

NLC’s responses to the ExA’s second written questions (ExQ2) Issued 2 March 2023

ExQ2	Question	NLC Answer
Q2.1.0.4	<p>In the LIR [REP1-019] NLC identified concerns over impacts on local accommodation in the event that the proposed development was to coincide with any other major project. Are NLC content with the explanation provided by the Applicant on this matter.</p>	<p>NLC are content with the explanation provided by the applicant on this matter. The Applicant has given appropriate consideration to the matter and NLC will be able to work with the Applicant to engage with the relevant providers where necessary at the appropriate time.</p>
Q3.3.0.1	<p>In light of the update to the Air Quality Chapter of the ES [REP4-009]</p> <p>(i) Could the Applicant clarify the information set out in Table 10 of [REP4-009] to advise of the following:</p> <ul style="list-style-type: none"> • distance/ direction of pathway to River Trent receptor; • mitigation/ controls relied on to assign a “low” IAQM ranking to odour potential; • how these mitigation measures are secured <p>(ii) Section 7.2 references an Odour Management Plan being prepared as part of the Environmental Permit. Are the EA and NLC content this would provide adequate controls in a timely manner?</p> <p>(iii) Can NLC provide comment on the assessment?</p> <p>(NLC ii and iii only)</p>	<p>(ii) The pollution control regime in this instance is the Environmental Permitting Regulations (the “EP Regulations”) which require the control of pollution including odour. The Regulator for the proposed development will be the Environment Agency who will be responsible for the on-going regulation of amenity and environmental impacts including odours. The approval of any Odour Management Plan sits with the Environment Agency to determine the suitability of key measures including whether Best Available Techniques (BAT) is being employed to control emissions.</p> <p>Assuming that the pollution control regime specific to the site will operate effectively NLC are content that the Odour Management Plan will provide adequate controls.</p> <p>(iii) Section 4.3.14.1 of the report has been updated and now includes methodology to assess odour following a qualitative risk based approach as detailed within the IAQM Guidance. The applicant has undertaken a qualitative assessment using the Source – Pathway – Receptor concept before deciding whether a more detailed assessment is necessary based on whether there is likely to be a significant risk of an odour impact. The applicant has concluded that there will be negligible to low odour impact based on the design of the proposal eliminating odour potential.</p> <p>Section 5.5 presents the results of the assessment. The assessment concludes that:</p>

		<p><i>'Considering the IAQM Table 10 to assess risk whilst the Source Odour Potential is acknowledged to be potentially 'Large', the design of the project inherently creates the 'ineffective pathway'. As such, it is reasonable to conclude that the risk of odour nuisance is low to negligible.'</i></p> <p>The applicant appears confident that the risk of odour impacting residential amenity is low to negligible and can be controlled through the design of the project, an Operational Management Plan and the Environmental Permit.</p> <p>NLC are content that this issue has now been properly assessed and have no further concerns to raise.</p>
Q2.3.0.2	In light of the addition of an Odour Assessment as set out in Chapter 5 and the indication that any odour would be controlled through an EP from the EA are there any outstanding concerns in this respect which have not been addressed by the assessment undertaken or the methods of control indicated.	NLC have no outstanding concerns to raise on this matter.
Q2.3.0.3	<p>Odour Assessment – Mitigation</p> <p>(i) Can the applicant explain what controls would be in place to manage odour in the event there was a failure of a system.</p> <p>(ii) In order to assist the ExA understand the potential implications of such an eventuality, please provide an indication of what time frames might such a failure cover and what processes could be put in place to manage such an eventuality.</p> <p>(iii) How could such a process be secured through the DCO? Or would this be secured through the EP?</p>	This question appears to be addressed to the Applicant. NLC is not able to answer this question.
Q2.4.0.1	Option A and/or Option B	This question appears to be addressed to the Applicant. NLC is not able to

	<p>(i) The response to the ExA first written questions [REP2-033] Q4.0.1 (ii) suggests that prior to the end of the Examination the Applicant will decide which option to take forward, is this a correct understanding of this response?</p> <p>(ii) If this is the case when would the decision be made, and revised dDCO provided?</p>	<p>answer this question.</p>
Q2.5.0.1	<p>Grasslands</p> <p>At Deadline 1 NLC stated <i>“where lowland dry acid grassland or species-rich neutral grassland is present, it may be better to avoid the use of habitat piles, and perhaps avoid replanting scrub, in order to enhance the spatial extent of grassland swards.”</i></p> <p>At Deadline 2 in response [REP2-034 para 8.14] the Applicant commits to working towards NLC preference through discussion with NE and Lincolnshire Wildlife Trust, and it appeared this would be set out within the SoCG.</p> <p>Could each party update the ExA on the latest position and if appropriate include within the SoCG.</p>	<p>NLC are happy to further discussions with the Applicant and to clarify our position through the Statement of Common Ground.</p> <p>This primarily applies to Atkinson’s Warren and Phoenix Parkway Local Nature Reserves (section 7.2.1.5 of the Ecology and Nature Conservation chapter of the Environmental Statement).</p> <p>NLC have not yet seen any further updates in relation to this issue. However, we would welcome this detail being firmed up through management plans to be submitted in response to requirements 4 and 7.</p>
Q2.5.0.3	<p>Biodiversity Mitigation/Enhancements</p> <p>The LIR from NLC [REP1-019] at para 8.18 references that biodiversity enhancement should be secured by implementing the measures set out in Sections 7 and 9 of ES Chapter 10 and the OLBMMP. While there was no obvious comment on this from the Applicant in [REP2-034], the Applicant did reference in [REP4-028] that NLC would identify what habitat/sites were to be identified. This is not obviously picked up in NLC’s summary of ISH [REP4-030]</p>	<p>NLC are happy to discuss this matter further with the Applicant and provide an update position as part of the SoCG.</p>

	Could the parties clarify their respective positions on this issue, and if appropriate set this out within the SoCG.	
Q2.7.1.1	<p>Requirement 12</p> <p>(i) Can NLC clarify its position in respect of this requirement. NLC appear to defer to the Environment Agency in response to First Written Question 7.1.11, however is this not NLC's responsibility?</p> <p>(ii) The Applicant has indicated it will liaise with the NLC Emergency Planning Team at the next stage of design (post consent?), do NLC regard this as satisfactory?</p>	<p>As confirmed during ISH4 (dDCO) NLC have no outstanding concerns with regards to Requirement 12.</p> <p>Our emergency planning team would liaise with the Applicant at the detailed design stage to agree a suitable flood management plan and this is considered to be satisfactory.</p>
Q2.8.0.1	<p>Ground Contamination</p> <p>In light of the issues raised in Section 12 of the LIR can both parties confirm their respective positions with regard to how ground contamination may be dealt with.</p>	<p>NLC have no outstanding concern regarding the approach to ground contamination. It is anticipated that risks posed in this regard will be addressed through the CEMP.</p> <p>NLC have raised no concerns with regards to the contaminated land assessment provided by the Applicant.</p>
Q2.9.0.1	<p>Outstanding Reports on the Historic Environment</p> <p>The Applicant has indicated in the D4 submissions a series of reports are due to be submitted by Deadline 9. This provides a limited response time for other IPs.</p> <p>(i) In light of this can the Applicant provide any of these reports sooner?</p> <p>(ii) In the event this is not possible, can an outline be provided of what the mitigation is likely to cover such that NLC may then have the opportunity to identify if there are any ongoing concerns.</p>	<p>NLC understands that the current position in respect of the outstanding reports is as follows:</p> <p>i) The timetable for submitting the reports to NLC has been discussed with the Historic Environment Officer. The reports are anticipated w/c 24 April for review and comment.</p> <p>ii) A meeting held on 10th March with the applicant and their archaeological consultant commenced discussion on the Archaeological Mitigation Strategy with the provisional results from the archaeological evaluations. Further meetings are to be scheduled at the beginning and end of April. The reports referred to in i) above will be fed into the preparation of the mitigation strategy. It is intended that a final draft will be available before the ExA closes 10th May.</p>
Q2.9.0.2	Statement of Common Ground	NLC are currently liaising with the Applicant to update the draft Statement of

	<p>Can the Applicant and NLC review the SoCG and ensure it covers all areas where NLC had indicated concerns both in the LIR and subsequently during hearings, so that the ExA can be confident of the position of both parties prior to the end of the Examination.</p> <p>Currently there appears to be a number of issues which are not referenced, including:</p> <ul style="list-style-type: none"> • Effect on setting of listed buildings, • Effect on Historic Landscape Character. 	<p>Common Ground to include all matters where NLC had raised concerns.</p> <p>A draft update has been provided by the Applicant and NLC are currently in the process of reviewing this. It is anticipated that the SoCG will be updated in this regard for submission at Deadline 7.</p>
Q2.10.0.1	<p>Design Code and Principles</p> <p>In light of the changes to the Design Codes document submitted by the Applicant at D5, the provisions for a Design Champion and Design Review can the Council advise of its position in respect of design and landscape matters and whether the approach now set out addresses any concerns that the Council has in respect of these matters.</p>	<p>NLC are content that design and landscape matters have now been addressed. We have reviewed a Framework for the delivery of the Design Review Panel and agreed this with the applicant.</p> <p>There will be landscape and visual impacts resulting from the development but NLC are satisfied that these impacts have been adequately assessed and identified by the Applicant. Mitigation has been considered and is to be secured where possible.</p> <p>NLC has no further concerns to raise on this matter.</p>
Q2.12.0.3	<p>Please could both parties confirm that progress towards an operational noise requirement or alternative mechanism of mitigation will be reported through the updated SOCG and the Applicant confirm that their proposal will be in the next draft of the DCO at Deadline 6 if appropriate?</p>	<p>At the last meeting between North Lincolnshire Council's Environmental Protection Team and representatives from the Green Energy Park, it did not appear that an operational noise level would be agreed. It is NLC's understanding that alternative methods of mitigation are being investigated but no data has been supplied to determine the effectiveness of the methods.</p> <p>NLC is concerned that insufficient attention has been given to penalties according to BS4142:2014, and that the predicted rating level remains too high in relation to background at this stage.</p> <p>NLC would be satisfied if the applicant agreed to a predicted rating level,</p>

		<p>which includes all relevant penalties. The preference would be that the rating level does not exceed existing background to avoid “background creep” in the area. However, this department would be willing to accept +3dB above background in line with other recent DCO Applications including:</p> <ul style="list-style-type: none"> • The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 • The Immingham Open Cycle Gas Turbine Order 2020 <p>NLC are willing to continue discussions with the Applicant in this regard to provide an updated position through the SoCG. At the present time we have been unable to reach an agreement.</p>
Q2.15.0.1	<p>Local Labour Agreement</p> <p>A local labour agreement is referenced in the SoCG with NLC. Can the parties clarify if it is intended to be something put before the Examination and consequently whether it should be material and given weight in the consideration of the proposed development.</p>	<p>NLC has discussed the Local Labour Agreement with the Applicant. This is something that both parties would like to see delivered. At present we have only had initial discussions on this matter and it is unlikely that a Local Labour Agreement will be completed and presented prior to the close of the examination.</p>
Q2.17.0.3	<p>Draft Requirement 15 the waste hierarchy scheme (WHS)</p> <p>1. Does the use of the terms ‘reasonably possible’ or ‘encourage’ provide precision that allow the LPA to enforce the terms of Requirement 15 if necessary?</p> <p>2. The effectiveness of the WHS would appear to rely on recyclable or re-usable waste being removed by persons upstream of the proposed development as it has no separation facilities. Does it follow that this relies upon contractual agreements between the waste transferor and the undertaker as indicated at R15 b) and d)?</p>	<p>1. NLC do not consider that these terms are precise or would allow for enforcement of the requirement. We are currently discussing the Articles and Requirements presented in the dDCO in order to provide an updated position on these matters as part of the SoCG.</p> <p>2. NLC would agree that the effectiveness of the WHS would appear to rely on recyclable or re-usable waste being removed by persons upstream of the proposed development. This is not something that would be enforceable by the LPA and would rely upon the contractual agreements between the waste transferor and the undertaker.</p>
Q2.17.0.5	<p>Draft Requirement 15 the waste hierarchy scheme (WHS)</p> <p>Please could the Council and the Applicant confirm that their</p>	<p>As stated in the answer to Q2.17.0.3 NLC and the Applicant are currently in the process of updating the SoCG to include a comprehensive update in respect of our position on the Articles and Requirements presented in the</p>

	position in respect of the wording of Requirement 15, the waste hierarchy scheme (WHS), is included in their Statement of Common Ground identifying clearly any difference of position if matters are not agreed.	dDCO. This will include an updated position with regards to the wording of requirement 15.
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