



Planning Act 2008

North Lincolnshire Green Energy Park

9.27 Written summaries of oral submissions at Compulsory Acquisition Hearing 1 (8 March 2023)

PINS reference: EN010116

March 2023



1. INTRODUCTION

- 1.1 The Development Consent Order (**DCO**) application for the North Lincolnshire Green Energy Park (**NLGEP**) was submitted on 31 May 2022 and accepted for examination on 27 June 2022.
- 1.2 The Compulsory Acquisition Hearing (**CAH1**) for the NLGEP DCO application was a blended event which was held in person at Forest Pines Spa and Golf Resort, Ermine Street, Broughton, Brigg, DN20 0AQ and virtually by Microsoft Teams on Wednesday 8th March 2023 commencing at 10.00am.
- 1.3 The Examining Authority (**ExA**) invited the Applicant to respond to the matters raised and the Applicant confirmed it would respond in writing after the hearing.
- 1.4 This document seeks to also fully address the representations made by the Interested Parties at the CAH1 on Wednesday 8th March 2023.
- 1.5 The Applicant has responded to the issues raised by each attending party and provided cross-references to the relevant application or examination documents in the text below. The document is supported by the following Appendices:
 - 1.5.1 Appendix 1 – Section 35 Request and Advice received
 - 1.5.2 Appendix 2 - Report to the Board of Directors of The North Lincolnshire Green Energy Park Limited
 - 1.5.3 Appendix 3 - Signed Minute of a meeting of the Board of Directors of The North Lincolnshire Green Energy Park Limited

2. THE APPLICANT'S SUBMISSIONS IN RESPONSE TO MATTERS RAISED AT CAH1

sub	Questions / Issues Raised at CAH1 and Hearing Action Points	Summary of Applicant's Response at CAH1	Applicant's Written Response
Agenda Item 2: The statutory conditions and general principles applicable to the exercise of powers of compulsory acquisition			
(a)	The ExA asked the Applicant to provide its position in regard to the justifications for the associated development in relation to the need for compulsory acquisition. In particular how the associated development complies with legal tests?	<p>The Applicant stated that section 122 of the Planning Act 2008 sets out the legal test for the inclusion of compulsory acquisition powers. In response to the ExA's question about providing a position, the Applicant confirmed that the inclusion of powers is required for the development meeting the test in section 122(2)(2)(a). All land is required, and the associated development is necessary as part of the overall scheme. The NSIP project itself being the ERF facility but all of the other aspects of the scheme are required for the scheme.</p> <p>Having regard to Associated Development guidance¹ land required for that element of a scheme can be included in the necessary powers for compulsory acquisition – there is no distinction drawn between whether it is the NSIP or Associated Development. The Applicant referred to paragraph 3.3 of the Statement of Reasons (REP5-012), which sets out the associated development to support the operation of the NSIP. The Applicant confirmed that this comprises of the bottom ash and flue gas residue handling and treatment facility, concrete block manufacturing facility, plastic recycling facility, hydrogen production and storage facility, the electric vehicle and hydrogen refuelling station towards the south of the site, battery storage, hydrogen and natural gas ground installations and also the new access road and parking through the site, gateway, visitor centre, railway reinstatement works and then the northern and southern district heating networks. The Applicant also referred to various other aspects including habitat creation, public rights of way, SuDs and utility construction and diversions. The Applicant confirmed that the overarching aim of the project is to support UK's transition to a low carbon economy set out in paragraphs 3.6 and 3.7 of the Statement of Reasons (REP5-012). Taken as a whole,</p>	The Applicant has no further submissions.

¹ Planning Act 2008: associated development applications for major infrastructure projects (published by the former Department for Communities and Local Government, April 2013).

		and the project's aim to directly respond to the urgent need to decarbonise UK energy supply and reduce the amount of landfill. That provides the overall justification for the inclusion of each of those elements for the associated development as part of the project.	
	The ExA asked the Council if they had any submissions or observations they would like to make in relation to the case for compulsory acquisition under Section 122 and whether there is any concerns or case for this.	North Lincolnshire Council confirmed that they were applying context for their use of assets and deployments, and how the Council has to fulfil economic strategy. The economic strategy details how the Council use their assets to create jobs, specifically as many as they can for each site. The narrative that's been applied by Applicant suggests not all of the sites in the Council's ownership have direct employment attached to each of those and that's the context for which they'd submit and part of how we deliver economic plan and for the area. The Council stated that on these sites they have contractual obligations via leases and have sites that are currently engaged and employed as part of supporting existing local businesses. As to whether these could continue to operate if those sites were forced to be surrendered, some would require relocation which would be a matter of concern. The Council has contractual obligations in relation to waste. The Council has obligations on sites currently not occupied to secure direct employment that would employ local people.	The Applicant supports the ExA's request that the Council specifically set out any basis of objection to the acquisition of their land which the Council confirmed that it would be making submissions in writing.
	The ExA commented that they would like to keep to the agenda and was asking the councillor to respond to specific tests in s122 and was not clear from the Council's view that this has been met. The ExA asked the Council whether they have any concerns or arguments that particular parcels of land or as a whole tests are not met.	The Council said that they can only comment on economic impact of the Council not retaining their land but can't comment on other parcels of the land which are linked to other elements of development. Ultimately the consequence may be economic impacts on other businesses on other sites that would have to be met in other places, that would be the Council's position but there are no specific points on this.	The Applicant has no further submissions.
(b)	The ExA asked specific questions on reasonable alternatives to compulsory acquisition at Questions 7.025 to 027, including modifications explored and the Applicants responses were set out in REP2-033. The ExA asked the Applicant	The Applicant confirmed the alternatives to compulsory acquisition in relation to seeking to acquire by agreement there is an update since first round of questions. Suggested they could provide an update in relation to specific landowners or generally.	The Applicant has no further submissions.

	to clarify whether there is a further update.		
	<p>The ExA asked for a general update on discussions with objector landowners. In the first questions the ExA has asked for a schedule to be provided in a table format, this was not completed albeit a different table had been supplied. For the next deadlines complete the table for the latest position to make clear objections and stages of resolving these.</p>	<p>The Applicant confirmed that a table will be completed for the people that have registered relevant representations that have land holdings within the red line boundary. The Applicant has reached agreement with Rainham Steel and believes they are withdrawing their representation.</p> <p>Rajan Marwaha purchased the property but didn't complete the registration at Land Registry. As such he does not have the legal title. The Applicant has offered legal assistance to try and reach that point and is in regular discussions with him. The ExA walked past Bellwin House during the site visit – the Applicant hopes this will be resolved this, but he must complete the title before the Applicant can complete discussions or offer settlement.</p> <p>Mr Green, landowner of Church Farm – met with him, has now instructed an agent which has moved things forwards. The Applicant is in regular contact with the agent and prepared and issued heads of terms to Mr Green.</p> <p>In relation to AB Agri the Applicant met with the board of directors. The Applicant is seeking only temporary possession of a small part of AB Agri's land for construction for a flood wall outside of their land which is operational, which will be in their benefit. This site was viewed on the site visit. The Applicant noted it was in discussions around the flood mitigation wall to see if this could be removed.</p> <p>Of the other landowners, 92.6% by area now under agreement or heads of terms agreed but this does not include the Council. The Applicant has been in discussions with the Council since 2019 and has had good communication and hopes to reach a settlement with them if at all possible. The Council has not until very recently raised an issue with the purchase of the land and no written representation on this point has been submitted.</p>	<p>The Applicant has completed Table 1.3 within the Compulsory Acquisition Schedule (Document 9.3 Rev 5) submitted at Deadline 6 which sets out those persons who have land interests within the red line boundary and who have registered relevant or written representations.</p>
	<p>ExA asked the Applicant whether they can clarify the position for Jotun Paints and Bagmoor Wind.</p>	<p>The Applicant confirmed that in relation to Jotun Paints the parties have engaged on numerous occasions, have statement of common ground with them and there will be heads of terms. This relates to a small area of land that is required for construction and easements. The Applicant believe that Jotun Paints now has a better understanding of what that is. Jotun Paints raised concerns of the COMAH status of its site but the Applicant has had a</p>	<p>The Applicant has no further submissions.</p>

		<p>lot of discussions about that and around health and safety, including engaging with North Humberside Fire and Rescue. The other issue was in relation to restriction of access, but the Applicant believes it has made them comfortable with this.</p> <p>Bagmoor Wind's interest relates to an easement across the railway line for their HV cable. In relation to this it has been agreed with Bagmoor Wind that the Applicant will work with Bagmoor and prepare a statement of common ground.</p> <p>For British Steel a meeting has been held on site with engineers and asset managers and the Applicant was supplied with all the plans for their assets on 7 March 2023. The Applicant will be addressing British Steel's concerns under a statement of common ground, which is also concerned with business-critical assets. These assets were not originally listed on the title documents as there are no known easements, but we now have the plans and can update the relevant documents accordingly. The Applicant will be looking to cause as little disruption a possible to these assets.</p>	
	<p>ExA asked British Steel to clarify if there is any point they wished to make.</p>	<p>British Steel confirmed they agree with everything stated by the Applicant and that the engagement had been useful and productive. If this continues British Steel does not see a problem in the future.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA came to the Council and queried why they had not objected formally as a landowner. The ExA asked for the position on this.</p>	<p>The Council confirmed that the position is that they won't be able to make agreement on any areas of the land for several reasons –first one already referenced in relation to economic strategy. The Council has direct jobs that need to be delivered on existing sites, they are working on or have negotiations with, or contracts agreed on some of the sites that are affected. Either by virtue of the fact that the sites have been allocated Phoenix Park Way namely 3 sites there all of which have associated developments that are linked to economic investments in the area.</p> <p>The Council confirmed that attempts had been made by the Applicant but would not be in a position to seek or make arrangement with the Applicant.</p> <p>The Applicant responded to the Council's position above in relation to the significant number of jobs created by this scheme both on the Council's land and third-party land. Referred the ExA to document APP-062 at paragraph 8.2.18. The fact that 3,500 jobs estimated to be created during construction</p>	<p>The Applicant has no further submissions.</p>

		and 290 during the operation of overall project, both on council land and will help them fulfil economic obligations in terms of economic strategy as well as on land owned by third parties – significant net increase on employment in this area.	
(c)	ExA referred to the written response for Q.7.0.20 provided by the Applicant that gave them an explanation in relation to the parameters and limits of deviation. Asked for the Council view on concerns in relation to flexibility of limits in relation to compulsory acquisition tests being considered.	The Council had no comments.	The Applicant has no further submissions.
(d)	<p>ExA explained that in the guidance for compulsory acquisition there should be compelling evidence that the public benefits from compulsory acquisition outweighs the private loss that would be suffered by those whose land is to be acquired. Written questions were done on this at 7.0.22-24. Asked the applicant to confirm the main public benefit as you see it that the project will deliver.</p> <p>The ExA followed this with a comment that the scheme will generate up to 95MW of energy but not just a scheme for energy for waste plant. Asked whether there are other benefits that should be taken into account when looking at the public benefit beyond energy.</p> <p>ExA confirmed that it important to do this as scheme is made up of several component parts each influences area of land seeking to compulsory acquire, the need argument for energy potentially doesn't cover the component parts and</p>	<p>The Applicant responded that the main benefit is as set out earlier - the overarching objective of the project in order to support the UK's transition to a low carbon economy, and also the fact that energy is vital to economic prosperity and social wellbeing all set out in EN-1. The test in relation to compelling case is set out in paragraphs 7.40-7.44 Statement of Reasons REP5 -012 and have already referred to this. The Applicant's position is that there is a compelling case in the public interest for the scheme to be delivered. It being vital to economic prosperity. The Applicant does acknowledge there may be impacts on individuals as well as part of the compelling case and balance to be weighed up by the decision maker. But its assessment in the Statement of Reasons is that there are significant public benefits that arise which would outweigh any harm to those individuals. This has already been referenced to in some agreements that have been reached in order to deal with any concerns affected persons may have.</p> <p>The Applicant identified different parts of the scheme that would be created. Other benefits include decarbonisation through district heating network, significant employment benefits, asked ExA if they would like them to go through and identify the specific benefits of the scheme.</p> <p>The Applicant suggested that they will find a way to respond to this formally as it is an important point. The Applicant is seeking to deliver an infrastructure that supports the local economy – in relation to reinstatement of railway, we've already had interest from British Steel who would like use of the reinstated private railway, have interest from Vossloh Cogifer a large</p>	The Applicant has no further submissions.

<p>to make your argument in full is important in our consideration of these tests for compulsory acquisition.</p>	<p>employer for business in the Scunthorpe area who are a major supplier to Network Rail and are interested in the concrete manufacturing and in particular carbon dioxide impregnated concrete, called green concrete for use for Network Rail's concrete sleepers. Their nearest rail loading point is Northampton, so they are interested to be able to load trains from the site and take supply of concrete products (being 280,000 tonnes of concrete products coming out of using the bottom ash and fly ash). Looking at all of these things, including the interest of the Port, and looking to maintain them as transport links both for the rail and for other businesses that currently use this. The Council mentioned that some of the businesses would be displaced. The Applicant is working hard to relocate Rainham Steel who want to have greater use of the Port, both for bringing goods in by rail and by boat. The Port would become a hub of good infrastructure. As the locals will know power supply is a major issue which is part of the reason that we are looking to install the district heating and private wire network – offered power to British Steel, including hydrogen power in the move towards green energy. Lastly looked at biodiversity net gain and have looked to increase public access to green spaces. For example, joining up footpaths and cycleways and infrastructure is to be installed to recharge vehicles. The Applicant has tried to integrate all of those things.</p> <p>The Applicant drew the ExA's attention to the Funding Statement REP2-012 clause 2.2. There is further information on policy alignment of the project, including the support of the UK government's objectives detailed in the waste and low carbon policies. These waste strategies are based around the principles of circular economy with a focus on resource recovery and waste management. This project has been directly aligned with the policy with the inclusion of the ERF to create energy from residual waste streams and diversion from landfill to minimise greenhouse gases, improve plastic recycling, concrete manufacturing plant to address waste hierarchy concerns over ERF by-products and to create valuable by-products. The UK Government's 10 Point Plan for a greener industrial revolution sets out the ambition for the country to further develop the green economy. This project has been structured to align with those objectives of planning and the plan includes production of non-intermittent low carbon hydrogen energy for electricity and heating, greener buildings for lower carbon district heat network contributing to 5GW hydrogen production target by 2030 and investing in carbon capture usage and storage. The project is also a</p>	
---	--	--

		<p>member of the East Coast cluster which is seeking to bring forward carbon pipeline forward in the area.</p>	
		<p>The Applicant introduced its planning justification for the development and how the two aspects of planning justification and compulsory acquisition justification are inextricably linked albeit subject to the different tests which apply. The Applicant outlined further the planning justifications for the scheme which are associated development because that justifies the Applicants case when it comes to compulsory acquisition as to why it is bringing forward those aspects of the scheme as part of a comprehensive project.</p> <p>Some of the points that were going to be mentioned were made previously by the Applicant. It was considered useful to explain why elements of the scheme proposed in addition to the ERF meet important aspects of government policy. This is also part of the planning case but is also part of the compelling reasons for compulsory acquisition, in that these additional elements are addressing important aspects aligning with policy.</p> <p>Turning to plastic recycling facility that is addressing an important part of government policy in meeting the waste hierarchy set out at paragraph 5.14.2 EN-1, which sets out priorities for managing waste and recycling, which is an important step in the hierarchy below prevention and re-use and is clearly something the government is trying to maximise - this has been covered in other hearings. By including this in the scheme within the overall development the project is ensuring more plastic would be recycled than would otherwise be, enabling it to be source segregated. What happens often is that plastic makes its way into the RDF, but in this case, it can be separated and thus recycled and moved up the hierarchy.</p> <p>Hydrogen is growing in importance in terms of government policy, it was first set out as an ambition in the Net Zero Strategy delivering 5GW by 2030. Then the Ten Point Plan referred to by the Applicant earlier, and then increasing the ambition in the British Energy Security Strategy 2022 to 10GW. Hydrogen production and use is clearly something that the government wants to focus on and increase where possible and so including this within the scheme addresses an important policy requirement as well as being an overall benefit of the scheme.</p>	<p>The Applicant has no further submissions to make at this stage but will be submitting further details of the Applicant's justification for the separate parts of the associated development this at Deadline 7.</p>

	<p>Turning to the district heat and private wire network (DHPWN), this is something strongly supported and required by policy in relation to ensuring that projects are CHP enabled from the outset. In this case, turning to the two parts of this project we have the northern part of the network which, as has been explained previously, is effectively maximizing efficiency of the trenches required to enable grid connection and doing so serving Scunthorpe and existing future development. The southern branch serves new development to the south of Scunthorpe. Planning permission was granted for 2500 homes to the south of DHPWN in August 2021.[Post hearing note – the application referred to is PA/2015/0396 granted on 5th August 2021 for “<i>Outline planning permission for the development of up to 2500 new homes including a village centre (Use Classes A1, A2, A3, A4, A5, B1 and D1), a health care facility (Use Class D1), community facilities (Use Class D1), a 3 form of entry primary school (Use Class D1), new roads and footpaths, informal areas of open space, play spaces and new wildlife habitats, water bodies and wetlands with all matters reserved for subsequent approval.</i>”</p> <p>For rail works in addition to the benefits referred to, connection to rail is an important part of Government policy which requires us to make the best use of existing infrastructure and in this case, there is an existing rail spur which with relatively limited works can be brought back into use. NPS EN-3 encourages multi modal transport at paragraph 2.5.25. This states that decision takers should expect materials to be transported by water or rail wherever possible.</p> <p>Finally, proposals for battery storage which is another part of the scheme. The British Energy Security Strategy strongly recognises the need for battery storage. That it is a fundamental part of meeting Net Zero, which is important for both the resilience and security of the energy network both through managing peaks and troughs and holding power and delivering to network where needed. The Applicant states again that the battery storage element is addressing an important aspect of Government policy.</p> <p>Aspects which have not been touched on yet are additional areas proposed for landscaping, wetland and Biodiversity Net Gain (BNG) – this is also addressing an important part of policy with the scheme achieving 13.7% BNG. As discussed previously it is an important part of the project to deliver</p>	
--	---	--

	<p>environmental improvements to the area and provide for a holistically sustainable scheme.</p> <p>The above benefits and policy justification are also referenced in the Planning Statement REP2-017.</p>	
<p>The ExA responds asking the Applicant to provide a written explanation focussed on the compulsory acquisition tests. Understands the planning arguments made about the broader planning benefits but the compulsory acquisition test is slightly different and has a high bar that needs to be met to demonstrate safely for the Secretary of State to agree compulsory acquisition powers. As the scheme is including numerous elements that are not specifically referenced as nationally significant infrastructure projects in themselves. Explains that's why he is pushing the Applicant to explain fully the extent of the land seeking to acquire in support of the whole project and the individual component parts that are not necessarily national infrastructure in themselves.</p>	<p>The Applicant confirmed that it would respond in writing.</p> <p>The Applicant clarified that they did seek direction from the Secretary of State in the form of Section 35 advice with regards to the associated development and the Secretary's opinion on what should be included in the application. This was done before embarking on the Application. [REDACTED]</p>	<p>Please see attached at Appendix 1 the Applicant's request for a section 35 direction and the responses from the Secretary of State for Business, Energy and Industrial Strategy and the Secretary of State for Housing, Communities and Local Government.</p>
<p>The ExA asked the Applicant whether it is correct to interpret the overall public benefits the ExA should rely upon on them as whole.</p>	<p>The Applicant agreed that is the correct justification to rely upon for the project as a whole. What the compulsory acquisition does not do is draw a distinction between any justification for associated development as against the NSIP as a whole. Offers to provide a list now or in writing of other projects where the associated development is authorised for compulsory acquisition as part of the overall project even if the associated development forms a large or small element of the overall project.</p>	<p>The Applicant has no further submissions.</p>
<p>The ExA asked about the other part of the equation in relation to private loss. The Applicant made a response to this at Q7.0.23 you also referred the ExA to socio economic chapter of the</p>	<p>The Applicant responded that as already indicated they acknowledge that there may be impacts on individuals and businesses as a result of the project but does consider that the significant public benefits outweigh the private loss. To assist with that understanding what the Applicant has always sought to try and minimise the extent of land that might be required.</p>	<p>The Applicant has no further submissions.</p>

<p>Environment Statement APP 062 and the planning statement. Asked whether the environment statement in effect is the only assessment of private loss that's been carried out or are there any later assessments that have been made?</p> <p>The ExA asked how the Applicant had assessed the private loss, how have they judged the impacts on individuals and how they have made these judgements?</p>	<p>Wherever possible has sought to reach agreement with those owners and sought to mitigate those impacts on those persons. The ExA had heard from the Applicant in relation to AB Agri and Jotun Paints on how the Applicant has sought to address the concerns that they may have in relation to impacts during construction. The Applicant offered to go through each of the affected persons on how the Applicant has sought to address that loss and could cover for example Wharfside Court where the Applicant has reached agreement to seek the relocation of local businesses should they wish to do so and has engaged with landowners to accommodate continued employment and current uses taking place there.</p> <p>The Applicant confirms that through engagement with affected persons it has sought to understand extent of the land that is required. But also where there are occupational businesses affected have engaged with those to understand what that impact is and how they can then address that private loss. The extent to which terms have been agreed either or agreements with head of terms agreed is quite extensive. Assessing the private loss has been based upon the Applicant's knowledge of the impact that would arise on those businesses and land owners affected by the scheme, The Applicant has been able to address any private loss that arises through negotiation and reaching an agreement with or has exchanged heads of terms which have been agreed with those parties such that they themselves don't consider that the private loss can't be addressed by the applicant.</p>	
<p>ExA followed this with turning to the balance between public and private loss, have you set how the latter overwhelmingly outweighs the former?</p> <p>The ExA asked if there is somewhere setting out how the Applicant has balanced one against the other. Appreciates the view that there is a strong case in the public benefit but is not seeing how this has balanced against one another.</p>	<p>The Applicant aimed to provide a strategic overview of how the Applicant has engaged with those landowners to address any private loss that arises. They have undertaken a review of several cases in relation to private loss and has looked at the situations of private individuals. It has considered from a financial perspective what they may be entitled to claim under the compensation code. In many ways the financial contributions offered have gone and above and beyond the guidance.</p> <p>The Applicant responded that this has set this out in the Statement of Reasons, set out from section 7.40 in terms of the compelling case addressing the balance between the public benefit and private loss.</p> <p>The Applicant stated that the detailed analysis was not set out in Statement of Reasons and proposed to follow this up in writing with the analysis that was undertaken and how the Applicant obtained the information about</p>	<p>Please see the Applicant's further submissions at Appendix 2, and in particular at Appendix 5 of the same document which sets out the Applicant's assessment of private loss against the public benefit of the DCO being granted.</p>

		private loss as summarised to be able to undertake the assessment of balance.	
3. Whether there is a reasonable prospect of the requisite funds becoming available			
(a)	The ExA asked whether there had been any update to the cost estimate of undertaking the project since the Applicant's initial assessment and is there going to be a further update before the close of examination.	The Applicant provided that there has been additional work since the first publication update and could undertake to make a submission by Deadline 7.	The Applicant has no further submissions.
	ExA acknowledged that they were all aware of inflationary pressures and increase on costs. Already said it's an outturn-based estimate so will have already factored in inflation. Asks whether it is fair to say that the Applicant will factor in more inflation in the next estimate.	The Applicant contended that it is a complicated process with various changes in market conditions and supply chains etc. The Applicant agreed that it is fair to say that would be considered and also to be considered is despite the pressures of inflation in terms of cost of electricity prices which have also increased substantially. When looking at the business model as a whole it is probably improved rather than diminished.	The Applicant has no further submissions.
(b)	The ExA referred to the response to the written question Q.7.28 also set out in the updated Funding Statement at deadline two where the Applicant confirms that sufficient funds are on account and there is no reliance upon grant funding applications. The ExA asked whether that remains the case. The ExA asked if any other financial bodies had agreed to make a financial contribution or underwrite the scheme at this stage.	The Applicant responded that there are sufficient funds on account for the compensation claims and there is no reliance upon grant funding applications. The Applicant confirmed that they are in negotiations with multiple parties and whilst subject to confidentiality, offers have been made for equity contributions towards the project. This follows the normal course of project funding with any financial investment decision dependent on the consent for the project.	The Applicant has no further submissions.
	The ExA referred to the compulsory acquisition guidance at paragraph 18 which states the timing of the availability of the funding is also likely to be a	The Applicant confirmed that the phasing plan is unchanged.	The Applicant has no further submissions.

	relevant factor. The Applicant has submitted a phasing plan, ExA asked whether this remains feasible and on track since the initial draft.		
	The ExA asked if the Applicant could provide an update on the anticipated timing of what the Applicant referred to as 'final investment decision' and whether that has any implications for the phasing plan and availability of funds.	The Applicant responded that in order to reach the final investment decision they will have to wait for the determination of the application. Given the current timeline of proceedings anticipate this to be sometime before Christmas but appreciate the timetables don't always go as planned. There is a detailed articulation of how the project would then be brought to a financial close and EY have been appointed as financial advisor, with experience in this field.	The Applicant has no further submissions.
	The ExA referred to Applicant's response about things being achieved at certain points. Asked whether there is a range of likely outcomes for that timing post if the order was granted, what range of timelines would be realistic.	The Applicant thought that it would be realistic to assume a 12-month period to reach a financial close, assuming consent. Given the complexity of the project probably 12 months.	The Applicant has no further submissions.
4. Whether the purposes of the proposed compulsory acquisition are legitimate and would justify interfering with the human rights of those with interest in the land affected			
(a)	The ExA asked the Applicant to set out the approach it has taken in assessing the proposed development relative to Articles 6, 8 of the European Convention on Human Rights and Article 1 of First Protocol.	<p>The Applicant confirmed this is set out in paragraph section 9 of the Statement of Reasons and the approach that has been taken covers all three articles. The decision maker has the duty to consider whether the exercise of the powers engages with Convention rights, but it is for applicant to set out its justification.</p> <p>The Applicant accepted that the order if made may infringe upon these human rights of persons who hold an interest in the land. The Applicant considered that it is important to emphasise that it is possible to interfere with the human rights of persons affected if it can be justified and if there is compelling case in the public interest, which has been made earlier and the Applicant has agreed to follow up in terms of weighing the private loss. The test of proportionality is satisfied if the order strikes a fair balance between</p>	The Applicant has no further submissions.

		<p>the public benefit and interference with the rights in question. The Applicant considered there would be public benefits arising from the grant of development consent and the benefit is only likely to be realised if this includes compulsory acquisition.</p> <p>The Applicant referred to what had been said earlier in terms of the extent to which agreement has been reached either through exchange of agreements or with agreed heads of terms. The Applicant considered the extent to which it would be necessary to exercise compulsory acquisition over land affected to be quite small as a proportion of the overall land interests affected. The Applicant has put forward its case about the significant public benefit arising from the scheme and the impact on persons affected through negotiation and understanding of impact on businesses. For example, the steps that have been taken to relocate Wharfside Court in order to maintain employment.</p> <p>As part of balancing test and justification for any interference what we must also be alive to is the fact that there is a statutory Compensation Code and the entitlement to compensation for affected persons does also weigh in the balance that any interference with HR can be compensated through compensation. The Applicant's put forward Mr Rushton who set out his assessment where offers had been pitched. The Applicant is fully aware that the Secretary of State will want to be satisfied that attempts to acquire by agreement have been made and compensation offered. Mr Rushton indicated that the level of compensation has been pitched higher relative to what an affected person might be entitled to receive under the Compensation Code. The requirements for compensation to be paid mean that Article 1 is not contravened. In terms of Articles 6 and 8, the fact that agreements have been made to be reached with affected persons means there won't be a breach of aspects of human rights. On that basis the Applicant considers that the inclusion of compulsory acquisition powers is justified and don't constitute any unlawful interference with Convention Rights of affected person.</p>	
	<p>The ExA asked a follow up question for the Applicant to confirm that no residential properties are to be acquired or directly affected by compulsory acquisition or temporary possession.</p>	<p>The Applicant confirmed that no residential properties are affected directly or indirectly.</p>	<p>The Applicant has no further submissions.</p>

(b)	The ExA asked whether the Applicant has considered the existing uses of the land to be compulsorily acquired and the interests on private interests. And could the Applicant point to where that is set out in submissions.	The Applicant responded it had described the approach that had been taken in relation to understanding the impacts on the businesses affected and attempts to address their concerns. The Applicant confirmed that this is something that will be followed up in writing. The extent to which it will be necessary to rely upon Compulsory Acquisition has reduced significantly since the application was made and the application documents were prepared, as is seen in the compulsory acquisition schedule (REP5-033). This details where agreements have been reached, but the existing uses themselves are set out in the Environmental Statement. As Glanford House (owned by the Council) is vacant The Applicant has weighed up the balance of the employment that would be created as against the loss on the site – which is vacant. Employment on the site would support the Council's position of generating new employment.	Please see Appendix 2 of this document, and specifically Appendix 5 (Assessment of Private Loss) within the same.
	The ExA asked what influence has been attributed to the existing uses of the land proposed to be acquired in assessing whether any interference will be justified and why.	The Applicant responded as part of the Statement of Reasons overall justification for those uses, on that basis the Applicant contributes a high importance of the proposed uses forming part of the project.	The Applicant has no further submissions.
(c)	The ExA referred to the Statement of Reasons, that in pursuing the DCO the Applicant states the balance has been struck between individual rights and wider public interest. What factors have been placed in the balance including references in the relation to the NPS and government guidance and weight attributed to those factors and how the exercise has been undertaken.	The Applicant confirms they will produce a table of each of the relevant NPS paragraphs that appear to the extent that they are not in the Statement of Reasons and will bring together a comprehensive list of all of the application documents and signpost the ExA.	The Applicant has no further submissions to make at this stage but will be submitting this document at Deadline 7.
	The ExA invited comments from the Council in relation to this point.	The Council responded in relation to Glanford House being mentioned. Their strategy in terms of securing investment on employment on sites not dissimilar to Applicant's development. The Council said at is stands they are continuing to secure best value for taxpayers, have people interested in land and continue to do this within their core values. Added the view that there would be some displacement should the land be acquired by the Applicant, land is not exhaustive and have to try and find suitable sites and this may have an impact on the employment market locally who can't	The Applicant has no further submissions.

		<p>relocate within North Lincolnshire. Believed this to be something they need to address as part of their obligation as local authority.</p> <p>The Applicant responded to the Council that they have made clear any intention to relocate businesses would take place within North Lincolnshire and the objective was to be able to secure relocation in this area and administrative boundaries of North Lincolnshire. The Applicant cannot go into the specifics because of confidentiality as to the sites which could be identified, and heads of terms have been agreed which are acceptable. Terms have been agreed which are acceptable to those landowners for them to identify sites for relocation should they wish to do so.</p>	
	<p>The ExA took the view from what the Council said that it was a different point. In terms of displacement the loss of the employment land that would result. Took the view that the council was saying they needed to find other employment land elsewhere.</p>	<p>The Council responded to the ExA that the answer was effectively yes and no. There would be a need to have land to displace to, as the Applicant has picked up on, due to existing business' needing to relocate. There were also specific challenges in relation to land that is occupied at specific sites: particular reference was made to their former composting site, quoting NLGEP plot 5-16. This is a specific site in the Applicant's application boundary which is particularly important due to its location in the vicinity of an existing business that uses it as a storage site. Any comparable site would need to be as close as possible to avoid additional operative costs. This was noted to be just one aspect of the consideration here.</p> <p>When asked if they had any comments to add here, the Applicant agreed with the ExA that this was better covered under CAH1 Part 2. They would like to make comments on the Council's points made but did so at Part 2.</p>	<p>The Applicant has no further submissions.</p>
<p>5. Consideration of duties under the Equality Act 2010</p>			
	<p>The ExA asked the Applicant how they have regard to any duties under section 149 of the Equalities Act 2010 in relation to compulsory acquisition powers sought and where this can be identified in the Environmental Statement.</p>	<p>The Applicant responded that as a starting point under section 149 of the Act is that the Public Authority must have regard to the provisions which are to eliminate discrimination, harassment, victimisation or any other conduct, advanced equality of opportunity and foster good relations between persons. The duty falls upon decision maker and for applicant to assist the decision maker. The Applicant summarised protected characteristics, age, disability, gender reassignment, pregnancy, maternity, race, religion or belief, sex or sexual orientation. The Applicant does not have this responsibility to undertake this assessment but will do this as it is a responsible employer and has a duty to engage in discussions with</p>	<p>The Applicant has no further submissions.</p>

		landowners in a fair and responsible manner. In exercising its functions with negotiations with persons that could be affected by the scheme. The Applicant has confirmed as result of extensive discussions with landowners and other interested groups no specific characteristics have been identified, as part of the development and negotiation there has not been any identified. For example, some adjustments have been made in relation to communication with one particular landowner, not because of any particular protected characteristic but because their clear preference was not to correspond in writing, alternative means have been exercised to engage with that landowner. As part of the development and negotiation of the scheme there has not been any protected characteristics identified. As part of ES Chapter 14 (APP-062) that sets out details of information in relation to the demographic of the population. The Applicant is conscious when it comes to duties under the Equality Act that they are bound by confidentiality and data protection. Confirms there are no protected characteristics that have been identified that would mean the Applicant has fallen foul of obligations under the Act.	
	<p>The ExA confirms it understands what the Applicant has said in terms of negotiations with the local community but in terms of the project itself and implementation asked are there any issues that they should be aware of for individuals with protected characteristics.</p> <p>ExA stated that they had another question as to whether the Applicant identified any affected persons with protected characteristics. Confirmed the Applicant already answered this.</p>	The Applicant responded that there is nothing specific at this stage. Will take away as an action to identify any provisions within the Application documents whether any assessments have been made for affected persons beyond what has been referred to. Added in terms of benefits to the scheme improved connectivity in relation to the site will mean that for person who may protected characteristics such as a disability will be able to access improved footways, is an improvement to the scheme. Confirmed the Applicant will add that to action list in relation to implementation impacts on affected persons.	Please see paragraphs 7.16 to 7.20 of the Board Report at Appendix 2 of this document for the consideration of the Project against the Equality Act.
6. Sections 127 and 138 of the PA2008 – the acquisition of statutory undertaker’s land and the extinguishment of rights and removal of apparatus of statutory undertakers			
(a)	ExA asks whether they are correct in saying no compulsory acquisition of statutory undertakers land proposed.	The Applicant confirmed that there is land within the Order Limits in which Statutory Undertakers have rights but there is no land in which statutory undertakers own hold the freehold.	The Applicant clarifies that Plots 2-6 and 8-3 are owned by Network Rail Infrastructure Limited as freehold owners.

	<p>Asked the Applicant to set out and explain the position in regard to S127.</p>	<p>The Applicant's position is that Section 127 of the Planning Act 2008 is engaged as there is land held by statutory undertakers for the purpose of their undertaking this land is included in an application for an order granting development consent and the statutory undertaker has submitted a representation to the Examination which has not yet been withdrawn.</p> <p>Under section 127(2) an order may only authorise the compulsory acquisition of statutory undertaker land where the Secretary of State is satisfied that:</p> <ul style="list-style-type: none"> • The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or • If purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking <p>This also applies in relation to the compulsory acquisition of rights in land as well.</p> <p>The Applicant's position in relation to section 127 is that the inclusion of compulsory acquisition powers affecting statutory undertakers land would not cause serious detriment to the affected statutory undertakers.</p> <p>As such section 127(2) would allow for the compulsory acquisition of such land. The Applicant reminded the ExA that the position in relation to statutory undertakers was provided at ISH4 in respect of protective provisions and negotiations with those parties. Only one point remains outstanding. The protective provisions do deal with acquiring rights in land and on land that is owned by statutory undertakers. These have been agreed as to the provisions requested by the statutory undertakes that would afford adequate protection to them. Have not yet reached final agreement but if not reached the Applicant confirms it is looking to submit its preferred form of protective provisions. The points in the protective provisions that are in agreement would deal with Section 127. Therefore, the Applicant is satisfied that there would be no serious detriment.</p> <p>The Applicant hopes that agreement may be reached with the statutory undertakers before the close of the examination but in the event that agreement is not reached, the Applicant agreed that it would provide its preferred protective provisions and the statutory undertakers will likely provide the ExA with their version too. ExA asked whether each will address those particular tests under S127 and S138 in making clear respective</p>	<p>The Applicant has no further submissions.</p>
--	---	---	--

		positions are in the event they are not agreed. The Applicant agreed that this would be the case.	
	<p>The ExA relies on the Applicant as no Statutory Undertaker is present. Asks the Applicant where dealing with S138. REP5036 which is the Status of Negotiations with Statutory Undertakers, lists relevant undertakers whose apparatus may need to be removed or rights extinguished to facilitate the delivery of the development. For where agreement has not been reached do you have an explanation why the proposed extinguishment of those rights or removal of apparatus is necessary for the carrying out of development.</p>	<p>Section 138 of the Planning Act 2008 applies where an Order includes the compulsory acquisition of land and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus.</p> <p>“Relevant right” means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which—</p> <ul style="list-style-type: none"> (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network. <p>“Relevant apparatus” means—</p> <ul style="list-style-type: none"> (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network. <p>Section 138 states that an Order may include provision for the extinguishment of the relevant right or the removal of the relevant apparatus if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates.</p> <p>The Applicant's position is that in relation to the Scheme, section 138 would be engaged. However, the Applicant's view is that the any removal of apparatus or extinguishment of rights would be necessary for the carrying out of the development. If the development could be done around the apparatus or without removing this, or adding some form of protection the Applicant confirms they would seek to do that.</p>	The Applicant has no further submissions.
	ExA responds that they are seeking clarity in terms of it would be pertinent to ask you and in your engagement with statutory undertakers to make sure if there is a situation where we don't have	The Applicant confirmed if it makes submissions on S138 would include an analysis of plots where their rights are included and position how they are necessary for development seeking to carry out.	The Applicant has no further submissions.

	<p>that final agreement, there is a clear justification from the Applicant on how you meet s138 and for the Undertaker to explain why in their argument that is not the case.</p>		
<p>7. Section 135 of the PA2008 - Crown Land - The Applicant to provide an update in relation to the position on Crown Land and the status of land unknown</p>			
	<p>The ExA stated that the Applicant confirmed no crown land involved, asked whether this was still the case. Question mark is that there are still some unknown plots, ExA want to make sure on those unknown plots weren't potentially in that scenario that the land would revert back to the Crown.</p>	<p>The Applicant answered that in relation to unknown owners this can be complex, but the Applicant does not consider that any land in unknown ownership could revert to Crown land. There is provision within the compulsory acquisition legislation for the process of acquisition of land in unknown ownership by way of going through a due notice process and if necessary, making payment into court to make untraceable unknown owners come forward. The situation in relation to unknown ownership where land is unregistered could include that there may be a claim on this by adjoining landowners. The Applicant knows the interests of all ownership in the land. Not envisaged that it could unexpectedly revert to becoming Crown land.</p>	<p>The Applicant has no further submissions.</p>
<p>CAH1 Part 2 9. Representations from parties who may be affected by the compulsory acquisition provisions in the draft DCO</p>			
	<p>The ExA turns in the first instance to North Lincolnshire Council.</p>	<p>The Council responded that there are several sites that relate to easements for cables, pipelines and other ancillary equipment that we are currently marketing for sale and are close to completion. These are sites off Phoenix Parkway. The Council believes it to be reasonable they would continue with those sales and wouldn't adversely affect arrangements. There are two specific sites:</p> <p>Plot 5-16 which the Applicant is calling the former composting site of lower Flixborough which currently have a contractual commitment on to RMS Trent Ports and continue to be in dialogue with operator of the site it is something that is important to their business. As a local business, the Council is keen to support them in terms of impact on their operations should they be required to surrender their site and this would have an impact on viability of their business the Council is led to believe.</p> <p>The second site is the Glanford House site at NLGEP reference site 5.35. For that site the Council is continuing to seek best consideration in line with</p>	<p>The Applicant has no further submissions.</p>

		<p>the Council's policies and strategies, including the economic development strategy. The Council listed the key sectors, including energy and said that it believes these key sectors will have an importance on how the Council seeks to achieve best consideration for all of those sites.</p> <p>The Council noted that it has had dialogue with the Applicant previously, most recently receiving an open letter on 3 March. The Council noted its own best endeavour is, nonetheless, to continue to secure best consideration whilst also meeting its own strategies to target key development opportunities that align with the Council's values.</p>	
	<p>ExA commented that there a long list of land plots within the DCO land. Asked the council where there are any plots with specific concern or is it the broader point about strategy and duty they were trying to make.</p>	<p>The Council responded that the principal sites within the Council's ownership that were affected were those highlighted. Other than that, the sites require easements for whole range of different aspects. Some of those sites adjacent to those sites currently marketing, It could be a consideration should the purchaser or current occupant consider them to be compromised then that might cause a problem in securing full consideration for those sites. As it stands the issue is with only the sites that have been identified.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA clarifies that former composting site business referred to you have contracted with is that RMS Trent Ports.</p>	<p>The Council confirmed this was correct.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA responds that they have not had an objection from them to the scheme or loss of the site. Asked the Council if that is their understanding.</p>	<p>The Council replied that is their understanding, but the Council has a contractual commitment on the site to at least the end of the year. The Council would be required to meet that lease arrangement.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA comments that they are trying to clarify this. The Council is telling them there is an impact on the business, but the business is not telling ExA that.</p>	<p>The Council commented that conversations with the business are separate and would not be something the Council is able to discuss. The Council reaffirms there is a contract obligation on the business to commit to the site.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA states that it is trying to understand the Council's position with the scheme in the context of the economic strategy. In the Local Impact Report the Council said broadly that its supportive of the scheme in planning terms because of the job</p>	<p>The Council responded that their economic strategy sets out key growth strategies, sector bias. Looking to enhance digital, engineering manufacturing, bias towards energy, food, port and logistics. Sector bias towards are decisions going forward, the Council has a goal to implement policies that create higher paid jobs, and this is the Council's focus.</p>	<p>The Applicant notes that energy sector employment will be created on Council owned land which is currently vacant.</p>

	<p>creation potential. Asks the Council to help the ExA and Applicant understand in the response they are putting forward in relation to the scheme and economic strategy.</p>		
	<p>ExA in understanding the Council's broader approach, in making the assessment you have, asks them have they thought to look at the bigger picture in terms of comparing what this scheme might bring relative to what you might do for individual plots without this scheme.</p>	<p>The Council responded that they have a lot of factors to consider in terms of the different roles of the authority. Purely on the site issue they are continually re-evaluating how to secure the best and most appropriate development for each of their own individual sites. The local authority has a view in terms of the Local Plan which has been considered on previous days and have an obligation to make sure that sites they do have are deliverable and have extensive consultation process around that. Given they have submitted that to the Inspectorate already is part of the considerations in terms of signing off the Local Plan. In terms of the actual decision on the site they are always balancing that best value consideration plus identifying key sectors that will add to the economic impact and job opportunities for residents. Always balance it in terms of every single application site.</p>	<p>The Applicant has no further submissions.</p>
	<p>ExA asks the Applicant if there are any further points.</p>	<p>The Applicant stated that in order to assist the ExA the two sites referred to are Plot references 5-16 and 5-35. It would assist the Applicant if they could understand how what is proposed by the Applicant is in conflict with the Council's economic strategy. The Applicant does not understand the Council's position.</p> <p>In relation to operation of the RMS Trent Port site this is a lease and whether the operator wishes to continue to engage with the Council is not something the Applicant is party to. Firstly, they have not objected which has been said and an update will be provided on where the Applicant have reached with RMS. It was mentioned in discussions with a number of potential purchasers, such as Glanford House and references made for the need to secure best consideration. An offer has been made to the Council and the Applicant would like to clarify how this does not meet the Council's best consideration requirements. The Applicant would be keen to understand whether or not the offer meets the test in relation to best consideration relative to the level offer put forward to the Council for that land.</p>	<p>The Applicant has no further submissions.</p>

	<p>The Applicant further commented that they would like to reiterate their vision for the Project and the development of new jobs is in line with the Council's strategy.</p> <p>The former composting plot under lease by RMS Trent Ports that the Applicant has a voluntary agreement with RMS to acquire the entirety of the site. That is why there has been no objection from them, and they are strongly supportive of the project. Should the Project come forward, this business will flourish because there will be increased tonnage of material either by road, ship or rail. Which will perhaps lead to increased employment in the area.</p> <p>In respect of the Glanford House site, this has been under discussion between the Applicant and Council for several years. The Applicant previously received heads of terms from the Council for the lease of that site but didn't progress further for the reasons probably stated today. The Applicant confirmed that it has made an offer on the site significantly above market value, had an independent valuation conducted and offered a significant premium over and above that valuation. That site has been vacant for many years and has been delisted for Council tax purposes, so it is not an income generating asset.</p> <p>With reference to plots along Phoenix Parkway, those are limited for future uses as they lie under some overhead power cables. They may have some value to adjacent owners, but the Applicant has just applied for hardware for utilities to go in the ground. Not seeking to acquire the freehold ownership of those particular plots.</p> <p>The Applicant stated that they are at a loss to understand how they are at odds with the Council's ambitions. For instance, the full-time jobs that can be created with the Project are highly skilled and well-paid jobs, 260 full time jobs are to be created, in addition to the many thousands of jobs that could be created during construction. With regards to future ambitions for more employment, the Applicant has been in discussions with the Council to bring products in terms of heat or private wire electricity to other sites that may be of interest for development either in Council ownership or to be acquired with the view to creating an advanced manufacturing business park, which is one of their ambitions and there has been much discussions in recent years. The Applicant stated that they were instrumental to helping the Council with parts of the successful towns investment plan application</p>	
--	---	--

		<p>that was awarded to the Council, which hinged around the district heat network and what benefits that could bring to the area in terms of decarbonisation, which is on the Council's agenda and other benefits.</p> <p>The Applicant added that the Towns Investment Fund secured the Council £21 million as part of that funding round and the Applicant was a significant part of that application. The 60-acre advanced manufacturing site that is planned for the Lincolnshire Lakes development, which is also part of the reason for the inclusion of the southern leg of the district heat and private write network, would feed the 6000 houses that are to be developed on that site with planning consent.</p> <p>The Applicant stated they are working with one of the developers on feeding that heat network into those houses. The Applicant said what they were struggling to understand is how the Council's position has changed since 2019 when the Applicant was told that the Project ticked all the boxes in supporting the economic ambitions as well as other items, the Applicant and the Council could work together. The Applicant noted it offered to buy Glanford House at their risk and were told the composting site wasn't an issue because it was on long-term lease with RMS Trent Ports, who the Applicant has an exclusive option already in place with them. What the Applicant has tried to do in the interim is establish a premium position that would offer the best value.</p>	
	<p>The ExA asked the Council to respond to the Applicant's position.</p>	<p>The Council responded to the Applicant. For points of clarity the local authority did secure £21.7 million from the government's town deal. This is a regeneration pot of money which is to be used for and spent in and around the town centre. The Council did consult on appropriate methods of being able to enhance this particularly for schools. How the Council could connect with supporting green energy for local schools and the Applicant was part of that process and the Council welcomed their contributions. What that consultation resulted in is that they moved to a cooperative company that supplied solar panels for schools and continuing to do that. In terms of this proposal, it was not part of the towns deal and sought to meet that in a different way and the co-operative is part that process. The Council is seeking to fulfil legal obligations but also have to make sure that every element of an interested party's interest in their site fits all the other obligations. The Council contends that this is a complex thing to do. There is an offer from Applicant which the Council will continue to consider in the future. They have got an interest as part of their economic development</p>	<p>The Applicant has no further submissions.</p>

		strategy in key sectors and in every site, they have will be marked and measured against these.	
	The ExA tells the Council to reflect on what has happened in the morning. The ExA is not clear on council's basis of objection is against compulsory acquisition, understands the broader principles but the whole process of examinations is to be fair to all parties. The Council had not provided a WR on why they may be against the proposed compulsory acquisition for various plots of land that are potentially affected. May be not able to provide clear reasons today, but asks the Council reflect on that over lunch, whether it would be best to provide detailed response in writing or whether the Council can greater clarity later on.	<p>The Council agreed that they will give the ExA a detailed submission on this in accordance with the timescales.</p> <p>The Applicant thanked the Council for this. Welcomes what has been said. It would assist the Applicant is if they could provide a response to two particular questions</p> <ol style="list-style-type: none"> 1. whether the offer made meets the Council's best consideration obligations; and 2. if the DCO is granted – would the council agree to a sale rather than compulsory acquisition? It would assist the applicant and maybe the examining authority. 	The Applicant has no further submissions.
10. Representations from Statutory Undertakers			
	The ExA checks that no affected persons are present and as they are not brings this part to a conclusion.	-	The Applicant has no further submissions.
11. Any other matters relevant to the Agenda			
	The ExA refers to the reference that was made in relation to some land plots subject to auction – has this happened and other parties are going to be involved or has it remained with the Council.	<p>The Council confirmed there are no sites currently identified for auction.</p> <p>The Applicant clarified that it had been suggested to it that there would be sites going to auction, including Glanford House but it may the case that this never occurred.</p>	The Applicant has no further submissions.
	The ExA both parties have made references to land to the south – in terms of the land interest they may not be directly related but there is reference to a	The Council officer clarified that the planning application for the northern section through Lincolnshire Lakes Limited has now lapsed in terms of the outline planning permission. The other outline planning permission is to the South, for 2500 units, they were very similar in terms of volume and numbers so easy mistake to make. But the one to the south is expecting to	The Applicant has no further submissions.

	company in administration. ExA wants to double check this.	come in and the one to the north has now expired under Lincolnshire Lakes Limited.	
	ExA asks British Steel whether there are any points they would like to make and if they are hoping to reach conclusion on negotiations before the close of the examination.	British Steel re-joined and stated that at this stage continue to engage with the Applicant, they have no particular representation at this stage. British Steel confirmed that it is the aim to conclude negotiations before the close of the examination.	The Applicant has no further submissions.
ExA confirms the action points following this hearing:	1. Final estimate of funding by Deadline 7.		The Applicant will submit this document at Deadline 7.
	2. Expand public benefit on CA tests on each component parts of the Scheme		The Applicant will submit this document at Deadline 7.
	3. The Applicant to provide the ExA with copy of the s35 letter from the Secretary of State and the application for this advice.		Please see Appendix 1 of this Document.
	4. Private loss – how has the applicant weighed this up? How were impacts on business considered		Please see Appendix 2 of this document, and specifically Appendix 5 (<i>Assessment of Private Loss</i>) within the same. In addition, please see the Applicant's Board Minute at Appendix 3 of this document.
	5. The Applicant to complete the table included in the ExWQ1 for the list of those affected by compulsory acquisition or temporary possession.		Please see Table 1.3 of the Compulsory Acquisition Schedule (Document 9.3 Rev 5) submitted at Deadline 6.
	6. An update to be provided for the uses of land and effect of private loss.		Please see Appendix 2 of this document, and specifically Appendix 5 (<i>Assessment of Private Loss</i>) within the same.
	7. Applicant to provide a table of the relevant NPS paragraphs and the balance between individual rights and public benefit.		The Applicant will submit this document at Deadline 7.
	8. Equality duty – how has this been considered and the benefits of the scheme from an equality perspective.		Please see paragraphs 7.16 to 7.20 of the Board Report at Appendix 2 of this document.

12. Close of Hearing

APPENDIX 1

(Section 35 Request and Advice)



20 December 2019

North Lincolnshire Green Energy Park:
Request for a Section 35 Direction

North Lincolnshire Green Energy Park Limited

1. INTRODUCTION

- 1.1 The Applicant, North Lincolnshire Green Energy Park Limited, intends to submit an application for development consent under the Planning Act 2008 (**Planning Act**) to deliver an energy project at Flixborough Industrial Estate, North Lincolnshire (**the Project**). The Project is a nationally significant energy generating station pursuant to sections 14 and 15 of the Planning Act.
- 1.2 Some elements of the Project do not clearly qualify as 'nationally significant infrastructure' or 'associated development' under the Planning Act, and therefore a cannot certainly be included within the development consent application without a direction from the Secretary of State pursuant to its powers under section 35 of the Planning Act.
- 1.3 Pursuant to Section 35(1) of the Planning Act, the Secretary of State may give a direction (a '**Section 35 Direction**') for development to be treated as development for which development consent is required if the development:
 - 1.3.1 is or forms part of a project (or proposed project) in the field of energy [...]; and / or
 - 1.3.2 is a business or commercial project (or proposed project) of a prescribed descriptionand the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with one or more other projects (or proposed projects) in the same field.
- 1.4 This is a formal request for a Section 35 Direction, to be made either jointly or individually (as appropriate) by the Secretary of State for Business, Energy and Industrial Strategy and / or the Secretary of State for Housing, Communities and Local Government, to direct that the following components can be included within an application for development consent:
 - 1.4.1 Energy Recovery Centre of Excellence;
 - 1.4.2 Business Enterprise Park; and
 - 1.4.3 Commercial Glasshouse Development.
- 1.5 This document sets out:
 - 1.5.1 An overview of the Project;
 - 1.5.2 A description of those Project components which qualify as a Nationally Significant Infrastructure Project (**NSIP**), or else as 'associated development' under the Planning Act;

- 1.5.3 a description of those Project components (**the Additional Components**) which do not qualify as an NSIP, or as 'associated development', and to which this request for a Section 35 Direction relate;
- 1.5.4 the Applicant's rationale for incorporating the Additional Components within the Project;
- 1.5.5 the Applicant's justification for incorporating the Additional Components as part of the Project in terms of:
 - (a) the North Lincolnshire current socio-economic context;
 - (b) the North Lincolnshire Council current planning context;
 - (c) the North Lincolnshire Council emerging planning and socioeconomic context;
 - (d) Consultee Support for the Additional Components; and
 - (e) The need for a Development Consent Order
- 1.5.6 a formal request for a Section 35 Direction; and
- 1.5.7 Conclusions.

2. DESCRIPTION OF THE PROJECT

- 2.1 The Project consists of an Energy Recovery Facility (**ERF**) converting up to 650,000 tonnes per annum of Refuse Derived Fuel (**RDF**) to generate a maximum of 95 Mega Watts of electrical output (**MWe**) and/or 380 Mega Watts of thermal output (**MWt**) to provide power, heat and steam on the site of the operating Flixborough Wharf on the River Trent.
- 2.2 The Project will incorporate battery storage, hydrogen production and storage from electrolysis of water, and heat and steam storage. It will also include associated ash treatment facilities, concrete block manufacturing and relevant connections for a district heating, power and gas network to service nearby housing developments. Development at the site will also include the following associated measures to allow access to and from the site by road, rail or river, with a correspondingly reduced environmental impact:
- 2.2.1 an extension to Flixborough Wharf;
 - 2.2.2 the reopening of a 9km single track railway line that connects Flixborough Wharf with the steel works at Scunthorpe;
 - 2.2.3 a railhead complex to handle the RDF and concrete products; and
 - 2.2.4 a new road alignment to facilitate the flow of traffic accessing the site from the south.
- 2.3 Section 3 of this Request provides further information on these associated elements of the Project
- 2.4 In addition, the Project will also comprise an Energy Recovery Centre of Excellence, a Business Enterprise Park and a Commercial Glasshouse Development. Specifically:
- 2.4.1 The **Energy Recovery Centre of Excellence** will comprise a campus of buildings covering up to 10,000 m² and will provide educational facilities including lecture theatres, a base for an apprenticeship programme(s), study space and conferencing facilities. The Centre of Excellence will provide a knowledge and educational centre that will allow visitors to gain a greater understanding of the technologies and processes that are involved in energy recovery, the re-use of resources and the decarbonisation of gas, electricity and heat generation.
 - 2.4.2 The **Business Enterprise Park** will be located adjacent to the ERF, and will consist of approximately 200,000 square metres (m²) of mixed use B1 (Business), B2 (General Industrial), and B8 (Storage and Distribution) development.
 - 2.4.3 The **Commercial Glasshouse Development** will consist of up to 400,000 m² of energy efficient glasshouse units designed to utilise the waste heat and carbon dioxide (CO₂) from the ERF.

- 2.5 Section 4 of this Request provides further details on these additional elements of the Project.
- 2.6 The central ERF element of the Project site will be located at Flixborough Wharf, which is situated within the Flixborough Industrial Estate in North Lincolnshire. Flixborough Wharf is on the east bank of the tidal River Trent, immediately west of the village of Flixborough and within 2km northwest of Scunthorpe.
- 2.7 The overall aim of the Project is to reduce the quantity of waste that goes to landfill and recover energy that would otherwise be lost and facilitate a holistic approach to sustainable and energy efficient development.
- 2.8 The feedstock for the ERF will be RDF, a solid product derived from municipal, industrial and/or commercial waste streams. Solid waste is sorted to remove recyclable material and non-combustibles such as metals and glass at permitted recycling centres before the RDF is delivered. The remaining material that cannot be recycled typically includes biodegradable material and plastics, which are shredded and compacted into relatively homogenous compacted bales of RDF. These comprise a transportable and combustible feedstock with a high calorific value.
- 2.9 The ash produced from the energy recovery process will be treated at high temperature to form an inert aggregate and used on site in the manufacture of concrete blocks. The objective is for the capacity of the concrete block manufacture to be such that zero waste goes to landfill.
- 2.10 **Figure 1** shows the indicative locations for the main components of the Project.

3. NSIP DEVELOPMENT COMPONENTS

3.1 The NSIP: Energy Recovery Facility

3.1.1 The ERF is a generating station, which is intended to have a maximum gross electrical output of 95 MWe. The construction of a generating station falls within section 14(1)(a) of the Planning Act if it qualifies under section 15(2) or (3).

3.1.2 Section 15(2) requires that:

- (a) The generating station is in England or Wales,
- (b) It does not generate electricity from wind;
- (c) It is not an offshore generating station; and
- (d) its capacity is more than 50 MWe.

3.1.3 The ERF meets all of these criteria and it therefore qualifies as an NSIP.

3.2 Associated Development

3.2.1 Section 115 of the Planning Act provides that, in addition to development qualifying as an NSIP, consent may also be granted for 'associated development'.

3.2.2 'Associated development' is development, which has a direct relationship with the NSIP. The Guidance¹ states it should therefore either support the construction or operation of the principal development or help to address its impacts. Associated development should not be an aim of the project in itself but should be subordinate to the principal NSIP development and be proportionate to the nature and scale of the NSIP.

3.2.3 Analysis of those components of the Project (the **Associated Development**) against the tests in the Guidance has been undertaken and the following components are considered to be capable of qualifying as associated development and can therefore be delivered as part of the development consent for the ERF:

- (a) RDF storage for up to 55,000 tonnes;
- (b) energy storage consisting of: 10MW hydrogen, 30MW battery and 120 tonnes steam;

¹ Planning Act 2008 - Guidance on associated development applications for major infrastructure projects April 2013

- (c) electric vehicle (EV) charging and hydrogen refuelling stations for cars, buses and HGVs;
- (d) a heat and power network to supply up to 7,000 homes proposed as part of the 'Lincolnshire Lakes' development allocation to the south of the Project site (see **Figure 2**);
- (e) an office and business centre for the ERF;
- (f) an ash treatment works and concrete block manufacturing facility;
- (g) expansion of Flixborough Wharf from 155m up to 380m;
- (h) the reopening of a 9km railway line and construction of a railhead;
- (i) new road system to improve the flow of traffic between Flixborough Wharf and the wider road network; and
- (j) cycle ways to connect existing and proposed developments to the Project site.

3.2.4 Further details on the more substantive elements of Associated Development to be delivered as part of the Project are set out below:

3.2.5 RDF Storage

RDF storage on the site will facilitate the continuous supply to the ERF with approximately one month's requirement kept in reserve, which equates to 55,000 tonnes. This storage will consist of baled and wrapped RDF, or purpose-built RDF containers which provide the safe transport of RDF by ship, train or road. Storage will be in an enclosed and bunded building under negative air pressure to contain any unwanted odour.

3.2.6 Energy Storage

The project will operate 24 hours a day all year round. To allow for the fluctuations in demand for electricity by the National Grid throughout the day and for seasonal variations, the project will include means of capturing and storing energy from all aspects of the operational processes and to re-use them when there is a demand. Energy storage also provides energy security so that when the plant is shut down for maintenance external demand can still be fulfilled.

The following means of energy storage are proposed.

Hydrogen production - by electrolysis using warm water from the facility, large reserves of energy can be stored when demand on the grid is low or renewable energy generation

from wind and solar generation is high. The Project will have a 10MW production capacity of hydrogen, which will then be stored and used to produce electricity when demand is high, to provide zero carbon fuel for buses and cars, or to be injected into the gas grid to decarbonise gas supplies.

Thermal energy (steam) storage – to balance supply and demand on district heat networks. It will also help to balance the production of steam when there is no demand for electricity and excess steam is produced. The Project will have capacity to store approximately 120 tonnes of steam, which can be used to generate electricity through steam turbine generators and supply continuous heat to the district heat network and other heat off takers.

Battery storage - which can provide resilience to the National Grid and enable the facility to store electricity when the local and network demand are low for release when demand is high. The Project will have battery storage capacity of approximately 30 MWe.

3.2.7 Ash Handling Facility and Concrete Block Production

The ash produced from the energy recovery process will be stored and treated on-site in a facility that will adjoin the ERF. The ash will immediately become feedstock for the annual production of up to 400,000 tonnes of concrete blocks in an adjoining facility. In this way, the ash will be diverted from being sent to landfill, thereby reducing its potential environmental impact. Cement and additional aggregates will need to be shipped onto the site to mix with the ash to form the concrete products.

3.2.8 Highway Works

Road access to the operational Flixborough Wharf is currently via B roads that link to the A1077 and A18 and on to the strategic motorway network via the M181 located approximately 5km to the south.

The Project includes a road improvement scheme for the B1216 where it connects to the A1077 in order to by-pass the dwelling at Neap House Farm to the south of the Project site. The B1216 is currently used by traffic accessing the Flixborough Industrial Estate and Flixborough Wharf. The road improvement will facilitate the flow of traffic approaching the Project site from the south.

3.2.9 Railway Reopening

As noted, a 9km long single-track railway line connects Flixborough Wharf with the steel works at Scunthorpe. This line was in full use until 2012 when it carried up to 1 million tonnes of steel and iron ore to service British Steel (Tata) before the rail line was bought

by the current owners, RMS Ports. The rails are still in place and serviceable and connect directly to the mainline railway through to Immingham and Hull.

During site preparation works, the line will undergo engineering safety checks and the line will be brought back into operation to facilitate the transportation of feedstock and the automated handling of RDF, aggregate and concrete products. A new railhead will also be constructed within the Project site boundary.

3.2.10 Extension of the Flixborough Wharf jetty

Flixborough Wharf is on the tidal River Trent and is an operational port currently handling 300,000 tonnes per annum of dry bulk, general cargo and steel, which will remain fully functional during the construction and operation of the Project. Associated British Ports (ABP) is the Port Authority for Flixborough Wharf and are advising on the proposed extension to the quayside to handle up to three 4,000 deadweight tonnage (dwt) coasters at the same time.

It is proposed that the current 155m jetty is increased in size to 380m, which will accommodate additional ships on a tidal river with limited loading and unloading periods between tides.

The jetty will be developed to provide automated handling of RDF, aggregate and concrete products. This will increase throughput for the wharf and maintain a low carbon footprint for the transport of product to and from the wharf.

4. ADDITIONAL COMPONENTS OUTSIDE THE NSIP REGIME

4.1 The following components (the **Additional Components**) of the Project are not considered to directly support the construction or operation of the principal development or be subordinate to the ERF. Therefore, these Additional Components do not qualify as associated development and a Section 35 Direction is necessary in order to enable these components to be delivered as part of the Project:

4.1.1 Energy Recovery Centre of Excellence;

4.1.2 Business Enterprise Park; and

4.1.3 Commercial Glasshouse Facility.

4.2 Further details regarding these Additional Components, and the rationale for including them as part of the Project, are set out below.

4.3 Energy Recovery Centre of Excellence

4.3.1 The need to inform our decision-makers, politicians and the wider community about the implications of lifestyle choices and their impact on the environment is seen as part of the Applicant's corporate responsibility. The Energy Recovery Centre of Excellence (**Centre of Excellence**) will support a wide range of opportunities to educate young and mature students in the technologies and processes that are involved in energy recovery, re-use of resources and the decarbonisation of gas, electricity and heat. This will take the form of an educational centre that includes conferencing facilities.

4.3.2 Proposed to be linked to a local university, the driving force to establish the Centre of Excellence is to provide the trained resource to design, build and operate integrated energy recovery units in the UK and beyond and to provide the expertise to provide the skilled resource for the associated facilities that have a dependency on the output from the ERF.

4.3.3 The Centre of Excellence will facilitate approximately 100 apprentices per year through a combination of placement-based and classroom-based learning, where the apprentices are paid and offered a job at the end of the apprenticeship.

4.3.4 The ERF and associated businesses will be structured to include paid post-graduate roles where the post-graduate candidates get a cross-section of roles over a three-year period, to provide senior management resource for the ERF and the wider industry.

4.3.5 Specialist PhD roles will be funded to focus on specific areas of advancement and development that will be linked to incubator units where business and commercial support is given to bring innovation to commercial production. This will continue to

provide innovation and improvement to the sector. The Centre of Excellence will integrate 10,000 m² of conference facility, lecture theatres and educational facilities, knowledge base, visitor centre and demonstration facility to showcase all aspects of energy recovery. Specialist areas of focus will include the production and use of hydrogen from renewable energy sources, energy storage and carbon capture.

4.4 Business Enterprise Park

- 4.4.1 To the south and north of the ERF, the Applicant proposes to deliver a Business Enterprise Park consisting of approximately 200,000 m² of mixed use B1 (Business), B2 (General Industrial), and B8 (Storage and Distribution) development.
- 4.4.2 The Business Enterprise Park will be connected to a district heat network that will use the steam, gas and electricity from the ERF to create a carbon neutral development. A typical development of this size would require a power requirement of 35 – 90MVA depending on the energy intensity of the development. Typically, 70% of energy costs relate to the cost of heating, which would be provided as waste heat from the ERF rather than gas or electricity.
- 4.4.3 The Business Enterprise Park will have a range of building sizes from 1,000m² to 17,000m² that will include bespoke design and build (to meet tenant requirements), managed landscaping and heat and power connections. The proposed unit mix is intended to include:
- (a) An 'Innovation and Technology Campus' - to include small incubator units for the development of products and processes developed by the post-graduates and PhD students from the Centre of Excellence. The ERF operator will fund these units.
 - (b) The Incubator Units will provide 2,500 m² of office, laboratory and specialist manufacturing facilities to encourage the innovation and research undertaken by apprentices, post-graduate students and PhD researchers.
 - (c) B1 small office units to facilitate temporary occupation and virtual office space and meeting/conference rooms. Some small ancillary retail outlets may be established to service the other occupants on the campus.
 - (d) B2 manufacturing and service units - the size of development being undertaken will require a number of service support companies to establish points of presence close to the facility. Due to the nature of the ERF, wharf facility, railhead and ash smelting, security considerations do not facilitate these companies to operate on the main ERF site. It is therefore proposed that they are located adjacent to the ERF in the Enterprise Business Park. Manufacturing of packaging and packing

facilities to support commercial glasshouse unit may also be required by the operators of these units.

- (e) B8 ambient, chilled and frozen distribution - to be linked to the Commercial Glasshouse Development.

4.4.4 In addition, an on-site technical laboratory facility would be established that would use heat, power and gas from the ERF and would provide support services for the agricultural or medical plant production for the commercial glasshouse operation.

4.5 Commercial Glasshouse Development

4.5.1 Up to 40ha (400,000 m²) of efficient commercial glasshouse space that is 6-8m to the eaves that will capture all of the runoff water for use as irrigation.

4.5.2 The increased demand for large UK glasshouse facilities particularly in co-located sites is being driven by a number of factors, including:

- (a) Commercial glasshouses require an average temperature of 18-25 degrees Celsius;
- (b) The need for 0.8MW of power per hectare of electrical power (32MWe for a 40ha site);
- (c) A demand by some crops for 90-180,000 kg per hectare per year of CO₂ (up to 7,200 tonnes over 40ha);
- (d) the need for automation;
- (e) fears over potential movement of food deliveries post-Brexit; and
- (f) demand by pharmaceutical companies to establish large-scale units to provide drugs such as cannabis resin, has increased the number of potential development partners.

4.5.3 The option to off-take heat from the ERF with the security of steam and heat storage, combined with a secure supply of electricity without the need to invest in standby generation means there are real synergies in terms of co-location with the ERF and this has secured interest from a number of potential commercial glasshouse operators with a significant reduction in carbon footprint.

4.5.4 The availability of cleaned carbon dioxide (CO₂) from the ERF is also a significant bonus to some growers with increases in yield of up to 30%, and more for tomato crops.

4.5.5 Without this associated development the energy efficiency of the ERF would be reduced. A large commercial glasshouse operation of this size has a continuous demand for heat that would otherwise use a fossil-fuel energy source to provide the heat. Depending on the crops being grown the average temperature that is required is above 18 degrees Celsius and may require between 1000 to 2000 MJm⁻² per annum which equates 111,200 MWh for a 40ha glasshouse facility.

5. RATIONALE FOR THE INCLUSION OF THE ADDITIONAL COMPONENTS

5.1 The Applicant considers that there are clear synergies and benefits of bringing forward the Energy Recovery Centre of Excellence, Business Enterprise Park, and Commercial Glasshouse Development as part of a single project.

5.2 The Applicant wishes to promote a holistic and sustainable development which allows it to:

5.2.1 maximise the potential to utilise the heat, steam and power generated from the ERF; and consequently

5.2.2 facilitate the delivery of adjacent development which can make use of the heat, power or steam as efficiently as possible.

5.3 Overarching NPS EN-1 – Relevant Policy Support

5.3.1 The ERF has the potential to be a Combined Heat and Power (CHP) station. The overarching NPS EN-1 confirms that *"supplying steam direct to industrial customers or using low grade heat, such as district heating networks, can reduce the amount of fuel otherwise needed to generate the same amount of heat and power separately."* (para 4.6.2) This in turn reduces the amount of CO2 emissions. The Government is promoting Good Quality CHP which denotes CHP that has been certified as highly efficient under the CHP quality assurance programme. GN44 Issue 7 classifies RDF as a Category E fuel which calculates the Quality Index (QI) Formula as $QI = (221 \times n_{power}) + (120 \times n_{heat})$. Typically, UK Energy from Waste (EfW) plants are not designed to utilise the waste heat and typically fail this high-quality standard. This ERF will exceed all three qualifying criteria for current Contracts for Difference (CfD) approval – a minimum primary energy saving of 10% for projects of all sizes, a minimum heat efficiency of 10% gross calorific value (GCV) and an overall efficiency of 70% net calorific value (NCV) for schemes of all sizes. The overall efficiency will exceed 80% with the district heat network and the glasshouse offtake.

5.3.2 Paragraph 4.6.5 states *"to be economically viable as a CHP plant, a generating station needs to be located close to industrial or domestic customers with heat demands....CHP can also be used to provide low grade heat for light industrial users such as commercial greenhouses, or more commonly for hot water and space heating including supply through district heating networks."*

5.3.3 The use of heat in the commercial glasshouse facility will utilise low grade heat for all but the warmest periods of the year and thereby provide an efficient use of energy. The proximity of the Lincolnshire Lakes development will also enable the CHP to contribute to the domestic heat demands of the proposed urban expansion.

- 5.3.4 The typical heat demand range for houses in a mild climate is between 5,000 – 30,000 kwh thermal per year, or 35,000 to 210,000 MW hours thermal for 7,000 homes. This equates to 24MWth, but with peak demand likely to be several times this amount during winter months where heating demand is concentrated. Heating demand constitutes 60-70% of household energy bills are for heating and domestic heating remains a significant demand on fossil fuels. The glasshouse demand which requires average temperatures of up 25 degrees centigrade require 1,300 MJ per m2 per annum – or 140,000 MW hours thermal for a 40ha glasshouse unit (16MWth).
- 5.3.5 It is also key to note in terms of the rationale for bringing forward the overall development in a holistic manner that *"the provision of CHP is most likely to be cost effective and practical where it is included as part of the initial design and as part of a mixed-use development."* (para 4.6.5). The NPS notes that trying to retrofit a district heating network may not be efficient.
- 5.3.6 Paragraph 4.6.7 of the NPS makes it clear that *"developers should consider the opportunities for CHP from the very earliest point and it should be adopted as a criterion when considering locations for a project."*
- 5.3.7 Paragraph 4.6.8 confirms that *"substantial additional positive weight should therefore be given to applications incorporating CHP."*

5.4 Achieving Maximum R1 Efficiency

- 5.4.1 Under Article 3 of the Waste Framework Directive, an ERF is a facility that delivers an energy efficiency factor (known as a R1 value) in excess of 0.65. The R1 value does not calculate conventional energy efficiency, rather the efficiency with which the energy produced is utilised. So, an efficient facility utilising the heat and steam delivers a higher R1 value than just using steam to produce electricity. ERFs in Europe generally demonstrate higher energy efficiencies (>70%) than those in the UK as they provide heat to district heat networks.
- 5.4.2 The Business Enterprise Park and Commercial Glasshouse Development will have the opportunity to utilise the steam produced by the ERF as a heat source therefore qualifying the ERF as a CHP unit. On this basis, the proposed facility will be capable of delivering an R1 factor of 0.85 which would make it one of the most efficient units in the UK.

5.5 Providing social value

- 5.5.1 The Applicant wishes to establish a sustainable circular economy to help reduce landfill, create employment, advance vocational training and education for both young trainees and older participants needing to re-train.

5.5.2 An Economic Impact Assessment has been commissioned and is being prepared by Mott Macdonald. The work will analyse the likely economic benefits of the Project with and without the Additional Components. The work is ongoing and not yet complete, however an indicative assessment arrived at the following summary of the economic benefits:

Table 4.1: Gross and net economic impacts, NGLEP

	Jobs (FTEs)		GVA, £m (2019 prices)	
	Gross impacts	Net impacts	Gross impacts	Net impacts
ERF and RDF - core proposals	300	187	£14.3	£8.9
Business space (starter units and B2 development)	4,072	2,538	£194.3	£121.1
All other elements (concrete block manufacturing, ERCoE, Glasshouse and supporting infrastructure)	195	122	£9.3	£5.8
Core proposals + all other elements (ignoring business space)	495	309	£23.6	£14.7
NGLEP - all proposals	4,372	2,725	£208.6	£130.0

Source: Mott MacDonald

5.5.3 Certainty of delivery

5.5.4 Although consent for these additional components could be applied for separately under the Town and Country Planning regime, the Applicant believes that the opportunity to bring forward a single scheme including these additional components, particularly in terms of securing heat delivery and sustainable carbon neutral development which meets the objectives of North Lincolnshire Council, would be highly beneficial.

5.5.5 The development consent process provides the Applicant with the certainty of a single unified consenting process with fixed timescales. If a single application is made this will enable all of the components of the development to be considered together by one decision-maker and for a single development consent to be prepared which can ensure that the inter-relationship and dependencies, particularly in terms of energy supply are appropriately conditioned in the DCO.

6. LOCAL CONTEXT ON NEED FOR BUSINESS AND COMMERCIAL DEVELOPMENT

6.1 North Lincolnshire – Current Economic Context

- 6.1.1 North Lincolnshire's most recent Employment Land Review was issued in February 2014 and notes that the economy of North Lincolnshire and the sub-region falls behind regional and national performance. The need for the sub-region to improve was outlined in the North Lincolnshire Economic Growth Plan. This strategy also set aspirations and explains how North Lincolnshire could become a major contributor to the UK economy and also lays the foundations for continued economic growth up to 2023. A number of key growth sectors were identified, including environmental technologies, high-tech manufacturing and food and drink manufacturing alongside a commitment to support for the lifelong integration of skills and development. Its over-arching goal was to create an economy that is diverse, dynamic, and competitive and reflects local needs. The developments proposed by the Applicant would make a significant contribution to the growth of the local economy, specifically through the expansion of improvement of skills and employment in the region. The Project will provide sustainable employment growth in support services for environmental technologies as well as, training and opportunities in carbon-capture, hydrogen, glasshouse production and heat networks, and will make a significant contribution to the growth of the local economy.
- 6.1.2 The manufacturing sector is the largest for employment in North Lincolnshire, employing over 22% of employees in the region. This is a far higher proportion than elsewhere, in particular compared to the national rate of below 10%. Almost 60% of all floor space in North Lincolnshire is taken up by factories, reflecting the area's strong manufacturing and industrial base, compared to the regional figure of just under 40% and the national figure of just under 30%. Although the Regional Econometric Model forecasts that between 2010 and 2021 manufacturing will reduce in terms of the number of people it employs, these forecasts do not consider the major opportunities that the renewable energy sector presents. Applicant's proposals present such an opportunity to the region in a growth area of industry that would also benefit from improvements in education and skills through the Centre for Excellence.
- 6.1.3 As noted in the Employment Land Review, North Lincolnshire has relatively low rates of employment in the professional, scientific and technical sector (3.3%), less than the regional rate of 5.5% and less than half the rate nationally at 7.1%. The region has a lower proportion of people employed in professional occupations than regionally and nationally, again, an area that the proposed development would help improve on through the investment in placement and class-based learning across all academic levels.

- 6.1.4 The Housing and Employment Land Allocations DPD (2016) notes that the economy of North Lincolnshire and the Humber sub region lags behind regional and national performance.
- 6.1.5 In terms of employment land demand, the Employment Land Review (2014) recognises that there is a split between locational preferences within sectors, for example, business services requiring both town centre and business park locations. However, the general forecast for employment land demand for North Lincolnshire identifies that the highest demand will be for B1b, B1c and B2 uses, commensurate with Applicant's proposed business use development. Although the Review notes that lower demands are anticipated for B8 uses, the chilled and frozen distribution proposed is directly linked to the demand provided by B2 manufacturing use and to support the commercial glasshouse units.
- 6.1.6 Taking the recent employment land completions into consideration, the total amount of employment land required in North Lincolnshire between 2011 and 2026 is projected to be almost 166 hectares, of which 71 hectares are earmarked for the Scunthorpe area in the Core Strategy. Whilst the Project site is not specifically allocated, there are benefits in the co-location of employment land adjacent to the proposed ERF where the Business Enterprise Park units can sustainably rely on heat and power from the ERF. In addition, the proposed 'B uses' element of the development is within close proximity to Scunthorpe in terms of access to/for potential employees and trainees and would contribute a substantial 20 hectares towards Scunthorpe's overall employment land requirement.

6.2 North Lincolnshire – Current Planning Context

- 6.2.1 The North Lincolnshire Core Strategy was adopted in June 2011. The Core Strategy confirms that most housing and employment growth will be directed to Scunthorpe and that the preferred location for a major urban expansion will be to the west of the town ('Lincolnshire Lakes') which lies close, to the south east of the proposed development.
- 6.2.2 Flixborough Industrial Estate, on which the core ERF will be located (see Figure 3) was included as an allocation in the Local Plan (adopted in May, 2003) under policy CIN 10 but subsequently de-allocated in the later Housing and Employment Land Allocations DPD (2016) solely on the basis that it was 'part of an established employment area'.

"A number of employment sites previously allocated within the North Lincolnshire Local Plan have not been allocated within this DPD. The vast majority of these sites are already located within the defined development limit for the settlement/industrial estate that they fall within and could in principle be developed for industrial use without the requirement of a specific allocation."

6.2.3 Core Strategy Policy CS11 confirms that the 71 hectares of planned employment land for Scunthorpe will include a B1 high quality business park at Lincolnshire Lakes, B1 and town centre uses in Scunthorpe town centre, and B1, B2 and B8 uses to be located at 'Scunthorpe North' (Normanby Enterprise Park).

6.2.4 Policy CS20 Sustainable Waste Management identifies both Scunthorpe and Flixborough Industrial Estate as broad strategic areas for new and enhanced facilities for the treatment and management of waste. The supporting text states:

'As part of the overall development strategy for the area, Scunthorpe and the South Humber Bank Employment site are identified as strategic locations for development which will see increases in the population and employment. In using the proximity principle in seeking to provide future waste facilities close to areas that will continue to create waste, Scunthorpe and the South Humber Bank employment area are therefore identified as broad locations for future waste facilities.'

It is also recognised that there are existing industrial users that have processes that can be used or adapted for waste management purposes and as such it is considered logical and appropriate to include these locations as broad locations. These locations are at Melton Ross, where planning permission was given in November 2008 for a waste facility, Flixborough Industrial Estate, where there is an existing composting waste plant, power station sites and other high energy usage installations, including for example Keadby Power Station, where there is a significant opportunity for extra electricity generation, and South Ferriby, where solid recovered fuel (SRF) is already used in a cement manufacturing process.'

6.2.5 It is noted that the proposed ERF itself is located on existing employment land and its proposed location, as highlighted in the above excerpt, is supported in local planning policy.

6.2.6 The land on which the Additional Components are proposed to be located is currently unallocated.

6.3 North Lincolnshire Council emerging planning and socio-economic context

6.3.1 In terms of planning strategy, North Lincolnshire are currently undertaking work on a new Local Plan. The Council have recently undertaken a public consultation exercise on their Issues and Options document following a 'Call for Sites' in 2017 and 2018. The following summarises the Council's staged process:

- Stage 1 (2017) – Initial Consultation (Regulation 18);
- Stage 2 (2018) – Issues & Options (Regulation 18);

- Stage 3 (2019) – Preferred Options (Regulation 18);
- Stage 4 (2019) – Draft Local Plan;
- Stage 5 (2020) – Local Plan Submission; and
- Stage 6 (2020) – Adoption.

6.3.2 The emerging Local Plan covers a 19-year period up to 2036. The general theme of the Issues and Options document is a focus on ‘transforming’ North Lincolnshire’s image and economy and uses the phrase ‘cleaner, greener and safer’. The Council intend to consult on the preferred policies and site allocations/designations needed to deliver the plan’s vision and spatial objectives based on the findings from the Issues and Options stage in 2019.

6.3.3 Significantly, the Issues and Options document identifies a number of key economic challenges to the region, in line with findings from the North Lincolnshire Strategic Assessment, several of which are relevant to and are addressed by Applicant’s proposal for co-located business (and innovation/educational) use:

- (a) Ensuring that sufficient employment land is provided in accessible and sustainable locations;
- (b) Improving the quality of the employment land offer;
- (c) Providing access to employment/key services, particularly for people without access to a car;
- (d) Ensuring that local people have the right skills and experience to play a role in driving and transforming North Lincolnshire’s economy;
- (e) Protecting the manufacturing sector;
- (f) Bringing forward development; and
- (g) Transforming and shifting the economic trajectory.

6.3.4 These challenges, in particular current underachievement in skills and education, are echoed in Humber Local Enterprise Partnership (LEP)’s Strategic Economic Plan 2014 – 2020, which identifies the region’s ambition for the Humber to lead in renewable energy development/skills. The Business Enterprise Park is located adjacent to the proposed ERF in order for the business units to take advantage of the heat generated in the most energy efficient way possible. In addition, its location adjacent to the proposed Lincolnshire Lakes housing development meets the objective of sustainable

development by placing employment land next to residential uses, thereby reducing the need for travel.

- 6.3.5 The Council's 'Issues and Options' consultation document generally focuses on growing the economy and echoes the ideas detailed in the North Lincolnshire Economic Growth Plan (2018) supporting growth of the manufacturing and engineering supply chain hub, diversification of the Humber chemical and energy cluster and development of skill levels by providing access to training and educational opportunities. This overarching strategy supports Applicant's general proposals for business use on the site, but more specifically their ambition to include an Innovation and Technology campus.
- 6.3.6 There are four options for providing employment sites within the new Local Plan and the Council have confirmed that there is prevailing support for Option A:
- (a) Option A: Retain all existing allocated employment sites as identified within the Housing and Employment Land Allocations DPD.
 - (b) Option B: Consider changing the allocation of any sites (by site reduction or de-allocation) currently allocated for employment that have not been developed.
 - (c) Option C: Allocate new sites for employment uses within North Lincolnshire.
 - (d) Option D: Allocate new sites for employment uses within North Lincolnshire alongside the area's main transport corridor.
- 6.3.7 Siting the ERF at Flixborough Industrial Estate takes advantage of existing strategic employment locations in line with Option A and co-locating the business use development south of the plant retains employment opportunities for Scunthorpe close to the main northern transport corridor. The promotion of B2 units also aligns with the overarching strategic objective to 'protect the manufacturing industry' in North Lincolnshire noted in the Issues and Options document. The proposed business use development would secure their energy needs with onsite technologies (from the ERF), which is also noted in the Issues and Options document as a future option to improve the green credentials of the region.
- 6.3.8 In addition to existing employment commitments, North Lincolnshire Council has also favoured a major western urban expansion of Scunthorpe through both its Core Strategy and more detailed Area Action Plan (AAP) for this area, known as Lincolnshire Lakes. Although the objective of this development part of which has recently been given planning approval, is predominantly to secure large-scale housing (6,304 homes), the proposals also envisages the creation of 5 lakes, a high quality B1 business park (known as the Strategic Mixed Use Area) as well as opportunities for tourism, leisure, recreation and sport.

- 6.3.9 The Strategic Mixed Use Area (approximately 23 hectares) will comprise offices (B1a), a Hotel (C1), Heath Centre (D1), Sports Stadium (D2) and other D1 and D2 uses. The Applicant's proposed Business Enterprise Park would complement the business use proposed as part of the Lincolnshire Lakes development through the provision of further employment and educational opportunities for local people.
- 6.3.10 Alongside planning policy, it is also pertinent to mention that Humber Local Enterprise Partnership's (LEP's) 'Strategic Economic Plan' identifies a number of opportunities also supporting the creation of an Innovation Centre and the 'clean energy' aspect of the business use proposals. Objectives include; ensuring that the 'appropriate infrastructure, supply of skilled labour and business support services' are in place to drive growth and maintain the Humber's competitiveness; take advantage of investment opportunities to access the finance and support required for growth; and increase the level of innovation amongst businesses. These objectives are echoed by the Greater Lincolnshire LEP in their 'An Energy Strategy for Greater Lincolnshire' as well as their own overarching 'Strategic Economic Plan'.
- 6.3.11 The need for business and commercial development in the region is clear and demonstrable in both current and emerging local planning policy. The proximity of the business use elements closer to Scunthorpe, is in line with local planning policy strategy in terms of siting of employment opportunities and the provision of a Centre for Excellence has extensive support throughout planning and economic policy objectives in terms of investment in skills, education and clean energy technology.

6.4 Consultee Support for the Additional Components

- 6.4.1 The Applicant has undertaken informal consultation with a range of consultees. **Schedule 1** to this Request contains an outline summary of informal consultation undertaken to date.
- 6.4.2 **Schedule 2** of this Request contains a letter to the Applicant from the Chair of North Lincolnshire Council's Strategic Development Team following a meeting on 11 July 2019. The letter notes the Leader of the Council's support of the Project, and specifically the Additional Components, in terms of its potential strategic importance to North Lincolnshire. The letter also notes the Council's informal position regarding the Project's alignment with the Council's priorities for growing the economy and enabling communities to flourish, and notes that the Project is not in significant opposition with local planning policy.
- 6.4.3 The Applicant understands that the Humberside Local Enterprise Partnership (LEP) intends to write to both Secretaries of State to iterate its support for the development of

the Additional Components in the context of the two key objectives of the Humber Local Energy Strategy – namely:

- (a) [ensuring] the Humber region plays a leading role in the United Kingdom's decarbonisation efforts by making targeted interventions to reduce emissions in the electricity, heat and transport sectors; and
- (b) [fostering] clean growth by supporting public and private sector investments in novel low carbon technologies to take advantage of the opportunities presented by the emerging low carbon economy.

6.5 The need for a Development Consent Order to deliver the Additional Components

- 6.5.1 The land upon which the Additional Components are proposed is in multiple ownerships. The Applicant has undertaken negotiations with the owners of the main substantive landholdings, and is confident of its ability to secure and thereafter acquire this land once negotiations have concluded. Outline heads of terms have been agreed.
- 6.5.2 However, the land upon which the Additional Components are proposed is extensive. It comprises largely agricultural land which is subject to various third party rights, including rights of access, rights of drainage and other easements and rights of drainage. It is likely that some form of compulsory acquisition of temporary and permanent rights will be necessary in order to deliver the Additional Components.
- 6.5.3 In addition, land upon which the Additional Components are proposed contains a number of minor landholdings which will be necessary for the Applicant to acquire in order to facilitate the Additional Components. These minor landholdings create the possibility of ransom situation and / or may be problematic for the Applicant to acquire within a reasonable timescale. The existence of these minor landholdings otherwise are likely to impede the implementation of the Project.

7. FORMAL REQUEST FOR A DIRECTION UNDER SECTION 35(1)

7.1 The Applicant has had regard to Section 35 of the Planning Act, to the Infrastructure Planning (Business or Commercial Projects) Regulations 2013/3221 (**the 2013 Regulations**), and to the policy statement issued by the (then) Department for Communities and Local Government in November 2013² (**the Policy Statement**).

7.2 Section 35 of the Planning Act

7.2.1 Section 35(2) of the Planning Act provides that the Secretary of State may give a Section 35 Direction only if:

- (a) the development is or forms part of (i) a project (or proposed project) in the field of energy, transport, water, wastewater or waste, or (ii) a business or commercial project (or proposed project) of a prescribed description;
- (b) the development will (when completed) be wholly in one or more of the areas specified in subsection (3); and
- (c) the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with— (i) in a case within paragraph (a)(i), one or more other projects (or proposed projects) in the same field; (ii) in a case within paragraph (a)(ii), one or more other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(ii).

7.2.2 In respect of **subsection (a)**, the Applicant considers that the Additional Components fall within each, or both, of the two identified sub-criteria:

- (a) With regard to sub-criteria (i), the Applicant intends to develop the Additional Components together with the core ERF as a single development project and considers that the Additional Components form a fundamental means of realising the benefits of the ERF as part of an integrated overall energy project. On that basis, the Applicant deems the Additional Components to form part of a single project in the field of energy;

in addition, or alternatively;

- (b) with regard to sub-criteria (ii) each of the Additional Components (both individually and taken as a whole) fall within the descriptions prescribed by the 2013 Regulations (see paragraph 7.3 below).

² Policy Statement by the Department For Communities And Local Government: Extension of the nationally significant infrastructure planning regime to business and commercial projects (November 2013)

- 7.2.3 In respect of subsection (b), the Project is wholly located within England.
- 7.2.4 In respect of subsection (c), the Secretary of State must be satisfied that the Additional Components are of national significance; either on their own or when considered with project identified under one of the two sub-criteria. Sub-criterion (ii) is not relevant to this request as the Additional Components are not related to any other business or commercial projects. However, the Applicant regards the Additional Components to both be of national significance in their own right, and also when considered together with the ERF for the following reasons:

(a) the Additional Components fall within the descriptions prescribed by the 2013 Regulations and the development of them is capable of comprising an NSIP in itself;

in addition, or alternatively,

(b) as described at 7.2.2 above, the Additional Components will form part of the same overall project as the ERF, and for that reason should be regarded as being development within the field of energy for the purposes of sub-criterion (ii) . The ERF is, in and of itself, an NSIP, and when the Additional Components are considered together with the ERF the Applicant believes that they are of national significance.

7.3 The 2013 Regulations

7.3.1 The descriptions of development prescribed by the 2013 Regulations are set out in its Schedule. The Applicant considers that:

(a) The Centre of Excellence falls within category (1) office use and/or category (2) research and development of products and processes;

(b) The Business Enterprise Park falls within category (1) office use, category (3) industrial process or processes and/or category (4) storage and distribution of goods; and

(c) The Commercial Glasshouse Facility falls within category (3) industrial process or processes.

7.4 The Policy Statement

7.4.1 The Policy Statement makes clear that the Secretary of State will consider 'whether the project is related to a nationally significant infrastructure project being brought forward at the same time and therefore would benefit from the scheme being considered as a single application through the 2008 Act regime'.

7.4.2 For the reasons set out in section 4 above, the Applicant considers that the development of the Additional Components is of national significance, as it will enable the Applicant to facilitate the use of the heat, steam and power generated from the ERF in accordance with the overarching aim of NPS EN-1. The development of the Additional Components will significantly secure the economic viability of the ERF and should be afforded significant additional positive weight in the consideration of the application.

7.4.3 In addition, the Policy Statement indicates that, in considering whether a project is of national significance, the Secretary of State will consider all relevant matters, including:

(a) *whether a project is likely to have a significant economic impact, or is important for driving growth in the economy;*

As set out in paragraph 5.5 (above), the Applicant considers that the Additional Components will deliver significant economic benefits.

(b) *whether a project has an impact across an area wider than a single local authority area;*

The rail and sea connectivity at the site will deliver benefits beyond the immediate regional benefits. The 3m tonnes of RDF currently being exported to the EU through Hull is drawn from a significant catchment area across the UK. The apprenticeships and training provided will deliver knowledge and skills across the UK renewable energy sector and the ancillary supporting services. The volume of concrete products produced will reduce the current levels of imported products from across Europe.

(c) *whether a project is of a substantial physical size; or*

The Additional Components would enable the development of a mixed business park blending heavy industrial, light industrial, distribution, business and office space giving up to 275,000 m² of GIA floor space, which exceeds the indicative thresholds set out in the Guidance.

(d) *whether a project is important to the delivery of a nationally significant infrastructure project or other significant development.*

The Additional Components are fundamentally linked to the core ERF element of the Project. The Applicant considers that there are clear mutual benefits, both to the ERF and to the Additional Components, of each project being brought forward at the same time.

Further, the Applicant has identified a number of land interests and rights which have the potential to impede or prevent the delivery of the Project (see paragraph 6.5 above).

- 7.5 The Applicant considers that each or both of the Secretaries of State named in paragraph 1.3 above may give a Section 35 Direction under Section 35(1) of the Planning Act and that, having regard to NPS EN-1, the Policy Statement and all relevant matters thereunder, there is clear merit for doing so.

8. CONCLUSION

8.1 The Additional Components the Applicant wishes to include within its application for development consent:

8.1.1 are proposed to form part of, and be linked to, the core ERF Project, which is a proposed project in the field of energy and / or fall within descriptions prescribed by the 2013 Regulations and are capable of comprising an NSIP;

8.1.2 are located within England; and

8.1.3 form part of and / or support the delivery and effective operation of a proposed project which is of national significance.

8.2 Therefore we respectfully ask each or both of the Secretaries of State to make a Section 35 Direction permitting the Additional Components, as proposed by the Applicant and being the Centre of Excellence, Business Enterprise Park and the Commercial Glasshouse Development described in section 4 (above), to form part of the application for development consent.

SCHEDULE 1
(Summary of Consultation Responses)

northern planners

North Lincs Green Energy Park Summary of Consultation Responses

For North Lincolnshire Green Energy Park Ltd

By Northern Planners

December 2019

Northern Planners Scheme No.			17NP244_REP_002	Date	13/12/2019
Client Reference			Flixborough CHP	Client Contact	Mr A Bradley
Prepared by	Checked by	Approved by	Issue	Comments:	
AN	SC	MM	Rev 001	First Draft for WBD comments (omitting ERM and CH input)	
AN	SC	MM	Rev 002	Second Draft including ERM's comments	
AN	SC	MM	Rev 003	Third Draft including Colin's comments	
AN	SC	MM	FINAL	Final draft for submission	

Contents

- | | |
|--|---|
| 1. Scope | 1 |
| 2. Summary of Consultation Undertaken to Date
Plan Relationship | 2 |

1. Scope

This document summarises all informal consultation undertaken to date with reference to Solar 21's proposed *North Lincs Green Energy Park* scheme. The purpose of this summary is to outline all informal consultation undertaken to date with statutory consultees to date by the Project Team, as directed by the Applicant. This summary will accompany a request to the Secretary of State for the business use elements of the project to be treated as development for which development consent is required.

As such, this summary relates only to the scheme including provisions for business use as per the Section 35 direction request, and does not include formal consultations undertaken by North Lincolnshire Council in 2018 as part of an EIA Screening/Scoping Request for a smaller scale energy from waste plant only (ref. PA/SCO/2018/1).

Section 2 details records of all informal consultation undertaken to date by the Project Team.

2. Summary of Consultation Undertaken and Responses

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
03/05/2019	Planning Inspectorate	<p><u>PINS</u> Rob Ranger, <i>Case Officer</i> Chris White, <i>Infrastructure Planning Lead</i> David Price, <i>EIA and Pre-application Lead</i></p> <p><u>Project Team</u> Colin Hammond, <i>Head of Strategic Business Development</i> Claire Brook, <i>Planning and Environmental Lawyer Partner</i> Rebecca Eatwell, <i>Communications Director</i> Kevin Murphy, <i>Environmental Consultant</i> Hannah Beeby, <i>Principal Environmental Consultant</i> Amy Naylor, <i>Senior Town Planner</i></p>	Initial informal project meeting at the Planning Inspectorate office, Bristol.	<p>First informal meeting with PINS introducing the project (core and associated development) as well as the possibility of including up to 500 houses. The Project Team outlined their proposed programme and</p> <p>Discussion undertaken re. the business element and the Project Team confirmed that there may be a S35 direction request. PINS advised contact/consultation with the Department for Business, Energy & Industrial Strategy (BEIS) and the Ministry of Housing, Communities and Local Government (MHCLG) prior to submission.</p>
12/06/2019	North Lincolnshire (Lincs) Council	<p><u>North Lincs Council</u> Shaun Robson, <i>Development Management Group Manager</i> Andrew Law, <i>Development Management Strategic Development Officer</i> Kate Mills, <i>Housing Policy Specialist</i></p>	Informal pre-meeting to the planned Strategic Team Meeting (face-to-face)	<p>General consensus from North Lincs was that the scheme was appropriate in terms of its green credentials.</p> <p>North Lincs Council confirmed that they do not envisage any housing to the south of Flixborough Industrial Estate or further north towards Flixborough due to land lying below sea level, the presence of peat and other environmental concerns. Housing</p>

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
		<p><u>Project Team</u> Michael Bradley, <i>CEO</i> Andrew Bradley, <i>Co-Founder</i> Colin Hammond, <i>Head of Strategic Business Development</i> Paul Kelly, <i>Communications Partner</i> Amy Naylor, <i>Senior Town Planner</i> Sophie Cattlin, <i>Town Planner</i></p>		<p>proposed initially by Solar 21 here would not be viable/deliverable. Solar 21 suggested instead the project could alternatively provide heat and power to the Lincolnshire Lakes development.</p> <p>North Lincs Council explained that a significant amount of work have been undertaken in collaboration with the Environment Agency (EA) regarding flood risk and flood improvement works along the River Trent for the Lincolnshire Lakes development.</p> <p>North Lincs Council confirmed that flood modelling data is available at a cost as an outcome of this work. Kate Mills advised that any liaison with the EA should go via North Lincs Council.</p> <p>Shaun Robson provided some advice regarding consultation methods and the key issues of interest in local communities that the Council envisage.</p>
09/07/2019	Landowner and Internal Drainage Board	Landowners (Jackson) and Solar 21	Face-to-face meeting	Discussion regarding land development, relief road, associated development and potential district heat network to Lincolnshire Lakes.
10/07/2019	Environment Agency, North Lincolnshire Council	Environment Agency, North Lincolnshire Council, Mott MacDonald, ERM and Mayer Brown	Telephone / meeting at RMS Trent Ports site	High level discussion to introduce the project. Discussions focused on the modelling required for the FRA. Specifics included ensuring that the project did not interfere with the recent work undertaken to improve the existing flood embankments and the need to 'chase downstream' the downstream boundary of any future modelling. Meeting also

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
				included discussion of potential road realignments / requirements.
11/07/2019	North Lincs Council	<p><u>North Lincs Council</u></p> <p>Chris Barwell, <i>Place Planning & Housing Specialist</i> Andrew Law, <i>Acting Development Management Group Manager and Development Management Strategic Development Officer</i> Annie Ward, <i>Environmental Protection Team Leader</i> Andrew Taylor, <i>Environmental Team Project Officer (Ecologist)</i> Louisa Simpson, <i>Transport Planning Officer</i> Darren Cowling, <i>Senior Highway Development Officer</i> Billy Green, <i>Drainage Project Manager</i> David Boreham, <i>Investment Delivery Lead</i> Lisa Longstaff, <i>Senior Commercial & Investment Officer</i> Justine Duhrkoop, <i>Inward Investment Business Specialist</i></p>	Strategic Team Meeting (face-to-face)	<p>The aim of this meeting, was to seek the authorities support for the proposed North Lincolnshire Green Energy Park and its alignment with current and future North Lincolnshire Council strategies.</p> <p>The SDT Team confirmed that, although technically located within 'open countryside', the proposed Green Energy Park site lies within an area that has a long history of consideration for economic development due to its proximity to the existing wharves and local infrastructure.</p> <p>The SDT Team concurred that although the site is currently unallocated for development due to the nature of the project and the economic benefits the proposal brings the Council can view the proposed development as an exception to adopted local planning policy and support accordingly. Subject to no major issues coming forward, the Council confirmed that the scheme as it stands is not in significant opposition with local planning policy.</p>

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
		<u>Project Team</u> Andrew Bradley, <i>Co-Founder</i> Colin Hammond, <i>Head of Strategic Business Development</i> Chris Hazell Marshall, <i>Air Quality Principal Consultant</i> Claire Wilson, <i>Senior Ecologist</i> Hannah Beeby, <i>Principal Environmental Consultant</i> Andy Gregory, <i>Senior Environmental Consultant</i> Oliver Neaves, <i>Principal Transport Consultant</i> Sophie Cattlin, <i>Town Planner</i>		
19/08/2019	Port Authority and Harbourmaster	ABP - Port Authority and Solar 21	Email exchange	Securing agreement to deal directly with the Port Authority form RMS Ports and to set up a meeting to discuss the maritime elements of the proposal.
02/09/2019	North Lincolnshire Council Communications	North Lincolnshire Council, Newgate, Solar 21	Conference call	Discussion with NLC to review the first draft of the proposed communication strategy that would be used through the Informal and Formal Consultation.
26/09/2019	PINS Natural England MMO (by phone) Environment Agency North Lincs	<u>PINS</u> Rob Ranger, <i>Case Officer</i> Hannah Terry, <i>Senior EIA and Land Rights Advisor</i> Ifan Gwilym, <i>EIA and Land Rights Advisor</i> <u>Environment Agency (EA)</u>	Meeting on site (RMS Trent Harbour)	The Project Team arranged an informal site visit with pre-meeting to update statutory consultees with progress/changes to the project. Colin Hammond outlined the project in terms of the core development, associated developments and development subject to the S35 direction request and confirmed the removal of the housing proposal.

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
		<p>Paul Goldsmith, <i>Flood Risk Team</i> Nicola Farr, <i>Planning Team</i></p> <p><u>North Lincs Council</u> Andrew Law, <i>Acting Development Management Group Manager</i> and <i>Development Management Strategic Development Officer</i></p> <p><u>Natural England</u> Hannah Gooch, <i>Lead Advisory Conservation Delivery Team</i></p> <p><u>Marine Management Organisation</u> Eva Szewczyk, <i>Marine Licensing Manager</i> (by phone)</p> <p><u>Project Team</u> Andrew Bradley, <i>Co-Founder</i> Colin Hammond, <i>Head of Strategic Business Development</i> Claire Brook, <i>Planning and Environmental Lawyer Partner</i> James Garbett, <i>Planning Lawyer</i> Kate Ashworth, <i>Planning Lawyer</i> Amy Naylor, <i>Senior Town Planner</i></p>		<p>The EA noted that the site was within functional floodplain and that the Applicant would need to demonstrate that the proposal is robust against flood risk and that essential infrastructure would remain operational in a flood event.</p> <p>The Project Team confirmed the anticipated programme for a S35 direction request and initial formal community, stakeholder consultation and EIA Scoping submission.</p> <p>The Project Team also confirmed that they are reasonable progressed in their land referencing and have a good understanding of who their land rights are.</p>

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
		Andrew Gregory, <i>Senior Environmental Consultant</i> Jonathan Perry, <i>Environmental Consultant Partner</i>		
27/09/2019	BEIS	<u>BEIS</u> Denise Libretto, <i>Head, Networks and Planning, Energy Infrastructure Planning</i> Naomi Williams Keith Welford, <u>Project Team</u> Colin Hammond, <i>Head of Strategic Business Development</i> Claire Brook, <i>Planning and Environmental Lawyer Partner</i> James Garbett, <i>Planning Lawyer</i> Kate Ashworth, <i>Planning Lawyer</i> Amy Naylor, <i>Senior Town Planner</i>	Teleconference	BEIS provided guidance regarding the Project Team's approach to the request for a S35 Direction. BEIS confirmed that the request would be considered jointly by themselves and MHCLG and this may impact the statutory 28 day programme.
04/10/2019	MHCLG	Ministry of Housing, Communities and Local Government (MHCLG) Solar 21, Womble Bond Dickinson	Teleconference	Discussion regarding the development principle and scope of the proposed Section 35 submission regarding the proposed associated development for the proposal and the framing of the S35 following a suggestion to engage BEIS at an early stage.

DATE	STATUTORY BODY	ATTENDEES	FORMAT (E.g. telephone conference/site meeting etc.)	SUMMARY OF CONSULTATION RESPONSES/DISCUSSION
17/10/2019	MHCLG	<p><u>MHCLG</u> Andrew Lynch Roger Wand Richard Watson</p> <p><u>Project Team</u> Colin Hammond, <i>Head of Strategic Business Development</i> James Garbett, <i>Planning Lawyer</i> Kate Ashworth, <i>Planning Lawyer</i> Amy Naylor, <i>Senior Town Planner</i></p>	Teleconference	<p>MHCLG provided guidance regarding the Project Team's approach to the request for a S35 Direction. MHCLG confirmed that evidence for need case of the proposed business development (to be delivered through NSIP regime) would be required.</p> <p>MHCLG also confirmed that they require evidence of any stakeholder and consultee support to accompany the Direction request.</p>
18/10/2019	North Lincolnshire Council	North Lincolnshire Council Leader Rob Waltham, Nic Dakin MP, Andrew Percy MP and Solar 21	Conference Call sponsored by NLC Council Leader	High level introduction to the scheme and to facilitate any questions from the local MPs ahead of the informal consultation.
4/11/19	Port Authority and Harbourmaster	Gary Wilson - Head of Marine ABP Humber, Graham Cudbertson, Andrew Firman, Andrew Swift and Matt Booth	Meeting at Grimsby Port Authority HQ	To discuss the options to increase the quayside both upstream and downstream from the existing operational wharfe, potential size of vessel that could be hadled at that point of the River Trent and to discuss further engagement with the MMO.

SCHEDULE 2

(Letter from the Chair of North Lincolnshire Council's Strategic Development Team dated 29 August 2019)

Ref: SDT/Solar 21/CB/JD

Phone: [REDACTED]

Email: [REDACTED]

Date: 29/08/2019

Colin Hammond
Head of Strategic Business Development
Solar 21
Rathcoole Premier Office Centre
Main St.
Rathcoole
Co. Dublin
D24 K519

www.northlincs.gov.uk

Church Square House
30-40 High Street
Scunthorpe
North Lincolnshire
DN15 6NL

Subject: Strategic Development Team (SDT) meeting (11/07/2019)

Council officers in attendance:

Place Planning & Housing Specialist – [REDACTED]
Development Management Group Manager (All correspondence to A. Law)
Development Management Strategic Development Officer – [REDACTED]
Environmental Protection Team Leader – [REDACTED]
Environmental Team Project Officer (Ecologist) – [REDACTED]
Transport Planning Officer – [REDACTED]
Senior Highway Development Officer – [REDACTED]
Drainage Project Manager – [REDACTED] (Please copy in LLFA Drainage Team to all correspondence – LLFAdrainageteam@northlincs.gov.uk)

Investment Delivery Lead – [REDACTED]
Senior Commercial & Investment Officer – [REDACTED]
Inward Investment Business Specialist – [REDACTED]

Dear Colin

Thank you for attending the Strategic Development Team meeting on Thursday 11 July at the Northern Lincolnshire UTC in Scunthorpe.

The aim of this meeting, ultimately, was to seek the authorities support for the proposed North Lincolnshire Green Energy Park and its alignment with current and future North Lincolnshire Council strategies.

The Leader of the Council, Rob Waltham MBE has already shown his support by way of his intention to raise awareness of the proposal in Westminster, in terms of its potential strategic importance for North Lincolnshire.

With regard to the proposal's alignment with current and future strategies: the proposed Green Energy Park site lies within an area that has a long history of consideration for economic development due to its proximity to the existing wharves and local infrastructure.

Currently the site is unallocated by adopted local planning policy and therefore is affectively in the open countryside. It is however within the Lincolnshire Lakes Area Action Plan (AAP) area but is not formally identified for development. Proposals in the open countryside are generally restricted to that which is essential to the functioning of the countryside. This includes uses that are related to agriculture, forestry and other uses that require a countryside location. The existing wharves are

highlighted for their protection and expansion and therefore development proposals which contribute to these aims will be supported. Furthermore, local planning policy supports renewable energy schemes in appropriate locations, particularly where there is suitable infrastructure in place and there is minimal impact on the local environment.

This proposal requires a location with particular infrastructure, such as port facilities, rail lines, and good access to the strategic road network and this site meets these requirements. As stated above it is currently unallocated for development, but due to the nature of the project and the economic benefits the proposal brings it can be viewed as an exception to adopted local planning policy and supported accordingly. Subject to no major issues coming forward, the scheme as it stands is not in significant opposition with local planning policy.

With regard to the proposed joint PINS, EA site visit we will await information on possible dates/time from yourself, at which point we will endeavour to send the appropriate NLC representative(s).

The proposal also aligns with some of the ways in which the council aims achieve its priorities as outlined in the Council Plan for growing the economy and enabling communities to flourish in order to achieve better outcomes for the people of North Lincolnshire:

- The Economic Growth Plan sets out plans to achieve a more prosperous North Lincolnshire and lays the foundations for sustainable growth over the next five years and beyond.
- The Skills and Employability Plan sets out the high-level ambitions the council want to achieve in order to drive forward skills and employment in the area.

Please see attached Appendix 1 – Overview of SDT and additional comments (post SDT).

NB. Justine Duhrkoop to be included in all correspondence with NLC to ensure point of contact remains informed of application status for the various stages: contact her directly for any other support.

We look forward to supporting you to work together to bring this proposal to North Lincolnshire.

Yours sincerely

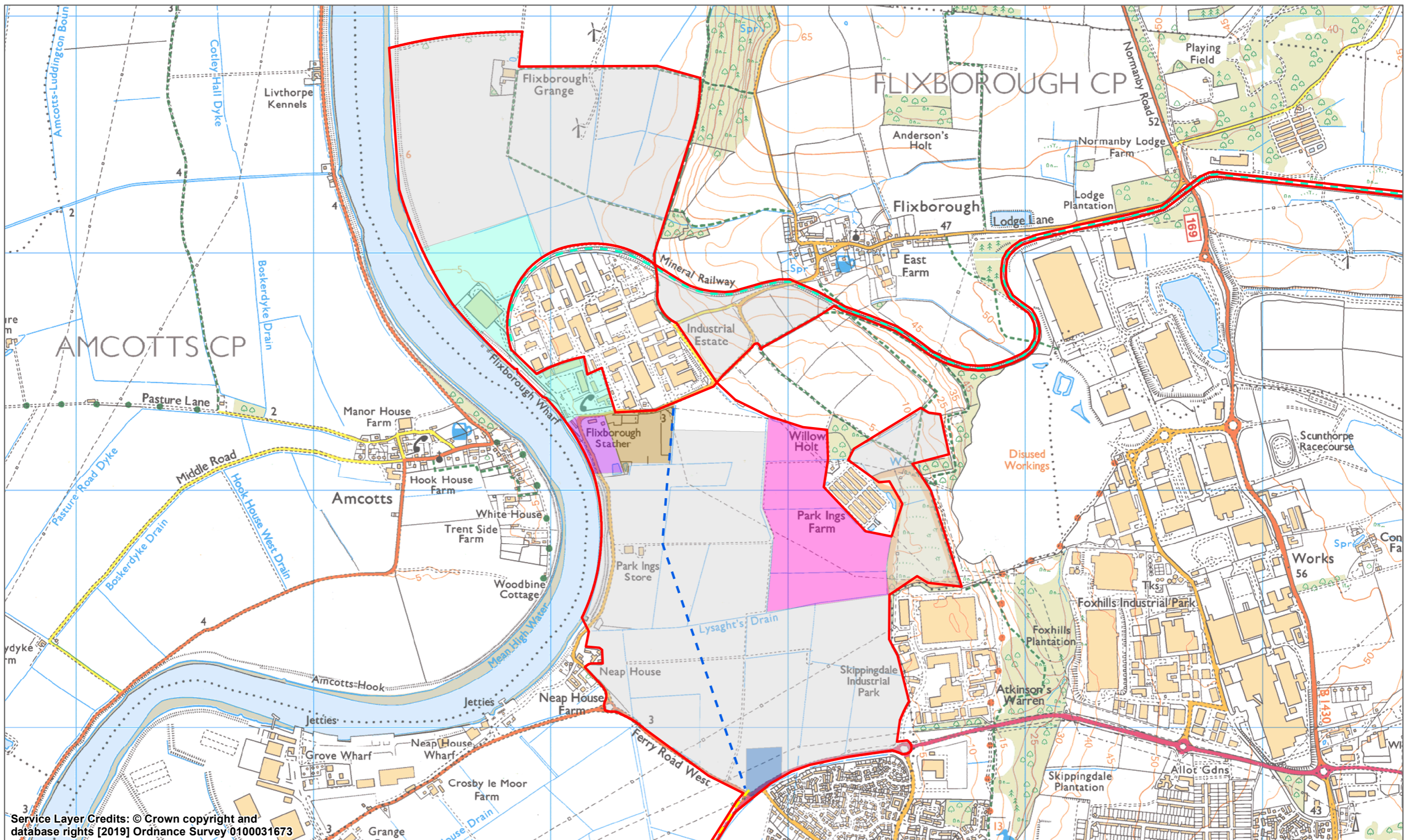


Christopher Barwell
Place Planning & Housing Specialist

Chair Strategic Development Team (11/07/2019)

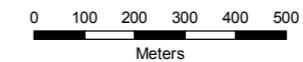
FIGURE 1

(Indicative Locations of the main Project components)



Service Layer Credits: © Crown copyright and database rights [2019] Ordnance Survey 0100031673

- | | | | |
|--|-------------------------------|--------------------------|-------------------------|
| Indicative DCO Application Boundary | Indicative Road Alignment | EV & H2 Station | Port Operations and ERF |
| Project Railway | B1,2 & 8 Plus Incubator Units | Glasshouse Facility | Jetty Extension |
| Proposed Heat Connection to Lincolnshire Lakes | Centre of Excellence | Operational Office Block | |



Site Land Use - Zoomed

Solar 21

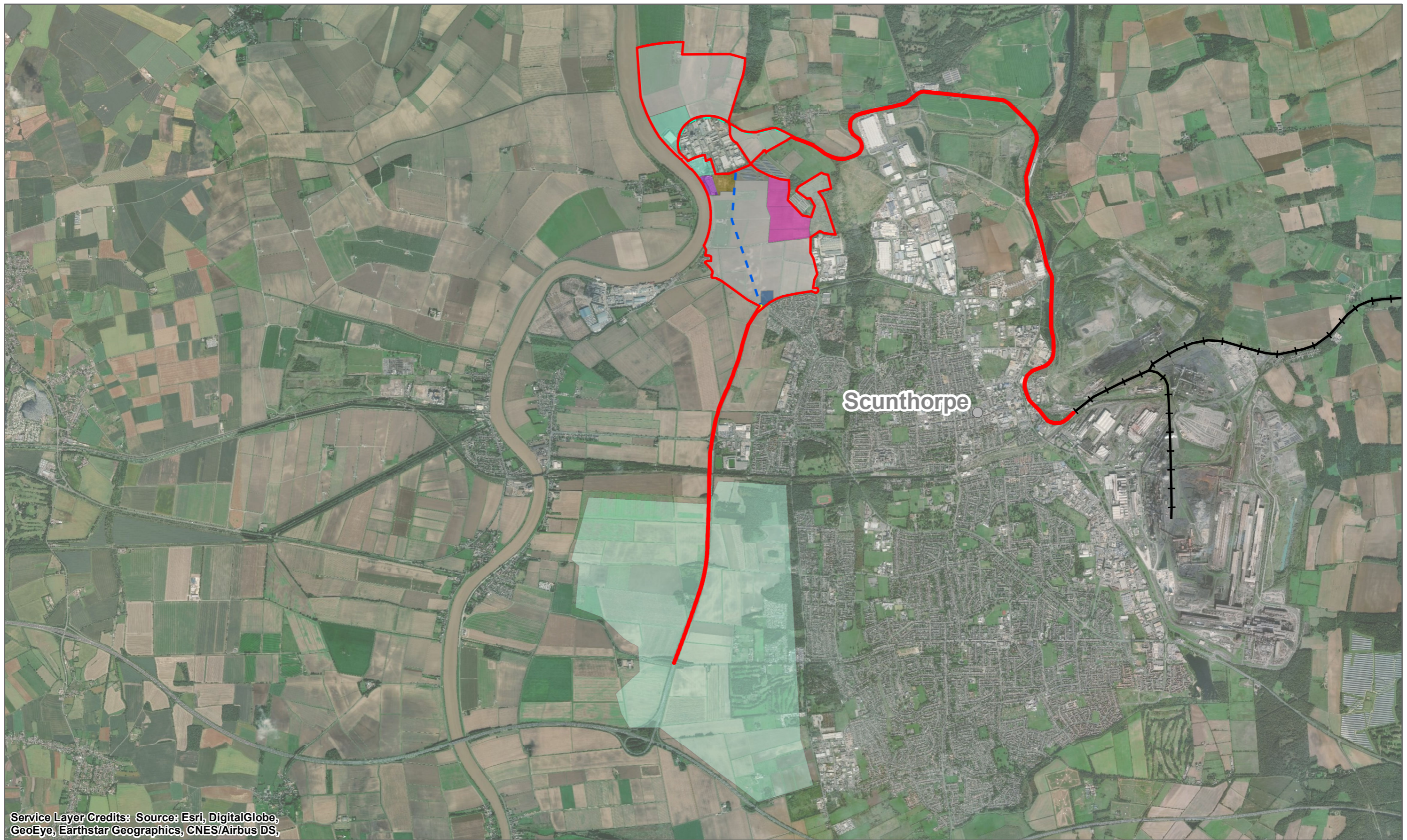
SCALE: See Scale Bar
 SIZE: A3
 PROJECT: 483091
 DATE: 17/12/2019

VERSION: A03
 DRAWN: OB
 CHECKED: AG
 APPROVED: LG



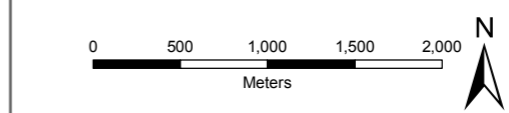
FIGURE 2

(Location of the 'Lincolnshire Lakes' strategic allocation)



Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS,

- | | | | |
|-------------------------------------|--|-------------------------------|-------------------------------|
| Indicative DCO Application Boundary | Proposed Heat Connection to Lincolnshire Lakes | B1,2 & 8 Plus Incubator Units | Jetty Extension |
| Town | Indicative Road Alignment | Centre of Excellence | Lincolnshire Lake Development |
| Project Railway | | EV & H2 Station | Operational Office Block |
| Public Railway | | Glasshouse Facility | Port Operations and ERF |



Site Land Use
Solar 21

SCALE: See Scale Bar	VERSION: A03
SIZE: A3	DRAWN: OB
PROJECT: 483091	CHECKED: AG
DATE: 17/12/2019	APPROVED: LG



PROJECTION: British National Grid

SOURCE: ERM

Path: P:\Confidential Projects\0483091 Solar 21.HB\2. Working\6. GISMAPS\0483091_LandUseZoomed_A04.mxd

FIGURE 3

(Former allocation of the Flixborough Industrial Estate in the NLC Local Plan 2003)

Inset 3 - Amcotts & Flixborough Industrial Estate





Ministry of Housing,
Communities &
Local Government

20 February 2020

James Garbett
Managing Associate
Womble Bond Dickinson (UK) LLP
By e-mail

Dear Mr Garbett

REQUEST FOR A DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (BUSINESS OR COMMERCIAL PROJECTS) REGULATIONS 2013 RELATING TO THE NORTH LINCOLNSHIRE GREEN ENERGY PARK

1. Thank you for your letter of 20 December 2019 submitted on behalf of North Lincolnshire Green Energy Park Limited (“the Applicant”), for a Direction to be made either jointly or individually, by the Secretary of State for Business, Energy and Industrial Strategy (“BEIS”) and/or the Secretary of State for Housing, Communities and Local Government (“HCLG”) (“the Secretaries of State”) under section 35 of the Planning Act 2008 (“the Direction request”) to direct that certain specified elements of the proposed North Lincolnshire Green Energy Park (the proposed Development) should be treated as development for which development consent is required under the Planning Act 2008.
2. The elements of the proposed Development for which a Direction has been sought are:-
 - a) an Energy Recovery Centre of Excellence;
 - b) a Business Enterprise Park; and
 - c) a commercial Glasshouse development
3. The Secretaries of State requested supplementary information from the Applicant on 15 January 2020 to assist in deciding whether to give the Direction sought. Further information was received from the Applicant on 24 January 2020. In addition, the Secretary(ies) of State have also received a letter dated 23 January 2020 from Lord Haskins of Skidby, the Chairman of the Humber Local Enterprise Partnership, who supported the total planned development put forward by the Applicant because the Partnership believed it embraces the objectives and strategies of the Humber Local Industrial Strategy.

Ministry of Housing, Communities & Local Government
Andrew Lynch, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: [REDACTED]
Email: PCC@communities.gov.uk

4. The Secretaries of State have now considered the information contained in the Application and in your supplementary response of 24 January 2020. They have also considered the representation made by Lord Haskins.
5. This is the response on behalf of the Secretary of State for Housing, Communities and Local Government. The Secretary of State for BEIS is sending a separate response.
6. The Secretary of State is satisfied that proposals a) and b) fall within a business or commercial project of a prescribed description for the purposes of section 35(2) (a) (ii) of the Planning Act 2008 and regulation 2 of The Infrastructure Planning (Business or Commercial Projects) Regulations 2013. However, he concludes that proposal c) for the commercial Glasshouse development does not fall within scope of the prescribed descriptions. While some secondary activities (e.g. cleaning, washing, packing, adapting for sale) may be perceived as kinds of industrial processes, the primary activity of the facility (namely crop production/ agriculture) does not fall within the 2013 Regulations, which require that projects should consist of activities that are “wholly or mainly” of the types prescribed.
7. The Secretary of State has gone on to assess the request for the Energy Recovery Centre of Excellence and Business Enterprise Park against the indicative criteria in the (then DCLG) policy statement “*Extension of the nationally significant infrastructure planning regime to business and commercial projects*” (‘the Policy Statement’). He has considered all other relevant matters including the information included in the request, the further information requested and provided, and the representation submitted by Lord Haskins.
8. The Secretary of State considers that the proposals would, in the context of North Lincolnshire, be likely to have a significant economic impact and be important in driving growth in that context. However, he does not consider these impacts in terms of forecast job creation and GVA to be of such a size or impact as to be of national significance.
9. The Secretary of State also considers the project or projects to be one(s) which may be likely to require multiple consents or authorisations and which, in consequence, might benefit from the ‘single authorisation process’ offered by the nationally significant infrastructure regime. However, he also considers that the powers and consents required are not particularly unusual, numerous or complex for a proposal (or proposals) of this size and such consents could be sought separately.
10. Whilst the Policy Statement makes it clear that size in itself will not be the determining factor in whether a project is nationally significant or not, the Secretary of State notes that the proposals are of a substantial size, in line or in excess of the indicative size criteria set out in the Policy Statement.

11. However, whilst the proposals meet and exceed some of the indicative criteria set out in the Policy Statement, the Secretary of State is not satisfied that the information provided in the request provides a clear justification and evidence base as to why the proposals are of national significance, either individually or when considered with one or more other prescribed business/commercial projects/proposed projects. In particular, he considers that the submitted documentation provides no clear indication as to how the proposed uses would be distributed across the site, and little assurance that what is illustrated would come forward in anything like that form. In addition, there is some uncertainty about the precise use, occupation and operation of the buildings and facilities proposed.
12. The Secretary of State also considers that the proposal would not have a significant impact on an area wider than a single local authority. While some elements of the proposals could potentially yield wider applicability over time, the main and direct impacts relate to the operation of the Energy Recovery Facility itself.
13. In conclusion, and having considered the totality of the evidence adduced in respect of the proposals for which consent is sought, the Secretary of State is not of the view that the proposed projects are projects of national significance (either alone or when considered with one or more other prescribed business/commercial projects/proposed projects) and thus do not merit being directed into the Planning Act 2008 regime.
14. This decision is given without prejudice to the Secretary of State's consideration of any planning application or appeal relating to the proposal. A copy of this letter will be sent to Lord Haskins, Chair of the Humber Local Enterprise Partnership.

Yours sincerely,



Richard Watson, Head of the Planning Casework Unit



Department for
Business, Energy
& Industrial Strategy

James Garbett
Managing Associate
Womble Bond Dickinson

**Department of Business,
Energy and Industrial Strategy**

1 Victoria Street
London SW1H 0ET
T: +44 (0)207 215 5000
E: beiseip@beis.gov.uk
www.gov.uk/beis

By e-mail only: [REDACTED]

Your ref: CB6X/JAG3/465115.1
Our ref:

20 February 2020

Dear Mr Garbett

NORTH LINCOLNSHIRE GREEN ENERGY PARK: REQUEST FOR DIRECTION UNDER SECTION 35 OF THE PLANNING ACT 2008

Thank you for your letter of 20 December 2019 submitted on behalf of North Lincolnshire Green Energy Park Limited ("the Applicant"), for a Direction to be made either jointly or individually, by the Secretary of State for Business, Energy and Industrial Strategy ("the Secretary of State") ("BEIS") and/or the Secretary of State for Housing, Communities and Local Government ("HCLG") (together "the Secretaries of State") under section 35 of the Planning Act 2008 ("the Direction request") to direct that certain specified elements of the proposed North Lincolnshire Green Energy Park (the proposed Development) should be treated as development for which development consent is required under the Planning Act 2008.

The elements of the proposed Development for which a Direction has been sought are:

- an Energy Recovery Centre of Excellence;
- a Business Enterprise Park; and
- a Commercial Glasshouse Development.

The Secretaries of State requested supplementary information from the Applicant on 15 January 2020 to assist in deciding whether to give the Direction sought. Further information was received from the Applicant on 24 January 2020. In addition, the Secretary(ies) of State have also received a letter dated 23 January 2020 from Lord Haskins of Skidby, the Chairman of the Humber Local Enterprise Partnership, who supported the total planned

development put forward by the Applicant because the Partnership believed it embraces the objectives and strategies of the Humber Local Industrial Strategy.

The Secretaries of State have now considered the information contained in the Application and in your supplementary response of 24 January 2020. They have also considered the comments made by Lord Haskins in his letter of 23 January 2020.

This is the response on behalf of the Secretary of State for BEIS. The Secretary of State for HCLG has sent a separate response today. In light of the Secretary of State's consideration, he has decided to decline the request for a Direction to be made for each of the elements for which the Direction has been sought: an Energy Recovery Centre of Excellence; a Business Enterprise Park; and a Commercial Glasshouse Development.

The decision to decline the request for a Direction has been taken in light of the Secretary of State's consideration of the Application against the relevant tests set out in section 35 of the Planning Act 2008. The key test under section 35(1)(c) of the Planning Act 2008 for a direction to be given is "that the Secretary of State thinks the project.....is of national significance, either by itself or when considered with.....one or more other projects....in the same field [energy]".

In addition, there are a number of 'qualifying tests' that a proposed development must meet to be eligible for a direction to be granted: the development must form part of a project in the field of energy (for the decision to fall within the remit of BEIS Ministers); the development must be wholly in England; and the Secretary of State must think the project is of national significance either by itself or when or when considered with others in the same field.

The Secretary of State considers that the proposals in relation to the Business Enterprise Park and the Commercial Glasshouse Development are not themselves energy projects and are too far removed from the energy development itself to be considered to fall into the category of being in the field of energy. The Secretary of State does not, therefore, consider these proposals fall to him to determine whether a Direction should be given for them.

While the proposed Energy Recovery Centre of Excellence meets the qualifying tests in respect of location and could be considered to be within the field of energy, the Secretary of State considers that the activities being proposed are largely focused on its link with the individual Energy Recovery Facility and there is no evidence that it will meet a broader need within the field of energy across a wider geographical area. While there could be local benefits from the scheme, on the basis of the information you have provided, the Secretary of State does not consider that they are of national significance.

The decision to decline the request for a Direction to be granted is given without prejudice to the merits of those proposals or to the Secretary of State's consideration of any application for development consent which is made in relation to the proposed Energy Recovery Facility at Flixborough Wharf.

This letter will be published on the “Energy Infrastructure Development Applications: decision page” on the GOV.UK web-site¹.

Yours sincerely



GARETH LEIGH
Head of Energy Infrastructure Planning

¹ <https://www.gov.uk/government/collections/energy-infrastructure-development-applications-decisions>

APPENDIX 2

(Report to the Board of Directors of The North Lincolnshire Green Energy Park Limited)

17 March 2023

Report to Board of Directors of The North Lincolnshire Green Energy
Park Limited (the Board)

Proposed North Lincolnshire Green Energy Park

1. INTRODUCTION

- 1.1 This Report relates to the application made by North Lincolnshire Green Energy Park Limited (the **Company/the Applicant**) on 31 May 2022 to the Secretary of State under the Planning Act 2008 (the **Application**) for powers to develop an Energy Recovery Facility (**ERF**) capable of converting up to 760,000 tonnes of non-recyclable waste into 95 MW of electricity at its heart and a carbon capture, utilisation and storage (**CCUS**) facility which will treat the excess gasses released from the ERF to remove and store carbon dioxide (**CO₂**) prior to emission into the atmosphere, located within the administrative area of North Lincolnshire Council (the **Project**). The Project would be located on land within and to the south of Flixborough Industrial Estate, to the north west of Scunthorpe, North Lincolnshire.
- 1.2 The NSIP incorporates a switchyard and substation, to ensure that the power created can be exported either to the National Grid or to local businesses through a private wire network (PWN); and a water and condensate 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.
- 1.3 The Project will include the following Associated Development to support the operation of the NSIP:
- 1.3.1 a bottom ash and flue gas residue handling and treatment facility (**RHTF**)
 - 1.3.2 a concrete block manufacturing facility (**CBMF**)
 - 1.3.3 a plastic recycling facility (**PRF**)
 - 1.3.4 a hydrogen production and storage facility
 - 1.3.5 an electric vehicle (**EV**) and hydrogen (**H₂**) refuelling station
 - 1.3.6 battery storage
 - 1.3.7 a hydrogen and natural gas above ground installations (**AGI**)
 - 1.3.8 a new access road and parking
 - 1.3.9 a gatehouse and visitor centre with elevated walkway
 - 1.3.10 railway reinstatement works including, sidings at Dragonby, reinstatement and safety improvements to the 6km private railway spur, and the construction of a new railhead with sidings south of Flixborough Wharf
 - 1.3.11 a northern and southern district heating and private wire network (**DHPWN**);
 - 1.3.12 habitat creation, landscaping and ecological mitigation, including green infrastructure and 65-acre wetland area
 - 1.3.13 new public rights of way and cycle ways including footbridges

- 1.3.14 Sustainable Drainage Systems (**SuDS**) and flood defence; and
- 1.3.15 utility constructions and diversions.
- 1.4 The Application was accepted for examination by the Secretary of State on 27 June 2022.
- 1.5 This Report is required to allow the Board to consider the proposed compulsory acquisition of land and rights over land, required for the Project and that are included with the application for the Order. Whilst negotiations with all affected parties are being pursued, it is recognised that it may be necessary to rely on compulsory land acquisition powers if agreement cannot be reached in a reasonable commercial timescale and for a number of other reasons including dealing with land in unknown ownership; previously undiscovered parties; and breaches of negotiated agreements by landowning parties.
- 1.6 It is particularly important for the Board to consider the proportionality and compelling nature of seeking compulsory acquisition powers, as well as the Human Rights of the affected parties as well as to address the Equalities Impact on affected persons as well as the Project once constructed assuming the Order is made.
- 1.7 The purpose of this Report is to obtain approval from the Board to:
 - 1.7.1 Continue to seek to acquire all outstanding interests in the required land and new rights by negotiation to deliver in parallel with the statutory process.
 - 1.7.2 If the Order is made by the Secretary of State, to exercise the powers of compulsory acquisition as provided for in the Order if agreement has not been reached with landowners.
- 1.8 The minute of the Board meeting receiving this Report will confirm the Board has taken into account the implications for the Human Rights of the parties affected by the Order in considering the recommendations in paragraph 1.7. This report and the minute of the decision may be presented to the Secretary of State in evidence. It also addresses the Equalities Impact of those affected by the Project as well as considering the effects of the Project once constructed.

2. THE APPLICANT'S STATUTORY POSITION

- 2.1 The Order, if made, will supply the Applicant with statutory powers to construct, operate and maintain the Project and to exercise the powers of compulsory acquisition of land as provided for in the Order and its associated Book of Reference.

3. BACKGROUND

- 3.1 Attached to this Report at **Appendix 1** are the Land Plans showing the Order Lands (those lands that are proposed to be acquired including land over which new rights are

proposed to be acquired). At **Appendix 2** is the Statement of Reasons that has been provided to the Secretary of State explaining why the Order is being sought. **Appendix 3** is the draft Order and **Appendix 4** is Part 1 of the Book of Reference (this Application document details the existing interests in the Order Land, whilst Part 1 details the principal landowners, leasehold, tenancy, and occupier interests, and describes the land required by reference to the land plan). **Appendix 5** sets out a confidential summary of negotiations and any identified impacts of those freeholders, leaseholder and occupiers which are known to the Company.

- 3.2 The Company has engaged DDM Agriculture to pursue negotiations on its behalf as well as those which have been undertaken directly by Colin Hammond and Andrew Bradley. As at the date of submission of the Statement of Reasons approximately 60% of the freehold land (by area) had been secured either by agreement or with agreed heads of terms. As at the date of this report it is currently approximately 92% with the NLC land and Bellwin House accounting for the majority of the unsecured land.
- 3.3 Each of these documents may be further revised during the examination phase for the Order. The Board should have full regard to the Statement of Reasons when resolving whether or not to approve the matters set out in paragraph 1.5 above.
- 3.4 In section 7 of the Statement of Reasons there is a description of the lands potentially subject to compulsory acquisition and the reasons why expropriation powers are sought. The Book of Reference provides the formal title information for the individual plots.

4. THE ORDER

- 4.1 The Order will be a statutory instrument giving the Applicant statutory powers required for the Project. In addition to planning powers to construct and operate the Project, the Applicant will have power to carry out street works and to connect to services. Attached as a schedule to the Order, is a list of requirements (similar to planning conditions) that the Applicant will have to comply with when constructing and operating the Project. The Order and requirements are currently in draft form and may be altered during the examination and Secretary of State's decision-making process.

5. STATUTORY CONTEXT – COMPULSORY ACQUISITION POWER AND PROCESS

- 5.1 The Applicant is seeking the power at Part 4 of the Order (Powers of Acquisition) (see **Appendix 3**) pursuant to Section 122 of the Planning Act 2008 (the **Act**), to compulsorily acquire land and rights, in addition to the power, to take temporary possession under Article 31 and to survey land compulsorily at Article 37. For the compulsory acquisition power to be available the Applicant must ensure the Secretary of State is satisfied that:

- 1) The land is required for the development; or

- 2) The land is required to facilitate or is incidental to the development.
- 5.2 It is also necessary for the Secretary of State to be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order which outweighs the private loss.
- 5.3 The purpose behind the proposed exercise of compulsory acquisition powers relates to the delivery of the Project. The Land Plan showing the proposed compulsory purchase indicates the land that is to be acquired freehold, or over which new rights, or powers of temporary possession, are to be acquired.
- 5.4 In summary, the process to be followed (as set out in the Act) is as follows:
- 5.4.1 The Application, which has been submitted to the Secretary of State includes the documentation required pursuant to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 in respect of the proposed compulsory purchase provisions (i.e. the Statement of Reasons, Book of Reference, the Funding Statement and the Land Plan).
- 5.4.2 Notice of acceptance of the Application by the Secretary of State was served on all known landowners listed in the Book of Reference by the Applicant, as well as prescribed statutory consultees.
- 5.4.3 Where land is in unknown ownership, personal or postal service of notices of making the Order is not possible. Instead, section 230 of the Planning Act 2008 allows the Applicant to dispense with proposed service and instead rely on site notices posted on the land and directed to the owner and/or occupier.
- 5.4.4 The Planning Inspectorate, on behalf of the Secretary of State, has six months to examine the Application following its preliminary meeting and during this time any person affected by the compulsory purchase provisions in the Order can notify the Secretary of State that they wish a compulsory acquisition hearing to be held. The Applicant has put its case for compulsory acquisition at such hearings, before the examining authority appointed to consider the Application.
- 5.4.5 A report will be provided to the Secretary of State by the Planning Inspectorate within three months of the end of the examination period. The Secretary of State will have three months to decide whether or not the Order should be made.
- 5.4.6 Notice of making of the Order by the Secretary of State is served on all known landowners, and all other parties with an interest in the Order Land, by the Applicant.

- 5.4.7 Following the Order being made, the Applicant currently will have seven years to exercise the powers of compulsory acquisition.
- 5.4.8 The Act provides for a period of six weeks from publication of the Order for challenges being made to the Order by way of judicial review.
- 5.4.9 The acquisition of land or new rights over land is subject to the payment of compensation based on open market value principles. Compensation is payable pursuant to the rules and guidelines set out in 175 years' worth of statute and case law, as well as Lands Tribunal decisions. This is collectively known as the Compensation Code. The basic principle is one of equivalence – no one should be better or worse off as a result of the compulsory acquisition.
- 5.4.10 In addition to a payment based upon the value of the interest affected, compensation may also be payable in the event that there is a decrease in the value to land retained or outside the area over which new rights are exercised in the event, for example, that part of the remaining land can no longer be used.
- 5.4.11 There is also an allowance of up to 10% of the market value of the land or £100,000 (whichever is less) in recognition for the fact that acquisition was compulsory. This is known as the “loss payment” regime.
- 5.4.12 Owners’ reasonable costs of conveyances and other reasonable costs are usually met by the acquiring authority.
- 5.5 Matters of compensation are not for the examining authority to consider in the examination process or for the Secretary of State in making their decision because, in the event that compensation cannot be agreed, the matter would be referred to the Lands Chamber of the Upper Tribunal. However, the Applicant has confirmed to the Examining Authority that in its opinion, premiums have been offered to landowners in excess their entitlement to payments under the Compensation Code in order to secure agreement by negotiation.
- 5.6 Existing rights over land are overridden if the Order land or rights over Order land is taken by the Applicant. Or if notice is served, they can also be extinguished. The beneficiaries of rights that may be overridden or extinguished and converted into a right to compensation are set out in Parts 2 and 3 of the Book of Reference.
- 5.7 There is no Crown Land or special category land comprising commons, or land owned by the National Trust affected by the Order. There is special category land comprising public open space, but the Applicant has sought to limit the use of compulsory purchase

powers over this land as far as possible and to the extent that the compulsory acquisition of this land would not trigger Special Parliamentary Procedure.

5.8 In addition to the compulsory acquisition of land and rights, the Order will also contain a number of other powers that may be exercised compulsorily, which may also interfere with land, and existing rights in land. These include the power to survey land at Article 37 and specific powers to acquire the subsoil only, or rights in the subsoil of land at Article 29.

5.9 Articles 31 and 32 of the Order provide a power for the Applicant to use land temporarily for the purposes of the construction (Article 31) and maintenance (Article 32) of the Project. While Articles 31 and 32 would permit temporary interference with land, or the temporary overriding of existing rights in land, the exercise of those powers does not commit the Applicant to permanently acquire land or rights in land thereafter. For the most part, these rights also apply to land over which permanent rights are being sought. This will enable the Applicant to undertake works of construction over the full extent of the land authorised for such works using the temporary powers where outlined in the Order. On completion of those works it is anticipated that a reduced area of land would be permanently acquired once the extent of the permanent works have been ascertained. This is predicated on a position that these powers would only be required where agreement has not been reached with landowners.

5.10 Article 38 permits the Applicant to fell or lop trees or shrubs that it reasonably believes may otherwise obstruct or interfere with the Project.

5.11 Compensation is also required to be paid in respect of loss or damage arising from the exercise of the powers described in this section 5, on a similar basis as for the compulsory acquisition of land and rights in land.

6. THE CASE FOR COMPULSORY ACQUISITION

6.1 Guidelines on compulsory acquisition are set out in the Communities and Local Government Guidance note “Planning Act 2008: Guidance related to procedures for compulsory acquisition of land” (the **Guidance**). It is prudent for a party applying for powers of compulsory acquisition to follow and apply the provisions of the Guidance. The principles of compulsory purchase orders as set out in DLUHC’s Guidance on Compulsory Purchase Process and The Crichel Down Rules (updated July 2019) will also be applied.

6.2 The following matters need to be considered before a decision is made whether to agree to exercise powers of compulsory acquisition:

6.2.1 There must be a compelling case in the public interest for inclusion of powers of compulsory acquisition in the Order. The Secretary of State must be

persuaded that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired. In carrying out this assessment regard must be had in particular, to the third parties' human rights. This is considered further at section 7 below.

- 6.2.2 The Applicant must demonstrate that there is a reasonable prospect of the requisite funds for compensation becoming available. This is considered further at section 9 below.
 - 6.2.3 The land must be required for the Project to which the Order relates or is required to facilitate or is incidental to the Project.
 - 6.2.4 As compulsory acquisition is intended to be used only in the event that attempts to acquire by negotiation fail, it is necessary to establish that all reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored.
- 6.3 The Applicant's professional team has been engaged in extensive negotiation with all of the freehold owners of the affected land. Negotiations will continue with the remaining parties where agreement has not been secured, with a view of reaching agreement without compulsory powers having to be relied upon. However, it is necessary to consider the exercise of the compulsory acquisition powers now so that, in the event that negotiations are not concluded, the Applicant may ensure that the Project timetable can be met.
- 6.4 It is to be noted that land has been included as Order Land and scheduled in the Book of Reference even where agreement is about to be reached. This is to ensure that, if any minor interests such as easements, rights of way, restrictive covenants etc are discovered that have not previously been negotiated away, compulsory acquisition powers are available to override those interests and as a result of the application of the Applicant's statutory powers the beneficiary of an interest will be entitled only to a right to compensation and not to prevent the scheme from proceeding.
- 6.5 Negotiations are underway with all relevant affected parties. The Applicant will continue to seek agreement with all relevant parties. It cannot yet however be anticipated that all of the interests in the Order Lands will be acquired by agreement within a reasonable commercial timeframe. As a result, the compelling case in the public interest for the promotion of the Order so as to permit the nationally significant infrastructure project to proceed, it is submitted, exists and the private interests of the relevant landowners should not take precedence over the compelling public interest.

7. HUMAN RIGHTS ACT 1998

- 7.1 As the exercise of compulsory acquisition powers involves depriving a legal entity of its interests in land it is necessary to consider the impact on human rights of those affected. This applies to both people and other legal entities including companies.
- 7.2 The European Convention on Human Rights (the **Convention**) is an international treaty signed under the auspices of the Council of Europe. Whilst the United Kingdom was instrumental in drafting the Convention it was never incorporated into United Kingdom law. The Human Rights Act 1998 (**HRA**) addresses the situation to an extent.
- 7.3 The HRA still does not incorporate the Convention into United Kingdom law but what it does is to enable individuals to invoke Convention rights for certain purposes and for certain effects.
- 7.4 The main articles of the Convention which are of importance in circumstances where the Applicant is considering making a compulsory purchase order are Article 6 – The Right to a Fair Hearing; Article 8 – The Right to Respect for Private and Family Life and His/Her Home; and Article 1 of Protocol 1 – The Protection of Property.
- 7.5 In seeking compulsory acquisition powers in the Order, an acquiring authority must show that the acquisition is justified in the public interest. On this basis the Company is now being asked to consider the human rights of those affected.

Article 6

- 7.6 Article 6 of the Convention entitles everyone to a fair and public hearing when their rights are interfered with. If a compulsory acquisition hearing request is made by owners of land in the Order, then the Order will not be made without a hearing before the Secretary of State being held. Article 6 is therefore adhered to in the Order making process. Further, whilst a number of affected persons registered to attend the Compulsory Acquisition Hearing on 8 March 2023, only North Lincolnshire Council and British Steel attended.

Article 8

- 7.7 Article 8(1) provides that everyone has the right to respect for his/her home, but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes, e.g. public safety, economic wellbeing, protection of health and protection of the rights of others.
- 7.8 When considering Article 8 in the context of compulsory acquisition the Company needs to ask the following questions:

- (a) Firstly, does a right protected by Article 8 apply – to which the answer is "yes".

- (b) Secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made – to which the answer is again "yes".

7.9 The answer to these two questions being in the affirmative confirms that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are three questions for the Company to consider:

- (i) Is the interference in accordance with the law?

The answer is yes, there being a legal basis for seeking compulsory acquisition in the Order.

- (ii) Does the interference pursue a legitimate aim?

The justification for the Order is that it seeks to achieve a particular purpose in the public interest, namely, the delivery of the Project.

- (iii) Is the interference necessary in a democratic society?

Here the Company must make a balancing judgment between the public interest and the rights of the individual – the Order must be necessary and proportionate. There are also no residential properties affected by the Project.

7.10 A proportionality question is whether the measure has an excessive or disproportionate effect on the interests of affected persons? A recent Court judgment held this need not necessarily be the least intrusive means possible, although an earlier Court indicated the least intrusive means of securing the public interest would be the appropriate measure. In the circumstances set out in this Report, it is for the Board to consider if a less onerous means of securing the purposes of the Project can be achieved using powers other than compulsory acquisition. Recommendations are set out in paragraph 7.12 below.

Article 1 of Protocol 1

7.11 This Article provides that:

7.11.1 Every natural or legal person is entitled to the peaceful enjoyment of their possessions;

7.11.2 No one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law; however,

7.11.3 The above rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.

7.11.4 The Company must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community

and the requirements of the protection of the individual's fundamental rights. The right to compensation is an important factor in considering the balance between the two. Further where new rights are being acquired, whilst there will be an effect on those who remain in occupation for the duration of the works, this will be temporary, and they will be entitled to make a compensation claim. Recommendations are set out in paragraph 7.13 below.

Recommendations Relating to the Human Rights Act

- 7.12 With regard to Article 8 it is for the Board to consider whether, in balancing the constitutional rights of ownership of property for the individuals who are affected by the Order either through the acquisition of land or rights against the benefit to the community of proceeding with the Order, the making of the Order and the interference with the individuals rights is justified, necessary and proportionate. In considering this balance, and as is set out in the Statement of Reasons, national Government policy states that there is an urgent need for new energy NSIPs to be brought forward as soon as possible and in the next 10-15 years, and this need in the public benefit should be considered in the balance with any private loss. The Board may also consider that the nature of rights that are to be acquired beneath the surface of lands, could lead to a conclusion that any interference could be considered proportionate in the circumstances.
- 7.13 With regard to Article 1 Protocol 1, it could be considered that the interference with a person's property through the acquisition of land and new rights over land is justified by the public advantage accruing in proceeding with the Project. This is particularly the case when taking into account the fact that there is a legal right to compensation for the interests acquired pursuant to the Order; and that if agreement cannot be reached an affected party can have the matter determined independently by the Lands Chamber of the Upper Tribunal.
- 7.14 If the Board considers the public interest justifies the interference with private rights and that there is a case in the public interest for the Project, it can authorise the making of the Application.
- 7.15 In terms of the private loss a summary of the information known to the Company following extensive engagement is set out at **Appendix 5**.

Recommendations in respect of Equalities Impact

- 7.16 Whilst the Applicant is not subject to the public sector equality duty introduced by the Equality Act 2010 – it being a matter for the decision maker it is necessary to assist the decision maker on matters relating to equalities impact.
- 7.17 The Secretary of State as decision maker must have regard to the need to:

- 7.17.1 eliminate unlawful discrimination, harassment and victimisation;
 - 7.17.2 advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and
 - 7.17.3 foster good relations between those who share a relevant protected characteristic and those who don't.
- 7.18 For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.19 As part of the extensive and positive discussions with all landowners which has fostered good relations in any event, the Applicant has not been notified of any parties with protected characteristics. As such the Applicant considers that in relation to all of those with an interest in land this duty is met. The Applicant has adjusted communication approaches with one landowner in order to meet their requirements.
- 7.20 In terms of the Project, once constructed the Applicant considers that the following (non-exhaustive) benefits will accrue which can positively impact on the equality duty:
- 7.20.1 Decarbonising energy production and waste management by displacing the use of fossil fuels as part of the drive to achieve Net Zero by 2050
 - 7.20.2 Provide the infrastructure for energy security in power, heat and gas through the 11km district heat and private wire network supported by energy storage to connect local industry and domestic housing capable of powering and heating 221,000 homes;
 - 7.20.3 Install and enable carbon dioxide capture, utilisation and storage as part of the design in support of the Humber Low Carbon Pipelines initiative with the ambition to achieve a carbon negative status as a member of the East Coast Cluster partnership;
 - 7.20.4 Develop the utilisation of carbon dioxide to produce a recycled "green concrete" for use by local manufacturing and construction businesses
 - 7.20.5 Support and increase the volume of traffic through the Flixborough Wharf as an integral part of North Lincolnshire's sustainable multimodal transport network
 - 7.20.6 Provide over 3550 jobs in construction over the whole duration of the construction phase of the Project and 290 new skilled jobs in operation, with a further 660 jobs created in the local area as a result of the construction of the Project;
 - 7.20.7 Deliver an estimated gross value added (**GVA**) of £140.1million during construction and £8.34million during operation to the local economy;
 - 7.20.8 Integrate a plastic recycling facility to support the target towards 65% recycling by 2035 to ensure more RDF material can be recycled
 - 7.20.9 Build a new railhead at Flixborough Wharf, reinstate 6km of private railway between Flixborough Wharf and Network Rail at Dragonby Sidings and reinstate the sidings at Dragonby for the benefit of local business

- 7.20.10 Build a new access road between Ferry Road West and the Flixborough Industrial Estate to by-pass current highway constraints
- 7.20.11 Install the infrastructure for hydrogen and electric vehicle recharging to support the move away from fossil fuels by businesses and the local authority in the locality
- 7.20.12 Provide a new wetland area that will return the peat to deliver significant carbon sequestration and increase the biodiversity net gain. The Project will deliver in excess of 13% biodiversity net gain
- 7.20.13 Open up public access by joining existing footpaths and cycleways and opening the wetland area that will be supported by the Visitor Centre
- 7.20.14 Provide the long-term financial support required by the Lincolnshire Wildlife Trust to link key sites as part of the regional strategic plan

8. NEGOTIATION STRATEGY

- 7.21 The Company has been leading discussions with the affected parties. These negotiations are in most cases well advanced, with commercial terms agreed or being agreed with all parties.
- 7.22 It is hoped that agreement can be reached prior to the actual exercise of any compulsory powers and detailed negotiations in relation to the terms will continue to be pursued. Because of the timetable for the Project, compulsory powers are being sought in case agreement is not reached within a reasonable timeframe.
- 7.23 Negotiations will continue but it is currently envisaged that not all of these will come to fruition before the Order needs to be relied upon.

8. FINANCIAL RESOURCES AND COMPENSATION

- 8.1 The Funding Statement that accompanies the Application sets out that the Applicant has the ability to secure the financial resources required of acquiring any land and the payment of compensation as applicable. It also sets out that the financial resources of the Applicant would be used to meet any successful claims for blight which might arise as well as the process for securing the necessary funding and achieving financial close to proceed with the Project after any Order is made.
- 8.2 The basic principles of the compensation code are referred to in Section 5 above. As well as compensation payments for acquisition of land and rights, injurious affection or depreciation in value of owners' retained land and disturbance suffered by owners, compensation is payable under the loss payment regime on the basis of 10% of the market value of the land acquired up to a maximum of £100,000.
- 8.3 Disturbance payments and similar arrangements for payment apply for owners' costs of conveyancing and obtaining professional advice on the compulsory acquisition process (although not objection costs). The application fees for the Order were paid by the

Company. Other costs include the hire of a venue for compulsory acquisition hearings (if any) and if necessary the cost of hiring administrative equipment to support that hearing.

- 8.4 There is sufficient resource in place for the Order to be made. There are not considered to be any impediments to implementation of the Order, and this Report has considered the impact of the parties affected by compulsory acquisition. Therefore the Board may consider that the public benefit outweighs the private loss such that there is a compelling case in the public interest for the Order to be made.

9. BOARD RESOLUTION

- 9.1 The Board is asked to formally consider whether it believes the inclusion of compulsory acquisition powers within the North Lincolnshire Green Energy Park Order is proportionate in interfering with the Human Rights of those potentially affected by the powers of expropriation that the Applicant seeks.

- 9.2 It is recommended that, having given due consideration to the provisions of this Report including in particular the impact on the human rights of those affected by the Project

that the Company resolves to:

- 9.2.1 Proceed with the Application as it has been submitted, including provision for the compulsory acquisition of all or part of the land and new rights outlined on the Land Plans annexed to this Report for the purposes of delivering the Project;
- 9.2.2 Utilise the procedures under section 230 of the Act to deal with land in unknown ownership, by placing of site notices directed to the owner and/or occupier of the land in unknown ownership;
- 9.2.3 Pursue all necessary subsequent actions to secure making of the Order by the Secretary of State including attending and preparing evidence for any compulsory acquisition hearings, entering into undertakings given to third parties on behalf of the Applicant and, if confirmed, exercise the powers of compulsory acquisition;
- 9.2.4 Continue to seek to acquire all outstanding interests in land to deliver the Project by negotiation in conjunction following the statutory process outlined above;
- 9.2.5 Make or defend references to the Lands Chamber of the Upper Tribunal on matters of disputed compensation;
- 9.2.6 Take associated or ancillary actions in respect of the foregoing matters.

APPENDIX 1

Land Plans

APPENDIX 2

Statement of Reasons

Appendix 3

Draft Order

Appendix 4

Book of Reference

APPENDIX 5

Assessment of Private Loss

ASSESSMENT OF PRIVATE LOSS V PUBLIC BENEFIT

1. The below table sets out the Applicant's assessment of the private loss attributable to the owners of land that is subject to proposed powers of compulsory acquisition, for the purposes of the carrying out of the Project. The below assessment deals with the owners of the principal land that is required on a permanent basis for the carrying out of the Project.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
1.	Rainham Steel and Voric (Scunthorpe) Ltd	5-17, 5-21, 5-84	Permanent acquisition of the freehold	Storage and laydown area for steel some of which have been imported through RMS Trent Ports' operated Flixborough Wharf.	The Occupier – Rainham Steel Company Ltd, currently holds approximately 35,000 tonnes of steel on 14 acres of brownfield land adjacent to the Flixborough Industrial Estate. The site has locational proximity to the Flixborough Wharf for the import of steel which the Occupier deems essential to their business. There is limited availability of existing industrial sites of this size close to a port with capacity to import steel as a relocation site. Flixborough Wharf is limited by the commercial capacity of the tidal River Trent. The alternative would be to import steel through a port such as Hartlepool which creates an additional road haulage impact and requires additional HGV vehicles to facilitate the unloading of vessels without a laydown and storage area close to the port. The current estimate for additional transport	<p>HOTs signed for commercial settlement with the preference by both parties for relocation of the business in close proximity to the Flixborough Wharf.</p> <p>A request for a screening opinion and a pre-application submission is being prepared for submission to North Lincolnshire Council – the local planning authority, to assess the requirements for a full planning application. Any planning decision will likely be delayed by the pre-election period ahead of the local elections.</p> <p>Compensation has been agreed with the landowner on terms more favourable than the landowner would be entitled to</p>

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					<p>for any steel required in the North Lincolnshire area would be in the region of £20 per tonne which would have financial implications for Rainham Steel.</p> <p>An independent assessment has been carried out to identify any existing or planned sites that would be available on a freehold purchase basis, which has concluded that the availability of these sites is almost non-existent particularly adjacent to a port, albeit an alternative site has now been identified.</p> <p>Whilst there would ordinarily be the impacts on the landowner as set out above the agreement to a relocation of the site or in the alternative payment of compensation on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code, means the private loss has been mitigated against so that this is minimal.</p>	if they were compensated under the compensation code.
2.	Wharfside Court	5-40, 5-43, 5-44, 5-45, 5-46, 5-47, 5-48, 5-49, 5-50, 5-51, 5-52	Permanent acquisition of the freehold	Wharfside Court consists of 14 industrial units of approximately 1,000 square feet that are used for a variety of commercial uses. Only two units are owner-occupied (by the same owner)	<p>The predominance of rented commercial units presents two different issues regarding loss.</p> <p>Landlords – are looking for long-term tenants in an area with high rates of occupancy. The occupancy levels in</p>	HOTs signed for commercial settlement with the landlords and the owner occupier with a preference for relocation of the businesses. The risk of relocation locally without

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
				and the remaining 12 units are tenanted.	<p>North Lincolnshire are reported at 98%. The losses to the landlords are limited to re-investment costs, tenant retention and the availability of alternative sites. All landlords have therefore been offered the option to re-locate to an alternative site as a property swap, not necessarily in the immediate area or alternatively compensation has been agreed with the landowner on terms more favourable than the landowner would be entitled to if they were compensated under the Compensation Code. The loss to the landlord is therefore limited.</p> <p>Tenants – the occupiers have the potential for business disruption or extinguishment, loss of clientele that may be site-specific, uncertainty through the option period relating to business development and growth and the limited supply of commercial units of the same area of approximately 1,000 square feet.</p> <p>The preference is still to provide alternative accommodation in the vicinity but this will be subject to securing local planning authority consent for development.</p> <p>The agreed commercial terms for the occupants of the Wharfside Court units</p>	<p>planning consent has resulted in the owner-occupier to voluntarily Extinguish their business. An independent assessment has been carried out to identify any existing or planned sites that would be available on a freehold purchase basis.</p> <p>A request for a screening opinion and a pre-application submission is being prepared for submission to North Lincolnshire Council – the local planning authority, to assess the requirements for a full planning application. Any planning decision will likely be delayed by the pre-election period ahead of the local elections.</p>

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					<p>include compensation payments on terms should the option to relocate not be deliverable in the event that planning permission is not secured for the relocation site.</p> <p>The loss to the Occupiers in this event will be to the use of the units for their businesses and potential disruption to the same. However the Applicant is looking at re-location options, and if this is not possible (due to being outside the control of NLGEPL or the Occupier chooses not to relocate as a result of uncertainty around the determination of the planning application) the loss will be compensated by way of compensation.</p>	
3.	Jackson Family	a) 4-10, 4-11, 4-12, 4-15, 4-20, 4-28, 4-40, 4-45, 4-47,4-49, 4-50, 4-51, 4-52, 4-59, 4-62, 4-63, 4-64, 4-65, 4-66, 4-68, 4-69, 4-70, 4-73, 4-74, 4-75, 4-77, 4-78, 4-79, 4-80, 4-83, 4-84, 4-85, 4-86,4-89, 4-91, 4-92, 4-93, 4-94, 4-96, 4-99, 4-100, 4-	a) Permanent acquisition of the freehold b) Permanent acquisition of rights in land and the imposition of restrictive covenants	Agriculture and farming. The site was granted planning consent for a commercial business park in May 1991 which has since lapsed.	The Jackson family's land and farming interests cover a broad area of land in the vicinity of the Order Limits. This includes the proposed 2,500 home development on the Lincolnshire Lakes which could have the potential to be joined to the proposed district heat network to the south of the Energy Park. The loss of the farm buildings has been compensated by agreement with the Landowner who has made	HoTs signed for commercial settlement and the completion of an exclusive option agreement underway. The Landowner is cooperative and supportive of the Project, including hosting an Accompanied Site Visit by the Examining Authority. Discussions are in hand to establish the potential to deliver heat, power and

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
		101, 4-102, 4-103, 4-104, 4-106, 4-108, 4-109, 5-2, 5-3, 5-4, 5-5, 5-10, 5-11, 5-13, 5-18, 5-83, 5-91, 6-4 b) 2-9, 3-3, 3-4, 3-6, 3-7, 3-9, 3-11, 3-21, 3-22, 3-23, 3-25, 4-6, 4-7, 4-14, 4-16, 4-19, 4-21, 4-23, 4-25, 4-33, 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88, 4-95, 5-7, 5-19, 5-33, 5-90, 6-1, 6-2, 6-3, 6-5, 6-11, 6-12, 6-13, 6-83			alternative arrangements for this on their other land holdings. NLGEPL and the Jackson family have agreed that in relation to some of the property, NLGEPL will only acquire rights in that land, rather than acquiring the freehold itself. This relates specifically to the agreement to allow the retained arable land to flood in the rare occurrence of a tidal surge with two breaches to the current flood banks to the River Trent Whilst there has been private loss resulting from the acquisition of the land, this has been compensated by agreement resulting in a negligible impact on the Jackson Family business or viability.	hydrogen to their interests in the Lincolnshire Lakes development. Significant disruption has been caused to the current cropping to secure the 168 Trial Trenches that have been requested by NLC and Historic England. The use of the Jackson's tracks and buildings along with the resulting crop loss has been compensated by agreement.
4.	Normanby Estate	5-5, 5-70, 5-72, 5-77, 6-16, 6-18, 7-4, 7-6, 4-11, 4-12, 4-20, 4-28, 4-50, 4-56, 4-57, 4-67, 4-71, 4-73, 4-75, 4-77, 4-78, 4-79, 4-80, 4-83, 4-84, 4-85, 4-86, 4-89, 4-91, 4-99, 4-100, 4-101, 4-102, 4-104, 4-106, 4-108, 5-83, 6-4, 7-7, 8-14, 8-15	Permanent acquisition of the freehold	Agriculture and farming	The land forms a small part of a large landholding across the UK where the opportunity to increase diversity and revenues has been established e.g. development of an industrial estate, wind and solar farms. Whilst it is acknowledged that there will be private loss as a result of the acquisition of the land, this has been compensated on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code.	HoTs signed for commercial settlement on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code. The Landowner is very supportive of the Project.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
	Norinco Limited (Note that Norinco forms part of the Normanby Estate)	4-97, 6-7, 6-9, 6-79, 9-39, 10-31, 4-92, 4-93, 4-94, 4-95, 4-96, 4-103, 5-5, 5-83, 6-4, 6-59, 6-83	Permanent acquisition of the freehold	The land is currently open access land on an area recovered from former mineral workings.	<p>The land has been classified as open access land and will continue to provide access to the public as part of the extensive BNG area as part of the Project. The land does not provide any revenue for the Estate and the commercial agreement will provide a premium over and above the current land value.</p> <p>The loss to the Normanby Estate/Norinco will be in the form of the loss of land. However, this has been compensated on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code.</p>	HoTs signed for commercial settlement. Norinco Limited forms part of the Normanby Estate where the Landowner is very supportive of Project and the land options for land out with the application red line boundary has also been secured to provide land for additional BNG to provide an additional 11 acres of unclassified agricultural land should additional resource for BNG be required.
5.	Flixborough Wharf Limited (t/a RMS Trent Ports)	5-14, 5-20, 5-34, 5-53, 5-71, 5-53, 5-73, 5-74, 5-75, 5-78, 5-81, 6-17, 6-22, 6-24, 6-33, 6-38, 6-41, 6-54, 6-55, 6-63, 6-64, 6-65, 7-1, 7-2, 7-3, 7-5, 7-7, 8-10, 8-13, 8-14, 8-15	Permanent acquisition of the freehold	Port operations and storage/laydown area	The intention is that as a result of the Project, there will be continuing shipping volume with the increased volume of RDF and aggregates in support of the NLGEPL operation which will increase revenues and operational profitability for the port operation. The landowner may experience private loss of the land (in the event that the option is exercised) but this is compensated for through payment for the land and additional benefits that will arise as a result of the	Option agreement (as varied on 9 September 2022) entered into on 2 August 2019. The landowner remains fully supportive of the Project. It is the intention that the port will remain operational during and following construction. NLGEPL are seeking to secure additional port laydown area to replace the Sita composting area that will be required for the Project.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					Project, to the extent that any loss would be minimal.	
6.	North Lincolnshire Council	5-16	Permanent acquisition of the freehold	Glanford House was previously an office block but was demolished and currently lays as a level brownfield site.	The Glanford House site has been redundant and not delivering any revenue for NLC. The Project will deliver new highly paid jobs and significant revenues to the region annually. There are no jobs currently associated with the site and have not been for many years. The Council will suffer loss through the loss of the land, but this will be balanced against the above benefits, in addition to the compensation that would be payable to the Council either through a voluntary agreement or compulsory acquisition. The Project will deliver a net private benefit for the Council.	Following CAH1 on 8 March, NLC have taken an action from the ExA to consider their position and explain how their socio-economic strategy on negotiating a private commercial settlement for the Glanford House site. NLC agreed to submit their reasoning by way of a written response. An independent valuation of the Glanford site has been commissioned by NLGEPL and a provisional offer has been made to NLC Estates on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code. An offer was made by NLC to NLGEPL to lease the site in 2021 which would have created a revenue to NLC for the site, but which was not acted on by NLC. NLGEPL will continue to work with the NLC Team to try and secure an outcome that is considered acceptable by NLC.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
		5-35	Permanent acquisition of the freehold	The former Sita site which is currently occupied by RMS Trent Ports as a holding/storage area for imported items/items for export.	<p>This block of land has been leased by NLC – most recently to RMS Ports. No FTE jobs are directly associated with the site which is currently used as a storage site for the adjacent port. The potential loss would arise on behalf of RMS Ports should the storage and laydown area not be replaced as part of the relocation proposals.</p> <p>The loss of lease revenue to NLC would be offset by the price offered for the freehold of the land on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code unless NLC chose the CA route for procurement</p> <p>The creation of new highly paid jobs by the Project, the relocation of the laydown area and the increase in the shipping volume through the port would deliver a net benefit to NLC and the port operation.</p>	This site has been leased to RMS Ports for the past 3-years that we believe is under a rolling 3-year lease. NLGEPL has not been provided with a copy of the lease although this has been requested. NLGEPL has submitted a draft offer on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code, and we are waiting for NLC to respond with their approach to the private commercial negotiation of land. NLGEPL proposes to replace this laydown area once the Project is built through the land secured for relocation of other businesses.
7.	Andrew and Derek Green	6-20, 6-30, 6-31, 6-35, 6-37, 6-42, 6-49	Permanent acquisition of the freehold	Agriculture and farming and the temporary grazing of horses.	The land to the north and south of the railway line is predominantly rough grazing. Approximately 2.5 acres is required for permanent acquisition or permanent easement with another 3 acres required for temporary use through construction. The existing	HoTs are with Andrew Green for final sign off. A meeting with Mr Green and his land agent is scheduled for Tuesday 21 st March 2023 to discuss the proposal further. The accompanied site visit by the

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					<p>railway line splitting Church Farm and was already in place long before the land was purchased by Mr Green's father in the early 1960's. The farm traffic and livestock do not use the railway crossing to access the land to the south of the railway.</p> <p>The temporary use of land for construction will provide a premium revenue for the time it is not being grazed by horses and any damage will be fully reinstated.</p> <p>Mr Green has been offered terms more favourable than the landowner would be entitled to if they were compensated under the compensation code, which is over the current price of the best agricultural land in North Lincolnshire for land which has limited productivity. The private loss to Mr Green is therefore judged to be minimal as there will be no loss of jobs or productivity and the sale of the land asset will be compensated.</p>	joint examiners visited Church Farm at the point where the footpath and the agricultural access cross the railway.
8.	Raymond and Simon Ogg	5-63, 5-70, 5-72, 5-87, 5-88, 5-89, 6-16, 6-18	Permanent acquisition of the freehold	Agriculture and farming.	<p>Mr Ogg will be impacted as a landowner and a tenant farmer on land belonging to Normanby Estate.</p> <p>The statutory compensation for the loss of tenancy has been agreed by NLGEPL with Mr Ogg, including a</p>	HoTs are with the Oggs for final sign off. NLGEPL has worked closely with Mr Ogg whom has provided significant assistance in the provision of land for the archaeological trial

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					<p>voluntary private settlement. Agreed terms are more favourable than the landowner would be entitled to if they were compensated under the compensation code.</p> <p>The 67 acres of farmed land to be acquired from a total of 430 acres will be significant.</p> <p>The financial settlement and the quest to identify additional land that can be farmed will ensure that no jobs will be lost due to the Project and no revenue loss for five years post construction. The private loss will therefore be managed to deliver minimal impact.</p>	trenches. NLGEPL has underwritten the production of Mr Ogg's land for the next two years to ensure no loss of revenue or profit. Discussions are ongoing to identify where Mr Ogg might recover some of the 60 acres lost to the Project.
9.	Vossloh Cogifer	8-10, 8-11, 8-12, 8-16	Permanent acquisition of the freehold	Rail infrastructure manufacturing.	This will deliver a net private benefit for Vossloh Cogifer through the Dragonby Sidings being reinstated to previous capacity, the potential for future commercial capacity to be negotiated with Network Rail by the NLGEPL Team, the opportunity to receive electricity for the first time on a key manufacturing site currently running on generators through the private wire network, the option to provide the materials for the rail reinstatement and the interest in the anti-corrosion qualities of the "green" concrete	Proposals are with Vossloh for consideration. NLGEPL are working with Vosloh Cogifer to develop the opportunity to deliver "green" concrete and to develop the opportunity to get their manufactured concrete railway sleeper modules onto the rail at the Dragonby Sidings rather than transporting them by road to Northampton to deliver them to Network Rail.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
					<p>proposed by NLGEPL using ash and carbon dioxide.</p> <p>Whilst there will be some private loss through the loss of the land or easement over the sidings land, this will be balanced against the above benefits that the Project will bring.</p>	
10.	Nisa Retail	6-58, 6-60, 6-65	Permanent acquisition of the freehold	Grassland and track.	<p>Only a small area of land is required to link up FLIX178 footpath to the rest of the PROW network. On the ground this land is outside the boundary fence of Nisa's operations and as such will have no operational impact on Nisa. There will be loss in the form of the loss of land but this will be negligible and the public benefit in acquiring this land to connect up the PROW network will exceed this loss.</p>	No response received despite multiple attempts to engage with Nisa and visits to their offices.
11.	Rajan Marwaha / Bellwin House	5-38, 5-41	Permanent acquisition of the freehold	<p>Bellwin House is a currently vacant office block that appears derelict in nature.</p> <p>The owner has told us that planning permission has been granted to change the use from office to storage. From the Council's planning portal this appears to relate to permission PA/2020/855 which was granted on 6 November 2020. Please</p>	<p>Mr Marwaha purchased the site in 2018 in the name of a charity that has since ceased functioning and was never a registered charity. The building has been vandalised and ransacked and is in a state of disrepair, requiring demolition. Mr Marwaha secured planning consent to operate a containerised self-storage business however no investment has been made to implement this consent. An independent valuation has been</p>	<p>Unable to progress discussions and make offer as the reputed owner is unable to deduce title to the Applicant.</p> <p>An offer has been made to Mr Marwaha to secure legal assistance to correctly register the required TR1 form with HM Land Registry.</p> <p>Once Mr Marwaha holds legal title, the outlined proposal to</p>

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
				note that the permission will expire if not implemented by 6 November 2023.	<p>commissioned for the site taking into account the need to demolish the derelict building and the currently extant planning consent.</p> <p>Mr Marwaha will secure terms more favourable than the landowner would be entitled to if they were compensated under the compensation code. No employment exists on the current site and has not for many years.</p> <p>On the assumption that Mr Marwaha can deduce title to the site (or if the former owner asserts title to the land), there will be private loss in the form of the loss of the land. However, the benefits of bringing this site into use, and associated jobs and impact on the local economy of doing so will present a benefit to the community as a whole. The private loss will be compensated as set out above.</p>	acquire the freehold interest in the site can be formally presented.
12.	Lincoln Diocesan Trust	5-6, 5-9, 5-79 (freehold acquisition) 5-8 (new rights)	Freehold acquisition and acquisition of permanent new rights	Agriculture and farming.	Whilst it is acknowledged that there will be private loss as a result of the acquisition of the land, this will be compensated on terms more favourable than the landowner would be entitled to if they were compensated under the compensation code.	Discussions ongoing but proposed HoTs submitted for consideration by the Trust.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
13.	Miscellaneous interests – minor interests and rights etc.	Various minor interests as shown on the Land Plans and Book of Reference	Various but predominantly temporary possession and acquisition of rights of small parcels	Various uses but the impact on these is expected to be minimal as they relate to small areas of land required for rights or temporary possession during construction.	<p>A number of small areas of land are required on a temporary basis for working and laydown areas for construction of various elements of the Project. The loss to the affected landowners will be temporary in nature. The interference with rights will be compensated and the land reinstated when the temporary use ceases.</p> <p>A number of other areas of land are required for the installation of the district heating and private wire network, and hydrogen pipes, utility diversions and for carrying out highway works/upgrades.</p> <p>The interference with such land will be temporary. Permanent rights will be required for the ongoing management and maintenance of such works, but this will be compensated, and the carrying out of such works is in the public benefit, which outweighs the minimal private loss.</p>	Discussions ongoing with affected parties with most land interests signed up.
14.	Land required for temporary possession during construction	Various but includes land owned by Jotun Paints and AB Agri	Various plots as set out in Land Plans (coloured green) and in the Book of	Various uses but land only required on a temporary basis during construction.	A small area outside the operational boundary of AB Agri's land is required on a temporary basis as working area for the construction of flood defences. The construction of the flood defences	Discussions ongoing with affected parties.

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
			Reference. Temporary possession of land required for construction		<p>will be beneficial for AB Agri as well as others.</p> <p>Any private loss to AB Agri will be on a temporary basis and will be minimal. Temporary possession will be compensated and the land will be reinstated following use.</p> <p>A small area of land outside the operational boundary of Jotun Paints is required on a temporary basis for construction of the highway works, the district heating and private wire network and utility diversions. The disruption will be temporary. Permanent rights are sought over the same land for the ongoing operation of the above, but which will cause minimal disruption or private loss. Acquisition of rights is compensated under the Compensation Code, and the loss of such rights would be outweighed by the improvements to the highway network and installation of the district heating and private wire network.</p>	
15.	New rights for DHPWN	Various	Acquisition of rights for the installation, maintenance and operation of	Mostly relates to land currently used as highway or that sits alongside the highway (i.e. the verge). Some parts of the DHPWN will be installed in	All the route of the 12km district heat and private wire network, the railway reinstatement works the BNG and screening works, will pose minimum disruption during construction but there	The NLC interests are divided between NLC Estates and the adopted highway. NLC has very recently shared an electronic "layer" with the

	Owner of Interest / Land Affected	Plots (as shown on the Land Plans and in the Book of Reference)	Nature of the Interest to be Compulsorily Acquired	Existing Use of the Land	Assessment of Private Loss (i.e. impacts on the landowner)	Current Status
			the DHPWN and temporary possession in respect of the same.	agricultural fields but interruption to the landowner is only anticipated during construction.	<p>will be an overwhelming net benefit to the houses and businesses that will be heated and powered with low-carbon energy. In addition, there is the potential for a carbon-negative energy supply if the Humber Low Carbon Pipelines are consented and built, and access is secured by the Project to deliver the bulk of the CO2 captured from the ERF.</p> <p>The net private benefit from providing this significant infrastructure designed from the outset, the increased access to the wetlands, footpaths and cycleways supported by the Project significantly outweighs any private loss. The BNG provision of 13% on a voluntary basis provides a significant community benefit.</p> <p>NLC (together with others) holds a significant number of land titles across the DHPWN and will decide on whether these small slithers of land will form part of a permanent easement of permanent acquisition.</p> <p>The southern and northern DHPWN's and the railway reinstatement will deliver a net private benefit.</p>	<p>Applicant's advisers so that the division of the 16 or so acres can be allocated to adopted highway or NLC Estates. NLC still need to decide whether the NLC Estates portion is contracted as a permanent easement or a permanent acquisition.</p> <p>Agreement reached with the majority of landowners for the easements to install, operate and maintain the DHPWN.</p> <p>NLC has decided that for the adopted highway land, a Section 51 agreement will be used to secure utilities in the highway.</p>

APPENDIX 3

(Signed Minute of a meeting of the Board of Directors of The North Lincolnshire Green Energy Park Limited)

THE NORTH LINCOLNSHIRE GREEN ENERGY PARK LIMITED (Company Number: 10949653)

MINUTES of a meeting of the board of directors of The North Lincolnshire Green Energy Park Limited
(**Company**) duly convened and held at the offices of

Weston Business Centres

The Colchester Centre

Hawkins Road

Colchester

Essex. CO2 8JX

on 17th day of March 2023 at 10 am – 11 am

Present David Jones (Chair)
 Michael Bradley (via MS Teams)

1. OPENING

It was noted that proper notice of the meeting had been given and that the meeting had been properly convened and that a quorum was present. The Chairperson declared the meeting open.

2. BUSINESS OF THE MEETING

The Chairperson reported that the business of the meeting was to consider and, if thought fit, approve retrospectively compulsory acquisition of land and rights pursuant to the application (the **Application**), submitted on 31 May 2022 by the Company to the Secretary of State under the Planning Act 2008 for a development consent order (the **Order**) for the proposed North Lincolnshire Green Energy Park Development Consent Order (the **Project**). The Application seeks the power to compulsorily acquire land and new rights required to construct and operate the Project. The Application was accepted by the Secretary of State for examination on 27 June 2022.

3. DIRECTORS' INTERESTS

Each director confirmed that they had no direct or indirect interest in any way in the Application, the Order or the Project with the Company and no declaration of interest under section 177 of the Companies Act 2006 or the articles of association of the Company was required.

4. DOCUMENTS PRODUCED TO THE MEETING

A report to the board of directors of the Company in relation to the Application (the **Board Report**), which had been prepared by Womble Bond Dickinson (UK) LLP, was produced to the meeting.

5. DIRECTORS RESPONSIBILITIES AND CONSIDERATION OF THE APPLICATION

5.1 The Board Report was carefully considered and approved by the board following confirmation of the board's full understanding of its effect and its implications for the Company.

5.2 The directors gave and have given careful consideration as to whether entry into the Board Report promotes the success of the Company.

- 5.3 The directors also gave and have given careful consideration as to the implications for the human rights of the parties that will be affected by the Order and that the Board Report and these Board Minutes may be presented to the Secretary of State in evidence.

6. APPROVAL OF THE APPLICATION

- 6.1 After due and careful consideration of the matters set out above and the matters referred to in section 172(1) of the Companies Act 2006, IT WAS RESOLVED that the Application promotes the success of the Company for the benefit of its members as a whole and IT WAS FURTHER RESOLVED to:

- 6.1.1 approve the execution and delivery by the Company of the Board Report;
- 6.1.2 proceed with the Application as it has been submitted, including provision for the compulsory acquisition of all or part of the land and new rights outlined on the land plan annexed to the Report for the purposes of delivering the Project;
- 6.1.3 utilise the procedures under section 230 of the Planning Act 2008 to deal with land in unknown ownership, by placing of site notices directed to the owner and/or occupier of the land in unknown ownership;
- 6.1.4 ratify and approve the Applicant's submission of the Order to the Secretary of State so as to include compulsory acquisition powers, pursue all necessary subsequent actions to secure making of the Order by the Secretary of State including attending and preparing evidence for any compulsory acquisition hearings, entering into undertakings given to third parties on behalf of the Company and, if confirmed, exercise the powers of compulsory acquisition;
- 6.1.5 continue to seek to acquire all outstanding interests in land to deliver the Project by negotiation in conjunction following the statutory process outlined above;
- 6.1.6 make or defend references to the Lands Chamber of the Upper Tribunal on matters of disputed compensation; and
- 6.1.7 take associated or ancillary actions in respect of the foregoing matters.

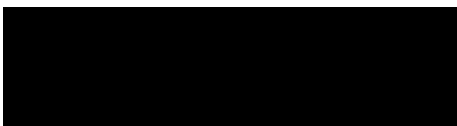
7. EXECUTION OF RELATED DOCUMENTATION

IT IS RESOLVED:

- 7.1 to authorise any one or more directors of the Company (each of them an **Authorised Signatory**) to do all acts and things so as to carry into effect the actions as set out in the Board Report;
- 7.2 to authorise any one or more directors of the Company, any two directors, or any director and the secretary of the Company to give or execute any or all notices, communications or other documents on behalf of the Company in connection with the Board Report or the transactions contemplated by it; and
- 7.3 to authorise any one or more directors of the Company to substitute a new Authorised Signatory and/or appoint additional Authorised Signatories and to agree any amendments, variations or modifications to the Board Report as the Authorised Signatory may in his absolute discretion think fit.

8. CLOSE

There was no further business and the Chairperson declared the meeting closed.



Chairperson

Appendix 1



Appendix 1 to
Board Report - Land

Appendix 2



Appendix 2 to
Board Report - State

Appendix 3



Appendix 3 -
Development Conse

Appendix 4



Appendix 4 - Book
of Reference(179143

Appendix 5



Appendix 5 -
Assessment of Privat

Appendix 6



NLGEF - Report to
Board - 17 March 23