1.68 (ii) NLC are happy to see the commitment to undertaking and reporting noise monitoring but would appreciate further clarity on when and how this monitoring will be undertaken/reported. It is anticipated that details will be provided and agreed through the submission of the CEMP(s); however Requirement 4 does not currently make reference to noise or vibration.</p> | <p>The Applicant has taken on board NLC's wish for greater clarity on noise monitoring and management. The CoCP (AS-011) has been updated for Deadline 3 and an outline Construction Noise Management Plan has been added as an Appendix. This sets a requirement for the construction contractor to produce a detailed plan as part of the CEMP to be reviewed and approved by NLC. The CEMP and NLC's review and approval are in turn secured by Requirement 4.</p> |
| <p>Q7.1.74 North Lincolnshire is a Unitary Authority and does not form part of Lincolnshire County Council's area and as such we are not part of or</p> | <p>The Applicant refers the Examining Authority and NLC to its answer to these questions in REP2-033.</p> |

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| <p>subject to the Lincolnshire County Council Joint Municipal Waste Management Strategy.</p> <p>It is assumed that this strategy relates to the area covered by Lincolnshire County Council (to the south of North Lincolnshire) and encompasses the relevant District Authorities.</p> <p>It is anticipated that the Applicant will be able to provide further clarity on the relevance of this document.</p> | |
| <p>Q9.0.1</p> <p>(i) No, the current mechanism is not considered to be sufficiently robust.</p> <p>(ii) At this stage, prior to the completion of archaeological evaluation and the revised assessment of significance and of all the development impacts based on the results, we are not satisfied with the proposal that 'comprehensive watching briefs where an archaeologist has a mandate to stop works should any unexpected remains be encountered' would form any part of a satisfactory archaeological mitigation strategy for a development of this scale.</p> <p>5.5.4.2 refers to Geophysical survey under Section 5 Assessment Methodology and Significance Criteria; it is unclear why introducing and</p> | <p>(ii-iii) The Applicant agrees that a watching brief should not be considered a mitigation strategy and acknowledges this in para 7.1.1.3 of ES Chapter 12: Archaeology and Cultural Heritage (APP-060): <i>'The ongoing evaluations described in Appendix E and Appendix F may also identify archaeological features that require either additional evaluation or full excavation and/or sampling.'</i></p> <p>As noted in the Applicant's response to the LIR, the Applicant is committed to producing an overarching mitigation strategy as soon as the evaluation programme is complete, following further in-depth engagement with NLC.</p> |

partially describing a proposed mitigation measure is included in this section.

7.1.1.4 asserts that 'each Impact Area should be monitored and recorded' and refers to 'a detailed protocol for suspension of works' suggesting that archaeological evaluation and mitigation works would then take place.

As set out in the Cultural Heritage section of the council's LIR, Section 7.1.1.4 prematurely implies that monitoring and recording will be the accepted mitigation in all impact areas. In our opinion, it is unlikely that such programmes of work conducted during construction will be considered appropriate across the application site, other than to manage the residual risk of encountering unknown archaeology that has not been identified through a thorough programme of pre-determination archaeological evaluation.

Our advice is that archaeological evaluation should be undertaken as part of the pre-application assessment to identify and assess the significance of any archaeological remains within the application site and to inform the appropriate mitigation strategy to conserve the archaeological evidence.

As also noted in the Applicant's response to the LIR, the Applicant is committed to producing a revised version of the impact assessment for the ExA and NLC to review. This updated report will fully integrate the results of the evaluations conducted post-DCO submission.

The applicant is currently undertaking further evaluation including an initial phase of archaeological trial trenching and we would expect that the results will be presented to the ExA and will inform an updated Mitigation Strategy that can adequately detail the nature, extent and methodologies for any areas of impact.

As pointed out in the LIR response, we do not consider that archaeological 'watching briefs' during construction even including protocols to suspend works are a suitable mechanism for informed archaeological mitigation on development works of this scale, other than to manage residual risk of unexpected archaeology.

We would anticipate that where the results of archaeological evaluation identify archaeological remains or identify where remains are likely or suspected to be present, that a mitigation strategy of pre-construction archaeological excavation will be required to ensure that the archaeological evidence can be appropriately recovered and recorded without causing any delay to the construction works.

Where archaeological watching briefs during construction may be considered appropriate, for example where evaluation has been undertaken but not identified any significant remains but there remains a low risk of encountering archaeology, it is expected that the

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| <p>archaeologist supervising the construction works (one person to one machine) will have the authority to direct specified aspects of the works such as the machinery and equipment to be used, the method of soil stripping to remove the soil in level horizontal strips, to halt works should potential archaeology be exposed, to establish safe working areas around the potential archaeology and fence these off and prevent any vehicle tracking over the protected area, to have access to a full team of archaeologists and specialists to bring in to assess the remains and prepare a written proposal for further archaeological recording and mitigation (including contingency to extend the area of works to secure the integrity of the archaeological evidence) to be submitted to and approved in writing by the LPA in consultation with their archaeological advisor.</p> | |
| <p>Q9.0.4</p> <p><u>Appendix E: Written Scheme of Investigation for a Geoarchaeological Borehole and ERT Surveys</u></p> <p>We are satisfied with the geoarchaeological and geophysical scope and methodology set out in the WSI. There are sections in the WSI that would not normally be expected in an assessment methodology document, in summary there is a misplaced assumption of what the</p> | <p>The Applicant is in agreement with this understanding that evaluation surveys should inform the impact assessment. This will be amended in the final geoarchaeological report that is due to be submitted once the radiocarbon and OSL dates have been received.</p> <p>The omission of the access road from the list of project impacts in Appendix E (ES Chapter 12: Archaeology and Cultural Heritage - APP-</p> |

development impacts are and what the archaeological mitigation will be prior to obtaining the results of these assessment surveys that are necessary to inform the impact assessment and mitigation design.

For example, Section 3, reference to the Proposed Impacts described even before the evaluation necessary to assess any and all impacts of the proposed development has taken place; these 'Impacts' even fail to include the new access road through the site.

7.16 includes the mitigation proposal that 'The near surface archaeological potential will be covered by a comprehensive watching brief covered under another WSI (ERM 2022).' It is inappropriate to make this statement in a WSI for the archaeological assessment that is intended to inform what the appropriate mitigation strategy should be.

7.4 The statement 'It seems likely that any remains of the medieval port will have been relatively shallow and therefore disturbed or destroyed by twentieth century activity at the wharf' is a further premature assumption. Para 7.5 indicates that 4-5m of alluvial silt clay overlies deep peat potentially dating from the Neolithic to the Early Iron Age, in which case the clay could contain organic remains dating from Iron Age through to the Post-medieval period including the remains of the Flixborough Inn identified by the GPR survey and if these potential 17th

060) has been discussed with NLC in numerous meetings post submission and has been included in the text and figures for the latest version of the trial trench evaluation WSI.

The statement regarding the near surface archaeological potential and the potential of the silts in the Flixborough Staithe area will be amended in the final geoarchaeological report that is due to be submitted by the end of March 2023.

The missing Figure from the geoarchaeological WSI showing transect 5 will be included in the final geoarchaeological report that will be submitted once the radiocarbon and OSL dates have been received.

century remains survive, earlier Medieval staithe remains may be preserved.

7.9 Transect 5 (Figure 8) non-existent.

Appendix F: Archaeological Evaluation, Written Scheme of Investigation
26 May 2022.

This (second) version of the WSI for trial trenching did not make adequate provision for trenches to assess the known and potential archaeology within the entire development site. It focussed on evaluating those areas of predetermined development impacts and proposed mitigation outcomes. The geoarchaeological boreholes and ERT surveys (Appendix E) were not completed, and results were not available to inform the trial trenching strategy as intended in the iterative staged approach to evaluation. Detailed comments were provided in June 2022 (see attached copy of annotated comments) and again in September 2022.

An updated (third) version of the WSI was received 28/11/22 and discussed 1/12/22, final revisions including the need to clarify development proposals and identify all numbered trench locations on accurately scaled Ordnance Survey base maps are yet to be received and

A revised copy of the trial trench WSI was submitted to NLC on 22/12/22. As recommended by NLC, an OS base map was used with further clarification of the scale employed.

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| <p>approved, but the trial trench excavations have commenced in the agreed areas on 5 December 2022.</p> | |
| <p>Q9.0.5</p> <p>No, the ES relies on the preliminary stage of desk-based assessment of existing records and sources. It does not include the results of the suite of archaeological evaluation recommended at Scoping, with the objective of accurately identifying, characterising, dating and assessing the significance of all archaeological assets within the development area, including the potential for unknown remains.</p> <p>As such there is insufficient information on which to base a robust assessment of the significance of heritage assets and the likely adverse effects of the specific development proposals on the cultural heritage.</p> <p>5.5.3.1 states that 'the extensive mitigation works described in Section 7, are specifically designed to increase the reliability of predicted impact assessments.' This conflates evaluation and mitigation which are two distinct and separate stages in assessing and preserving heritage interest, the first stage necessary to inform the second.</p> <p>Archaeological evaluation is undertaken to assess the reliability of preliminary desk-based assessment in order to provide sufficient information for impact assessment thereby enabling appropriate</p> | <p>The Applicant acknowledges that there is more information required over and above that outlined in ES Chapter 12: Archaeology and Cultural Heritage (APP-060). It is for this reason that the Applicant has continued its engagement with NLC throughout the post submission period, has largely completed an expanded geoarchaeological evaluation and is currently undertaking an extensive trial trench evaluation across the Project Area.</p> <p>As noted in the Applicant's response to the LIR, the impact assessment reported in ES Chapter 12: Archaeology and Cultural Heritage (APP-060) will be revised and submitted to the examination as soon as possible following completion of the evaluation fieldwork and report writing.</p> <p>This reference to the mitigation works informing impact assessments is indeed an error and will be revised Chapter 12 (APP-060), following completion of the evaluation fieldwork and report writing.</p> |

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| <p>mitigation measures to be designed to conserve, avoid or minimise any harm to heritage assets, or to draw up detailed proposals for further appropriate archaeological programmes of work to off-set any unavoidable and justifiable destruction and harm.</p> | |
| <p>Q9.0.6</p> <p>(i) No, we are not satisfied with the mitigation as proposed because we do not consider it to be an adequate or proportionate response to the scale of the development and the impacts on the significance of heritage assets that are yet to be satisfactorily evaluated and assessed.</p> <p>As we advised in our LIR it is necessary for the archaeological evaluation to be completed to provide the information necessary to prepare an appropriate Mitigation strategy for cultural heritage and archaeology. The content of an appropriate Mitigation Strategy can then be secured through an appropriately worded DCO requirement.</p> <p>(ii) At the time of writing, the following alternative wording is suggested as draft but we would ask that further consultation on the wording of the Archaeology requirement is carried out as results of the ongoing archaeological evaluation are received and the updated</p> | <p>The wording of the dDCO requirement 11 will be amended to reflect these recommendations when the dDCO is next updated at Deadline 4.</p> |

assessment and overall Mitigation strategy can be prepared during the Examination:

11.— (1) No part of the authorised development is to commence until the following sequence of measures has been completed —

- (a) the undertaker has commissioned a programme of exploratory archaeological investigation of areas within the development site that provides for the identification and evaluation of the extent, character and significance of archaeological remains in any areas of the development where previous evaluation investigations have not taken place or are incomplete
- (b) the undertaker has submitted to the local planning authority a Written Scheme of Investigation (WSI) prepared by the appointed archaeological contractor setting out the details of the programme of evaluation for the planning authority to approve in writing prior to commencement of the investigations
- (c) the investigations have been completed and final reports submitted to the planning authority in accordance with the details and timings of the approved WSI; the evaluation

fieldwork must be timed so that the results can inform the scope of the further archaeological mitigation measures, referred to in sub-paragraph (2)

- (d) an updated assessment report of the significance of all identified and potential heritage assets and the impact of the proposed development on that significance has been submitted to and approved by the planning authority, and
- (e) the submission of an updated Mitigation Strategy for the approval in writing of the planning authority that details all mitigation measures to preserve and enhance all heritage assets affected by the development.

AND

(2) No part of the authorised development is to commence until a programme of archaeological mitigation measures informed by the exploratory investigations referred to in sub-paragraph (1) and by earlier phases of investigation has been implemented in accordance with the updated Mitigation Strategy and further written schemes of investigation for archaeological fieldwork which have been approved in writing by the relevant planning authority. The Mitigation Plan and

written schemes of investigation must include and make provision for the following elements—

- (a) mitigation fieldwork including measures to ensure the preservation in situ or by record of archaeological features of identified importance
- (b) post-mitigation fieldwork methodologies for assessment and analysis
- (c) reporting and dissemination of findings including publication of significant results
- (d) preparation of site archive, arrangements and timetable for deposition and sustainable management at a store approved in writing by the relevant planning authority
- (e) a timetable including sufficient notification and allowance of time to ensure that the mitigation fieldwork is undertaken and completed in accordance with the strategy before construction commences
- (f) curatorial monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record Office of the commencement of

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| <p>archaeological works and the opportunity to monitor such works</p> <p>(g) a list of all staff involved in the implementation of the mitigation strategy, including sub-contractors and specialists, their responsibilities and qualifications</p> <p>(h) arrangements for community involvement</p> <p>(i) measures to enhance the interpretation and public appreciation of heritage assets</p> <p>(3) The approved mitigation measures must be carried out in accordance with the written scheme of mitigation measures.</p> | |
| <p>Q9.0.10</p> <p>(iii) No, the assessment should consider aspects other than visual impacts, including the effects of noise, odour, vibration, dust, smoke ie anything that may affect the senses in experiencing a heritage asset.</p> | <p>The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 requires that an ES contains a description of “the likely significant effects of the development on the environment”.</p> <p>Noise has been assessed at the nearest sensitive residential receptors to the various parts of the Project and concludes for both construction and operation that effects of moderate significance would be experienced by limited number of receptors but for the majority of receptors the effects would be minor/not significant. The general lack</p> |

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| | <p>of significant noise effects at sensitive residential receptors indicated there would be no likely significant effects at less sensitive receptors to be assessed.</p> <p>Odour will be managed entirely within the Project through a combination of the means in which the RDF is delivered and the negative pressure environment of the ERF. There will be no offsite odour impacts requiring assessment. This will also be controlled through the Permit.</p> <p>The Project activities likely to cause the highest levels of vibration have been assessed and predicted to cause no significant effects to people or their property. Activities causing vibration have no likely significant effects on heritage assets requiring assessment.</p> <p>Construction dust has been assessed and with widely accepted and effective controls in place is predicted to have no significant effects on people or their property. There will be no likely significant effects on heritage assets from dust.</p> <p>The operational Project will not emit smoke. Construction waste management plans in accordance with both good practice and legal compliance will forbid the combustion of waste on site.</p> |
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Q9.0.11

(iii) We disagree.

Paragraph 9.3.1.4 refers to specific heritage assets referred in Section 9.3 Impact Assessment.

In terms of harm to irreplaceable archaeological evidence, any impact that removes or destroys the significance and integrity of the remains would be considered substantial harm to that asset, and potentially to the setting of other assets.

Until archaeological evaluation is completed, and the results used to update the assessments of heritage significance and the effects of direct and indirect impacts of the development, the level of harm to known individual assets cannot be specified.

With regard to the Flixborough Saxon Nunnery site, until any heritage assets that may contribute to the significance of the scheduled monument, including within the setting are adequately identified and assessed, the level of harm to the monument cannot be assessed.

The assessment was undertaken based on the knowledge that was available at the time. The Applicant is, as indicated in in para 7.1.1.3 of ES Chapter 12: Archaeology and Cultural Heritage [APP-060] committed to reviewing the impact assessment when all the evaluations are complete.

As part of ongoing discussions with NLC regarding the results of the evaluations, we will review whether any of the assets identified can be thought of as contributing to the significance of the designated assets reviewed, including Flixborough Saxon Nunnery site.

It should, however, be noted that the views west towards the riverfront that would have undoubtedly have been an important part of the Saxon landscape have already been taken into account in the current assessment of the predicted Project impact on this site, which is described in Section 9.3 (ES Chapter 12: Archaeology and Cultural Heritage - APP-060) as a significant effect.

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| <p>Q9.0.12</p> <p>(i) The applicant does not appear to have assessed the effects on any Conservation Areas; we note that several Conservation Areas are identified on Chapter 12 Appendix A Figure 1a as follows:</p> <ul style="list-style-type: none"> • Burton upon Stather • Normanby • Crosby • New Frodingham Additionally, on Figure 2b: • Alkborough • Winterton • Appleby <p>(i) Copies of the Conservation Area Maps and Appraisals for these Conservation Areas have been provided with this response.</p> | <p>There will be no significant impact on any Conservation Areas owing to their distance from the proposals. The NPS (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>Q9.0.13</p> <p>(ii) The applicant has identified that 'The greater part of the Energy Park Land falls within 'The Axholme Fens'. The Historic Landscape Character Area (HLCA) is the highest-level category of the Lincolnshire Historic Landscape Characterisation survey data and</p> | <p>(ii) The Applicant considers that using the HLCA as the basis for its assessment of the Historic Landscape Character is appropriate.</p> |

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| <p>covers an extensive area to the east and west of the River Trent as shown on Chapter 12 Appendix A Figure 6.</p> <p>The applicant has not assessed the significance of or the effects of the proposed development on the Historic Landscape Character at the more local level within the development area. The available datasets include the Broad Type, the Historic Landscape Character Type and the Previous Type, each type being recorded to the level of individual fields or groups of fields.</p> <p>Assessment of the Historic Landscape Character at this finer grain would allow a more nuanced understanding of the character and survival of the historic landscape within the development area and surrounding area and the effects of the proposed development on that character.</p> <p>Furthermore, the assessment should refer to The Isle of Axholme, Historic Landscape Characterisation Project 1997 Countryside Commission, Leeds. This was an earlier, highly detailed characterisation study of the Axholme area to the west of the Trent. The development has the potential to affect the setting of the historic landscape character of the Isle including areas of Riverside Ancient Open Strip</p> | <p>The Applicant does not think that assessing the landscape character at a finer scale would change the impact assessment and does not think that it is necessary to revisit this.</p> <p>The Applicant will review the earlier characterisation study of the Isle of Axholme and revise the impact assessment within ES Chapter 12: Archaeology and Cultural Heritage - APP-060 if appropriate.</p> |
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Field landscape of potential high sensitivity on the opposite bank of the Trent to the main development area, at and around Amcotts.

Further assessment of the significance of the historic landscape character within the development site should be carried out to confirm the applicant's assessment of significance of moderate value.

In addition, the contribution of the historic landscape character to the significance of other heritage assets that the development has the potential to affect, including Flixborough Saxon Nunnery scheduled monument should be carried out and described, as well as how the historic landscape character may illustrate the evidence and historic value of the drainage and warping of this part of the Trent valley.

(iii) The landscape heritage asset is a non-designated heritage asset and as such, should be considered in the planning balance in accordance with NPPF para 203, 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

(iii) The Applicant has assessed historic landscape character at the level of character area and believes this to be an adequate scale of assessment.

Q10.0.2

- (i) The Institute of Civil Engineers proposes that the role of Design Champion is important to ensure that good design is prioritised alongside other factors, such as cost, safety and technical compliance as a project evolves. Part of the Design Champion's role would be to focus on sustainable outcomes.
- (ii) A 'design review panel' would be an alternative way of achieving the same outcomes as the Design Champion. By involving a number of people with different specialisms and perspectives, the panel could give the different, sometimes competing, elements of good design thorough consideration.
- (iii) The ambitions presented in the design code have a lot of merit, but it is too early to say to what extent the code is enforceable or leads to better design than would otherwise be presented. The government has produced a National Model Design Code. This incorporates matters such as biodiversity, landscape and sustainability. Presumably the national model would be expected to form the basis of the site-specific design code to be produced by the developer.

- (i) The Applicant has committed to the role of a Design Champion within the Design Principles and Codes document.
- (ii) The Applicant has committed that within the Design principles and Codes document that the detailed design should be subject to a design review which will be coordinated by the Design Champion.
- (iii) The purpose of the National Model Design Code is to provide detailed guidance on the production of design codes, guides and policies to promote successful design. It expands on the ten characteristics of good design set out in the National Design Guide, which reflects the government's priorities and provides a common overarching framework for design. The objective of the National Model Design Code is to set out clear design parameters to help local authorities and communities to make decisions on bringing forward good quality design in their area, based on local aspirations for how their area will develop, following appropriate local consultation. The National Model Design Code sets out design considerations which local planning authorities will be expected to take into account when developing local design codes and guides and when determining planning applications. The document

NLC would definitely benefit from the Design Champion, or Design Review Panel approaches as the advice of these specialists would be extremely helpful in the council assessing the detailed design of such a large-scale project and ensuring that the opportunities to achieve good quality design are maximised. This is not an area of expertise that the local authority currently has 'in-house'.

highlights the importance of design codes as they provide a framework for creating healthy, safe, green, environmentally responsive, sustainable and distinctive places, with a consistent and high-quality standard of design. Design Codes can provide greater certainty for communities about the design of development and bring conversations about design to the start of the planning process, rather than the end, which is why the Applicant elected to establish design principles at the start of the Project and consulted upon these as part of the Statutory Consultation Stage.

As set out in the DAS and Design Principles and Codes document, the Applicant has chosen to base the Project's Design Approach upon the National Infrastructure Commissions 'Design Principles for National Infrastructure' guidance as the project is a Nationally Significant Infrastructure Project. The Applicant has elected to prepare a design code to reinforce the decisions made under the Project's Design Principles which take into consideration the themes advocated in the National Model Design Code. It should be noted however there is great similarity between the 10 themes within the National Model Design Code and the 10 themes

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| | <p>established by the Applicant as set out within the Design Principles and Codes Document</p> |
| <p>Q10.0.3</p> <p>NLC agree that the DAS sets out the vision for and development approach to achieving sustainable design. It appears to be the starting point in producing the Design Codes and as such it would appear logical that this document should be the starting point for submission of detailed designs and that the Design Codes should link back to the DAS.</p> | <p>The DAS provides an expression of how the application of the Design Principles and Codes could inform the detailed design. The DCO secures the parameters for each of the individual elements of the Project, allowing for a degree of flexibility so that the design can evolve and respond to changing technology (if required) during the detailed design stage. In order to secure a high-quality design outcome, the Applicant has submitted the Design Principles and Codes document which contain a set of instructions and prescriptions that will steer some aspects of the design detail beyond those set out in the project parameters. The DAS therefore helps to articulate how the Design Principles and Codes could be applied at the detailed design stage.</p> <p>The Applicant has provided cross references within the Design Principles and Codes document to highlight examples of the application of a particular Design Principle or Code and assist with the interpretation and assessment of compliance at the detailed design stage.</p> |
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Q10.0.6

The council generally support the principles and codes set out within the Design Code. They do appear to provide a robust framework and give some certainty and control to the detailed design of the proposal and should ensure consistency across such a large development that is likely to be delivered in multiple phases. However, we have limited experience of using design codes in practice and so are unsure how successful they are as a sole means of ensuring high quality design at the detailed design stage.

The Design Principles and Codes document provides a manual for aspects of the detailed design and comprise written instructions as appropriate. As set out in the document, the Applicant will be required to submit a Design Codes Compliance Statement, which will be prepared by the Design Champion to demonstrate how the detailed design submitted to the Local Planning Authority relates to the Design Principles and Codes document.

The Design Principles and Codes Document has been submitted as part of the application for development consent and is to be a certified document under article 44. Requirement 3 provides that the design details to be submitted and approved by the LPA under the requirement prior to commencement must be in accordance with the Design Principles and Codes, and that the development must then be carried out in accordance with the approved design details. As such, the Design Principles and Codes are commitments that will be secured through the DCO.

The Design Principles and Codes document is one of a suite of documents that capture and certify the Project's design and environmental commitments.

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| <p>Q10.0.8</p> <p>(i) NLC's objective in design terms is to achieve a high-quality development in accordance with the key design principles set out in policy CS5 of the North Lincolnshire Core Strategy (2011). This includes securing a sustainable development that is safe, accessible and respects both the historic and natural environment.</p> <p>Ultimately the council's aim is to achieve a high-quality built environment within North Lincolnshire, which is attractive to residents, investors and visitors.</p> <p>The council believes that the vision set out in the DAS and the principles and codes set out in the Design Codes will help in delivering a high-quality design. However, the council currently lacks the expertise is with regards to the assessment and delivery of the development at the detailed design stage. It is considered that the use of a Design Review Panel or Design Champion at the detailed design stage would ensure that opportunities to deliver high quality design are maximised and provide the LPA with assistance and assurance when they are assessing the detailed design of such a large project.</p> | <p>The Applicant has committed to the Design Champion Role and Design Review Process for the detailed design stage to provide assistance and assurance that opportunities to deliver high quality design are maximized in accordance with the Design Principles and Codes.</p> |
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| <p>Q10.0.9</p> <p>(i) Yes the visual barrier forms part of the mitigation proposed and as such it should be secured prior to operation. The wording should be strengthened to secure this.</p> <p>(ii) & (iii) It is anticipated that the Applicant will provide clarification in respect of their visualisations.</p> | <p>(i) The Design Principles and Codes document commits to the delivery of the visual barrier to the west of the ERF.</p> <p>(ii) No further comment to those provided in the Applicants written response.</p> <p>No further comment to those provided in the Applicants written response.</p> |
| <p>Q10.0.12</p> <p>Neither the existing or revised Landscape Character Assessment and Guidelines specifically mention the visual impact of plumes. The Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3, 2013), produced by the Landscape Institute and the Institute of Environmental Management & Assessment, raise the visual impact of plumes as an impact worthy of consideration, but they do not suggest any mitigation measures.</p> <p>The National Character Area profiles for the Humberhead Levels and the Trent and Belvoir Vales highlight power stations, and in the latter case plumes, as issues in the landscape. Again, no specific mitigation measures are suggested.</p> | <p>The Landscape and Visual Impact Assessment [APP-059] has considered visible plumes throughout the assessment of effects on views, as described in the Applicant's response to this Examination Question [REP2-033].</p> <p>The Applicant agrees with the NLC view that plumes are a feature of the baseline landscape. The Applicant also agrees that no practicable means of mitigating the landscape and visual effects of plumes is suggested in published guidance.</p> <p>The exhaust gases from the main plant stacks contain some moisture and are exit at high temperature. As such, there is the potential for water vapour to condense under some atmospheric conditions and to</p> |

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| <p>Given that plumes could be visible to a significant height for miles around, low level planting or screening would not provide much mitigation. The applicant's LVIA acknowledges that plumes will be visible on colder days, irrespective of planting. However, with a number of power stations, the steelworks and other industrial facilities in the area, plumes are, to a degree an accepted feature of the existing landscape.</p> | <p>form a visible plume. These days will typically be when the air is cold or has high relative humidity. A plant of this size will on occasion have a visible plume, with more prevalence in the winter, and as a worst case the possible plume length is likely to be in the order of a few hundred metres, noting that this has not been modelled to confirm the actual occurrences and length. The plumes will also be most obvious to the cross-wind observer against a clear sky. The plume is much less obvious on a cloudy day, as the grey plume is against a grey sky. In terms of mitigation there is little that can practicably be done to reduce plumes.</p> |
| <p>Q10.1.2</p> <p>(i) NLC do not hold any records of when flood lighting has been installed at the wharf. There is significant external lighting in the area associated with the wharf and industrial estate operations. Our Environmental Protection team has received complaints regarding light pollution from the wharf/industrial estate at Flixborough but these have not identified the position of the lights in question.</p> <p>(ii) As we are not aware of the lights that are being referred to the council are unable to confirm whether planning permission would</p> | <p>The Applicant acknowledges NLCs response to this matter.</p> |

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| <p>be required for the lights. Having checked our planning database there are no specific planning permissions for flood lighting at the wharf; nor are there any records of investigations by our planning enforcement team relating to the installation of floodlighting at the wharf. Planning permissions relating to development at the wharf that may have included external lighting are all historic with the most recent planning permission dating from 2003.</p> <p>It is noted that the wharf operators would benefit from relatively extensive permitted development rights that would likely allow for floodlights deemed to be necessary for the operation of the wharf; furthermore, it is unlikely that floodlighting attached to a building would constitute development requiring planning permission, provided it did not materially affect the appearance of the building.</p> | |
| <p>Q10.1.3</p> <p>(ii) NLC is not aware of the operational requirements of the wharf with regards to safety. The current wording of Requirement 5 appears geared towards minimising light emissions and protecting amenity and does not explicitly refer to any balance with operational/safety requirements; however these operational/safety requirements will obviously be a key consideration when the lighting scheme is devised. There should</p> | <p>We note that ABP in its response to Q16.0.6 state as follows: <i>“As part of our role as statutory harbour authority encompasses maritime safety and the lighting/beaconage we would not anticipate any need to alter or change our current statutory processes in managing the safe passage of vessels throughout our SHA area.”</i> As such, both</p> |

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| <p>perhaps be a requirement to consult with the wharf operators prior to approval of any lighting scheme to ensure that safety requirements have been adequately addressed.</p> | <p>operational and safety aspects at the wharf will be dealt with by ABP as the harbour authority.</p> |
| <p>Q12.0.2</p> <p>(i) Table 13 provides Predicted Noise Levels for Construction of the Buildings in the Northern Part of the Energy Park Land. R3 relates to '3 Charmaine' and demonstrates that during the evening the levels predicted are 62dB which is 7dB over the threshold of 55dB for Category A of BS5228. A potential significant effect is indicated if the LAeq, T noise level arising from the site exceeds the threshold level for the category appropriate to the ambient noise level. NLC therefore agree with this statement.</p> <p>(ii) This part is for the applicant to answer. However, NLC would agree with this approach.</p> <p>(iii) Again, this part of the question is for the applicant to answer.</p> | <p>The Applicant's responses to these questions can be found in Applicant's Response to Written Questions (REP2-033).</p> |
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Q14.0.1

The required highway works are the removal of the traffic signals at Neap House and amending the signing on the approaches to the New Access Road, to reflect the amended road layout. Both are required as a result of the proposed development.

The New Access Road will serve the existing Flixborough Industrial Estate and Port area, as well as the Project and will remove existing traffic from Stather Road via Neap House. Neap House is very narrow and unsuitable for two-way HGV movements, traffic signals control the flow of traffic at this pinch point. There are also residential properties in close proximity to the carriageway. The New Access Road, coupled with the stopping up of Stather Road will remove traffic from Stather Road and negate the need for the traffic signals at Neap House. Having discussed this with Highways colleagues, our preference is for the traffic signals to be removed as they will no longer be required.

The signs on the approach arms to the New Access Road need to be amended to reflect the revised road layout.

Both elements of the highways works are required as a direct result of the New Access Road. The financial contribution will cover the cost of

The Applicant notes NLC's response and has no further comments.

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| <p>removing the traffic signals and replacing the signage on the approach arms.</p> | |
| <p>Q14.0.5</p> <p>The NPS on Ports provides a framework for decisions on proposals for new port development and associated development. The proposed development in this instance is not seeking new port development. The proposed development plans to make use of the existing port to facilitate import of fuel and materials but does not propose any extension or alteration to these existing port facilities. As such NLC are of the view that this NPS is of little relevance to the assessment of the current application and that the relevant NPSs are NPS EN-1, NPS EN-3 & NPS-EN5.</p> | <p>The Applicant notes NLCs agreement on this matter.</p> |
| <p>Q14.0.6</p> <p>(i) Although the draft NPSs are in draft form and not adopted, NLC is of the view that they are relevant and important for the purpose of Section 104 of the Planning Act 2008. As such the SoS should have regard to the draft NPSs in deciding the application but they would carry limited weight at this time and the adopted NPSs should still form the principal basis for determining the application.</p> | <p>The Applicant notes NLCs agreement on this matter.</p> |

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| <p>Q14.0.9</p> <p>Copies of all relevant development plan and emerging policies have been provided alongside this response.</p> <p>As detailed in the council's LIR, the Submission North Lincolnshire Local Plan (2022) was submitted for examination on 11 November and as such the examination is still at an early stage. We are currently anticipating that the new local plan would be able to be adopted late 2023/early 2024 at the earliest. NLC are giving limited weight to this emerging plan at the current time.</p> | <p>The Applicant acknowledges the documents provided by NLC in response to this question and notes the current stage of the new local plan.</p> |
| <p>Q15.0.2</p> <p>(ii) Without understanding the context of the specifics in relation to commitments to be achieved and/or consequences for failing to do so it would be difficult for the Council to agree to an annual report being sufficient. We would want the applicant to make some strong commitments, work with the authority to ensure genuine opportunities would arise for local suppliers and ensuring strong employment opportunities. We feel it would be prudent as well for the applicant to consider working with the authority to sign up to the armed forces covenant, being a disability confident employer whilst maximising the opportunity to work with care leavers to give them the opportunity for</p> | <p>The Applicant will work with NLC to agree the best approach to securing / committing to what they have set out in their response.</p> |

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| <p>a prosperous future career in the region. The applicant's scheme to create circa 3,550 FTE jobs during the construction phase should be a significant opportunity for local suppliers given the transferrable skills already within the region due to our history of manufacturing, engineering and construction.</p> | |
| <p>Q16.0.1</p> <p>(i) NLC's Traffic Team are in the process of providing cost estimates for the required works to enable the agreement to be finalised.</p> <p>(ii) The answer to Q14.0.1 clarifies why the works are required. In addition to this, the works fall outside of the redline boundary and as such could not be secured through the DCO. The intention would be for NLC to arrange for the works to be completed, with the financial obligation provided by the developer. The timeframes still need to be confirmed with the developer, but NLC would suggest that obligation is paid when works commence on site.</p> <p>We would want to see the New Access Road completed and open to all vehicles, before the traffic signals at Neap House are removed. It is suggested suggest that the traffic signals at Neap House should be removed within six months of the New Access Road being completed and open to all vehicles. We would need to clarify with the developer,</p> | <p>(i) The Applicant acknowledges that NLC's Traffic Team will provide cost estimates for the required works, for incorporation into the draft deed of development consent obligation.</p> <p>(ii) The Applicant notes NLC's comments, which align with the Applicant's understanding. The draft deed of development consent obligation has been drafted so that the contribution towards these works is payable by the Applicant prior to commencement of the development pursuant to the DCO. As NLC will be undertaking these works, then the timescale for carrying them out will be within NLC's control.</p> |

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| <p>whether this would be 6 months from the start of the maintenance period prior to adoption, or 6 months from NLC adopting the road.</p> <p>We would want to see the signing amended prior to the New Access Road being completed and open to all vehicles.</p> | |
| <p>Q16.0.5</p> <p>(i) NLC is keen to see the use of river/rail transport during the construction and operational phase. Whilst Chapter 13 of the ES provides an indication of the number of rail/river movements that could be made during both the construction (maximum of 50 trains per year and 80 vessel movements per year), limited information is provided on the practicalities of this or how realistic the aspirations are.</p> <p>We accept that the use of rail during the construction phase is dependent upon the phasing of the works to reinstate the disused branch line from Dragonby Sidings through to the Project.</p> <p>Any modal shift to river/rail during the construction phase would offer significant environmental benefits.</p> | <p>As set out in the responses to Q16.0.4 and 16.0.5 in REP2-033 it is not possible to commit to a certain amount of rail / river use at this stage as this would be subject to commercial and practical discussions with the rail operator, ABP, waste operators and final contractors.</p> <p>The Applicant has committed to reinstatement of the Flixborough Branch Line, reconfiguration works at Dragonby Sidings and the construction of a new purpose-built railhead at the Proposed Development for handling of materials (Works No. 3 and 4). These works represent a significant part of the overall investment in the project, with no alternative use, therefore creating an in-built incentive for maximising the use of the rail infrastructure within the overall transport strategy, over the life of the Proposed Development.</p> <p>In terms of timescales for delivery of the railway reinstatement works, the Applicant amended the dDCO at Deadline 2 to include a new requirement relating to this (Requirement 20). This commits the</p> |

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| <p>Once operational NLC would wish to see the use of rail/river transport maximised with material brought in via road only where it is not possible to use rail/river.</p> <p>Given the current uncertainties on the timescales for the delivery of the railway reinstatement works and relevant permissions required to use the railway it is difficult for NLC to suggest what a viable sustainable transport might look like at this time.</p> <p>(ii) It is assumed that further work would need to be undertaken by the applicant to investigate the feasibility of this and to enter into agreements with the relevant operators to secure these movements and develop transport plans. These could then potentially be secured via requirement as part of the DCO.</p> | <p>Applicant to using reasonable endeavours to complete all necessary works forming part of Work No. 3 (reinstatement of the railway line between the wharf and sidings) to facilitate the use of the railway by rail freight for importing/exporting waste or other materials within 12 months of construction of the access road (Work No. 5) to base course level, and in any event to complete Work No. 3 prior to commissioning Work No. 1. The requirement further provides that, following completion of Work No. 3, the applicant must retain, manage and keep the railway available for use during construction/operation of the development.</p> |
| <p>Q17.0.4</p> <p>i) It is not currently clear how the methods of water disposal are proposed to be controlled.</p> <p>ii) It is assumed that consent would be required from the EA and/or the WMB to discharge into the River Trent; however the EA/WMB would need to clarify this.</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> |



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| <p>iii) Due to the scale of the proposed development and the fact that it will be delivered in a number of stages it is considered appropriate that a CEMP should be submitted and approved for each phase of the development. This is an approach that has been taken on large-scale NSIP projects.</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) The CoCP (APP-XXX) has been revised for submission at Deadline 3 and makes it clear that CEMPs will be produced for each part of the Project where it is necessary to have a focused CEMP rather than one all-encompassing CEMP for the whole Project. A single CEMP will be produced for the Permitted Preliminary Development Works. All CEMPs will be subject to review and approval by NLC with inputs from other consultees (EA and NE) as required.</p> |
| <p>Q17.1.1</p> <p>The council are of the view that the latest guidance set out in the PPG should be considered as a relevant and important consideration. It is believed that this is referenced as a source of further guidance rather than a part of the policy within the NPS.</p> | <p>The Applicant acknowledges NLCs response on this matter.</p> |
| <p>Q17.1.7</p> <p>(i) As set out in our response to Q7.1.60, the council are of the view that the flood management plan and any necessary mitigation measures</p> | |

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| <p>should be determined during detailed design as opposed to being required prior to commissioning. Flood management and mitigation will be a fundamental element of the design of the proposal and need to be considered at this earlier stage. Leaving these matters to a later date could mean that revisions to the design are required following construction.</p> | <p>The Applicant refers to their response to this question in the Response to Written Questions document (REP2-033):</p> <p>(i) The Applicant amended requirement 3 of the dDCO at Deadline 2 to add in reference to the flood risk assessment to ensure that the design measures included in the FRA form part of the design approval process for all relevant parts of the authorised development.</p> |
| <p>Q17.1.8</p> <p>(i) The need for additional flood measures has not yet been determined and any such measures would have to be agreed with the EA through a collaborative approach. It is the council's view that future flood defence measures should not be secured through the DCO as they are not directly related to the proposed development.</p> <p>(ii) & (iii) It is anticipated that the EA can provide further clarification on the suitability of the FRA and implications for off-site flooding relating to unplanned future flood improvement works</p> | <p>The Applicant refers to their response to this question in the Response to Written Questions document (REP2-033). 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, 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> |
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| <p>Q17.1.11</p> <p>(i) NLC would expect the EA to provide clarification on this matter. However, it is noted that the NPSs seek to avoid or wholly mitigate flood risk. Where this is not possible the increased flood risk should be weighed against the benefits of the project, taking account of the nature and degree of the risk, the future impacts on climate change and the advice provided by the EA.</p> | <p>The Applicant notes the NLCs response on this matter. The Applicant intends to liaise with the NLC Emergency Planning team during the next stage of design in order to develop the Flood Management Plan, as well as the EA on confirming the design of the flood mitigation measures as part of the detailed design stage.</p> |
| <p>Q17.1.12</p> <p>(i) The North Lincolnshire SFRA (2011) was the starting point for flood risk in North Lincolnshire until June 2022 when a new SFRA was adopted by the council. The applicant's FRA was produced in May 2022, prior to the new SFRA being adopted. A copy of the new SFRA has been provided with this response, the SFRA maps are wholly digital now and are available at: MAP.NORTHLINCS.GOV.UK</p> <p>(ii) The SFRA 2022 is the most up to date information available in respect of flood risk in North Lincolnshire.</p> | <p>The Applicant acknowledges the update to the NLC SFRA. The Applicant will liaise with the EA and NLC before progressing the detailed design stage to ensure the latest, most up-to-date data is incorporated.</p> |
| <p>Q17.1.14</p> <p>(i) NLC has no objection to the timing of the mitigation delivery.</p> | <p>The Applicant acknowledges NLCs confirmation on this matter and notes that, in addition to requirement 12, reference to FRA has been</p> |

(ii) Prior consultation in advance of approval would be considered sufficient.

added to requirement 3 on design to ensure that the mitigation measures are taken into account in the approval of design of each relevant part of the authorised development.

The Applicants response to this question in REP2-033 confirms that it is the intention that consultation is undertaken with NLC Emergency Planning team during the next stage of design.

4.0 APPLICANTS' COMMENTS ON HISTORIC ENGLAND'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

4.1 The Applicants Comments on Historic England's response to the Examining Authority's questions can be found below in Table 1.

Table 3: Applicants comments on Historic England's response to the Examining Authority's questions

| Historic England responses | Applicant's Response |
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| <p>Q9.0.1</p> <p>The current mechanism is not it appears sufficiently robust in that no protocol whereby stoppage can be secured is set out. This may ultimately be addressed within written schemes of investigation (to be approved by LPA post-grant of DCO) but at point of DCO will be unsecured and hence uncertain. Particular risk may occur if a substantial stoppage is required to address burials or remains of national importance. An additional requirement setting out a process for notification of the Minister and safeguarding pending a specific WSI being prepared - in the case of discoveries of such importance and complexity that they could not be appropriately mitigated within the scope of a programme of rolling supervision and recording under a general WSI would appear appropriate.</p> | <p>This will be described in the Mitigation Strategy and Written Schemes of Mitigation that will be produced as soon as the archaeological evaluations are complete. 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> |



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| <p>Q9.0.4</p> <p>We refer you to the advice of the North Lincolnshire Council’s Historic Environment Officer who is best placed to answer.</p> | <p>The Applicant notes the deference to NLC’s Historic Environment Officer.</p> |
| <p>Q9.0.5</p> <p>The ES cannot be regarded as having fully assessed the likely adverse impacts on cultural heritage with reference to the limitations set out 5.5. in particular because trial trenching has been pushed to post-DCO. The geophysical survey and deposit modelling undertaken thus far provides a framework for further investigation and targeted mitigation. Whilst the broad character of remains which may be encountered is described this is as yet not tested by trench excavation. As discussed in our answer at Q9.0.1 and Q9.0.6 the archaeological requirement at APP-007 Requirement 11 should be reinforced in proportion to the uncertainty as to the importance of remains which may be encountered and the impact of development thereupon.</p> | <p>The current trial trench evaluation is more than half way through and will be completed by the end of January 2023. The results produced to date have been discussed with NLC and two site visits have so far been undertaken. The results produced so far do not change our existing understanding of the archaeological potential of the Project Area as reported in the ES Chapter – APP-006.</p> <p>The archaeological requirement (APP-007 Requirement 11) will be amended to reflect this sentiment when the dDCO is next updated at Deadline 4.</p> |
| <p>Q9.0.6</p> <p>i) No</p> <p>ii) The further exploratory archaeological investigations identified in APP-007 Requirement 11- (1) are defined by the submitted WSI</p> | <p>i) No response required.</p> |

under APP060 appendixes E-F, and hence are clearly framed (as at Q9.0.4 we refer you to the advice of the LPA Heritage Officer as to their acceptability).

At APP-007 Requirement 11- (2) the programme of mitigation fieldwork is required to be 'informed by the exploratory investigations referred to in sub-paragraph (1). The scope of the mitigation fieldwork is set out under App-007 11 – (2) a-d with a requirement for WSI to be approved by the local planning authority, however the acceptability of such WSI is not tied back to a specific outline archaeological strategy. In the absence of such a document we suggest that the Geoarchaeological evaluation and deposit model which we understand is currently in preparation for submission should also include an Outline Archaeological Strategy so that App – 007 – Requirement 11 (2) can require submitted WSI to be in compliance with that outline strategy. An outline strategy can serve as a yardstick to assist the LPA in the robust determination of requests for approval of WSI under that requirement. The scope of requirement under App-007 11 – (2) a-d could usefully be expanded to make clear that the WSI in alignment with the construction management plan (or similar) can include measures for the minimisation of collateral impacts upon buried remains through the refinement of working practices and methods

ii) The Applicant acknowledges that Historic England consider the further investigations clearly framed and also acknowledges deference to the LPA Heritage Officer.

Requirement 11 will be amended to include a commitment to the production of an overarching Mitigation Strategy when the dDCO is next updated at Deadline 4.

The Applicant agrees with these suggestions for inclusions of recommendations for working practices and methods during construction both within the management plan and the relevant WSIs.

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| <p>(such as for instance vehicle routes, compound locations, piling methodologies or drainage /ground water management works).</p> | |
| <p>Q9.0.7 See also our response to Q9.0.6</p> | <p>See above response to Q9.0.6.</p> |
| <p>Q9.0.10 i) At present the character of sub-surface remains is insufficiently understood to give a clear view as regards the impacts of vibration on buried remains, however through a staged process of investigation this can be better understood, as understandings of the character and sensitivity of sub-surface features develop, through fieldwork these impacts can be addressed through design / working methods to address risk (see our response to Q.9.0.6).</p> | <p>The Applicant agrees with this statement and will continue to review the potential for impacts of vibration as the character and sensitivity of sub-surface remains are better understood following as the results of the evaluation become available.</p> |
| <p>Q9.0.11 ii) The setting relationship of Flixborough Nunnery to the River contributes to the significance of the monument. In which context ferry crossing between Flixborough and Amcotes and passage up and down the river is likely to have been very important. The introduction of the proposed development into this landscape is through its prominent scale and massing likely to result in a considerable degree of less than</p> | <p>The Applicant acknowledges Historic England's agreement with the classification of the less than substantial harm to the landscape as being moderate adverse.</p> |

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| <p>substantial harm, the classification of this as moderate adverse appears reasonable.</p> | |
| <p>Q9.0.13</p> <p>ii) We defer to the Council with regards to the value of the Axholme Fen and Normanby Scarp. The identification of a significant environmental effect in respect of the Axholme Fen appears reasonable. The national importance of the Isle of Axholme with its strip field farming was established in the 1997 Isle of Axholme Historic Landscape Characterisation Project (former Countryside Commission). As explored in the 2011 Historic Landscape Characterisation (Lincolnshire County Council) the Axholme Fen prior to drainage had an intimate relationship to the higher arable lands of the Isle providing a rich variety of wetland resources.</p> <p>iii) Great Weight on the basis of the setting contribution of the Axholme Fen to the significance of the Isle of Axholme and Flixborough Nunnery SM both of which are of national importance.</p> | <p>ii) The Applicant acknowledges Historic England's agreement with the classification of a significant effect.</p> <p>iii) The Applicant acknowledges this assessment of the weight within the planning balance.</p> |

5.0 APPLICANTS' COMMENTS ON NATURAL ENGLANDS RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

5.1 The Applicants Comments on Natural England's response to the Examining Authority's questions can be found below in Table 1.

Table 4: Applicants comments on Natural England's response to the Examining Authority's questions

| Natural England's responses | Applicant's Comments |
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| <p>Q1.0.20</p> <p>Schedule 15 of the Environment Act 2021 makes provision about biodiversity net gain in relation to development consent for NSIPs. Natural England is generally satisfied with the applicant's approach to net gain within this development.</p> | <p>The Applicant acknowledges Natural England's confirmation on this matter.</p> |
| <p>Q2.0.3</p> <p>Natural England advises that the area of the development site which is not covered by the post 1988 ADAS survey data is the 20-30ha of agricultural land in the northern section of the site, to the north and east of Flixborough Stather. The ADAS survey layer can be found on Magic Map, a copy of the map has been attached to this letter at Annex 1.</p> | <p>The Applicant notes clarification from Natural England on this matter.</p> |

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| <p>Q5.0.2</p> <p>Natural England is satisfied with the applicant's approach to assessment of air quality effects on Hatfield Moor SAC and agree that impacts can be ruled out.</p> | <p>The Applicant welcomes Natural England's confirmation on this matter.</p> |
| <p>Q5.1.7</p> <ul style="list-style-type: none">• Natural England advise that we are satisfied that alone there will not be an air quality impact on Humber Estuary SPA due to the ammonia and nitrogen deposition from the proposed development, our comments relate to the impacts which may arise in combination with Keadby 2 and 3.• Natural England and the applicant are currently in discussion regarding whether the BAT abatement systems would constitute mitigation and will provide further clarification in a Statement of Common Ground. Currently the submitted documents describe the system as mitigation, however the applicant will provide clarification on whether the BAT abatement is part of the standard design of the ERF. | <p>The Applicant notes Natural England's response to these matters and will continue to liaise with them about this in their SoCG.</p> |

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| <ul style="list-style-type: none"> • Natural England welcomes the securing of parameters for the stacks for the main ERF, boiler and back-up generator, within Schedule 1, Part 3 of the dDCO. • Natural England acknowledge that the BAT abatement systems will be secured through the environmental permit process. However, in order to be compliant with the Habitats Regulations the installation of mitigation cannot be dependent on a delivery mechanism which has not yet been secured. Therefore, if it is not part of the standard design of the ERF, the installation of the BAT abatement should be stated within the DCO. This could be stated within Schedule 1, Part 3 along with other design parameters. | |
| <p>Q5.1.8</p> <p>The five European sites presented in the Report to Inform HRA are all currently in unfavourable condition. These are namely; Humber Estuary SPA, Humber Estuary SAC, Humber Estuary Ramsar, Thorne Moor SAC and Thorne and Hatfield Moors SPA. Information on the condition of individual units of the underpinning SSSIs can be found on Natural England's Designated Sites View.</p> | <p>The Applicant notes Natural England's response regarding the condition of the European Sites.</p> |

Q5.1.9

Natural England advise there is potential for impacts from the piling activity which has been proposed as part of the construction process.

The vibration and sound from piling may have a disturbance impact on river and sea lamprey associated with Humber Estuary, which use the river Trent as part of their migration route. Natural England are currently awaiting information from the applicant on the noise levels which will arise due to the bored piling at the river Trent, this will inform the potential for the bored piling to impact upon the lamprey.

Natural England has not undertaken research on the impacts of noise and vibration on lamprey. However, research on the impacts of anthropogenic noise on fish has shown there may be impacts to development, physiology, and behaviour. This may include disruption to migration routes, with fish demonstrating behaviour avoidance reactions of wide distances from pilling activity.

As a fish with no swim bladder lamprey may be less sensitive to noise and vibration than bony fish, however in line with the precautionary principle, we would advise the potential for impacts needs to be considered within the HRA. As designated features of the Humber

The Applicant notes Natural England's response to these matters and will continue to liaise with them about this in their SoCG.

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| <p>Estuary SAC and Ramsar, impacts to both river and sea lamprey need to be assessed.</p> | |
| <p>Q7.1.65</p> <p>Natural England advise there should be a commitment to delivering a minimum of 10% biodiversity net gain and this should be secured within the DCO. Natural England would not provide specific wording for the requirement, and we advise that if the wording clearly secures the commitment, this will be acceptable.</p> | <p>The Applicant acknowledges Natural England's confirmation on this matter. The commitment to delivering the BNG is secured by requirement 7 as it is referenced in the outline LBMMP.</p> |
| <p>Q7.1.78</p> <p>Natural England is currently in discussion with the applicant regarding whether the BAT abatement measures would constitute mitigation (see above question Q5.1.7) and further clarification will be provided in a SoCG. Natural England would not provide specific wording for the DCO, and we advise that if the wording clearly secures the commitment, this will be acceptable.</p> | <p>The Applicant confirms that they are currently liaising with Natural England on this matter.</p> |
| <p>Q7.1.79</p> <p>Natural England is satisfied with how the dust mitigation measures have been secured within the DCO. We would not provide specific wording for the DCO requirement.</p> | <p>The Applicant acknowledges Natural England's confirmation on this matter.</p> |

Q7.1.80

Natural England would not provide specific wording for the DCO, and we advise that if the wording clearly secures the commitment, this will be acceptable.

The Applicant acknowledges Natural England's comment to this point.

6.0 APPLICANTS' COMMENTS ON ADG AUTOTECH RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

6.1 The Applicants Comments on ADG Autotech response to the Examining Authority's questions can be found below in Table 1.

Table 5: Applicants comments on ADG Autotech's response to the Examining Authority's questions

| ADG Autotech responses | Applicant's Comments |
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| <p>Q7.0.6</p> <p>The Book Of Reference entry for plot number 5-46 is incorrectly addressed as Unit 14 Wharfside Court. The correct unit address for this plot is Unit 12 Wharfside Court. Unit 14 Has been correctly recorded as plot 5-43 The Address for Mr Gravel recorded in relation to Plots 5-43 and 5-46 is also incorrect. Mr Gravel no longer lives at Eastfield Road. Mr Gravel's home address is: XXXX</p> | <p>Plot 5-46 has been updated to reflect that the correct unit address is Unit 12 in the Book of Reference submitted at Deadline 2 (REP2-008). In respect of Plot 5-43 Mr Gravel's address has been updated in the same updated Book of Reference.</p> |

7.0 APPLICANTS' COMMENTS ON ASSOCIATED BRITISH PORTS RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

7.1 The Applicants Comments on Associated British Port's response to the Examining Authority's questions can be found below in Table 1.

Table 6: Applicants comments on Associated British Ports response to the Examining Authority's questions

| Associated British Ports responses | Applicant's Comments |
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| <p>Q7.0.13</p> <p>A protected provision will not be required as the current wharf infrastructure, as in operation currently, will not be amended/alterd as part of the works authorised by this DCO. The impact is understood to be the potential for more vessel arrivals at the berth which can be managed as necessary by ABP under existing processes and procedures for vessels accessing and using the Humber Estuary and Trent waterways.</p> | <p>The Applicant welcomes this response from the Associated British Ports and notes that they consider that protective provisions will not be required (refer to the Applicant's response to this question in the Applicant's responses to written questions document submitted at Deadline 2 - REP2-033).</p> |
| <p>Q7.1.26</p> <p>Navigational risks need to be reviewed as part of the examination process but as the wharf infrastructure itself is unaffected by works authorised by the DCO, and as the applicant has agreed that existing rules and processes with regard to vessel arrivals and departures (and as administered by HES) will be respected, we do not envisage a need for</p> | <p>The Applicant notes ABP's response in relation to there not being a need for NRA to form part of the Article 44 process. Conversations between the Application and ABP are ongoing and will be confirmed in the SoCG.</p> |

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| <p>NRA to form part of the Article 44 process. However, please note that the applicant will not be allowed to deviate away from current maximum vessel dimensions and ship type currently in operation at the Wharf.</p> | |
| <p>Q10.1.3</p> <p>Our understanding is that Flixborough Wharf’s operation will remain unchanged save that an increase in vessel throughput is anticipated. As part of our role as statutory harbour authority encompasses maritime safety and the lighting/beaconage we would not anticipate any need to alter or change our current statutory processes in managing the safe passage of vessels throughout our SHA area.</p> | <p>The Applicant acknowledges ABP’s response regarding the lighting at the Port and the absence of a need for changes to it.</p> |
| <p>Q16.0.6</p> <ul style="list-style-type: none"> i) We would anticipate that the NRA can be termed as being finalised once we have fully agreed its contents with the applicant. ii) Windage impact cannot be resolved but can be mitigated against with the use of dynamic assessment and, if necessary, the potential for tug usage for manoeuvring vessels. These matters are dealt with as a patter of course as part of our ongoing SHA management procedures. iii) For the Applicant | <p>The Applicant acknowledges ABP’s response in regards to the NRA and refers to the responses in the Applicant’s response to Written Questions submitted at Deadline 2 (REP2-033). Additionally:</p> <ul style="list-style-type: none"> i) The NRA has been prepared based on the available information and assumptions to support the planning process, the document shall remain as a Preliminary NRA but is not considered a draft version. It is our understanding that a Final NRA would be completed post |

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| | <p>dDCO by the relevant construction and / or operation Contractors/Operators undertaking the works.</p> <p>ii) The Applicant agrees with ABPs response on this matter.</p> |
| <p>Q16.0.7</p> <p>i) From a vessel handling and navigational safety perspective there would be no change to the way that the harbour is run. The vessel operator however would need to ensure that national and international procedures related to the carriage of dangerous goods are adhered to.</p> <p>ii) This remains the subject of ongoing dialogue with the applicant.</p> | <p>The Applicant acknowledges ABP's responses in regards to the NRA and confirms that discussions are ongoing and will be outlined in the SoCG.</p> |
| <p>Q16.0.8</p> <p>i) Yes</p> <p>ii) Light pollution has potential to affect vessels transiting the Trent past this proposed facility. Every effort should be made by the applicant to ensure that light pollution does not affect River Trent users. Assessments and feedback will be delivered to the Applicant as installation is progressed with the Applicant required to complete any rectification as necessary.</p> | <p>The Applicant acknowledges ABPs confirmation that the controls delivered through the DCO as drafted would deliver an appropriate NRA.</p> |

8.0 APPLICANTS' COMMENTS ON CADENT GAS LIMITED'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

8.1 The Applicants Comments on Cadent Gas Limited's response to the Examining Authority's questions can be found below in Table 1.

Table 7: Applicants comments on Cadent Gas Limited's response to the Examining Authority's questions

| Cadent Gas Limited's responses | Applicant's Comments |
|---|--|
| <p>Q7.0.11</p> <p>The dDCO does not include adequate protection for Cadent's apparatus and the gas distribution network. It does not include the specific protection provisions that Cadent requires to prevent serious detriment to his undertaking.</p> <p>Cadent require all promoters carrying out development in the vicinity of their Apparatus to comply with various guidelines including: GD/SP/SSW22 – Safe Working in the vicinity of Cadent High Pressure's Gas Pipelines and Associated Installations; IGE (Institution of Gas Engineers) recommendations IGE/SR/18 Edition 2 Safe Working Practices to Ensure the Integrity of Gas Pipelines and Associated Installations; and the HSE's guidance document HS(G)47 Avoiding Danger from Underground Services.</p> | <p>The draft DCO (Part 1, Schedule 14 of REP2-004) includes generic protective provisions for the protection of electricity, gas, water and sewerage undertakers which Cadent would be able to rely upon. As such the Applicant's view is that there would be no serious detriment to Cadent's undertaking. Notwithstanding this the Applicant is in the process of negotiating bespoke protective provisions with Cadent and these discussions are ongoing.</p> <p>The Applicant is not aware of any plots where Cadent owns the freehold of the relevant plot, that has been included for compulsory acquisition in the Book of Reference (REP2-008). The Applicant is however looking to permanently acquire the freehold, acquire new interests in land as well as take temporary possession of land, in which Cadent does hold an interest.</p> |

The industry standards referred to above have the specific intention of protecting: the integrity of the pipelines and thus the distribution of gas; the safety of the area surrounding gas pipelines; and the safety of personnel involved in working with gas pipelines.

Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent’s Apparatus.

Cadent’s preferred form of protective provisions are included at Appendix 1 (the Cadent Protective Provisions). The Cadent Protective Provisions are in Cadent’s standard form and have been developed to afford full protection to Cadent and its undertaking.

Cadent will not accept under any circumstance solar PV panels to be installed within the pipeline easement area. This would restrict access to the pipeline in the future and Cadent requests that the design is amended to remove any PV solar panels from existing Cadent easement strips. Under the protective provisions, Cadent will require clarity to ensure that it is entitled to refuse any works that would: 2.6.1 cause interference with or risk of damage to its apparatus; or 2.6.2

The relevant plots are as follows:

| Extent of Compulsory Acquisition | Plots |
|---|--|
| Freehold acquisition sought by the Applicant | 4-28, 4-31, 4-45, 4-73, 4-75, 4-78, 4-79, 4-80, 5-5, 5-11, 5-35, 5-49, 5-50, 5-51, 5-52, 5-63, 5-70, 5-71, 5-72, 5-77, 5-88, 6-22, 6-24, 6-84, |
| Acquisition of new rights in land sought by the Applicant | 3-19, 3-26, 4-17, 4-26, 4-27, 4-38, 4-39, 4-76, 5-8, 5-19, 5-23, 5-24, 5-25, 5-33, 5-36, 5-37, 5-55, 5-56, 5-57, 5-58, 5-59, 5-60, 5-62, 5-64, 5-65, 5-66, 5-67, 5-76, 5-82, 5-84, 5-85, 5-86, 5-89, 9-10, 9-11, 9-12, 9-19, 9-20, 9-22, 9-23, 9-24, 9-28, 9-29, 9-35, |



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| <p>prevent access to its apparatus at any time. This is secured by the Cadent Protective Provisions.</p> <p>In addition to securing compliance with industry standards, the Cadent Protective Provisions include necessary insurance and security measures which are required to be put in place before works which may affect Cadent’s apparatus. These are required given the nature of the Promoter and the information set out in the Funding Statement which identify that the Project is not yet funded, and this is consistent with the Promoter’s dDCO and the requirement for a guarantee or alternative security to be provided in respect of powers of compulsory acquisition prior to the exercise of those powers (see Article 22). Cadent require these measures to be included to ensure that the Promoter has adequate resources to address any damage caused to the Apparatus as a result of the Project.</p> <p>In the current energy and security of supply crisis, providing full and proper protection to the gas distribution network is increasingly important. The Cadent Protective Provisions will help to achieve this and to avoid serious detriment to Cadent’s undertaking.</p> <p>The Cadent Protective Provisions have been included in substantially the same form in a number of previous DCOs in order to afford</p> | | <p>9-43, 10-3, 10-4, 10-6, 10-7, 10-30, 10-31, 10-32, 10-34, 10-50, 10-53, 10-54, 10-56, 10-81, 10-82</p> | |
| | <p>Temporary possession sought by the Applicant</p> | <p>6-26, 6-27, 9-17, 9-34, 9-42, 10-41, 10-45, 10-46, 10-55, 10-66, 10-72, 10-73</p> | |

The nature of the interest held by Cadent in respect of these plots varies between but generally relates to being the beneficiary of rights of access, rights for apparatus (including gas mains) and land over which Cadent has the benefit of easements.

The Indicative Utility Diversion Drawings (APP-031) show the locations of the Cadent apparatus that the Applicant is aware of and where there are to be any interactions with the same.

In response the Cadent's comment in respect of solar PV panels. The Applicant is not intending to install any solar PV panels as part of the

protection to Cadent's. For example, substantially similar protective provisions are included in the following orders: The A585 Windy Harbour to Skippool Highway Development Consent Order 2020, The M42 Junction 6 Development Consent Order 2020, The A38 Derby Junctions Development Consent Order 2021, The A47/A11 Thickthorn Junction Development Consent Order 2022, The A47 Blofield to North Burlingham Development Consent Order 2022, The A57 Link Roads Development Consent Order 2022, The M25 Junction 28 Development Consent Order 2022 and The M54 to M6 Link Road Development Consent Order 2022.

Cadent would be willing to enter into a side agreement to secure the Cadent Protective Provisions with the Promoter. Cadent has sought to engage in discussions with the Promoter to agree the Cadent Protective Provisions and will continue to do so with a view to reaching agreement and submitting an agreed set of protective provisions to the ExA.

authorised development. Any panels that may be installed in future would likely only be on buildings constructed (rather than directly on the land as is suggested by Cadent).

9.0 APPLICANTS' COMMENTS ON NATIONAL GRID CARBON LIMITED'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

9.1 The Applicants Comments on National Grid Carbon Limited's response to the Examining Authority's questions can be found below in Table 1.

Table 8: Applicants comments on National Grid Carbon Limited's response to the Examining Authority's questions

| National Grid Carbon Limited's responses | Applicant's Comments |
|---|---|
| <p>Q6.0.8</p> <p>NGCL anticipates that the Applicant will express a view both as to the weight which the Examining Authority can give to the potential for a connection to the HLCP Project and the quantum of CO2 that it would be possible to transport from this specific site, if a connection to the HLCP Project were made at a future date. NGCL would note that, whilst the proposed HLCP Project route published as part of its recent statutory consultation proposals did not include a connection to the NLGEP (for the reasons set out in Section 3.3 of the draft Statement of Common Ground between the Applicant and NGCL, which the Applicant will be submitting at Deadline 2) and that a connection does not form part of this application for development consent, the HLCP Project is being designed by NGCL so that further connections could be made in the future. Additional consent(s) would be required to achieve a future connection, to the extent that provision is not directly made by</p> | <p>The Applicant acknowledge National Grid Carbon Limited's response to this matter and will continue to liaise with them about this in their SoCG.</p> |

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| <p>the HLCP DCO application and / or individual projects seeking to connect to the HLCP Project. It is likely that bespoke regulatory arrangements will be developed in order to govern the process pursuant to which future connections are made.</p> | |
| <p>Q13.0.1</p> <p>As set out in the draft Statement of Common Ground (SoCG) between the Applicant and NGCL, the parties have been in dialogue in relation to the two projects since June 2021. The Applicant's draft DCO does not include provision for a connection to the HLCP Project, nor did the proposed route for the HCLP Project published in connection with NGCL's statutory consultation, which closed on 5 December 2022, include a connection to the NLGEP. The reasons for this are set out in Section 3.3 of the draft SoCG. NGCL notes that, in its response to the HLCP Project statutory consultation dated 2 December 2022, the Applicant has sought a change to the routeing of the HLCP Project in order to provide a connection to the NLGEP. NGCL is currently considering this response, alongside all other feedback received to its statutory consultation.</p> | <p>The Applicant acknowledge National Grid Carbon Limited’s response to this matter and will continue to liaise with them about this in their SoCG.</p> |

10.0 APPLICANTS' COMMENTS ON NETWORK RAIL INFRASTRUCTURE LIMITED'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

10.1 The Applicants Comments on Network Rail Infrastructure Limited's response to the Examining Authority's questions can be found below in Table 1.

Table 9: Applicants comments on Network Rail Infrastructure Limited's response to the Examining Authority's questions

| Network Rail Infrastructure Limited's responses | Applicant's Comments |
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| <p>Q1.0.12</p> <p>i) Our understanding is that the footbridges numbered #1 and #2 (as shown on Sheet 3 at Appendix B of the Rail Operations Report (APP-045)) and user worked crossings numbered #1 and #2 (as shown on Sheets 1 and 2 respective of the Rail Operations Report (APP-045)) are to be provided as part of the private railway forming part of the DCO Scheme and do not therefore fall within or impact upon NR's operational railway.</p> <p>Nevertheless, NR is seeking clarification from the Promoter on these matters for completeness and would request the right to make further representations in respect of this question should that be necessary.</p> | <p>We confirm that the crossings referred to do not fall within or impact upon NR's operational railway, as the crossings are located on a privately-owned branch line separated from Network Rail infrastructure by the privately-owned Dragonby Sidings (Vossloh Cogifer).</p> <p>The proposed safe system of work for moving trains to and from the main line will start and finish at Dragonby Sidings in all cases, such that internal train movements between Dragonby Sidings and the Proposed Development will be separately controlled and managed between the two private owners of the railway infrastructure, in partnership with the licenced rail freight operating company(s) as appropriate.</p> <p>As there will be no direct movement of trains between Network Rail infrastructure and the Proposed Development, the location, design,</p> |

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| | <p>operation and maintenance of these crossings will not import additional risk onto Network Rail's operational railway.</p> <p>That notwithstanding, the Applicant would engage with Network Rail post-determination on the detailed design of the proposed crossings, as well as formally engage with Network Rail and Vossloh Cogifer on an agreed Safe System of Working for the movement of trains, including the operation of at-grade crossings along the Applicant's private branch line to Flixborough.</p> |
| <p>Q7.1.11</p> <p>There are no protective provisions for the benefit of NR currently included within the draft Order. NR has commenced discussions with the Promoter with regards to the inclusion of NR's standard protective provisions and copies of such have been provided to the Promoter. A copy of the protective provisions once discussed and agreed with the Promoter will be provided in due course.</p> <p>NR and the Promoter are willing to enter into a side agreement and a copy of which is to be imminently provided by NR to the Promoter for review.</p> | <p>The Applicant first engaged with Network Rail in September 2020. Due to internal resource constraints, NR has to date been unable to provide a Scheme Sponsor with which to progress a Basic Services Agreement as requested by the Applicant. This has recently been addressed by NR and the Applicant looks forward to formalising the productive discussions to date with NR within the draft Statement of Common Ground and NR standard Protective Provisions.</p> |

Q14.0.7

Our understanding is that only part iv) of this question is relevant to NR. NR cannot confirm at this stage that the impacts of the proposed development on the wider rail network would be "minor or not significant" (as described in the Promoter's Rail Operations Report). This matter is being considered by NR's engineers and we reserve the right to make further representations on this matter in due course.

As noted above, the Applicant has been waiting for some time for NR resources to be made available to discuss these matters through a formal template agreement, but in the interim the Applicant welcomes the productive discussions held with NR on timetable pathing, and the ability to use the existing main line connection and signalling arrangements into Dragonby Sidings, for the handling of trains to and from the national rail network.

The Applicant acknowledges that the proposed under-track crossing of the NR main line between Althorpe and Scunthorpe as part of the district heating and private wire network (DHPWN), which was not within the scope of the Applicant's Rail Operations Report, would represent a significant package of work. This would as a matter of course be subject to NR's standard Protective Provisions, and NR's approval for design, construction, operation and maintenance. The Applicant therefore looks forward to receiving the Basic Services Agreement and Sponsor resources from NR in order that formal discussions can be progressed.

11.0 APPLICANTS' COMMENTS ON AB AGRI LIMITED'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS

11.1 The Applicants Comments on AB Agri Limited response to the Examining Authority's questions can be found below in Table 1.

Table 10: Applicants comments on AB Agri Limited's response to the Examining Authority's questions

| AB Agri Limited's responses | Applicant's Comments |
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| <p>Q7.0.6</p> <p>We are satisfied that the documents accurately reflect the compulsory purchase proposals.</p> | <p>The Applicant acknowledges AB Agri Limited's confirmation on this matter.</p> |
| <p>Q7.0.7</p> <p>The proposed compulsory acquisition of AB Agri's land is for the temporary possession of Plot 5-54 for the purposes of temporary laydown areas as part of the construction of Work Nos 10 and 11. According to the Applicant's land agent, possession will be needed for 3 years and is specifically required to provide a working area during construction of the flood defence bund. It has since been clarified by the Applicant that Plot 5-54 is required on a temporary basis for carrying out Work No 13 (construction of flood defences) as shown on Works Plan A11 (AS-009) rather than as part of the constriction of Work Nos 10 and 11.</p> | <p>The Applicant is not intending to interfere with or disrupt the ongoing operations of AB Agri's access via First Avenue and Second Avenue. The Applicant's understanding is that Plot 5-54 is an area of non-operational grassland, part of which falls within the fence line of AB Agri's land, occupation of which should not cause interference to AB Agri's operations.</p> <p>The flood mitigation wall is currently proposed close to the AB Agri site to maintain clearance within the wharf area for movement of vehicles, minimising any potential impact on existing and future operations within the wharf and to minimise impact on First Avenue.</p> |

Plot 5-54 comprises an approximately 6-metre deep strip of land along the entire 100-metre southern boundary of AB Agri's site and for 60 metres along the western boundary, with the northern-most possession abutting the main entrance to the processing plant.

Possession for three years of approximately one third of the perimeter of the site and one half of its road frontage will significantly compromise AB Agri's enjoyment of its land. Construction works and activities within AB Agri's site in extremely close proximity to the raw material intake of the animal feed production plant will significantly increase the biosecurity risk of the site even with usual construction environmental management plan. Furthermore, the possession will pose a contamination risk from potential airborne contaminants from the construction works and activity, as well as potential ground contamination that could in turn put the viability of the business at risk.

It is understood from the Applicant that the temporary possession is sought on a worst-case basis in the event that necessary flood defence cannot be constructed from the area outside AB Agri's land. The Applicant has not demonstrated an alternative which avoids the temporary possession of AB Agri's land, such as the construction method or justification why a flood defence would need to be constructed from AB

As shown in APP-074 Indicative Utility Diversion Drawings, Drawing No. NLGEP-BHE-XX-XX-DR-C-9105 Sheet 5, within First Avenue and the area west of the AB Agri site, existing Open Reach telecommunication cables are located. It is intended that an appropriate set-back is allowed from the proposed flood wall sub-base footing to these cables. Temporary access within Plot 5-54 is sought to allow, if necessary, the appropriate access required to construct the wall. If construction of the flood defence can be secured without the temporary possession of AB Agri land, this option will be taken. Appropriate measures required to minimise biosecurity and contamination risks during construction will be discussed with AB Agri as part of ongoing discussions.

Agri's land. Following the meeting on 9 December 2022, AB Agri is awaiting further information from the Applicant on the proposed temporary possession.

The Order provides for compensation for 'loss and damage' (clause 31(5)). In the worst-case scenario airborne and ground contamination could result in a business extinguishment claim incurring a cost disproportionate to the purposes of the possession and which may have a significant impact on the viability of the project. Our concerns about the proposed compulsory acquisitions are therefore not addressed by the compensation provision in the Order. The Applicant has not demonstrated a compelling case to take temporary possession in light of the potential damage that it may cause AB Agri's business.