



Planning Act 2008

# North Lincolnshire Green Energy Park

Volume 9

9.24 Applicant's Responses to the  
Second Written Questions (ExQ2)

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## Acronyms and Abbreviations

Name	Description
AGI	Above Ground Installations
CBMF	Concrete Block Manufacturing Facility
CCUS	Carbon Capture, Utilisation and Storage
CO <sub>2</sub>	Carbon Dioxide
CoCP	Code of Construction Practice
COMAH	Control of Major Accident Hazards
DAS	Design and Access Statement
dDCO	Draft Development Consent Order
DHPWN	District Heat and Private Wire Networks
EIA	Environmental Impact Assessment
ERF	Energy Recovery Facility
ES	Environmental Statement
EV	Electric Vehicle
ExA	Examining Authority
H <sub>2</sub>	Hydrogen
IEMA	Institute of Environmental Management and Assessment
LAQM	Local Air Quality Management
MW	Megawatt
NE	Natural England
NLC	North Lincolnshire Council
NLGEP	North Lincolnshire Green Energy Park
NSIP	Nationally Significant Infrastructure Project
OEMP	Outline Environmental Management Plan
PRF	Plastic Recycling Facility
RDF	Refuse Derived Fuel
RHTF	Residue Handling and Treatment Facility
SMP	Soil Management Plan
SoCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest
SUDs	Sustainable Drainage System

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# 1. INTRODUCTION

## 1.1 Overview

- 1.1.1 This report responds to the Examining Authority's (ExA) further written questions, issued on 2 March 2023.
- 1.1.2 The report responds to each of the questions that were addressed to the Applicant.
- 1.1.3 Where there were questions addressed to specific Interested Parties, the Applicant has not responded directly. However, once these responses have been made available for review then a review will be conducted.

## 1.2 The Proposed Development

- 1.2.1 The 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 CO<sub>2</sub> prior to emission into the atmosphere. The design of the ERF and CCUS will also enable future connection into 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.
- 1.2.2 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.
- 1.2.3 The Project will include the following Associated Development to support the operation of the NSIP:
  - A bottom ash and flue gas residue handling and treatment facility (RHTF);
  - A concrete block manufacturing facility (CBMF);
  - A plastic recycling facility (PRF);
  - A hydrogen production and storage facility;
  - An electric vehicle (EV) and hydrogen (H<sub>2</sub>) refuelling station;
  - Battery storage;

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- A hydrogen and natural gas above ground installations (AGI);
  - A new access road and parking;
  - A gatehouse and visitor centre with elevated walkway;
  - Railway reinstatement works including, sidings by Dragonby, reinstatement and safety improvements to the 6km private railway spur, and the construction of a new railhead with sidings south of Flixborough Wharf;
  - A northern and southern district heating and private wire network (DHPWN);
  - Habitat creation, landscaping and ecological mitigation, including green infrastructure and 65-acre wetland area;
  - New public rights of way and cycle ways including footbridges;
  - Sustainable Drainage Systems (SuDS) and flood defence; and,
  - Utility constructions and diversions.

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

### **1.3 Structure of the Responses to Written Questions**

- 1.3.1 The remainder of this report has been structured to set out clearly all responses to the EXA's questions, and a response to each question is grouped by topic.
- 1.3.2 The responses are set out in the form of a table in section 2. The table is split into each question topic area which is set out in the following list:
- Part 1: General and Cross-topic Questions
  - Part 2: Agriculture
  - Part 3: Air Quality and Emissions
  - Part 4: Alternatives
  - Part 5: Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))
  - Part 6: Climate Change

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- Part 7: Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations
  - Part 8: Ground Conditions, Contamination, and Hydrogeology
  - Part 9: Historic Environment
  - Part 10: Landscape Visual Effects and Design
  - Part 11: Major Accidents and Hazards
  - Part 12: Noise and Vibration
  - Part 13: Other Strategic Projects and Proposals
  - Part 14: Policy
  - Part 15: Socio-economic Effects
  - Part 16: Transportation and Traffic
  - Part 17: Waste



**2 RESPONSES TO EXAMINING AUTHORITY WRITTEN QUESTION**

EXQ2	TO	QUESTION	RESPONSE
<b>1. General and Cross-topic Questions</b>			
Q2.1.0.1	The Applicant and All Parties entering into a Statement of Common Ground with the Applicant	<p><b>Statements of Common Ground</b></p> <p>A significant number of matters remain unresolved in the various Statements of Common Ground. In each case, could the Applicant please indicate your expectations in terms of reaching a conclusion, or highlight any fundamental problems that you may be experiencing in progressing negotiations.</p> <p>Please note that should matters not be resolved in a SoCG, the ExA will require the submission of Final Position Statements from relevant parties by no later than Deadline 9.</p>	Appendix B to this document provides an update to each of the SoCGs including setting out unresolved matters for each and then likelihood of reaching a conclusion on these matters.
Q2.1.0.2	Cadent Gas	<p>Deadline 3 Submission - 4.17 Indicative Utility Diversion Drawings - Revision: 01 [REP3-010] pages 7 and 8 show, in addition to existing Cadent medium pressure pipes, an existing Cadent intermediate pressure gas pipeline crossing land within the proposed Order limits and continuing both to the north and south of that land.</p> <p>(i) Following on from the response to first written questions [REP2-090], and identification of preferred protective provisions [REP2-091] can you provide the latest position of Cadent with regard to the proposed development, any negotiations that have taken place with the Applicant and your current position in respect of</p>	



		<p>any easements, land rights, or infrastructure in place within the order limits.</p> <p>(ii) Please identify if any concerns remain with regard to the proposed development.</p>	
Q2.1.0.3	Enfinium	<p><b>Enfinium</b></p> <p>Enfinium registered as an Interested Party and submitted a Relevant Representation. Since then, it has taken no further part in the Examination. Can Enfinium confirm that its concerns have been resolved?'</p>	
Q2.1.0.4	The Applicant, NLC	<p><b>Community Impacts</b></p> <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>The Applicant provided an explanation in its response to the Local Impact Report [REP2-034]. This has been further discussed with NLC who have confirmed that they are content with the explanation provided in that report and that they are comfortable that the matter has been properly considered.</p>
Q2.1.0.5	AB Agri	<p>During the ASI when visiting the wharf and the AB Agri premises, it was apparent that the AB Agri site currently attracts large numbers of birds to the roof of its building. In light of this and that this would appear to be a risk AB Agri are willing to accept under current operating procedures. Can AB Agri explain what evidence there is that the new facility would materially increase the number of birds to the vicinity over the number already attracted to the area and AB Agri premises.</p>	

Q2.1.0.6	The Applicant	<p><b>Associated Development</b></p> <p>In the Explanatory Memorandum [REP5-00+] at the third bullet point under paragraph 3.7 as part of the justification for and explanation of the relationship between the ERF and PRF you state “the Applicant will be able to ask for the waste stream to be source segregated (avoiding the need for an additional permit for sorting waste on site) and can then divert the recyclable plastics into the PRF, thereby supporting the operation of the ERF, whilst seeking to maximise recycling of waste. The PRF will not receive plastic from any other sources, it will only accept plastic from the RDF waste stream purchased for the ERF”</p> <p>(i) Please advise how these assurances are secured.</p>	We will provide a further amend to the dDCO at Deadline 7 to address this.
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EXQ2	TO	QUESTION	RESPONSE
<b>2. Agriculture</b>			
Q2.2.0.1		No further questions at this time	
EXQ2	TO	QUESTION	RESPONSE
<b>3. Air Quality and Emissions</b>			
Q2.3.0.1	The Applicant, EA (ii only), NLC (ii and iii only)	<p><b>Odour Assessment</b></p> <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"> <li>• distance/ direction of pathway to River Trent receptor;</li> </ul>	<p>(i) Each point is responded to in turn:</p> <ul style="list-style-type: none"> <li>• Distance to River Trent is ~150m from the ERF facility, west.</li> <li>• Mitigation/controls: <ul style="list-style-type: none"> <li>○ All RDF is baled and sealed</li> <li>○ No storage of RDF outdoors</li> <li>○ Containers opened in the tipping hall</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• mitigation/ controls relied on to assign a “low” IAQM ranking to odour potential;</li> <li>• how these mitigation measures are secured</li> </ul> <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>	<ul style="list-style-type: none"> <li>○ Tipping hall is negative pressure with all air passing through the furnaces to destroy odours</li> <li>○ Multiple processing lines, so RDF not left sitting in tipping hall</li> <li>• Mitigation is secured by means of the Odour Management Plan detailing general and specific controls of odour that will be put in place and will be secured through the Environmental Permit.</li> </ul> <p>(ii) NLC has confirmed that a satisfactory odour assessment has now been submitted. This agreement is included within the updated SoCG submitted at this deadline.</p> <p>(iii) This is not a question for the Applicant.</p>
Q2.3.0.2	NLC, The Environment Agency	<p><b>Odour Assessment</b></p> <p>(i) 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.</p>	
Q2.3.0.3	The Applicant, NLC, the EA	<p><b>Odour Assessment – Mitigation</b></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>(i) and (ii) There are a number of controls in place to manage odour:</p> <ul style="list-style-type: none"> <li>• The Project is equipped with three processing lines. This means that in the event of a failure of one line necessitating a shut down, the remaining two will continue to operate meaning airflow is maintained through the tipping hall and process</li> <li>• Approaching a common plant outage, deliveries would be reduced and the volume in the bunker would be gradually run down, to prevent storage of RDF without means to create negative pressure.</li> </ul>

		(iii) How could such a process be secured through the DCO? Or would this be secured through the EP?	<ul style="list-style-type: none"> <li>Preventative maintenance would be carried out to reduce the likelihood of unplanned outages of critical plant equipment.</li> <li>Full plant shutdowns, caused by the failure of multiple lines are very rare for modern ERFs. If a longer term shutdown were to occur, the tipping hall doors would remain closed to prevent odour escape, and then RDF could be easily backloaded from the bunker and removed from site with minimal odour emission</li> </ul> <p>(iii) The control of these events will be included in the Odour Management Plan secured by the Environmental Permit.</p>
Q2.3.0.4	The Applicant	<p><b>Outdoor Storage</b></p> <p>Can the Applicant clarify if the commitment to there being no outside storage of waste applies across the whole DCO site and therefore goes beyond just the ERF to cover the other parts of the proposed development.</p>	<p>The Applicant can confirm that following the feedback from consultation and with due regard to the sensitivities of the AB Agri site, that no RDF storage outside of the bunker held in the negative pressure building is proposed on any part of the development within the Order Limits. The Applicant will update the OEMP (revised version to be submitted at Deadline 7) to include this.</p>

EXQ2	TO	QUESTION	RESPONSE
<b>4. Alternatives</b>			
Q2.4.0.1	The Applicant, NLC	<p><b>Option A and/or Option B</b></p> <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>(I) The Applicant decision on Option A or Option B is based on input and preferences by NLC. In recent discussions with NLC, the preference was put forward for Option A – using Normanby Road. Recent development opportunities within the NLC Estate would benefit from the Applicant taking Option A.</p> <p>(ii) The Applicant is waiting for confirmation from NLC that this preference overrides the concern raised by the Highways Department and the noise issue due to the requirement for night-time working on the DHPWN on the northern leg.</p>

EXQ2	TO	QUESTION	RESPONSE
<b>5. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))</b>			
Q2.5.0.1	The Applicant, NLC	<p><b>Grasslands</b></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>The proposed habitat creation (as outlined within ES Chapter 10 – Ecology and Nature Conservation [APP-058], and the Outline Landscape and Biodiversity Management and Monitoring Plan [REP2-018]) aims to enhance and extend grassland areas, with priority areas including lowland dry acid grassland and lowland calcareous grassland. This involves initial and ongoing management to reduce the cover of bracken and scrub to allow grassland communities to thrive. No replanting of scrub is proposed within these areas, and where habitat piles are created to benefit local fauna and protected species, they will be placed over suitably shaded ground, so as not to encroach on grassland areas.</p> <p>The Applicant is working together with NLC to include this point within the SoCG submitted at Deadline 7.</p>
Q2.5.0.2	The Applicant	<p><b>Best and Most Versatile (BMV) Agricultural Land</b></p> <p>Please provide an update on the assessment of BMV to be lost (as expected at Deadline 5) and explain any consequential effects this may have with regard to the calculation of Biodiversity Net Gain (BNG).</p>	<p>The Applicant is providing an updated Economic, Community and Land Use chapter at this Deadline which is accompanied by a Agricultural Land Loss Assessment. As a result of this assessment, the Applicant is not proposing any changes to the proposed biodiversity mitigation and enhancements and as such there is no effect on the calculation of BNG.</p>

Q2.5.0.3	The Applicant, NLC	<p><b>Biodiversity Mitigation/Enhancements</b></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>Could the parties clarify their respective positions on this issue, and if appropriate set this out within the SoCG.</p>	<p>The Applicant is committed to carrying out all of the measures identified within the OLBMMP. Enhancement measures proposed within Section 9 (further mitigation) of the ES Chapter 10 – Ecology and Nature Conservation (APP-058), beyond what is identified in the OLBMMP, will be implemented where appropriate.</p> <p>The draft DCO submitted at this deadline secures the BNG set out in Appendix I of ES Chapter 10 [APP-058], including the measures included in the OLBMMP.</p> <p>It is understood that there is no disagreement between the Applicant and NLC on this matter and the point will be picked up in the SoCG when the LIR inputs are added at Deadline 7.</p>
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Q2.5.0.4	The Applicant	<p><b>Construction Ornithological Monitoring Plan (COMP)</b></p> <p>(i) Does the COMP secure control over the timing of loud construction activities, such that they can be timed to avoid sensitive months of the year?</p> <p>(ii) If this is currently not the case as this would appear to be a monitoring plan, please explain within which document the mitigation to secure protection for wildlife is secured and thereby provide potential mitigation for potential adverse effect on birds and other wildlife?</p>	<p>(i) The COMP is not intended to secure control over loud construction activities through timing to avoid certain times of year, but rather to provide a mechanism for responding to and managing disturbance-causing events, some of which may not be noisy (e.g. human or construction plant movement near to sensitive species).</p> <p>(ii) The detailed COMP to be prepared on the basis of the Outline COMP presented as Appendix M to the Code of Construction Practice [REP5-019] is more than a monitoring plan. As stated at paragraph 1.1.1.2: <i>The Construction Contractor will discuss and agree with NLC and Natural England the monitoring methods <u>and the management interventions needed, in the event that significance disturbance effects are observed</u> (emphasis added). Paragraph 3.1.1.1 (under roles and responsibilities) goes on to state: <i>The detailed plan will identify the person(s) (and Ecological Clerk of Works (ECoW) or similar) responsible for undertaking monitoring and <u>supervising specific management/intervention measures</u> (emphasis added). Further detail then follows on what will be contained in the detailed plan in terms of triggers and responses. 4.1.1.2 <i>The detailed plan will set out triggers in terms of what constitutes significant levels of disturbance such that management intervention is required. 4.1.1.2 The detailed plan will also set out the types of management interventions that would be deployed under various defined conditions of significant disturbance. Management interventions will need to be ones that can practicable be adopted on a dynamic construction site and could include approaches such as:</i></i></i></p> <ul style="list-style-type: none"> <li>• <i>notifying contractors in advance and avoiding working or certain types of work at particular locations at particular times and/or under particular conditions;</i></li> <li>• <i>working at reduced intensity or less noisily;</i></li> </ul>
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			<ul style="list-style-type: none"> <li>• <i>ceasing work at a particular location and/or moving plant and machinery to other work areas that are less sensitive.</i></li> </ul> <p><i>4.1.1.4 The monitoring approaches to be adopted, the 'triggers' for action and the types of management interventions will be agreed with NLC and Natural England.</i></p> <p>For a dynamic construction site this approach is considered to be more robust and responsive to actual events as opposed to pre-set timed actions.</p>
<b>5.1 Habitats regulation assessment (HRA)</b>			
Q2.5.1.1	The Applicant	In earlier submissions the Applicant has indicated a Revised Report to inform HRA will be submitted at D6. Please ensure this is provided by Deadline 6 in order to facilitate the production of the RIES.	A revised report to inform HRA (Document 5.9) forms part of the Deadline 6 submission.



Q2.5.1.2	The Applicant	<p>The ExA understands that the Applicant intends to submit a revised HRA Report once work has been completed in undertaking the assessment using 'the reasonable operating scenario'</p> <p>(i) In order for the ExA and subsequently the SoS to be reassured this revised assessment could be given weight in the reporting and decision making process, any revised outputs that the Applicant relies upon in undertaking the assessment would need to be secured through the DCO. Please explain how this is to be achieved.</p> <p>(ii) It would also appear that specific operating levels for ammonia could be achieved. In advance of the Environmental Permit (EP) what weight can the ExA attribute to these submissions?</p> <p>(iii) Can the Applicant clearly set out how these measures would be secured.</p>	<p>(i) The original HRA report assessed air quality impacts on ecology using air quality modelling results that had as their basis:</p> <ol style="list-style-type: none"> <li>a. 24 hour per day all year round operation at full load</li> <li>b. Pollutants emitted at their limits</li> <li>c. The worst year of meteorological data for dispersion</li> <li>d. 100% of deliveries by road plus 100% by ship plus 100% by rail</li> <li>e. Year in year out consumption of RDF at the maximum rate of 760,000 tonnes per annum</li> </ol> <p>Adding worst case on top of worst case and so on leads to an unrealistic worst case when all the above parameters are considered together. To address this a realistic operating scenario was modelled and the results assessed in the updated HRA (Document 5.9). This presents a more realistic and likely prediction of the impacts that the ExA (and NE) can have confidence in representing the environmental performance of the Project averaged over a typical year. However it would be inappropriate to secure any one parameter as at any one time one parameter might exceed the value used in the realistic operating case, while another may be below the value. The ExA can attach considerable weight to the realistic operating case when looked at in the round.</p> <p>(ii) The values used for ammonia are based on Environment Agency annual ERF performance data (Environment Agency (accessed February 2023) 2021 Incineration Monitoring Reports), and extrapolated for NOx and NH3 emissions data pro-rated to meet the upcoming Bref emissions limits (Hitach Zosen Inova (accessed February 2023) DyNOR® The SNCR Process That Fulfils Europe's Strict Nitrogen Oxide Standards). As these are the likely limits that EA will expect</p>
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			<p>the Project to perform to the ExA can attach reasonable weight to them.</p> <p>As noted above, undertaking the reasonable operating case modelling exercise was to inform the HRA on the likely air quality impacts that would occur under average operating conditions. It was not the intention to present parameters to be secured and for the reasons explained above it would not be appropriate to use the parameters used to establish the reasonable operating case as maxima to be secured. However, it is worth noting that the maximum allowed tonnage of RDF per annum indirectly secures the transport emissions. The EP will secure operational emissions parameters from fixed plant.</p>
Q2.5.1.3	The Applicant, Natural England	<p><b>Construction Phase Traffic Emissions</b></p> <p>(i) Can both the Applicant and NE clarify their position in respect of construction traffic emissions. The initial concerns identified by NE in [RR-090] related to the construction phase. The subsequent draft SoCG would appear to address operational traffic.</p>	<p>As the Humber Estuary SAC/Ramsar lies over 200 m from the new access road, there is no risk of significant effects from traffic during either construction or operation.</p>
Q2.5.1.4	The Applicant, Natural England	<p><b>Operational Phase Traffic Emissions</b></p> <p>(i) The Applicant appears to be relying upon using hydrogen vehicles, how would this be secured?</p> <p>(ii) Does the assessment rely on this being delivered to ensure an appropriate level of impact?</p>	<p>The reference to hydrogen vehicles has been removed from the HRA and the assessment no longer relies on the use of such vehicles.</p>

Q2.5.1.5	The Applicant	<p><b>New Access Road</b></p> <p>In [REP2-033] the Applicant confirmed the road was within 100m of the Humber, at D4 the Applicant has subsequently stated the new access road will be &gt;200m from the Humber Estuary. Can the position be clarified, it would not appear that the plans have been changed, do they need to be?</p>	<p>The existing access road to the Flixborough Industrial Estate along Stather Road, adjacent to the River Trent embankments on its eastern side, will be stopped up. It will be replaced by a new access road that is located over 200 m east of the designated sites, for the entirety of its length. The previous response referred to by the ExA (Q 5.1.4) was referring to the distance of the existing road being within 100m and therefore the plan does not need to be changed. For reference, Document 4.14 - Indicative Highways Drawings [REP3-008] show the location of the new access road in relation to the River Trent.</p>
Q2.5.1.6	The Applicant, Natural England (ii only)	<p><b>Lamprey</b></p> <p>(i) Prior to Deadline 5 the Applicant's responses to NE's concerns about impacts to lamprey were predicated on the basis of piling being non-percussive. Can the Applicant advise the ExA of their current assessment to take into account the fact that impact piling could take place?</p> <p>ii) Is NE content with the mitigation measures proposed in the revised CoCP Appendix K, should impact piling be required?</p>	<p>(i) It remains the case that there will be no piling in the river and that piling undertaken on land for the building construction will be bored piling. Driven piling is not proposed, or expected, unless there are exceptional circumstances (eg if it was the only way to clear a blockage). But even then, it would only be likely for a short duration (eg a few hours) to allow the blockage to be cleared.</p> <p>(ii) Question directed to NE, so no Applicant response is provided.</p>

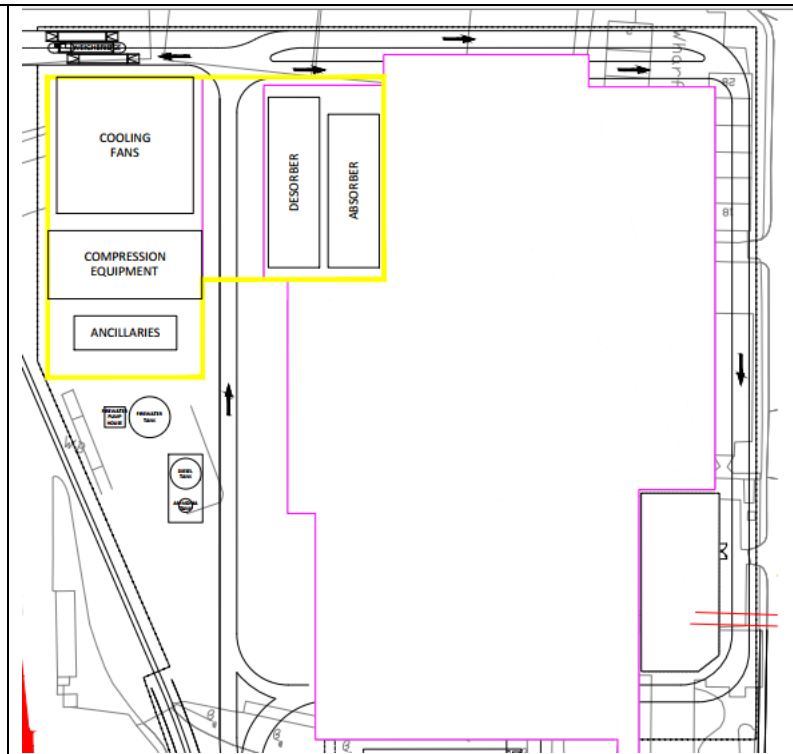
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Q2.5.1.7	The Applicant	<b>Thorne Crowle and Goole Moors SSSI and the Thorne Moors SAC</b> At Deadline 4, the Applicant stated that it will discuss opportunities to improve the condition of the units within the Thorne Crowle and Goole Moors SSSI (which underpin the Thorne Moors SAC) in order to offset potential effects of small increases in nitrogen. Has any progress been made in this regard, and can the Applicant provide reassurance that such measures can be viewed as mitigation rather than compensation?	The revised air dispersion modelling based on the Reasonable Operating Case predicts process contributions at the Thorne Moor SAC that are now <1% of the critical levels/ loads, both for the Project alone and in-combination with Keady 2 and Keady 3. As such the SAC has been screened out now and hence there is no requirement for any site management measures.
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Q2.5.1.8	Natural England	<p>NE identified a number of concerns with the Applicant's assessment in its relevant representation, however, has not submitted any further representations into the Examination. The ExA understands that NE is discussing matters with the Applicant outside of the Examination.</p> <p>(i) The ExA would appreciate an update from NE on what matters remain unresolved, specifically whether it considers there to still be potential for adverse effects on the integrity of any European site(s).</p> <p>(ii) If this is the case, is there a need for the ExA to consider the application of alternatives and imperative reasons of overriding public interest (IROPI) and the need for compensatory measures, in relation to any of the features for which an adverse effect on integrity has been identified or which remains uncertain?"</p>	
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EXQ2	TO	QUESTION	RESPONSE
<b>6. Climate Change</b>			
Q2.6.0.1	The Applicant	<p><b>Carbon Capture Requirements</b> The SoS has recently issued the Keadby 3 decision which includes at Requirement 33 a restriction on the gas fired power station being commercially operational only when the carbon capture and compression plant was commercially operational.</p> <p>(i) While the ExA understands there is a different position set out in NPS EN-1 for schemes generating in excess of 300MW, does the approach the SoS has taken indicate a shift in emphasis to ensure compliance with the Climate Change Act?</p> <p>(ii) If there has been a shift would this necessitate a greater need for carbon capture in this scheme?</p>	<p>The Applicant's position regarding CCS has not changed as a result of the Keadby 3 DCO and its requirements. At present, there is no requirement for energy from waste facilities with a capacity of &lt; 300 MWe to be carbon capture ready or carbon capture enabled. Whilst the government is considering including EfWs in the UK ETS, the discussions to date indicate that a decision on regulating decarbonisation of this sector is likely to be made around 2028 at the earliest. To demonstrate a carbon benefit, Keadby 3 required the implementation of carbon capture and storage from the outset, hence the need for requirement 33 of the DCO. NLGEP has already committed to the scale of carbon capture and storage required to demonstrate a net carbon benefit, as explained in ES Chapter 6 – Climate [APP-055]. Requirement 19 of the dDCO [REP5-005] commits the facility to the scale of carbon capture required.</p>

Q2.6.0.2	The Applicant, Environment Agency	<p><b>Carbon Capture Requirements</b></p> <p>(i) Can the Applicant and EA advise whether they consider there is sufficient land available within the DCO to accommodate additional carbon capture facilities to meet the outputs from the development proposed should they be deemed necessary in the future.</p> <p>(ii) Are you aware of any barriers that would prevent such future installation?</p>	<p>Although amine-based carbon capture is a well-established technology, integration at commercial scale energy from waste facilities is in its infancy. Consequently, there is uncertainty in plant configuration and design. As the DCO is currently drafted, NLGEP has committed to the lesser of 54,387 tonnes per annum or 8.37% of the ERF throughput processed by the ERF from the outset of facility operation. The design currently assumes use of post combustion amine-based carbon capture. To expand the application of carbon capture to the full flue gas volume to be emitted from the facility, the facility would have to be designed to capture around 617,500 tpa, assuming a capture efficiency of 95% and an RDF throughput of 650,000 tpa, as each tonne of waste combusted produces roughly one tonne of carbon dioxide. An indicative layout of a carbon capture facility designed to capture this volume of carbon dioxide is shown below and shows that the facility may be accommodated within the current works extent for carbon capture. The yellow boundary shown is the outline of Work No. 1C, which is the carbon capture facility. As such, it is feasible that a full scale carbon capture facility using amine-based carbon capture could be located within current parameters.</p>
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However, as the technology is still under development, there is a degree of uncertainty.

The proposed facility is equipped with sufficient space to allow for capture of the fossil portion of the carbon dioxide, which would be a capture philosophy in line with that provided at Keadby 3. Assuming (in line with ES Chapter 6 – Climate [APP-055]) 58.4% biogenic carbon in the RDF, capturing non-biogenic carbon would require a capture volume of 270,400 tpa. An amine carbon capture facility capturing this volume of CO<sub>2</sub> would require an area of between 1,400 m<sup>2</sup> and 5,500 m<sup>2</sup>, which is within the area shown for carbon capture on Works Plan A [REP5-013].



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			Regarding issues which may prevent future installation of carbon capture, besides space, the primary issues to be considered would be the impacts of amines and their degradation products on air quality, further noise emissions from cooling and compression equipment, and the large capital and operating costs of carbon capture.
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EXQ2	TO	QUESTION	RESPONSE
<b>7. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>			
Q2.7.0.1	The Applicant, Openreach Ltd. (i only) National Highways (ii only)	<p><b>Protective Provisions</b></p> <p>(i) According to the Negotiation Schedule [REP4-026] Openreach Ltd confirmed by way of correspondence, protective provisions as drafted were acceptable. Please provide a copy of the correspondence into the examination.</p> <p>(ii) According to the same schedule National Highways confirmed at a meeting on 21 November 2022 that the scheme does not impact on the Strategic Road Network and that subsequently confirmation has been received that protective provisions are not required. Please provide confirmation to the examination on both these points.</p>	<p>(i) Please see copy of the email dated 28 November 2022 from Openreach attached at Appendix C which confirms that Openreach have no comments on the DCO.</p> <p>(ii) A copy of the minutes of the meeting held on 21 November 2022 which confirms that the scheme does not have an impact on the Strategic Road Network. The email dated 16 December 2022 from National Highways confirms that protective provisions will not be required but that a Side Agreement is needed. The minutes and a copy of the email chain is annexed at Appendix D.</p>
Q2.7.0.2	The Applicant	<p><b>Protective Provisions</b></p> <p>Provide a progress report on negotiations with each of the Statutory Undertakers listed in the Book of Reference (BoR) [REP5-009] and an indication of whether these negotiations will be completed, before the close of the Examination. If they will not be completed provide a progress report on the preparation of the s127 case that will need to be submitted at Deadline 9.</p>	<p>Please see the updated Status of Negotiations Schedule (Ref: 9.10 Rev 4) which has been submitted at Deadline 6. The Applicant has largely reached agreement on the protective provisions with Cadent Gas, Network Rail and Northern Powergrid save for one or two outstanding commercial points. Agreement has been reached with Anglian Water on the form of protective provisions.</p>
Q2.7.0.3	The Applicant, National Highways	<p><b>Side Agreement</b></p> <p>(i) Reference is made to a side agreement being necessary between National Highways and the</p>	<p>(i) The Side Agreement with National Highways is not intended to be disclosed to the Examination.</p> <p>(ii) N/A</p>

		<p>Applicant. Please advise whether this is intended to be considered by the examination and if so what matters it needs to cover.</p> <p>(ii) In the event that it is to come before the examination, that the details will be worked through in good time to enable it to be considered by all parties, and due legal process completed in advance of the close of the examination.</p>	
<b>7.1 Draft Development Consent Order (DCO)</b>			
Q2.7.1.1	The Applicant, North Lincolnshire Council (ii, iii only), the Environment Agency (iv only)	<p><b>Requirement 12</b></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>(i) This is a question for NLC.</p> <p>(ii) The Applicant would refer to the oral submissions from NLC on this point during ISH4 on Tuesday 7 March which NLC confirmed it is content with the drafting of this requirement.</p>
<b>7.2 Electricity Connections and Other Utility Infrastructure</b>			
Q2.7.2.1		No further questions at this time.	

EXQ2	TO	QUESTION	RESPONSE
<b>8. Ground Conditions, Contamination, and Hydrogeology</b>			
Q2.8.0.1	The Applicant, NLC	<p><b>Ground Contamination</b></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>Following the finalisation of the proposed development footprint, a further Detailed Quantitative Risk Assessment (DQRA) will be undertaken to determine whether remedial measures with regards to ground gas would be required. This may require additional ground gas monitoring depending on the exact footprint.</p> <p>Prior to construction a Construction Environmental Management Plan (CEMP) will be developed which will provide embedded mitigation measures to prevent the release of contamination and include a spill response plan. A component of the CEMP will be an Asbestos Management Plan that will be developed to include appropriate precautions to be taken if materials containing asbestos are encountered. An outline Asbestos Management Plan has been produced as an appendix to the ES-Annex 7 - Code of Construction Practice (CoCP) [REP5-020].</p> <p>As documented in the CoCP [REP5-020], a detailed Remediation Strategy will be developed prior to construction, setting out a risk assessment approach as the initial basis for the strategy. The assessment will be based on the EIA, and informed by any subsequent pre-construction work. Further sampling may be undertaken during the geotechnical investigation, particularly across areas that were under hardstanding or for which access was not given during the initial site investigation. If, following further sampling, a detailed quantitative risk assessment shows that the ground conditions have the potential to present an unacceptable risk to Human Health</p>

			<p>the Remediation Strategy will set out remediation or mitigation options as required. Any remediation scheme will be submitted to North Lincolnshire Council for approval.</p> <p>The Remediation Strategy will include a watching brief to address the possibility of unexpected finds, and will include the procedures to be adopted in the event of such occurrences. The Remediation Strategy will be submitted to NLC for approval.</p>
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EXQ2	TO	QUESTION	RESPONSE
<b>9. Historic Environment</b>			
Q2.9.0.1	The Applicant, NLC	<p><b>Outstanding Reports on the Historic Environment</b></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>(i) Regrettably, it will not be possible to provide final versions of either report before Deadline 9. This is because both reports (1. Updated Assessment and 2. Overarching Archaeological Mitigation Strategy) are dependent on the results of the archaeological evaluation report, which is itself currently being drafted. However, as explained below, both the mitigation strategy and the report in which it will be set out, are being designed in close collaboration with NLC. NLC will have read and commented on the final version, and their comments will have been addressed by the Applicant, prior to its submission at Deadline 9.</p> <p>(ii) The Applicant is currently in a process of consultation with NLC regarding mitigation scope and scheduling. The Applicant held an archaeological mitigation workshop on 10/03/23 to begin this phase of engagement.</p>

			<p>At the workshop, the Applicant presented the current state of knowledge regarding mitigation and NLC was happy with the progress being made. Gaps in our understanding of precise impacts were discussed and actions identified to fill these gaps.</p> <p>The nature of the mitigation strategy document was discussed, and a commitment was made by the Applicant to share a proposed contents page with NLC prior to the next mitigation workshop.</p> <p>Dates were discussed for two more workshops, one in 3 weeks' time and a further one in mid-April when the results of the trial trench evaluation will be available.</p>
Q2.9.0.2	The Applicant, NLC	<p><b>Statement of Common Ground</b>  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.  Currently there appears to be a number of issues which are not referenced, including:</p> <ul style="list-style-type: none"> <li>• Effect on setting of listed buildings,</li> <li>• Effect on Historic Landscape Character.</li> </ul>	<p>The Applicant has undertaken a review of the LIR and subsequent hearings to determine where areas need to be added to the SoCG with NLC. These additional matters have been provided to NLC for review and it is intended that the updated position for these will be included within an updated SoCG submitted at Deadline 7.</p>
Q2.9.0.3	The Applicant	<p><b>Setting of Listed Buildings</b>  At ISH3 the Applicant indicated it had used the latest guidance from Historic England 'The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) and this is reaffirmed in {REP4-028}.  The advice within this document indicates that the degree to which the setting of the assets</p>	<p>The first step of the assessment process set out in GPA3 is to 'identify which heritage assets and their settings are affected'. Only once this step is complete is the assessor required to take the steps referred to by NLC.</p> <p>In paragraphs 8.1.2.1 and 8.1.2.2 the settings assessment provided in the ES Chapter 12 – Archaeology and Cultural Heritage [REP4-011] considers potential impacts on listed buildings in the vicinity of the development and concludes</p>

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		<p>contribute to their significance/ allow significance to be appreciated needs to be assessed and then assess the effects of the proposed development by reference to a range of attributes.</p> <p>(i) Can the Applicant point out where this is set out, or further explain the approach taken to support the conclusion currently reached?</p>	<p>that they will not be affected. By contrast it does identify potential impacts on the Flixborough Nunnery scheduled monument, summarises the contribution of its setting to its significance and assesses the degree to which the development will affect this, concluding an overall moderate adverse effect (paragraphs 8.1.2.3-8.1.2.6)</p>
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EXQ2	TO	QUESTION	RESPONSE
<b>10. Landscape Visual Effects and Design</b>			
Q2.10.0.1	North Lincolnshire Council	<p><b>Design Code and Principles</b></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>	
Q2.10.0.2	The Applicant	<p><b>Bellwin Drive</b></p> <p>In response to Q10.0.10 the DAS was amended to include a visualisation at page 36. This appears to show a 'living wall' as the intended finish for this frontage.</p> <p>(i) Can the Applicant confirm this is the intended finish for the whole of this frontage on Bellwin Drive?</p> <p>(ii) Explain how this is secured and would be subsequently maintained.</p>	<p>i) The Design Principles and Codes document sets out the requirements for the detailed design including the treatment of retaining walls. The following code is included: “DC_LAN 3.08 <i>Retaining walls that form the development platform and act as a plot frontage onto public routes are to be planted.</i>” The updated Design Principles and Codes document is being submitted at this deadline (Deadline 6).</p> <p>ii) The principle of planting is secured through the Design Principles and Codes Document and the detailed design in accordance with Requirement 3 of the DCO. The maintenance of the living wall is set out within the revised Outline Landscape and Biodiversity Management and Monitoring Plan. The updated oLBMMP document is being submitted at this deadline (Deadline 6).</p>



Q2.10.0.3	The Applicant	<p><b>The Design Principles and Codes</b></p> <p>(i) The latest version [REP5-017] at DC_LAN 2.01 should it read “Structural planting is to consist of native and indigenous species prioritising local provenance.”?</p> <p>(ii) DC_LAN 3.08 should it read “Retaining walls that form the development platform and act as a plot frontage onto public routes are to be planted.”?</p> <p>(iii) DC_ARC 1.03 please clarify the meaning of “size of equipment to be minimised and arrangement.”</p>	<p>i) Yes that is correct. The Design Principles and Codes document has been amended to reflect this updated wording.</p> <p>ii) Yes that is correct. The Design Principles and Codes document has been amended to reflect this updated wording.</p> <p>iii) The wording in DC_ARC 1.03 has been amended to read “Location of rooftop equipment determined to be where visual impact is lowest; size of equipment to be minimised.”</p> <p>A Design Principles and Codes document with the above wording amendments is being submitted at this deadline (Deadline 6).</p>
<b>10.1 Lighting</b>			
Q2.10.1.1		No further questions at this time.	

EXQ2	TO	QUESTION	RESPONSE
<b>11. Major Accidents and Hazards</b>			
Q2.11.0.1		No further questions at this time	

EXQ2	TO	QUESTION	RESPONSE
<b>12. Noise and Vibration</b>			
Q2.12.0.1	The Applicant	<p><b>Wharf Operating Hours:</b></p> <p>At Deadline 1 it was stated in [REP1-012 page 50] “No loading or unloading activities will take place at the Wharf or the railhead during the night....There</p>	<p>(i) The Applicant confirms that there will be no loading or unloading activities by the Project at the wharf or railhead during night-time hours (11:00 pm to 07:00 am). This will be secured in the updated OEMP. A vessel may be moored at</p>

		<p>will also be a requirement to consider noise when procuring new equipment.”</p> <p>This contradicts paragraph 8.2.5.5 of ES Chapter 13 which states “Operating hours might also need to be extended from 12hr to 24hr during peak periods to accommodate the higher demand and increased vessel capacity.”</p> <p>(i) Could the Applicant clarify the position, and if activities are to be limited, define the operating times proposed and where this is secured.</p>	<p>the wharf during night-time hours but no physical loading or unloading activity would take place. The results of the noise assessment [APP-055] for the nighttime, presented in Table 19, are based on predicted noise levels which include a vessel berthed with power generation systems operating, as described in paragraph 4.3.1.2.</p> <p>The Applicant has amended any references in ES documentation for submission at Deadline 6 to clarify this position.</p>
Q2.12.0.2	The Applicant	<p><b>Operational Noise</b></p> <p>The night-time noise prediction reported for Charmaine, Amcotts is a rating level of 42 dB night Table 19 p58 [APP-055] which assumes ‘building facades with higher acoustic insertion losses’ p68 [APP-055] and with respect to a BS4142 correction ‘it is most likely that the need for a correction can be avoided during the detailed design phase’ p58 [APP-055]. This predicted outcome, consistent with the standard implied for bedrooms by BS8233 (45 dB night) relies upon designed mitigation that provides up to 40 dB of noise reduction (Appendix C p121 [APP- 055] 30 dB plus correction avoidance of around 10dB). To secure this mitigation during design development, what quantified noise requirement would the Applicant consider, (see EN1 5.11.10), as a way of achieving consistency with policy aims presented at EN1 5.11.9?</p>	<p>The noise assessment [APP-055] is based on a number of conservative assumptions, for example;</p> <ul style="list-style-type: none"> <li>• no screening from a vessel or a train on-site is included;</li> <li>• predictions of noise from the quayside operations are based on unloading containers, however, the majority of RDF is expected to be delivered as smaller, lighter wrapped bales;</li> <li>• the ISO 9613 prediction method assumes downwind propagation, which rarely occurs in practice (based on Figure 3 from the ES Air Quality assessment, APP-053);</li> <li>• the source noise level for the vessel is based on measurements carried out in Amcotts and may include extraneous noise.</li> </ul> <p>In addition, the assessment does not take into account the potential benefits of any further mitigation measures that will be considered during detailed design.</p> <p>Updates to the noise assessment (APP-055) and an extract from Table 1 (noise section) of Chapter 19 – Mitigation (APP-067) with measures secured by Requirements 3 and 4 of the dDCO (also updated) have been included at Deadline 6. The updates provide a basis for operational</p>

			<p>noise limits and also include details of an acoustic correction.</p> <p>Updates to the noise assessment (APP-055) and Annex 8 - Operational Environmental Management Plan (APP-075) will be submitted at a later Deadline.</p> <p>These updates provide quantifiable measures to ensure that noise levels do not exceed the levels set out in the ES, thereby achieving consistency with the aims presented in paragraphs 5.11.9 and 5.11.10 of the Overarching National policy Statement for Energy (EN-1).</p>
Q2.12.0.3	The Applicant, NLC	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>Amendments to secure the mitigation required to meet the noise levels set out in the ES noise assessment (APP-055) are being discussed in the SoCG with NLC.</p> <p>In support of this, updates have been submitted at Deadline 6 to ES Chapter 19 – Mitigation (APP-067), with measures secured by amends to Requirements 3 and 4 of the dDCO. Updates to the noise assessment (APP-055) to reflect this mitigation and Annex 8 - Operational Environmental Management Plan (APP-075) will be submitted at the next Deadline.</p>

EXQ2	TO	QUESTION	RESPONSE
<b>13.</b>	<b>Other Strategic Projects and Proposals</b>		
Q2.13.0.1		No further questions at this time	

EXQ2	TO	QUESTION	RESPONSE
<b>14.</b>	<b>Policy</b>		
Q2.14.0.1		No further questions at this time	

EXQ2	TO	QUESTION	RESPONSE
<b>15.</b>	<b>Socio-economic Effects</b>		
Q2.15.0.1	The Applicant, NLC	Local Labour Agreement 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.	The Applicant has discussed this point with NLC and both parties agree, as set out in the SoCG, that a Local Labour Agreement would be produced collaboratively with NLC. However, both parties agree that it is unlikely that this document would be completed and submitted prior to the close of examination. It is the Applicant's position however that the intent behind the Local Labour Agreement, which is to maximise access of local people and firms to the opportunities created by the Project, could be taken into account as a benefit of the scheme to be considered in the planning balance and taken into account by the Examining Authority.
Q2.15.0.2	Applicant, AB Agri (iii only)	<b>Socio Economic Effects</b> AB Agri Deadline 4 submission [REP4-033] infers there is a possibility the premises may have to close in the event that the risk they consider would arise has not been appropriately addressed. (i) Can the Applicant confirm whether the analysis of socio-economic effects considered this possibility? (ii) Whether this eventuality would change the overall conclusions on socio economic effects currently presented in the ES	(i) AB Agri in its Deadline 4 submission [REP4-033] has stated the possibility of "business extinguishment" in "the worst case scenario airborne and ground contamination" presumably referring to biohazard risk. First, we do not consider this to be a likely scenario requiring further assessment. Such an assumption also presumes that the Environment Agency would issue an Environmental Permit that allowed the Project to operate in a way that caused off-site pollution impacts to the extent that a neighbouring facility was threatened. A basis of the Socioeconomic assessment was that the Environmental Permit would only be granted by the

		(iii) Can AB Agri provide information in respect of the socio-economic effect you consider would arise in the event the issues identified are not resolved.	Environment Agency if it could ensure that such impacts could not arise and therefore there was no possibility of a likely significant consequential socioeconomic effect.  (ii) In this regard, the conclusions of the assessment of socioeconomic effects remains unchanged.
<b>EXQ2</b>	<b>TO</b>	<b>QUESTION</b>	<b>RESPONSE</b>
<b>16. Transportation and Traffic</b>			
Q2.16.0.1		No further questions at this time	

<b>EXQ2</b>	<b>TO</b>	<b>QUESTION</b>	<b>RESPONSE</b>
<b>17. Waste</b>			
Q2.17.0.1	The Environment Agency	<b>Regulation 12 of The Waste (England and Wales) Regulations 2011</b> 1. Does the Environment Agency consider that controls, for example detailed within an Environmental Permit, are required in addition to Regulation 12 to maximise consistency with the waste hierarchy?	
Q2.17.0.2	The Environment Agency	<b>The Environmental Permitting (England and Wales) Regulations 2016</b> 1. What is the primary purpose of the European Waste Catalogue (EWC) codes on a permit for an energy recovery facility (ERF)? 2. To what extent do the EWC codes on a permit for an ERF ensure that waste transferred to it is	

		<p>restricted to non-recyclable or non-re-usable wastes?</p> <p>3. Do there exist EWC codes that specify that the waste has been assessed and is not considered suitable for re-use or re-cycling?</p> <p>4. If yes, please provide them</p> <p>5. Does the Environment Agency consider the use of EWC codes a robust way of ensuring that no recyclable or re-usable wastes would enter the ERF component of the proposed development?</p>	
Q2.17.0.3	The Applicant and North Lincolnshire Council	<p><b>Draft Requirement 15 the waste hierarchy scheme (WHS)</b></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) The Applicant has amended the word 'encourage' to 'ensure' in the dDCO issued at DL6. We consider that the words 'reasonably possible' are appropriate as there is only so much recyclable or reusable waste that can be removed from the municipal and commercial waste inputs to the various types of materials recycling and other recovery facilities and the Applicant will only be able to do so much through its contractual arrangements to ensure that upstream suppliers comply with their own respective obligations on the waste hierarchy.</p> <p>2) Yes. However, the primary legal mechanism for ensuring that the wastes received at the development have been managed in accordance with the waste hierarchy is the Waste (England and Wales) Regulations 2011, which places a duty in this respect on any establishment or undertaking which imports, produces, collects, transports, recovers or disposes of waste, or which as a dealer or broker has control of waste.</p> <p>The Environmental Permit will also ensure only residual wastes are accepted at the Development.</p> <p>The WHS is a secondary mechanism intended to support and encourage the application of the waste hierarchy by suppliers of residual waste to the Applicant. Its traction is achieved principally through the contractual agreement between the fuel supplier and the Applicant. However, the Applicant</p>

			considers it will have a degree of influence through to the primary producers of waste as new regulatory measures are brought into place to increase current recycling rates via for example, source segregation at households.
Q2.17.0.4	The Applicant	<p><b>Draft Requirement 15 the waste hierarchy scheme (WHS)</b></p> <p>1. In such circumstances explain how such agreements would be shared with the LPA such that monitoring and enforcement, if necessary, could take place?</p> <p>2. Within such agreements to what extent would the EWC codes ensure that waste transferred to the ERF is restricted to non-recyclable or non-re-usable wastes?</p> <p>3. Do there exist EWC codes that specify that the waste has been assessed and is not considered suitable for re-use or re-cycling?</p> <p>4. If yes, please provide them.</p> <p>5. What other form of words could be written into the agreement to ensure that only non- recyclable or non-re-usable wastes are transferred to the ERF?</p>	<p>1) Requirement 15(e) provides that ‘the form of records that must be kept for the purpose of demonstrating compliance with (a) to (d) and the arrangements in place for allowing inspection of such records by the relevant planning authority’ must be agreed as part of the WHS. The intention is that these records would include copies of such contractual arrangements (with confidential financial information redacted). We have suggested a slight amendment to requirement 15(e) to make this clear.</p> <p>2) The Environmental Permit restricts the Development to accepting only specified residual waste streams by reference to EWC codes and the Applicant will only be able to contract with waste suppliers to take such specified wastes. These are wastes where the waste producer and fuel provider have already discharged their obligations with respect to the waste hierarchy, as set out in Paragraph 12 of the Waste (England and Wales) Regulations 2011 (‘the Regulations’). That is that they “... <i>must, on the transfer of waste, take all such measures available to it as are reasonable in the circumstances to apply the following waste hierarchy as a priority order ...</i>”</p> <p>What measures are reasonable is subject inter alia to “... <i>technical feasibility and economic viability ...</i>” (Paragraph 12 – 3(b) of the Regulations).</p> <p>3) EWC codes for residual waste define the source and nature of the waste concerned. Transfers of such wastes must be accompanied by a Transfer Note under Part 9 of the Regulations. The Transfer Note provides a written description of the waste that is agreed by both the holder and receiver of the waste. The description contains a statement</p>

			<p>confirming that the waste holder has fulfilled its duty to apply the waste hierarchy (ie with respect to Paragraph 12 of the Regulations). The description must also confirm that the description of the waste is accurate.</p> <p>It is the Transfer Note that specifies that the waste is not considered suitable for re-use or recycling, rather than the EWC code itself, and provides control that the Development will not be able to receive reusable or recyclable materials. Confirmation that the waste hierarchy has been applied, subject to Paragraph 12-3 of the Regulations, when it had not, would be a false declaration and risk the prosecution by the Environment Agency under both the Permit and the Regulations.</p> <p>Where waste received at the Development does not conform with the Transfer Note description, it would be rejected unless appropriate clarification of the waste stream could be provided. In such a case, the fuel supplier would also be in contravention of the terms of its agreement with the Operator and risk termination of its contract.</p> <p>4) There is also a standard condition imposed on Environmental Permits that stipulates as follows: <i>'waste shall only be accepted if:(a) it is of a type and quantity listed in schedule 2 table S2.2[this lists out the EWC codes]; (b) it conforms to the description in the documentation supplied by the producer or holder; and (c) it having been separately collected for recycling, it is subsequently unsuitable for recovery by recycling.'</i> Paragraph c ensures that if waste has been separately collected for recycling (e.g. green bin collections) it cannot be sent directly to an ERF.</p> <p>5) The Applicant considers that the obligations of waste producers, fuel suppliers and any Operator of the ERF are controlled sufficiently through the obligations placed on these parties through the Regulations and the Permit. Where they fail to discharge their duties in this respect, they are liable to</p>
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			prosecution. Failure to comply with the conditions of the Environmental Permit is a criminal offence punishable by unlimited fine or imprisonment. In addition to this the Applicant is prepared to include contractual obligations on its waste suppliers to reflect and bolster these legal requirements in the Regulations and ensure they are met.
Q2.17.0.5	The Applicant and North Lincolnshire Council	<b>Draft Requirement 15 the waste hierarchy scheme (WHS)</b> Please could the Council and the Applicant confirm that their 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.	The Applicant is in discussions with NLC and will aim to agree the wording for requirement 15 with NLC and reflect this in the final SoCG.
<b>17.1 Flood Risk</b>			
Q2.17.1.1		No further questions at this time.	

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## **ANNEX A – QUESTIONS FOR THE APPLICANT – APPLICANT RESPONSE**

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## **ANNEX B – STATEMENT OF COMMON GROUND UPDATES**

## Annex A

### Questions for the Applicant and United Kingdom Without Incineration Network (UKWIN)

#### Applicant Response

*“Further to responses provided by the Applicant to the Examining Authority’s (ExA) first written questions ‘Deadline 2 Submission - 9.8 Applicant’s Response to Written Questions’ [REP2-033] including Q14.0.2 v) and vi), and submissions made by the Applicant and UKWIN at Deadlines 3, 4 and 5, the Applicant and UKWIN are asked to complete the following tables to summarise waste as fuel available and energy from waste capacity available”*

**Year of likely first operation of the proposed development: 2026**

As requested, the Applicant has completed the tables requested for:

- England
- Yorkshire&Humber and East Midlands
- Yorkshire&Humber
- North Lincolnshire

These are set out below. Following the tables, the Applicant has added a series of notes to describe the sources and methodology as requested.

The Examining Authority is asked to note the following when interpreting the tables:

- There is no adopted policy requirement to demonstrate available capacity for Energy Recovery Facilities (ERF). The only reference to capacity is in draft NPS EN3 which states at paragraph 2.10.5 that: *“the proposed plant must not result in over-capacity of EfW waste treatment at a national or local level.”* A revised consultation draft of NPS EN3 is anticipated in Q1/Q2 2023. However, notwithstanding that this is not a policy requirement, the Applicant has sought to demonstrate that the Proposed Development will not lead to overcapacity at a national or local level.
- Related to the above point, it should be noted that some resilience is necessary in the system to ensure as least waste as possible is going to landfill. A system which is operating at under capacity for Energy from Waste (EfW) will result in additional waste in landfill. The optimum position is therefore to have a slight overcapacity in EfW facilities to ensure that there is no residual waste. Facilities such as that proposed are tightly controlled to only take RDF and therefore are a direct replacement for landfill, rather than reducing recycling rates.
- Projections for residual waste arising are for a ‘base case’ where recycling and waste reduction targets are met. Paragraph 2.10 of REP5-037 explains why this is a conservative view. In our lower recycling case (where recycling of household waste increases from the current level of around 42% to 55% in 2035 and 60% in 2042), residual waste arising at the national level is around 2.5mte higher in

2040 than shown in Table 1 below. Residual waste in Yorkshire & Humber/East Midlands is around 0.5mte higher in 2040 than shown in Table 2 below.

- The Applicant has included its projections of available EfW capacity in operation or currently under construction, as this is its interpretation of what the Examining Authority has requested (i.e. available EfW capacity). The Applicant can provide a further breakdown on request, as per the charts presented in REP3-040 and REP3-022.
- For the purposes of the tables below, the Applicant has not excluded non-R1 capacity, but paragraph 2.27 of REP5-037 explains the Applicant's case that it is not appropriate to consider treatment capacity lower down the waste hierarchy. Non-R1 capacity accounts for 1833ktpa of the capacity available in 2020 in England (Table 1), 240ktpa in 2020 in Yorkshire & Humber/East Midlands (Table 2), and 52ktpa in 2020 in Yorkshire & Humber (Table 3).
- The Applicant has included all capacity regardless of the Applicant's view on its potential to fit carbon capture – the Applicant's approach to carbon capture is discussed in detail in REP3-040 and REP5-037. The Applicant remains of the view that Government expects the EfW sector to decarbonise as part of the wider Net Zero policy, and the Government's recent consultation<sup>1</sup> on decarbonisation readiness reinforces this view by extending carbon capture readiness obligations to all new EfW facilities. AFRY's assessment of the amount of available capacity in operation or under construction which has low or no CCS potential is 4817ktpa in England (Table 1), 1399ktpa in Yorkshire & Humber/East Midlands (Table 2), and 756ktpa in Yorkshire & Humber (Table 3).
- The Applicant has not included consented projects which have not yet commenced construction on the basis of its interpretation of available capacity. The Applicant presented information on these in REP3-040 and REP3-022. If consented projects were to be included, the Applicant's view is that further consideration would be needed to exclude other elements of waste capacity, to ensure a fair assessment.
- For completeness, the Applicant has added its projections for 'other uses' of residual waste, in line with the approach used in the RDF Supply Assessment [REP3-040] and updated in REP3-022. This represents material removed at the RDF production stage and also material used in cement kilns.

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<sup>1</sup> "Decarbonisation Readiness: Consultation on updates to the 2009 Carbon Capture Readiness requirements", Department for Energy Security & Net Zero, March 2023

**Table 1****England****Base case on waste arising (Recycling targets met)**

	2020	2021	2022	2023	2024	2025	2026	2030	2035	2040	Units	Note
1 Waste as fuel available	21967	21553	21124	20680	20239	19803	19345	17558	15820	15280	ktpa	1-4
2 Energy from waste capacity available	13922	13922	13922	14366	15310	17074	17307	17122	16934	16934	ktpa	5
3 'Other uses' for residual waste	2277	2277	2277	2277	2277	2277	2277	2277	2277	2277	ktpa	6,7
Differences	<b>5768</b>	<b>5354</b>	<b>4925</b>	<b>4037</b>	<b>2652</b>	<b>452</b>	<b>-239</b>	<b>-1841</b>	<b>-3392</b>	<b>-3932</b>	ktpa	L1-L2_L3

**Table 2****Yorkshire&Humber and East Midlands****Base case on waste arising (Recycling targets met)**

	2020	2021	2022	2023	2024	2025	2026	2030	2035	2040	Units	Note
1 Waste as fuel available	4325	4099	4909	4795	4680	4566	4452	3993	3483	3381	ktpa	1-4
2 Energy from waste capacity available	2498	2498	2498	2714	3181	3550	3550	3550	3362	3362	ktpa	5
3 'Other uses' for residual waste	427	427	427	427	427	427	427	427	427	427	ktpa	6,7
Differences	<b>1400</b>	<b>1174</b>	<b>1984</b>	<b>1654</b>	<b>1073</b>	<b>589</b>	<b>475</b>	<b>16</b>	<b>-305</b>	<b>-408</b>	ktpa	L1-L2_L3

**Table 3****Yorkshire&Humber****Base case on waste arising (Recycling targets met)**

	2020	2021	2022	2023	2024	2025	2026	2030	2035	2040	Units	Note
1 Waste as fuel available	2171	1925	2483	2428	2373	2318	2264	2045	1829	1770	ktpa	1-4
2 Energy from waste capacity available	2133	2133	2133	2349	2349	2718	2718	2718	2718	2718	ktpa	5
3 'Other uses' for residual waste	258	258	258	258	258	258	258	258	258	258	ktpa	6,7
Differences	<b>-220</b>	<b>-466</b>	<b>92</b>	<b>-179</b>	<b>-233</b>	<b>-657</b>	<b>-712</b>	<b>-930</b>	<b>-1147</b>	<b>-1205</b>	ktpa	L1-L2_L3

**Table 4****North Lincolnshire****Base case on waste arising (Recycling targets met)**

	2020	2021	2022	2023	2024	2025	2026	2030	2035	2040	Units	Note
1 Waste as fuel available	207	161	329	324	319	314	309	291	273	283	ktpa	1-4
2 Energy from waste capacity available	0	0	0	0	0	0	0	0	0	0	ktpa	5
3 'Other uses' for residual waste	0	0	0	0	0	0	0	0	0	0	ktpa	6,7
Differences	<b>207</b>	<b>161</b>	<b>329</b>	<b>324</b>	<b>319</b>	<b>314</b>	<b>309</b>	<b>291</b>	<b>273</b>	<b>283</b>	ktpa	L1-L2_L3

## Notes

1. 'Waste as fuel available' includes household waste and commercial and industrial (C&I) waste<sup>2</sup>.  
The 2020 figure for household waste is historic data derived by DEFRA's WasteDataFlow database used to track local authority collected waste. We have aggregated the data for the local authorities falling within the relevant region(s) covered in each table. Figure shown is the sum of all records with Treatment type "Incineration", "Landfill", or "Other".  
As a cross-check, the England figure corresponds well with that presented in Table 3 of "Statistics on waste managed by local authorities in England in 2020/21"<sup>3</sup> (noting that the figures do not match exactly because table 3 covers financial year 2020/21 rather than calendar year 2020)
2. Household residual waste arising is projected forward as follows:
  - Overall household waste arising is projected to grow from 2020 figure of 26.1mte pro-rata to population growth, where population projections by region are taken from ONS<sup>4</sup>.
  - The Applicant then assumed recycling rate increases linearly from 2020 value to 65% in 2035 and then linearly to 70% in 2042
  - For North Lincolnshire we have assumed population growth in line with all of Yorkshire of Humber
3. Historic figures for CI& waste (2020 and 2021) are derived from DEFRA's Waste Data Interrogator database. Data is aggregated by region with the following filters applied:
  - Basic Waste Category set to Hhold/Ind/Com
  - EWC chapter: exclude codes 01, 17, 19
  - Site Category: Landfill, MRS, on/in land, treatment, use of waste
4. Residual C&I waste is then projected forwards as follows:
  - Assume overall C&I waste volume grows in line with economic growth<sup>5</sup> (applied from 2019 figure as this is not affected by Covid lockdowns)
  - Assume recycling rate trends linearly to 80% by 2035 then stays at this level

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<sup>2</sup> The Applicant can provide figures for each if required.

<sup>3</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040756/Statistics\\_on\\_waste\\_managed\\_by\\_local\\_authorities\\_in\\_England\\_in\\_2020\\_v2rev\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040756/Statistics_on_waste_managed_by_local_authorities_in_England_in_2020_v2rev_accessible.pdf)

<sup>4</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/datasets/householdprojectionsforengland>

<sup>5</sup> "Regional and country economic indicators", House of Commons Library, May 2021

- For North Lincolnshire the Applicant assumes that the proportion of Yorkshire & Humber C&I waste attributable to North Lincolnshire stays constant

5. The waste as fuel available shown in Table 4 does not include the existing stockpile of waste currently stored at Killingholme Airfield. This is waste which was amassed by a now defunct operator. North Lincolnshire Council is seeking a solution for treatment of this waste. The Applicant has offered to take this waste. The estimated tonnage is at least 50,000 tonnes.



6. The tables below set out our assumptions EfW facilities in operation (Table 6) or under construction (Table 5):
  - Capacity (kte/yr), derived from EA permit
  - Assumed capacity factor. For operating plant this is based on historic data as reported by Tolvik<sup>6</sup>, averaged across last three years. For new plants we assume 90%.
  - Assumed closure date if <2043: AFRY assessment based on press stories or assumed operating lifetime of 50 years
7. 'Other uses of residual waste' is the sum of use by cement kilns and MBT removal. For cement kilns, we have used total 2021 SRF use by cement kilns in England, as reported in Tolvik (footnote 4). This is assumed to stay constant. For simplicity, we have assumed this is spread equally across the 9 English regions. The Applicant is not aware of any cement kilns in North Lincolnshire.
8. 'MBT removal' represents the volume of material removed from the residual waste stream during production of RDF. AFRY assumption based on analysis of waste volumes removed at MBT facilities, as reported in the Government's Waste Infrastructure Delivery Programme (WIDP) Residual Waste Treatment Infrastructure Facility List (IFL). This provides data for 2019. This is assumed to stay constant (despite declining residual volumes).

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<sup>6</sup> "UK Energy from Waste Statistics – 2021" available on Tolvik website



**Table 5****Under construction**

Name of Plant	Region	Capacity (kte)	Assumed capacity factor	Assumed CCS potential	Assumed R1 status
Baddesley EfW plant	West Midlands	<b>130</b>	90%	No	Yes
Bridgwater Resource Recovery	South West	<b>123</b>	90%	No	Yes
Drakelow Renewable Energy Centre	East Midlands	<b>169</b>	90%	No	Yes
Energy Works Hull	Yorkshire and Humber	<b>240</b>	90%	High	Yes
Isle of Wight	South East	<b>30</b>	90%	No	Yes
Lostock Sustainable Energy Plant	North West	<b>600</b>	90%	High	Yes
Newhurst Quarry EfW plant	East Midlands	<b>350</b>	90%	No	Yes
Protos EfW plant	North West	<b>410</b>	90%	High	Yes
Slough Multifuel	South East	<b>480</b>	90%	Med	Yes
Edmonton EcoPark	London	<b>700</b>	90%	Med	Yes
Skelton Grange EfW Plant	Yorkshire and Humber	<b>500</b>	90%	No	Yes
Wren Power and Pulp (Rivenhall Airfield)	Eastern	<b>595</b>	90%	No	Yes
Wheelabrator West Bromwich	West Midlands	<b>400</b>	90%	No	Yes

**Table 6**

Operating						
Name of Plant	Region	Capacity (kte)	Assumed capacity factor	Assumed CCS potential	R1 status	Closure date if <2043
Advanced Plasma Power Pilot Plant	South West	13	90%	No	No	
Allerton Waste Recovery Facility	Yorkshire and Humber	320	80%	No	Yes	
Allington EfW Plant	South East	560	82%	No	Yes	
Ardley Energy Recovery Facility	South East	326	92%	Med	Yes	
Avonmouth Resource Recovery Centre	South West	377	90%	Med	Yes	
Battlefield ERF	West Midlands	102	96%	No	Yes	
Beddington Energy Recovery Facility	London	347	88%	Med	Yes	
Bolton WTE plant	North West	120	48%	No	No	
Cornwall Energy Recovery Centre	South West	240	99%	No	Yes	
Cory Riverside Energy	London	785	95%	Med	Yes	
Coventry EfW Plant	West Midlands	315	96%	No	No	2025
Devonport EfW CHP Facility	South West	265	97%	Med	Yes	
Dudley EfW plant	West Midlands	105	92%	No	No	
Eastcroft EfW plant	East Midlands	200	94%	No	No	2033
EnviRecover	West Midlands	230	91%	No	Yes	
Exeter Energy Recovery Facility	South West	60	99%	No	No	
Ferrybridge Multifuel 1 (FM1)	Yorkshire and Humber	725	88%	High	Yes	
Ferrybridge Multifuel 2 (FM2)	Yorkshire and Humber	725	89%	High	Yes	
Gloucestershire (EfW) plant (Javelin)	South West	190	98%	No	Yes	
Great Blakenham EfW plant	Eastern	295	96%	No	Yes	
Greatmoor	South East	345	87%	No	Yes	
Integra North (Chineham)	South East	110	90%	Med	Yes	
Integra South West (Marchwood)	South East	220	95%	Med	Yes	
Kirklees EfW plant	Yorkshire and Humber	150	87%	No	Yes	
Lakeside Energy from Waste facility	South East	450	91%	Med	Yes	
Leeds Recycling & ERF	Yorkshire and Humber	190	94%	Med	Yes	
Lincolnshire EfW Plant	East Midlands	190	93%	No	Yes	
LondonWaste ERF (Edmonton)	London	675	84%	No	No	2024
Milton Keynes Waste Recovery Park	South East	132	64%	No	No	
Newhaven Energy Recovery Facility	South East	242	94%	Med	Yes	
Newlincs EfW plant	Yorkshire and Humber	56	93%	High	No	
Peterborough Energy Recovery Facility	Eastern	85	95%	No	Yes	
Portsmouth Energy Recovery Facility	South East	220	91%	Med	Yes	
Runcom EfW plant	North West	1100	87%	High	Yes	
SELCHP Energy Recovery Facility	London	464	89%	No	Yes	
Sevenside Energy Recovery Centre	South West	467	86%	Med	Yes	
Sheffield Energy Recovery Facility	Yorkshire and Humber	245	95%	Med	Yes	
Stoke EfW Plant	West Midlands	210	88%	No	No	2028
Tees Valley EfW Facility (Billingham)	North East	756	89%	High	Yes	
Tyseley Energy Recovery Facility	West Midlands	441	82%	Med	Yes	
W2R Staffordshire ERF	West Midlands	340	99%	Med	Yes	
Wheelabrator Kemsley (K3)	South East	657	80%	Med	Yes	
Wilton 11 EfW Plant	North East	500	90%	High	Yes	
Wolverhampton EfW Plant	West Midlands	118	96%	No	No	
Enviropower Lancing	South East	75	83%	No	No	
Hooton Bio Power	North West	266	90%	High	Yes	
Rookery Pit	Eastern	585	90%	Med	Yes	
Surrey ECO Park	South East	60	90%	No	No	

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## **ANNEX C – Q2.7.0.1 – EMAIL CHAIN WITH OPENREACH**

## **Annex B Statement of Common Ground Updates**

This Appendix sets out the status of each Statement of Common Ground in response to Q2.1.0.1. This includes expectations in terms of reaching a conclusion and any fundamental problems in progressing negotiations.

### North Lincolnshire Council

The Applicant and NLC have been actively engaging up to and throughout the examination stage in order to reach agreement on outstanding matters. The main unresolved matters within the SoCG relate to cultural heritage and noise but the two parties are actively working together to seek to resolve both of these points.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

### Environment Agency

The Applicant submitted a SoCG with the Environment Agency at Deadline 5 with all matters resolved. The two parties are working together to consider whether there are any other matters that need to be included within the SoCG, to assist the Examining Authority further.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

### Natural England

The Applicant is working closely with Natural England to resolve the outstanding points relating to effects on Risby Warren. An updated SoCG has been submitted at this Deadline to show agreement on other previously outstanding matters.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

### Historic England

A draft SoCG has been shared with Historic England and the Applicant is waiting for their comments on this document. Until the cultural heritage points are resolved with North Lincolnshire Council it is not considered that these points would be resolved with Historic England either.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

### Network Rail Infrastructure

An initial draft SoCG with Network Rail was submitted at Deadline 1. The Applicant notes Network Rail's submission at Deadline 5 which indicates that they hoped to have a final SoCG for Deadline 6 submission. The Applicant has followed up actively with Network Rail to seek their engagement on the SoCG but has not yet had a response.

We will continue to liaise with Network Rail Infrastructure to provide a final SoCG ahead of Deadline 9 but do not foresee any fundamental reasons for agreement not to be reached on all outstanding matters.

### National Grid Carbon Ltd

The Applicant is in discussions with National Grid Carbon around the routing proposals put forward in response to the Humber Low Carbon Pipelines statutory consultation.

While it is not expected that any conclusions from this will be reached prior to the end of examination the Applicant will provide a final up to date SoCG with National Grid Carbon to the ExA by Deadline 9 at the latest setting out the most up to date position.

#### UKWIN

The Applicant continues to liaise with UKWIN on the outstanding matters within the SoCG submitted at Deadline 4. The next meeting to discuss these has been organised for 27<sup>th</sup> March. It is not expected that all matters in this SoCG will be resolved due to fundamental disagreements on many of the outstanding matters, however the two parties are continuing to engage on these points to resolve as many matters as possible.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### Enfinium

A SoCG has not yet been progressed with this party and it is noted that, beyond their initial submission at the Relevant Representation stage Enfinium has not taken part in the examination process.

#### Scunthorpe and Gainsborough Water Management Board

A draft SoCG with all matters agreed was submitted to the ExA at Deadline 2. This document is with Scunthorpe and Gainsborough Water Management Board for final signoff.

A final signed SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### Anglian Water

The Applicant is working closely with Anglian Water on the outstanding matters within their SoCG, relating to Protective Provisions.

The Applicant is confident that agreement will be reached with this stakeholder and that a final SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### Severn Trent

The Applicant submitted a SoCG with Severn Trent with all matters agreed at Deadline 5.

A final signed SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### Northern Powergrid

The Applicant considers that once the Protective Provisions are signed with this party then there will be no need for a SoCG as all matters relate to this.

As set out within Document 9.10 Status of Negotiations with Statutory Undertakers submitted at this deadline, the Applicant is considering one outstanding point on these Protective Provisions.

#### Associated British Ports

The Applicant has been actively engaging with Associated British Ports (ABP) on the SoCG and provided a draft to them based on this engagement prior to Deadline 4 to review. The Applicant is waiting for a response from ABP following this and has followed up several times.

We will continue to follow up with ABP and consider that a final signed SoCG with no unresolved matters should be achievable and will be submitted by Deadline 9 at the latest. This is consistent with oral representations made by ABP at the Examination.

#### Humberside Fire and Rescue Authority

The Applicant had a positive meeting with Humberside Fire and Rescue Authority on Friday 3<sup>rd</sup> February and, following this meeting, the action is with the Applicant to prepare a draft SoCG for review.

It is not considered that there will be any outstanding matters within this SoCG and it is considered that a final signed SoCG will be submitted to the ExA by Deadline 9 at the latest, should the two parties consider this be necessary.

#### National Highways

The outstanding matter within the current draft SoCG with National Highways relates to land interests. A draft legal agreement is currently being negotiated with National Highways, once this is resolved, a final SoCG with all matters agreed will be reached.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### British Steel

The Applicant is working with British Steel to understand how the Project can avoid any impact on their assets. Detailed plans have now been received that identify the exact location of each of the British Steel assets following a site visit. A Heads of Terms is currently being agreed in relation to easements that may be required on land owned by British Steel and the protective measures required in areas where British Steel has longstanding but unrecorded easements. Once this is agreed the Applicant will determine with British Steel whether there are any outstanding matters that need to be captured within a SoCG.

Considering British Steels confirmation that there were no outstanding issues at the Compulsory Acquisition hearing on 8<sup>th</sup> March it is considered unlikely that a SoCG with this party is required.

#### Rainham Steel

Rainham Steel has requested that a full Option Agreement relating to their land is signed before they agree to a SoCG. The Applicant is working with lawyers from both Parties on how to achieve this.

Once the Option Agreement is signed then the Applicant considers that a SoCG with no outstanding matters would be signed.

#### Jotun Paints

An initial draft SoCG with Jotun Paints was submitted to the ExA at Deadline 4. The only unresolved matter within this SoCG related to the desire for a Heads of Terms document. The Applicant is working with Jotun Paints to provide this document.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### AB Agri

Outstanding matters within the SoCG with AB Agri relate to: Biosecurity, Flood risk, temporary acquisition and access. The Applicant and AB Agri have been engaging throughout the examination period to reach common ground on these matters.

While it is considered unlikely that common ground on these matters will be reached, the Applicant will continue to work with AB Agri to work through these matters within the time available. A final SoCG will be submitted to the ExA by Deadline 9 at the latest but it is acknowledged that this is likely to have matters that are not agreed between the two parties.

#### Bagmoor Wind Limited

The Applicant has been engaging with Bagmoor Wind around specifications for railway crossings and locations of HV Cables within the project area.

A final SoCG will be submitted to the ExA by Deadline 9 at the latest.

#### Cadent Gas Limited

The Applicant considers that once the Protective Provisions are signed with this party then there will be no need for a SoCG as all matters relate to this that.

As set out within Document 9.10 Status of Negotiations with Statutory Undertakers submitted at this deadline, the Applicant is considering two outstanding points on these Protective Provisions.

#### British Telecommunications plc and Openreach Limited

It was stated within the Applicant's Deadline 4 cover letter that a SoCG is not required with this party.

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## **ANNEX D2 – Q2.7.0.1 – MINUTES OF MEETING WITH NH**



## Arooj Amer

---

**From:** Arooj Amer  
**Sent:** 05 December 2022 10:41  
**To:** [REDACTED]  
**Cc:** [REDACTED] Frances  
Everett; Olivia Matano; [REDACTED]  
**Subject:** RE: NLGEP - Application for DCO - Openreach Limited [WBDDUK-AC.FID123905156]

Good morning Ian

Thank you for your email below confirming Openreach is happy with the protective provisions contained in the DCO.

We will update PINS accordingly.

Many thanks  
Arooj

### Arooj Amer

Solicitor  
Womble Bond Dickinson (UK) LLP

d: + [REDACTED]  
t: + [REDACTED]  
e: a [REDACTED]

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---

**From:** ian.cantrell@openreach.co.uk [REDACTED] >  
**Sent:** 28 November 2022 13:40  
**To:** Arooj Amer <[REDACTED]>; Frances Everett [REDACTED]; Olivia Matano [REDACTED]  
**Cc:** [REDACTED]; [REDACTED]; [REDACTED]  
**Subject:** FW: NLGEP - Application for DCO - Openreach Limited [WBDDUK-AC.FID123905156]

Afternoon All,

Going on the conversations I have had with Francisco at Buro Happold in relation to the plans I have no problems with the DCO you have supplied and am happy to green light it from an Openreach perspective.

Buro Happold have said they will continue to liaise with Openreach as plans progress should the DCO be agreed to.

If you need anything more from me please just let me know

Regards  
Ian Cantrell  
Network Rearrangement Engineering Professional

# openreach

Mobile: [REDACTED]

Office: [REDACTED]

Post: Repayments (Alterations) pp BLDG, Eldon House , Charter Row, Sheffield , SYORKS , S1 3EF

Web: [REDACTED]

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**Openreach Limited**

Registered Office: Kelvin House, 123 Judd Street, London WC1H 9NP

Registered in England and Wales no. 10690039

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**From:** Shaw,R,Richard,BNER11 R [REDACTED]

**Sent:** 10 November 2022 16:54

**To:** Cantrell,IS,Ian,BNNR12 R [REDACTED] >

**Subject:** FW: NLGEP - Application for DCO - Openreach Limited [WBDUK-AC.FID123905156]

Hi Ian,

I believe this is the one you have taken on?

Kind Regards

**Richard Shaw**

Repayment Project Engineer - Lincoln

Openreach

Telephone: [REDACTED]

Mobile: [REDACTED]

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**Openreach Limited**

Registered Office: Kelvin House, 123 Judd Street, London WC1H 9NP

Registered in England and Wales no. 10690039

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**From:** Arooj Amer <[REDACTED]>

**Sent:** 10 November 2022 14:27

**To:** Shaw,R,Richard,BNER11 R <[REDACTED]>

**Cc:** Frances Everett <[REDACTED]>; Olivia Matano <[REDACTED]>

**Subject:** FW: NLGEP - Application for DCO - Openreach Limited [WBDUK-AC.FID123905156]

You don't often get email from [REDACTED]

Good afternoon Richard

Further to the emails below, please could you advise when we can expect to hear from you.

We are keen to progress discussions in respect of the protective provisions contained in the DCO at the earliest and make some headway prior to Deadline 1 (as per the examination timetable) on 1 December 2022.

If you have any queries, then please do let me know.

Many thanks  
Arooj

**Arooj Amer**

Solicitor  
Womble Bond Dickinson (UK) LLP

d: + [REDACTED]  
t: + [REDACTED]  
e: [REDACTED]

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**From:** Arooj Amer  
**Sent:** 03 October 2022 09:43  
**To:** [REDACTED]  
**Cc:** Frances Everett [REDACTED] [com](#); Olivia Matano <[REDACTED]>  
**Subject:** NLGEP - Application for DCO - Openreach Limited [WBDUK-AC.FID123905156]

Good morning Richard

Further to the emails below, please could you advise when we can expect to hear from you.

If you have any queries, then please do let me know.

Many thanks  
Arooj

---

**From:** Arooj Amer <[REDACTED]>  
**Sent:** 23 September 2022 11:41  
**To:** [REDACTED]  
**Cc:** Frances Everett [REDACTED]; Olivia Matano <[REDACTED]>  
**Subject:** FW: NLGEP - Application for DCO - Openreach Limited [WBDUK-AC.FID123905156]

Good morning Richard

Further to Frances' email below, please could you advise when we can expect to hear from you.

If you have any queries, then please do let me know.

Many thanks  
Arooj

**Arooj Amer**

Solicitor  
Womble Bond Dickinson (UK) LLP

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t: + [REDACTED]  
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**From:** Frances Everett <[REDACTED]>  
**Sent:** 02 September 2022 12:42  
**To:** [REDACTED]  
**Cc:** Rachel Sykes <[REDACTED]>  
**Subject:** NLGEP - Application for DCO - Openreach Limited [WBDUK-AC.FID123905156]

Dear Richard,

We act on behalf of the North Lincolnshire Green Energy Park Limited (**NLGEP**), the promoter of the North Lincolnshire Green Energy Park (**Scheme**), in relation to an application for a development consent order (**DCO**) which was recently accepted for examination by the Planning Inspectorate (**PINS**). A link to the PINS page for the Scheme is here: [North Lincolnshire Green Energy Park | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://planninginspectorate.gov.uk) and copies of the application documents are now available for review.

Part of the Scheme covers land in which Openreach Limited has an interest, including land in which your apparatus is currently placed. We understand that members of the NLGEP consultancy team from Burro Happold have previously held discussions with you (or your colleagues) in relation to the Scheme, and they have passed us your contact details.

We are writing now to provide a copy of the draft DCO for your consideration, and to seek confirmation from you that the protective provisions contained at Schedule 14, Part 2 of the attached draft DCO are sufficient to provide appropriate protection to Openreach's rights and apparatus within the Scheme land.

If you have instructed solicitors, we would be grateful if you could please put us in touch with them so that we may deal with them directly.

If you have any questions, please feel free to contact me on the details above.

Kind regards

Frances

**Frances Everett**

Associate  
Womble Bond Dickinson (UK) LLP

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m: +44 [REDACTED]

t: + [REDACTED]  
e: [REDACTED]

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## **ANNEX D1 – Q2.7.0.1 – EMAIL CHAIN NATIONAL HIGHWAYS**

**Arooj Amer**

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**Subject:** FW: NLGEP - Protective Provisions with National Highways [WBDUK-AC.FID123905156]

---

**From:** Ross Corser <[REDACTED]>  
**Sent:** 16 December 2022 14:24  
**To:** Frances Everett <[REDACTED]>  
**Cc:** Alice Langford <[REDACTED]>  
**Subject:** RE: NLGEP - Protective Provisions with National Highways [WBDUK-AC.FID123905156]

Hi Frances

I have taken further instructions from my client and on this occasion we would agree to a side agreement with your client (to bind successors in title to the rights acquired under the order) to preserve our rights in the land and permit access to National Highways at all times, as may be required. To preserve our position, the agreement will need to be in place before close of the examination at which point we can withdraw our objection to the scheme.

Kind regards

**Ross Corser**  
**Lawyer (Planning)**  
**General Counsel Directorate**  
National Highways Limited | The Cube | 199 Wharfside Street | Birmingham | B1 1RN

Tel: [REDACTED]

---

**From:** Frances Everett <[REDACTED]>  
**Sent:** 09 December 2022 12:18  
**To:** Ross Corser <[REDACTED]>  
**Cc:** Alice Langford <[REDACTED]>  
**Subject:** RE: NLGEP - Protective Provisions with National Highways [WBDUK-AC.FID123905156]

Hi Ross,

Apologies for not coming back to you previously on this matter. I understand that our respective clients have since spoken and that NH's technical team was satisfied that there are no impacts on the actual SRN or NH's assets from the construction of the scheme. Please may you confirm this with them?

The works for the installation of a District Heating and Private Wire Network (**DHPWN**) are to be carried out within agricultural land held privately and as far as we are aware there is no intention, or powers included in the draft Order, to allow for works to be carried within the SRN. The Applicant will be installing the DHPWN by way of HDD.

In respect of the points raised in NH's relevant representation, I have set out below our response which was submitted at Deadline 1 – the full document can be seen [here](#) on the PINS website.

NH RR	NLGEP Response
National Highways objects to the Project for the following reasons. National Highways is a statutory undertaker and is appointed by the Secretary of State for Transport to operate and maintain the strategic road network ("SRN") in England.	The Applicant acknowledges National Highways objection to the Project for the reasons set out in their relevant representation.

<p>The book of reference as submitted by the Applicant identifies 9 plots of land owned by or occupied by National Highways (“Plots”) in respect of which compulsory acquisition powers to acquire new rights are sought. The compulsory acquisition powers sought are described in the book of reference as being the creation and compulsory acquisition of new rights over land and the temporary possession of land (“Compulsory Powers”).</p>	<p>The Applicant is seeking new rights over land and temporary possession of land as explained further in this response below.</p>
<p>National Highways understands that the Applicant proposes to route heating and cooling pipes carrying hydrogen gas alongside the M181 road as far as A1077.</p> <p>To safeguard National Highways’ interests and the safety and integrity of the SRN, National Highways objects to the inclusion of the Plots in the Order and to Compulsory Powers being granted in respect of them.</p> <p>The Plots constitute land acquired by National Highways for the purpose of its statutory undertaking and, accordingly, this representation is made under section 56 and sections 127 and 138 of the Planning Act 2008.</p>	<p>The Applicant met with National Highways to discuss impacts on the Strategic Road Network (SRN) on 21 November 2022. The discussion outlined the proposed works and any impacts on the strategic road network (SRN) and it was agreed that the Scheme did not impact on the network from a technical perspective.</p>
<p>National Highways considers that there is no compelling case in the public interest for the Compulsory Powers and that the Secretary of State, in applying section 127 of the Planning Act 2008, cannot conclude that new rights and restrictions over the Plots can be created without serious detriment to National Highways’ undertaking and no other land is available to National Highways to make good the detriment. National Highways also objects to all other compulsory powers in the Order that affect, and may be exercised in relation to, National Highways’ property and interests.</p>	<p>The Applicant has set out its reasons why there is a compelling case in the public interest for the Scheme and, consequently, for the use of compulsory acquisition powers for the Scheme in section 7 of the Statement of Reasons (APP-011).</p> <p>The Applicant is not aware of any plots where National Highways owns the freehold of the relevant plot, that has been included for compulsory acquisition in the Book of Reference (APP-010). The Applicant is however looking to acquire new rights in land, as well as take temporary possession of land, in which National Highways does hold an interest. The relevant plots are as follows: Plots 2-9, 3-3, 3-9, 3-21, 3-22, and 3-25 (acquisition of rights) and Plots 2-11, 3-2, and 3-10 (temporary possession). The nature of the interest held by National Highways in respect of these plots varies but generally relates to being the beneficiary of rights of access, rights for apparatus, drainage rights and over which National Highways has the benefit of restrictive covenants. The majority of works required in respect of the above plots relate to the provision of the DHPWN and for use as temporary laydown areas for the construction of the DHPWN. The Applicant's view is that the works listed above do not have an impact on the SRN or on National Highways ability to operate the same.</p> <p>In light of the above the Applicant’s view is that any compulsory acquisition of land would not result in serious detriment to National Highways’ undertaking and as such the test in section 127(6)(a) would be met.</p>
<p>In order for National Highways to be in a position to withdraw its objection, National Highways requires: (a) the inclusion of protective provisions in the Order for its benefit; and (b) agreements with the Applicant that regulate (i) the manner in which rights over the Plots are acquired and the relevant works are carried out including terms which protect National</p>	<p>Notwithstanding the above, the Applicant is in the early stages of discussions with National Highways in respect of National Highways’ request for protective provisions. Discussions are ongoing and the Applicant does not anticipate that there will be any impediments to the parties reaching agreement before the close of the Examination.</p>



Highways' statutory undertaking and agreement that compulsory acquisition powers will not be exercised in relation to such land; and (ii) the carrying out of works in the vicinity of the SRN to safeguard National Highways' statutory undertaking. National Highways reserves the right to produce additional grounds of concern if further details of the impact to National Highways' assets become available.

Our client is happy to discuss the potential inclusion of protective provisions, but in light of the above, can you please consider if these are still appropriate given that there are no proposed impacts on the SRN?

If you would like to discuss another form of protection for NHs rights in land or to agree a practical solution to maintaining access rights in the land in which NH does have interests, we are happy to do so.

I look forward to hearing from you.

Kind regards

Frances

**Frances Everett**

Associate

Womble Bond Dickinson (UK) LLP

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t: +44 [REDACTED]

e: [REDACTED]

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**ANNEX A – QUESTIONS FOR THE APPLICANT – APPLICANT  
RESPONSE**

## Arooj Amer

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**From:** Wheeler, Angus [REDACTED]  
**Sent:** 21 November 2022 10:42  
**To:** Calum Bezer; Calvert, Tim  
**Cc:** Laura Tinker  
**Subject:** RE: 3154: NLGEP - Meeting with National Highways

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Hi Calum

Thanks for yours and Laura's time earlier.

Just a couple of tweaks. I'm a geotechnical engineer so that is the area that I comment on. I think you can take it is read though that if you aren't impacting on the earthworks you are aren't impacting on the highway itself.

Angus

---

**From:** Calum Bezer [REDACTED] >  
**Sent:** 21 November 2022 10:29  
**To:** Wheeler, Angus [REDACTED]; Calvert, Tim  
[REDACTED]  
**Cc:** Laura Tinker [REDACTED]  
**Subject:** 3154: NLGEP - Meeting with National Highways

Reference: S3154-0015-0046

Hi all,

Please find below a brief summary of our call.

### Attendees

- Calum Bezer (Fichtner Consulting Engineers Limited)
- Laura Tinker (DWD)
- Angus Wheeler (National Highways)
- Tim Calvert (National Highways)

### Minutes

- Fichtner introduced the scheme, which includes the installation of a district heating and private wire network. These consist of buried pipes and cables, intended to be installed in a single trench. The extents of the scheme are shown on Works Plans B, available at this link.  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010116/EN010116-000366-4.4%20Works%20Plans%20B.pdf>
- National Highways (NH) advised that the M181 is either in the process of, or has been, detrunked **[/]** north of the new roundabout (<https://www.northlincs.gov.uk/wp-content/uploads/2021/01/02.-M181-Detrunking-Plan-a.pdf>). Following detrunking, the road will be the responsibility of the local highway authority. NH advised that Rob Wake and Keith Scott would be able to advise on the status of the detrunking works. **FCE to query status with Rob Wake.**
- NH advised that the scheme as submitted did not have obvious impacts on either the highway **[/]** earthworks or any structures, even in regions where detrunking was ongoing/complete. NH advised FCE contacts

Cameron Farrell who can advise further on impacts. **NH to share contact details with FCE. FCE to contact Cameron Farrell.**

- NH and DWD noted that there may be land interest impacts, which are to be discussed with Simon Geoghegan.

Kind regards,

Calum Bezer  
Consultant

**FICHTNER**  
Consulting Engineers Limited

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**National Highways Limited | General enquiries: 0300 123 5000 | National Traffic Operations Centre, 3 Ridgeway, Quinton Business Park, Birmingham B32 1AF | [REDACTED]**  
[info@nationalhighways.co.uk](mailto:info@nationalhighways.co.uk)

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