



NORTH LINCOLNSHIRE GREEN ENERGY PARK

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North Lincolnshire Green Energy Park

Volume 9

9.29 Applicant's Responses to ExAs
ExQ2, submissions received at
Deadline 6 and further information

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Glossary

Acronym	Full term / Description
2008 Act	Planning Act 2008
ABP	Associated British Ports
AGI	Above Ground Installations
BNG	Biodiversity Net Gain
CBMF	Concrete Block Manufacturing Facility
CCTV	Closed Circuit Television
CCUS	Carbon Capture, Utilisation and Storage
CEMP	Construction Environmental Management Plan
CLP	Construction Logistics Plan
CO2	Carbon Dioxide
CoCP	Code of Construction Practice
CoPA	Control of Pollution Act
DCO	Development Consent Order
DHPWN	District Heating and Private Wire Network
EA	Environment Agency
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy Infrastructure
EN-5	National Policy Statement for Electricity Networks Infrastructure
EP	Environmental Permit
ERF	Energy Recovery Facility
ES	Environmental Statement
EV	Electric Vehicle
FGTr	Flue Gas Treatment Residue
FRA	Flood Risk Assessment
H2	Hydrogen
IAQM	Institute of Air Quality Management
IDB	Internal Drainage Board
INNS	Invasive Non-Native Species
LLFA	Lead Local Flood Authority
LVIA	Landscape and Visual Impact Assessment
NLC	North Lincolnshire Council
NLGEP	North Lincolnshire Green Energy Park
NPS	National Policy Statement

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

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1.0 Introduction

Overview

- 1.1 This report sets out North Lincolnshire Green Energy Park Limited's (the Applicant's) comments on the responses by other parties to the Examining Authority's second written questions and further submissions submitted at Deadline 6. Additionally, this document includes a table at Section 8 which address each of the prime development areas of the Project over which compulsory acquisition powers are sought, as requested from CAH1.

The Proposed Development

- 1.2 The North Lincolnshire Green Energy Park (NLGEP), located at Flixborough, North Lincolnshire, comprises an ERF capable of converting up to 760,000 tonnes of residual non-recyclable waste into 95 MW of electricity and a CCUS facility which will treat a proportion of the excess gasses released from the ERF to remove and store CO₂ prior to emission into the atmosphere. The design of the ERF and CCUS will also enable future connection to the Zero Carbon Humber pipeline to be applied for, when this is consented and operational, to enable the possibility of full carbon capture in the future.
- 1.3 The NSIP incorporates a switchyard, to ensure that the power created can be exported to the National Grid or to local businesses, and a water treatment facility, to take water from the mains supply or recycled process water to remove impurities and make it suitable for use in the boilers, the CCUS facility, concrete block manufacture, hydrogen production and the maintenance of the water levels in the wetland area.
- 1.4 The Project includes the following Associated Development to support the operation of the NSIP:
- a bottom ash and flue gas residue handling and treatment facility (RHTF);
 - a concrete block manufacturing facility (CBMF);
 - a plastic recycling facility (PRF);
 - a hydrogen production and storage facility;
 - an electric vehicle (EV) and hydrogen (H₂) refueling station;
 - battery storage;
 - a hydrogen and natural gas above ground installation (AGI);
 - a new access road and parking;

- a gatehouse and visitor centre with elevated walkway;
- railway reinstatement works including; sidings at Dragonby, reinstatement and safety improvements to the 6km private railway spur, and the construction of a new railhead with sidings south of Flixborough Wharf;
- a northern and southern district heating and private wire network (DHPWN);
- habitat creation, landscaping and ecological mitigation, including green infrastructure and 65 acre wetland area;
- new public rights of way and cycle ways including footbridges;
- Sustainable Drainage Systems (SuDS) and flood defence; and
- utility constructions and diversions.

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

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

The Purpose and Structure of this Document

1.7 This document sets out the Applicant's comments on the answers submitted by other parties to the Examining Authority's second written questions and further submissions received by the Examining Authority at Deadline 6.

1.8 The Applicant notes that there were several of the second written questions directed towards Enfinium, Cadent Gas, Openreach Limited and National Highways but that no response was submitted at Deadline 6. As such, no comment on those responses has been made in this document. Additionally, this document includes a table at Section 8 which address each of the prime development areas of the Project over which compulsory acquisition powers are sought, as requested from CAH1.

1.9 The document is structured as follows:

- Section 2: North Lincolnshire Council

- Section 3: Environment Agency
- Section 4: Natural England
- Section 5: AB Agri
- Section 6: UKWIN
- Section 7: Amy Louise Ogman
- Section 8: Further information requested at CAH1

2.0 APPLICANTS' COMMENTS ON NORTH LINCOLNSHIRE COUNCIL'S WRITTEN QUESTION RESPONSES AND DEADLINE 6 SUBMISSIONS

2.1 The Applicants' comments on North Lincolnshire Council's response to the Examining Authority's written questions (REP6-037) can be found below in Table 1.

Table 1: Applicants comments on North Lincolnshire Council's response to the Examining Authority's written questions

North Lincolnshire Council's Responses	Applicants Comment
<p>Q2.1.0.4</p> <p>NLC are content with the explanation provided by the applicant on this matter. The Applicant has given appropriate consideration to the matter and NLC will be able to work with the Applicant to engage with the relevant providers where necessary at the appropriate time.</p>	<p>The Applicant welcomes NLCs response on this matter.</p>
<p>Q3.3.0.1</p> <p>(ii) The pollution control regime in this instance is the Environmental Permitting Regulations (the "EP Regulations") which require the control of pollution including odour. The Regulator for the proposed development will be the Environment Agency who will be responsible for the on-going regulation of amenity and environmental impacts including odours. The approval of any Odour Management Plan sits</p>	<p>The Applicant welcomes NLCs response on this matter.</p>

with the Environment Agency to determine the suitability of key measures including whether Best Available Techniques (BAT) is being employed to control emissions. Assuming that the pollution control regime specific to the site will operate effectively NLC are content that the Odour Management Plan will provide adequate controls. (iii) Section 4.3.14.1 of the report has been updated and now includes methodology to assess odour following a qualitative risk based approach as detailed within the IAQM Guidance. The applicant has undertaken a qualitative assessment using the Source – Pathway – Receptor concept before deciding whether a more detailed assessment is necessary based on whether there is likely to be a significant risk of an odour impact. The applicant has concluded that there will be negligible to low odour impact based on the design of the proposal eliminating odour potential. Section 5.5 presents the results of the assessment. The assessment concludes that:

‘Considering the IAQM Table 10 to assess risk whilst the Source Odour Potential is acknowledged to be potentially ‘Large’, the design of the project inherently creates the ‘ineffective pathway’. As such, it is reasonable to conclude that the risk of odour nuisance is low to negligible.’ The applicant appears confident that the risk of odour impacting residential amenity is low to negligible and can be controlled

<p>through the design of the project, an Operational Management Plan and the Environmental Permit. NLC are content that this issue has now been properly assessed and have no further concerns to raise.</p>	
<p>Q2.3.0.2 NLC have no outstanding concerns to raise on this matter.</p>	<p>The Applicant welcomes NLCs response on this matter.</p>
<p>Q2.3.0.3 This question appears to be addressed to the Applicant. NLC is not able to answer this question.</p>	<p>Please refer to the Applicants response in REP6-032.</p>
<p>Q2.4.0.1 This question appears to be addressed to the Applicant. NLC is not able to answer this question.</p>	<p>Please refer to the Applicants response in REP6-032.</p>
<p>Q2.5.0.1 NLC are happy to further discussions with the Applicant and to clarify our position through the Statement of Common Ground. This primarily applies to Atkinson’s Warren and Phoenix Parkway Local Nature Reserves (section 7.2.1.5 of the Ecology and Nature Conservation chapter of the Environmental Statement). NLC have not yet seen any further updates in relation to this issue. However, we would welcome</p>	<p>The Applicant continues to work with NLC regarding this point.</p>

<p>this detail being firmed up through management plans to be submitted in response to requirements 4 and 7.</p>	
<p>Q2.5.0.3 NLC are happy to discuss this matter further with the Applicant and provide an update position as part of the SoCG.</p>	<p>The Applicant welcomes NLCs response on this matter and have contacted the NLC ecologist to confirm the position to be reflected in the SoCG at Deadline 8.</p>
<p>Q2.7.1.1 As confirmed during ISH4 (dDCO) NLC have no outstanding concerns with regards to Requirement 12. Our emergency planning team would liaise with the Applicant at the detailed design stage to agree a suitable flood management plan and this is considered to be satisfactory.</p>	<p>The Applicant welcomes NLCs response on this matter.</p>
<p>Q2.8.0.1 NLC have no outstanding concern regarding the approach to ground contamination. It is anticipated that risks posed in this regard will be addressed through the CEMP. NLC have raised no concerns with regards to the contaminated land assessment provided by the Applicant.</p>	<p>The Applicant welcomes NLCs response on this matter.</p>
<p>Q2.9.0.1 NLC understands that the current position in respect of the outstanding reports is as follows: i) The timetable for submitting the</p>	<p>The Applicant welcomes NLC's responses and agrees again here the anticipated timeframes that were agreed on the 10 March.</p>

<p>reports to NLC has been discussed with the Historic Environment Officer. The reports are anticipated w/c 24 April for review and comment. ii) A meeting held on 10th March with the applicant and their archaeological consultant commenced discussion on the Archaeological Mitigation Strategy with the provisional results from the archaeological evaluations. Further meetings are to be scheduled at the beginning and end of April. The reports referred to in i) above will be fed into the preparation of the mitigation strategy. It is intended that a final draft will be available before the ExA closes 10th May.</p>	
<p>Q2.9.0.2</p> <p>NLC are currently liaising with the Applicant to update the draft Statement of Common Ground to include all matters where NLC had raised concerns. A draft update has been provided by the Applicant and NLC are currently in the process of reviewing this. It is anticipated that the SoCG will be updated in this regard for submission at Deadline 7.</p>	<p>The Applicant welcomes NLC's response on this matter. The Applicant and NLC have jointly reviewed the LIR (REP1-109) and the Applicant's response to this (REP2-034). Additional items have been added to the Deadline 7 version of the SoCG capturing the position of each party under the relevant topic areas.</p> <p>The Applicant and NLC are content that the SoCG now includes the agreed position on all items raised from the LIR.</p>
<p>Q2.10.0.1</p> <p>NLC are content that design and landscape matters have now been addressed. We have reviewed a Framework for the delivery of the Design Review Panel and agreed this with the applicant. There will be</p>	<p>The Applicant welcomes NLCs response on this matter.</p>

<p>landscape and visual impacts resulting from the development but NLC are satisfied that these impacts have been adequately assessed and identified by the Applicant. Mitigation has been considered and is to be secured where possible. NLC has no further concerns to raise on this matter.</p>	
<p>Q2.12.0.3</p> <p>At the last meeting between North Lincolnshire Council’s Environmental Protection Team and representatives from the Green Energy Park, it did not appear that an operational noise level would be agreed. It is NLC’s understanding that alternative methods of mitigation are being investigated but no data has been supplied to determine the effectiveness of the methods. NLC is concerned that insufficient attention has been given to penalties according to BS4142:2014, and that the predicted rating level remains too high in relation to background at this stage. NLC would be satisfied if the applicant agreed to a predicted rating level, which includes all relevant penalties. The preference would be that the rating level does not exceed existing background to avoid “background creep” in the area. However, this department would be willing to accept +3dB above background in line with other recent DCO Applications including: • The</p>	<p><u>SoCG</u></p> <p>NLGEF and NLC have reached agreement on a number of matters relating to noise and vibration which are recorded in the draft SoCG. These include matters such as the background sound levels and guidance documents used in the ES noise assessment (APP-055). It is acknowledged that there remain some matters on which agreement has not yet been reached.</p> <p><u>Acoustic feature corrections</u></p> <p>As a result of discussions with NLC, an acoustic feature correction of 3 dB has been included in the initial estimate of impacts (according to BS 4142) at Charmaine during loading/unloading at the wharf and at Inglenook during loading/unloading of RDF at the railhead. This is to take account of the unlikely outcome that impulsive noise might be audible at times at the receptor when noise from the various equipment items and activities was not dominant. Based on BS4142,</p>

<p>Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 • The Immingham Open Cycle Gas Turbine Order 2020 NLC are willing to continue discussions with the Applicant in this regard to provide an updated position through the SoCG. At the present time we have been unable to reach an agreement.</p>	<p>a correction of 3 dB(A) has been used on the assumption that is audible, but not clearly perceptible. If the correction is not required, then the relevant noise limits set out in the updated ES Chapter 19: Mitigation (APP-067) would be lowered by 3dB(A).</p> <p><u>Significance of operational noise</u> The potential significance of operational noise effects is assessed in the ES Chapter 7: Noise (APP-055). The assessment follows BS 4142:2014 which takes into consideration not only the predicted exceedance of the rating level over the background sound level (referred to as the initial estimate of the impact), but also takes into account the context in which the sound occurs.</p> <p>The ES noise assessment concludes that at all times, noise levels from the fixed plant (e.g. the ERF, carbon capture, concrete block manufacture) are predicted to be up to minor.</p> <p>Higher levels are predicted in Amcotts during daytime loading/unloading events at the wharf and railhead. At properties to the north (represented by Charmaine) it is likely that noise levels experienced during these activities would be similar to those experienced currently from activities at the wharf and the ES noise assessment (APP-055) concludes effects would be of minor significance (Table 19).</p>
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At properties to the south (represented by Inglenook) the ES noise assessment concludes effects would be of moderate significance. A noise level of up to 46 dB, LAeq is predicted for these daytime-only events (Table 17/18) which is well below the recommended level for daytime external amenity of 50 dB, LAeq (from BS 8233).

Noise from loading/unloading will not be continuous. Typically, it is anticipated that fewer than 1 vessel per day on average (~ 0.8 vessels) will load or unload at the quay as a result of the Project, with an unloading duration of approximately 3 hours. At the railhead, typically, it is anticipated that 1 train per day on average will load or unload and will take approximately 3 hours (plus half an hour at the start and end to split and reform the train).

As set out in paragraph 9.2.1.2 of the ES noise assessment, the assumed mitigation in terms of enclosures for the fixed plant and noise levels for equipment have been based on the experience of the design team in terms of the lowest realistic noise levels that are likely to be achieved. External plant at the Wharf and the Railhead have been based on measurements at Flixborough and Immingham of plant which was operated, where appropriate, with at-source mitigation such as exhaust silencers and enclosed engine compartments. Therefore, the assessment takes into account a high

	<p>level of mitigation which is currently commercially available and practicable to implement and is therefore in line with the aims presented in paragraph 5.11.9 of the Overarching National policy Statement for Energy (EN-1).</p> <p><u>DCO applications referred to</u> Reference is made to:</p> <ul style="list-style-type: none"> • The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (Keadby 3); and • The Immingham Open Cycle Gas Turbine Order 2020 (VPI Immingham OCGT). <p>Both of these developments include a requirement to limit operational noise levels so that they do not exceed the background sound level at the nearest noise sensitive receptors (NSRs) by more than 3 dB(A).</p> <p>These operational noise limits should be seen in the context of the existing noise conditions at the nearest NSRs to these sites. Existing background sound levels at the nearest NSRs are significantly higher than the background sound levels at NSRs close to the NLGEP application site (summarised in Table 1 below). Even without the developments in place, existing sound levels at these sites are at or</p>
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	<p>above the recommended standards for daytime amenity and night time sleep disturbance, based on the guidance in BS 8233:2014.</p> <p>The high existing sound levels at these two sites are largely due to noise from existing developments on the sites; at the Keadby 3 site, background sound levels at the nearest NSRs used in the ES noise assessment (APP-052, Table 9.30) include predicted noise from the Keadby 2 power station. At the VPI Immingham OCGT site, background sound levels at the nearest NSRs (APP-037, Table 8.12) are taken from routine noise monitoring of the existing VPI CHP Plant.</p> <p>Table 1. Comparison of representative background sound levels</p> <table border="1" data-bbox="1137 850 1968 1257"> <thead> <tr> <th rowspan="2">Nearest NSRs</th> <th colspan="2">Representative Background Sound Level Adopted in Relevant ES, L_{A90} dB</th> </tr> <tr> <th>Day</th> <th>Night</th> </tr> </thead> <tbody> <tr> <td colspan="3">NLGEP</td> </tr> <tr> <td>Charmaine</td> <td>41</td> <td>37</td> </tr> <tr> <td>Inglenook</td> <td>34</td> <td>34</td> </tr> <tr> <td colspan="3">Keadby 3</td> </tr> <tr> <td>Vazon Bridge / Roe Farm</td> <td>50</td> <td>47</td> </tr> <tr> <td colspan="3">VPI Immingham OCGT</td> </tr> <tr> <td>Hazeldene</td> <td>-</td> <td>49</td> </tr> </tbody> </table>	Nearest NSRs	Representative Background Sound Level Adopted in Relevant ES, L _{A90} dB		Day	Night	NLGEP			Charmaine	41	37	Inglenook	34	34	Keadby 3			Vazon Bridge / Roe Farm	50	47	VPI Immingham OCGT			Hazeldene	-	49
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Q2.15.0.1	The Applicant is continuing to work with NLC on this and is seeking to agree wording for a requirement to include within the DCO securing																										

<p>NLC has discussed the Local Labour Agreement with the Applicant. This is something that both parties would like to see delivered. At present we have only had initial discussions on this matter and it is unlikely that a Local Labour Agreement will be completed and presented prior to the close of the examination.</p>	<p>this work. A draft Outline Employment and Skills Strategy was shared with the Economic and Employment Working Group (which includes NLC) and a workshop has been scheduled for 19th April 2023 to discuss this further.</p>
<p>Q2.17.0.3</p> <p>1. NLC do not consider that these terms are precise or would allow for enforcement of the requirement. We are currently discussing the Articles and Requirements presented in the dDCO in order to provide an updated position on these matters as part of the SoCG. 2.NLC would agree that the effectiveness of the WHS would appear to rely on recyclable or re-usable waste being removed by persons upstream of the proposed development. This is not something that would be enforceable by the LPA and would rely upon the contractual agreements between the waste transferor and the undertaker.</p>	<p>The Applicant understands NLC's response. The duties of waste producers and handlers in the Applicant's fuel supply chain are clearly articulated by the Environment Agency in its response to questions Q12.17.0.1 and Q12.17.0.2, with which the Applicant is in complete agreement. The purpose of the WHS is to provide to those involved in its fuel supply chain regular reminders of their obligation with respect to Regulation 12, and advice on how best to discharge it. The Applicant considers that this can only assist the movement of waste up the waste hierarchy. The Requirement for the Applicant to develop and deliver the WHS itself to an agreed schedule will be enforceable by NLC.</p> <p>Nonetheless, the Applicant agrees with NLC that its contractual agreements with fuel suppliers provide its principal mechanism for ensuring that only residual wastes where the waste hierarchy has been applied are delivered to the facility.</p>

<p>Q2.17.0.5</p> <p>As stated in the answer to Q2.17.0.3 NLC and the Applicant are currently in the process of updating the SoCG to include a comprehensive update in respect of our position on the Articles and Requirements presented in the dDCO. This will include an updated position with regards to the wording of requirement 15.</p>	<p>The Applicant welcomes NLC’s response. A new Appendix C has been added to the SoCG confirming the position between the parties with respect to Articles and Requirements. The position with regard to Requirement 15 is that the Applicant is considering further the drafting of this requirement following Issue-specific hearing 4.</p>
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2.2 Additional to the above, NLC also submitted their Written summary of their Oral submission to the Compulsory Acquisition hearing, held 8th March (REP6-038). Table 2 below sets out the Applicant’s comments on that document.

Table 2: Applicants comments on the North Lincolnshire Council’s summary of oral submission to Compulsory Acquisition

NLCs Written submission on CAH1 points	Applicants comments
<p>1. At the hearing on 8 March, the Examining Authority requested that North Lincolnshire Council (‘NLC’) provide a written position statement with regard to the compulsory purchase powers proposed within the draft DCO.</p>	<p>The Applicant has responded by letter (dated 11 April 2023, a copy of which is attached to this document as Appendix 1) to NLC.</p>
<p>2. The documents submitted to date show that NLC have provided a balanced view identifying both the benefits and impacts of this application see for example the LIR.</p>	<p>Noted.</p>

<p>3. The Applicant argues that delivery of the DCO scheme requires land and/or rights over land owned by NLC. These parcels of land are identified in the plans in the Book of Reference, and the Compulsory Acquisition Schedule submitted. NLC has no positive case to say that those parcels or lands and/or rights over those parcels of land are not required to deliver the DCO development or required to facilitate or incidental to the DCO. Nor does NLC dispute the evidence from the Applicant that the identified land owned by them is required. Therefore, NLC wishes to defer to the judgment of the Examining Authority on whether the land meets the test in s.122(2) Planning Act 2008.</p>	<p>Please see the Applicant's response at Appendix 1 of this document.</p>
<p>4. With regard to the test in s.122(3) Planning Act 2008, NLC does not consider this to be met. Whilst the development considered through the DCO process may have some merit, it does not automatically follow that the test in s.122(3) Planning Act 2008 is met. In R. (FCC Environment) v SSECC [2015] Env L.R. 22 the Court of Appeal confirmed this to be the position and set out examples where compulsory purchase powers may not be justified within the DCO despite the proposal drawing support from the relevant NPS. At paragraph [11] of the judgment, the Court of Appeal endorsed the following examples of where compulsory purchase powers were not justified under s.122(3) Planning Act 2008:</p>	<p>Please see the Applicant's response at Appendix 1 of this document.</p>

<p><i>The land may be necessary but, during the course of the Panel's consideration of the application, the owner may agree to sell it willingly rather than by compulsion (a common scenario in compulsory purchase inquiries).</i></p>	
<p>5. NLC has received an offer from the applicant in an open letter of 3 March 2023. The Council understands that offer to still be available and it is considering its response. In those circumstances there is no case that the land must be acquired by compulsion and s.122(3) Planning Act 2008 is not met.</p>	<p>Please see the Applicant's response at Appendix 1 of this document. The Applicant's letter of 3 March 2023 is enclosed at Appendix 2 of this document.</p>
<p>6. Subject to the consideration of the Examining Authority, the Council may agree to sell willingly rather than by compulsion. The Council will enter into further correspondence with the applicant once the application has been determined.</p>	<p>Noted. The Applicant has requested a response to outstanding questions of the Council, a response to its initial offer and to meeting with the Council's team further. Please see Appendix 1.</p>

3.0 APPLICANTS' COMMENTS ON THE ENVIRONMENT AGENCY'S WRITTEN QUESTION RESPONSES AND DEADLINE 6 SUBMISSIONS

- 3.1 The Applicants' comments on the Environment Agency's response to the Examining Authority's written questions (REP6-040) can be found below in Table 3.

Table 3: Applicants comments on the Environment Agency's response to the Examining Authority's written questions

The Environment Agency's Responses	Applicants Comment
<p>Q2.1.0.1</p> <p>The Environment Agency has now reach agreement with the Applicant on all matters that were previously under discussion. We are currently considering if any additional matters, which have arisen during the Examination, need to be included within the SoCG. A final SoCG will be submitted to the ExA by Deadline 9 at the latest.</p>	<p>The Applicant welcomes EAs response on this matter.</p>
<p>Q2.3.0.1</p> <p>Potential for odour emissions within the site, will be assessed by the EA when the Environmental Permit application is received. The operator of the plant will be required by the environmental permit to operate to a written environmental management plan. This will be expected to cover all processes and procedures addressing actual or potential impact to the environment, such as odour. The EA cannot</p>	<p>The Applicant notes EA's position on this matter.</p>

<p>provide a view on the issue of odour that may require control outside of the environmental permitting regime.</p>	
<p>Q2.3.0.2</p> <p>The EA can only provide comments on an odour assessment during its determination of an application for an Environmental Permit for the site.</p>	<p>The Applicant notes EA's position on this matter.</p>
<p>Q2.3.0.3</p> <p>The Environment Agency is unable to provide any comment or detail in respect of what the applicant is proposing until a permit application is received. An EP can include a general condition in respect of odour, which could read:</p> <p><i>Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour. The operator shall:</i></p> <p><i>(a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to odour, submit to the</i></p>	<p>The Applicant notes EA's position on this matter.</p>

<p><i>Environment Agency for approval within the period specified, an odour management plan which identifies and minimises the risks of pollution from odour;</i></p> <p><i>(b) implement the approved odour management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.</i></p>	
<p>Q2.6.0.2</p> <p>Unfortunately, due to limited staff resource in respect of assessing carbon capture facilities, the Environment Agency is currently unable to provide a response to this question. We will endeavour to provide a view on this at the next deadline.</p>	<p>The Applicant acknowledges this response and is happy to provide any necessary information to the EA to support their consideration.</p>
<p>Q2.7.1.1</p> <p>The Environment Agency (iv only) -there does not appear to be a part iv to this question.</p>	<p>The Applicant confirms that there does not appear to be a part iv to this question.</p>
<p>Q12.17.0.1</p> <p>The Environment Agency would impose a condition on an Environmental Permit in relation to applying the waste hierarchy to waste produced at that site. Anyone who produces or handles waste has a duty under Regulations 12 to 14 and 35 to ensure the waste</p>	<p>The Applicant confirms that EAs response is in line with what they expected from the permit.</p>

<p>hierarchy is applied. Those producing and transferring waste are required to confirmed they have fulfilled their duty under Regulation 12 through the signing of a declaration on their Waste Transfer Notes and Hazardous Waste Consignment Notes. Anyone handling waste also has a Duty of Care under Regulation 34 of the Environmental Protection Act 1990, and the statutory Code of Practice, pursuant to subparagraph (9). Also, please see the Environment Agency’s summary of oral representations to ISH4, and accompanying appendices, for further information on controls that can be included within an Environmental Permit regarding waste acceptance.</p>	
<p>Q12.17.0.2</p> <ol style="list-style-type: none"> 1. The use of EWC codes is a legal requirement of the Duty of Care legislation across the UK. The primary purpose of using these codes on a permit is to enable the operators of the site to easily identify incoming waste (using the waste transfer note) that they are authorised to accept. 2. The inclusion of EWC codes on a permit will not fully ensure that waste transferred to it is restricted to non-recyclable or non-reusable wastes as compliance with the waste hierarchy is dealt with through other legislation, i.e. it is incumbent on all those in the waste industry 	<p>The Applicant confirms that EAs response is in line with what they expected from the permit and EWC codes.</p>

to comply with the duty to apply this under Regulation 12 of the Waste Regulations 2011. Also, please see the Environment Agency’s summary of oral representations to ISH4, Appendix A (example permit Conditions 2.3.5 & 2.3.6), for further information on controls that can be included within an environmental permit regarding waste acceptance, in relation to materials for re-use and recycling.

3. EWC codes are only used to identify waste according to how it has been produced so that decisions on the most appropriate treatment process can then be made.

4. N/A

5. The use of EWC codes is the method used in environmental permits to identify the types of waste that can be accepted to enter an ERF. The correct application and adherence to all relevant UK waste legislation and regulations should ensure that no recyclable or re-usable waste enter the ERF component of the proposed development, unless it is considered that incineration delivers the best environmental outcome in accordance with regulation 12 of the Waste Regulations 2011.

3.2 The Applicant notes that the EA also submitted their written summary of Issue Specific Hearing 4 at Deadline 6 (REP6-039).

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- 3.3 The Applicant notes EAs agreement with our information relating to how the environmental permit regulates operational noise and have no further comment on the additional post hearing information on noise management provided. Regarding Requirement 15, the Applicant would direct the Examining Authority to their consideration of this point within REP6-032 and REP6-034.

4.0 APPLICANTS' COMMENTS ON AB AGRI LIMITED'S WRITTEN QUESTION RESPONSES

4.1 The Applicants' comments on AB Agri Limited's response to the Examining Authority's written questions (REP6-048) can be found below in Table 4.

Table 4: Applicants comments on AB Agri Limited's response to the Examining Authority's written questions

AB Agri Limited's Responses	Applicants Comment
<p>Q2.1.0.5</p> <p>As AB Agri explained at the Issue Specific Hearing 3 (ISH3), the presence of birds is an ongoing issue for animal feed production at this site, as it is a riverside location which attracts birds by nature. In this context, seagulls and other birds are part of the risks that AB Agri often faces at sites in similar locations. However, the risks to biosecurity due to the presence of birds are limited at present, as the birds are not exposed to waste material in close proximity.</p> <p>2.2 Bringing a new development which handles waste on site and off site (through deliveries) represents a new biosecurity risk in close proximity to AB Agri's site. This is because, unlike at present, the birds have the high potential, even with the proposed management procedures, to be exposed to waste material from a facility processing a significant quantity of waste in immediate proximity to</p>	<p>The Applicant has undertaken a risk assessment of the potential biohazard risk to AB Agri from its operations. The risk assessment considered:</p> <ul style="list-style-type: none"> • Controls proposed by the Applicant; • Controls that AB Agri has in place; • The published scientific literature in regard to such matters as Salmonella in the environment, foraging behaviour of gulls and foraging behaviour of rats; • The existing level of risk and the likelihood that it would be materially changed. <p>The Salmonella Risk Assessment is included in full as part of the Deadline 7 submission (Document Reference 9.29).</p>

the AB Agri site. Put simply, the current presence of birds in the area is a natural occurrence, and is capable of being managed. On the other hand, the application proposals will substantially elevate the risk of those birds, and any additional population that might be attracted by the proposed waste handling facility becoming contaminated – this is an unacceptable biosecurity risk. As stated previously, likewise there is also a significantly increased risk from rodents transmitting salmonella or other diseases from the waste handling operation.

2.3 As AB Agri has consistently raised in all its representations, the proposed development raises a significant biosecurity risk to the animal feed mill, as salmonella contamination from waste containing organic or animal origin materials would result in the closure of the feed mill facility for a significant period of time or closure indefinitely. The current biosecurity measures implemented by AB Agri as set out in our Post-Hearing Submission dated 7 February 2023 are appropriate for the current level of risk. However, they are not sufficient to cope with the significantly increased amount of contaminants potentially transmitted from a facility handling waste of such substantial quantity adjacent to the site.

The Salmonella Risk Assessment concluded that the likelihood of the operating Project compromising AB Agri’s biosecurity is very small even without the application of a series of proposed measures, above and beyond compliance with the RDF Code of Practice, by the Applicant. There are no features of the Project that would act to increase the populations of avian and rodent pest species in the area. The ability of pest species to gain access to the RDF either in transit or after delivery to the tipping hall will be very limited. While the movement of RDF on roads is a low-risk activity for Salmonella transmission in the first place, the Applicant’s proposed re-routing will reduce a very low risk further.

It is the view of the Applicant that compliance with the RDF CoP, and the routing change, will minimise any risks to AB Agri involved in transporting RDF, and additional measures proposed will reduce a very low risk further. The operation of the Project will be regulated by the terms of the Environmental Permit from the Environment Agency. It is anticipated that most if not all aspects of the delivery and handling of RDF set out in the RDF CoP will be covered by the terms of the permit, thus becoming a legal compliance matter for the Applicant. Any operational environmental management requirements that fall outside the remit of the Environmental Permit will be addressed by

2.4 The proposed mitigation measures by the Applicant relative to the RDF delivery route (not using the First Avenue), the method of waste delivery and handling of the waste within the ERF do not provide satisfactory control measures to minimise biosecurity risks to an acceptable level. This is because the delivery of RDF by road will significantly increase the quantity and frequency of waste in the area and the Applicant's Operational Environmental Management Plan only goes so far as baled waste being delivered in curtain sided trucks. There is no binding commitment from the Applicant that waste will be delivered in sealed containers or fully wrapped, as we understand it cannot be commercially met by the Applicant or the prospective operator of the facility. The Applicant has also not committed to the regular wheel washing of delivery vehicles in the Operational Management Plan. Further, the measures proposed by the Applicant do not deal with the eventuality of potential tipping hall negative pressure failure, RDF delivered without being sealed or adequately wrapped, and vehicle sanitisation not taking place regularly.

2.5 As a consequence and as per the oral representations made by AB Agri at the ISH3, they are firmly of the view only AB Agri's own onsite

the Operational Environmental Management Plan (OEMP) (which will be approved by North Lincolnshire Council, with input from the Environment Agency) as secured by DCO Requirement 4.

Having considered all relevant aspects of biohazard risk, the Applicant considers that its operation will not result in any material change to the current Salmonella contamination risk profile for the AB Agri facility.

The Applicant has added the proposed control measures to the 'schedule of mitigation' (ES Chapter 19: Mitigation [Revision 1] (Document Ref 6.2.19)) and to the Operational Environmental Management Plan (OEMP) [Revision 1] (Document Ref 6.3.8) submitted at this deadline 7.

<p>mitigation measures will ensure the elevated biosecurity risks as a result of the proposal are minimised to an acceptable level.</p> <p>2.6 AB Agri discussed these mitigation measures with the Applicant at the meeting on 27 February 2023, and is seeking to reach an acceptable solution with the Applicant. Such mitigation measures discussed include; increasing physical barriers by way of enclosing AB Agri's raw material intake and finished product outloading, installing rat proof fencing, upgrading existing heat treatment, and rearranging workplace transport to move the weighbridge further from the proposed development. To date, AB Agri has not received a response from the Applicant following the meeting on 27 February 2023.</p> <p>2.7 If salmonella contamination occurs, as a result of waste being delivered to and/or handled at the proposed site, it would cause substantial economic, social and environmental impacts which are demonstrated in our response to the ExQ2 Q2.15.0.2.</p>	
<p>Q2.15.0.2</p> <p>The socio economic and associated environmental effects of the proposal on AB Agri's plant, in the event that the identified biosecurity risk issues are not addressed to an acceptable level, is set out in the table below:</p>	<p>The Applicant has conducted a Salmonella Risk Assessment of the potential biohazard to AB Agri. The assessment concluded that its operation will not result in any material change to the current Salmonella contamination risk profile for the AB Agri facility. Consequently, there are no adverse socioeconomic effects to assess.</p>

Category	Impacts	
National Food Security	<p>The loss of an established animal feed mill (being one of the most modern and highly invested poultry feed mills in the UK), which is key infrastructure for UK's poultry industry, would substantially undermine national food security, resulting in a loss of feed equivalent to approximately 10% of the UK's chicken population.</p> <p>In the short term this would likely cause a major shock to the food chain. In the longer term, the market would start to correct, but as it would take years to replace the AB Agri plant, it would do so through imports from other countries, which is evidently completely contrary to the Government's food security strategy and has several other substantial planning disbenefits – see below.</p>	
Economic impact - loss of local jobs (direct and indirect)	<p>Direct – any closure would involve the loss of the existing circa 60 skilled jobs at the plant. This loss would not be directly off-set by the jobs created by the application proposals, as any loss of AB Agri's plant would occur after the application proposals were operational, and as such the positions would in all likelihood already be taken. This would cause both economic and social disbenefits.</p> <p>Indirect – AB Agri's plant is a key customer for local farms, which deliver from a 30 mile catchment around the site, as well as local hauliers and engineering businesses. The loss of AB Agri's plant would</p>	

	therefore result in a substantial loss of business for local farms and other local businesses, risking further job losses and associated economic and social dis-benefits.	
Economic impact – supply chain	As confirmed above, the loss of the animal feed mill would cause a shock to the supply chain, in the short term likely leading to shortages in the supermarkets (in a similar manner to recent shortages in eggs and other supermarket goods), and a rise in prices in response to the reduction of goods on the market, further contributing to inflation and the cost of living crisis. Finding suitable sites, and securing planning permission, for new animal feed mills can be challenging, and the lost production could only be replaced in the UK on a very much longer term basis (if at all). In the interim, the demand would be met by increased imports from other countries, which evidently would bring far less economic benefit to the UK as a whole, and particularly to the local area which benefits so much from the existing presence of the animal feed mill.	
Social impact	Put simply, in the shorter term the loss of AB Agri’s mill would reduce the amount of food in the supermarkets, resulting in less choice for consumers and higher prices. Although this is an economic issue, given current inflationary conditions and the cost of living crisis, it is also a social one as the impact will be felt significantly more on lower income households	

	<p>which are less able to pay more for food, thereby increasing social deprivation.</p>	
<p>Environmental impact</p>	<p>At present, the goods which supply the AB Agri mill are locally sourced within a 30 mile radius, and the animal feed produced supplies farmers in the UK. As previously confirmed, the loss of AB Agri’s facility would ultimately result in shortages in supply being addressed largely through food imports, which is substantially more unsustainable in environmental terms than the current arrangements, not least as:</p> <ul style="list-style-type: none"> • Food will obviously need to travel considerably longer distances to reach customers’ plates, increasing carbon emissions as a result, and • Many of the likely sources of the imports have significantly lower standards in terms of sustainability and animal welfare than the very high standard regulatory framework of the UK. <p>As such, the closure the AB Agri plant would also bring substantial disbenefits in environmental terms.</p>	
<p>In summary, the main socio-economic impact of the loss of the AB Agri plant would be to substantially disrupt the national food chain, in a manner similar (or potentially worse) to the recent disruptions in supermarket goods (not least the recent shortages of eggs and salad items). This would harm the UK agricultural industry, and lead to more</p>		

<p>imports from other countries, which is considerably less desirable than locally-sourced food in economic, social and environmental terms. However, there will be other negative consequences, not least the loss of the existing jobs at the site and a wider indirect economic impact on local farmers and other local businesses.</p>	
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5.0 APPLICANTS' COMMENTS ON NATURAL ENGLAND'S WRITTEN QUESTION RESPONSES

5.1 The Applicants' comments on Natural England's response to the Examining Authority's written questions (REP6-041) can be found below in Table 5.

Table 5: Applicants comments on Natural England's response to the Examining Authority's written questions

Natural England's Responses	Applicants Comment
<p>Q2.5.1.3</p> <p>In discussions that Natural England have had with the applicant, they have advised that there will not be vehicle movements within 200m of the Humber Estuary SAC/SPA/Ramsar/SSSI due to relocation of the access road. This would allow this impact pathway to be screened out of further assessment. Natural England's understanding is that the potential impacts due to the generation of construction phase traffic associated with the proposed development will be updated to confirm the above details in the new version of the Habitats Regulations Assessment (HRA) which the developer is currently producing. Whilst Natural England considers that it is likely that our concerns on this matter will be resolved, we cannot confirm this until we have had the opportunity to review the updated HRA.</p>	<p>Natural England has confirmed, in an updated draft of the SoCG to the Applicant, that the information in the updated HRA (submitted at Deadline 6) has resolved their concerns. This will be part of a revised SoCG to be submitted to the ExA for Deadline 8.</p>

Q2.5.1.4

In discussions that Natural England have had with the applicant, they have advised that there will not be vehicle movements within 200m of the Humber Estuary SAC/SPA/Ramsar/SSSI due to relocation of the access road. This would allow this impact pathway to be screened out of further assessment. Natural England’s understanding is that the potential impacts due to the generation of operation phase traffic associated with the proposed development will be updated to confirm the above details in the new version of the Habitats Regulations Assessment (HRA) which the developer is currently producing. Whilst Natural England considers that it is likely that our concerns on this matter will be resolved, we cannot confirm this until we have had the opportunity to review the updated HRA. However, if this is not the case, Natural England’s advice in our Relevant Representations letter (dated September 2022), and the Statement of Common Ground with the developer (dated 7 February 2023) advised that if the development will lead to increases in vehicle movements within 200m of a designated site, there will be a requirement to assess the potential emissions of NH3, in addition to the NOx emissions, due to the general transition towards the use of petrol and electric cars. The catalytic converters in these cars may aid

Natural England has confirmed, in an updated draft of the SoCG to the Applicant, that the information in the updated HRA (submitted at Deadline 6) has resolved their concerns. This will be part of a revised SoCG to be submitted to the ExA for Deadline 8.

<p>in reducing NOx emissions but result in increased ammonia emissions. As we would question the ability to enforce the use of hydrogen vehicles only, this assessment would need to be undertaken even if use of hydrogen vehicles is preferred by the applicant. Natural England cannot advise how the use of hydrogen vehicles could be secured, as this would be a matter for the Local Planning Authority.</p>	
<p>Q2.5.1.6 Natural England are currently awaiting an updated version of the HRA which should provide further detail on the impact of piling on lamprey and birds. We cannot assess the impacts without sight of the information in the HRA. Our advice in the Statement of Common Ground on the piling works was provided on the understanding that bored(non-percussive) piling only will be utilised. For bored piling we advise that the updated HRA should still include an assessment of the predicted construction noise levels against the current background levels. Suitability of the proposed mitigation measures will then need to be assessed at the Appropriate Assessment stage of the HRA. However, we also advise that if percussive or impact piling may be required, the potential impacts which may arise will also require assessment within the HRA, in addition to the bored piling option.</p>	<p>Natural England has confirmed, in an updated draft of the SoCG to the Applicant, that the information in the updated HRA (submitted at Deadline 6) has resolved their concerns about effects on lamprey and birds from bored piling and construction noise. This will be part of a revised SoCG to be submitted to the ExA for Deadline 8.</p> <p>However, the Applicant is providing Natural England with additional information about the scenario on percussive piling. It remains the case that this would effectively be “<i>emergency works</i>”, for example to clear a blockage that prevents bored piling. The current Outline Construction Ornithology Management Plan (COMP) (Appendix M of the Code of Construction Practice) is being developed further to illustrate how any need for percussive piling would be managed to avoid adverse effects on birds in the areas surrounding the Project.</p>

The assessment should consider impacts to notified SPA/Ramsar/SSSI birds as well as lamprey. The use of impact or percussive piling is of more significant concern for birds than vibration-based piling as the process involves loud bangs, which are more disturbing than continuous noise. We advise that a measure of the maximum noise level should be included to determine the potential for disturbance. As with bored piling, proposed mitigation should be assessed at the Appropriate Assessment stage of the HRA. Natural England have reviewed the information submitted in the Construction Code of Practice (CoCP) (dated February 2023). The mitigation measures stated in the CoCP to control noise and vibration include production of a full Construction Ornithology Management Plan (COMP). The outline COMP (appendix M) states the following measures could be included in the final document;

- notifying contractors in advance and avoiding working or certain types of work at particular locations at particular times and/or under particular conditions;
- working at reduced intensity or less noisily;
- ceasing work at a particular location and/or moving plant and machinery to other work areas that are less sensitive.

<p>As stated above, the suitability of the proposed mitigation will need to be assessed in the HRA. However, we would advise that the phrasing of these measures is currently vague, and it is unclear on what mechanism would trigger the requirement for these measures to be undertaken. The suitability of the measures will need to be evidence based. Therefore we are currently not content with the mitigation measures set out in revised CoCP Appendix K for either percussive or non-percussive piling.</p>	
<p>Q2.5.1.8</p> <ul style="list-style-type: none"> i. Natural England have not provided an updated response to this date as there hasn't been a new submission of an updated HRA or air quality assessment which included the previously requested information. We advise that as per Natural England's relevant representation Part II Table 1 that Natural England key issue references 2, 4,6,8,12,14, 16, 18, 20 and 22 are still matters to be agreed and still outstanding in relation to the HRA (for impacts to European sites). ii. Natural England cannot change its position that there is still potential for adverse effects on the integrity of the European sites in question until we have seen the revised 	<p>Natural England has confirmed, in an updated draft of the SoCG to the Applicant, that the information in the updated HRA (submitted at Deadline 6) has resolved their concerns to European sites relating to Written Representations 2, 4, 6, 8, 12, 14, 16, 18, 20 and 22 (NE Submission on 15th September 2022). This will be part of a revised SoCG to be submitted to the ExA for Deadline 8.</p>

<p>version of the HRA which is currently under production by the applicant. Natural England does not consider that it is at the stage where an assessment in accordance with the derogations should be commenced, as there is still a significant amount of assessment outstanding.</p>	
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6.0 APPLICANTS' COMMENTS ON UKWIN'S WRITTEN QUESTION RESPONSES AND DEADLINE 6 RESPONSES

6.1 UKWIN provided a series of tables in response to the ExAs ExQ2 Annex A requesting a summary of waste as fuel available and energy from waste capacity available (REP6-043).

6.2 This section sets out the Applicant's response to certain points raised by UKWIN, noting that the Applicant and UKWIN has set out its position in a number of submissions to the ExA to date (list references), in:

- REP6-042: UKWIN's D6 comments on REP5-037 and REP5-032
- REP6-043: UKWIN's D6 response to the ExA's ExQ2 Annex A

6.3 For clarity the Applicant's response is grouped under a number of headings.

Projections of waste arising (REP6-042 paras 6-40)

6.4 Both parties have set out their projections for future waste arising in their responses to ExA's ExQ2 request (in REP6-043 for UKWIN and REP6-032 for the Applicant). Whilst the Applicant does not consider it helpful to the ExA to repeat its comments made in earlier submissions, it makes the following observations:

- In REP6-042 UKWIN argues (in REP6-042 paragraphs 17-20) that EIP Interim Target 3 applies to a definition of municipal residual waste which includes C&I waste of similar composition to local authority collected waste. The Applicant agrees that there is a lack of clarity here, as the precise way in which the Government derived this target is not in the public domain so far as we are aware. Hence it is not possible to completely reconcile the Applicant's analysis to the Government's.
- Given that this is the case, a reasonable approach is to cross-check the total derived by the Applicant with other figures available, albeit recognising that it may never be clear exactly which categories are included in which totals. In this respect the Interim Target 3 gives another data point as follows:
 - UKWIN correctly infers that a 29% reduction in municipal residual waste to 0.333te/capita by January 2028 implies a 2019 value of 0.469te/capita in 2019.
 - Assuming a population of 56.3m in 2019, this suggests a total amount of residual municipal waste in 2019 of 26.4mte in 2019.
 - This compares to the Applicant's own estimate of total residual waste as a fuel arising in

2020 of 22mte of residual fuel treated in England plus 1.7mte of exports¹, suggesting that the Applicant's estimation is lower than the Government's.

- In REP5-037 the Applicant applied a '90% scaling factor' when comparing its estimate of total residual waste arising against Government targets. This assumption was derived from UKWIN's evidence at ISH3, based on its (the Applicant's) understanding that this represents the difference between all residual waste and residual waste suitable for use as a fuel.

- The Applicant acknowledges that it has misinterpreted this figure. On reviewing REP2-111, the 90% assumption appears to be UKWIN's assumption for the amount of material removed from the residual waste stream for other purposes such as use in cement kilns. As the Applicant has already accounted for this in separate assumptions it is not appropriate to apply the 90% factor, and the Applicant notes that UKWIN does not use it in REP3-043.

- Hence the 'starting point' for residual municipal waste should be around 26.4mte rather than 23.7mte.

- Furthermore, the Applicant does not accept that all C&I waste which is a potential fuel would fall under the category of municipal residual waste. Whilst it is unclear exactly which waste codes have been used to set Interim Target 3, analysis of Waste Data Interrogator data for 2020 shows that EfW facilities have accepted waste categorised under the waste codes other than those normally used for household waste and similar C&I waste (such as 20 03 01 and 19 12 12).
- EIP Interim Target 1 relates to all residual waste excluding major mineral wastes. The 2019 baseline for this target is 0.576te/capita, implying around 32.4mte of residual waste excluding major mineral waste. The exclusion of major mineral wastes is intended to exclude inert construction, demolition, and excavation wastes, implying that the remaining waste fraction is likely to be combustible. The Applicant recognises that not all of this waste will be suitable for use as a fuel for EfW, but the information needed to quantify this precisely is not available.
- The Applicant's projection for residual waste as fuel for 2042 is 0.253te/capita. This is above the figure of 0.235kg/capita which would be obtained by dividing the 2019 residual municipal waste figure of 0.469te/capita by two. However, it is well below the figure of 0.287te/capita which is the Government target based on all residual waste (0.574te/capita divided by two).
- There is inherent uncertainty about how much residual non-municipal C&I waste (excluding major mineral wastes) is available as a fuel. If one were to assume 50% is available, the appropriate target for 2042 would be 0.261te/capita (the mid-point of 0.235 and 0.287). In fact, the Applicant conservatively projects a slightly lower target of 0.253te/capita.
- The Applicant restates its view that the base case 'targets' met' scenario itself represents a very conservative view of waste arising, and that there is a much higher probability of

¹ The Applicant welcomes UKWIN's acknowledgement in REP6-043 that the 1.7mte of exports in 2020 should be factored into the projections.

underachievement (i.e. higher waste arisings) compared to overachievement (see REP5-037 para 2.10).

Sustainable Aviation Fuel (SAF) (REP6-042 paras 41-48)

6.5 The Applicant's comments on SAF as set out in REP6-042. All SAF projects are in early stages of development and there remains a high degree of uncertainty as to which, if any will come forward. The Applicant has included in its analysis the new project which has planning consent.

CCS potential (REP6-042 paras 49-52)

6.6 The Applicant's view remains that the EfW sector will need to decarbonise as a result of the UK's Net Zero policy and this is the clear direction of recent policy announcements, including those made on 30th March 2023. For instance, the Spring Budget gave a strong direction that mitigating climate change and energy security and affordability was a clear priority, through the allocation of funds in a tight fiscal environment. Amongst other things, the Spring Budget included:

- £20bn allocated for development of Carbon Capture Usage and Storage, which will create 50,000 jobs and facilitate the storage of 20 to 30 million tonnes of CO₂ a year by 2030. This will begin with projects in HyNet and East Coast cluster, before being rolled out to further clusters.
- The Government will introduce legislation in a future Finance Bill which will determine how tax is applied to payments for the repurposing of existing oil and gas assets for use in CCUS projects.
- A number of major EfW operators are already pursuing CCS projects, including Cory Riverside, Drax (examination of their DCO ongoing and due to finish in July 2023 for a Bioenergy and CCS project) and Enfinium (who announced in March 2023 that it is drawing up plans to explore CCS at existing plants including Ferrybridge). Further evidence of Government support for CCS of EfW plants is provided in the S35 Direction of the Secretary of State for the Decarbonisation of Cory Riverside EfW (6th October 2022). In reaching the decision to make the S35 Direction, the Secretary of State confirmed:

“Both the carbon capture and storage and hydrogen elements of the Proposed Project will play an important role in enabling an energy system that meets the UK’s commitment to reduce carbon emissions and the Government’s objectives to create a secure, reliable and affordable energy supply for consumers.

The carbon capture element of the Proposed Project would provide and support the decarbonisation of energy from waste derived CO₂ emissions in the UK, delivering over a million tonnes of CO₂ savings per annum, and supporting the achievement of a fully de-carbonised district heating network that crosses local authority areas.

The hydrogen element of the Proposed Project would provide and support the production of viable hydrogen facilities that would enable the provision of regular hydrogen supply to heavy goods vehicles and vessels as both forms of transport seek to decarbonise, and will make an important contribution to the overall 5GW target set out in the Hydrogen Strategy.”

6.7 Other than these recent announcements, it is not known which facilities will be able to fit CCS technically and economically, and REP3-040 sets out the Applicant’s approach adopted to deal with this uncertainty. It remains the Applicant’s view that the facilities likely to fit CCS earliest and most economically (or with the lowest level of Government subsidy) are those located near proposed CCS clusters.

6.8 The Applicant notes that non-R1 facilities will not be eligible for Government support to fit carbon capture. In its Industrial Carbon Capture business models summary², it states that *“Government intends to support facilities that maximise the energy value of waste, aligning with the Resources and Waste Strategy for England...”*.

6.9 The Government published a revised consultation draft of NPS EN3 in March 2023, as part of a suite of revised draft energy NPSs. This draft included a change to paragraph 3.7.29 which now states:

“Applicants must ensure EfW plants are fit for the future, do not compete with greater waste prevention, re-use, or recycling and do not result in an over-capacity of EfW waste treatment provision at a local or national level.” (our emphasis)

6.10 This supports the Applicant’s position that older EfW will find it increasingly hard to compete and therefore that older plant which have low potential for CCUS should not be included in the definition of capacity.

6.11 There is also helpful clarification on the role of CCS in biomass projects. Whilst not directly relevant to the Project, it provides useful recognition of the Government’s view of the importance of CCS to deliver negative emissions and the priority to be given to such projects (paragraph 3.7.14).

“The government recognises the need to prioritise biomass use to applications where it can deliver GHG emission reductions in hard-to-decarbonise sectors, without other viable alternatives, to comply with our net zero and wider environmental goals. One of these priority applications is the use of biomass to deliver negative emissions through Bioenergy with Carbon Capture & Storage (BECCS).”

² “Carbon Capture. Usage and Storage: Industrial Carbon Capture business models summary”, BEIS, December 2022

- 6.12 The Government's response (March 2023) to the consultation responses on the suite of draft energy NPSs also adds helpful clarity that there is no prospect currently of a moratorium on EfW facilities and also the importance of maximising the efficiency of EfWs, including through district heating. Page 39 of the Government response states:

"This means in practice that there is no limitation on EfW plants that can be consented under the NPSs, if they comply with the waste hierarchy and do not lead to overcapacity as set out in EN-3. The government's policy position remains that the primary function of EfW is to treat waste. Electricity generation is a secondary function of EfW, and consideration should be given during planning to making the most efficient use of the energy produced by EfW, including through heat offtake. More broadly, the capacity consideration in EN-3 does not imply that sufficient EfW capacity has already been attained, does not constitute a moratorium on new EfW plants, nor does it imply additional waste treatment capacity is urgently required in England. The consideration aims to ensure that new EfW plants remain appropriate in context of national waste management policy ambitions and proportionate in context of local waste management needs."

- 6.13 In paragraph 50 of REP6-042, UKWIN argues that it is not valid to take into account likely future policy and that only current policy should be taken into account. This appears to contradict its position that draft EN3 planning guidance relating to over-capacity should be considered. It remains the Applicant's position that draft EN3 is not adopted policy, but that a certain weight should be applied to it as it reflects a recent statement of Government policy, particularly in its most recent draft. The Applicant has therefore taken a conservative approach to demonstrating the position on capacity at a national, regional and local level.

Non-R1 capacity and other commercial points (REP6-042 paras 53-78)

- 6.14 The Applicant remains of the view that non-R1 should not be considered in any analysis of potential over capacity as they are lower down the waste hierarchy than energy recovery facilities. UKWIN has not presented any evidence to support its speculation that the few remaining non-R1 facilities plan to 'upgrade' to R1, or are even capable of doing so.
- 6.15 It is much more likely that old life-expired non-R1 facilities will close in favour of new facilities, as in the example of Edmonton. New facilities will require planning consent. UKWIN refers to Eastcroft (para 65), and the Applicant notes that Eastcroft plans to build a new line for which it has planning consent (and which has been factored into the Applicant's analysis).

- 6.16 The Applicant notes that non-R1 facilities will not be eligible for Government support to fit carbon capture. In its Industrial Carbon Capture business models summary³, it states that “Government intends to support facilities that maximise the energy value of waste, aligning with the Resources and Waste Strategy for England...”.
- 6.17 UKWIN refers to the Applicant’s assessment of compliance with policy in paragraph 74 of its response [REP6-042] stating, correctly, that reliance is placed on the RDF Supply Assessment to reach conclusions on this point. The first point to note is that the Applicant’s position, as stated above, is that the requirement to demonstrate that there will be no overcapacity of EfW facilities is in draft NPS EN3, which is not yet adopted policy and should be viewed in the context of overall Government policy ambitions which is first and foremost to maintain compliance with the waste hierarchy.
- 6.18 The Applicant has demonstrated in its responses to the examination that it will not undermine the waste hierarchy. The UK has a target to increase recycling and reduce residual waste (and indeed NLGEP has assumed in its calculations that these targets will be met) but there is a long way to go, and it requires a massive step change in behaviour. The ERF at NLGEP will only be able to take Refuse Derived Fuel (RDF), and compliance with the waste hierarchy is secured by requirement 15 in the draft DCO and will be addressed in the environmental permit too [REP5-006]. Therefore, the Project will not impact on the UK’s ability to meet recycling targets. In the context of revised draft NPS EN3, overcapacity is not defined, and the Applicants view is that it is completely reasonable to assume that existing and planned facilities for the purposes of an ‘overcapacity’ assessment are consistent with other existing and emerging Government policy, for instance on CCUS and R1 status.
- 6.19 At paragraph 75 UKWIN refers to the Wheelabrator Kemsley North decision where there was found to be an overcapacity and a diversion from recycling rather than landfill. The DCO was for two facilities – an increase in capacity of the existing K3 generating station and construction of a new EfW - Kemsley North. The Secretary of State made a decision on the DCO in February 2021 which allowed the increase in capacity of the K3 generating station, but refused the Kemsley North element of the DCO. It is clear from the Examining Authority’s report on Kemsley North that there were significant differences in opinion on the waste capacity position. Nevertheless, there were important local considerations that applied in this case that mean that the decision cannot be taken

³ “Carbon Capture. Usage and Storage: Industrial Carbon Capture business models summary”, BEIS, December 2022

as meaning that the same considerations would apply to all EfW decisions, as UKWIN assert, or that the same principles apply to the NLGEP decision. There was significant existing EfW capacity in Kent, which compares to no existing EfW capacity in North Lincolnshire (and a significant reliance on landfill). Also, the Kemsley North element of the proposals was below the generating capacity of an NSIP (but was determined as such through a Section 35 direction) and so the ExA put considerable weight on local Development Plan policies which did not identify a need for new EfW capacity. Whilst the Secretary of State placed less weight on local policy, he still found that the lack of compliance with local policy, and objections from the local waste authority on capacity, were a significant consideration in his decision.

Greenhouse gas points (REP6-042 paras 79-99)

- 6.20 The Applicant would refer to REP5-037, at paragraphs 2.42 1) and 2.24 2) regarding UKWINs comments at para 79.
- 6.21 Referring to paras 80-81, the Applicant's assessment of the contribution of metal recovery in APP-054 is clear and robust, based on the proportion of metals in the mixed waste fuel that it will receive and that proportion which is recoverable from bottom ash. It is not for the Applicant to speculate about the fuel supply chain, processing and recovery technologies associated with another operator's facility.
- 6.22 For paras 82-84, regardless of semantics, the Applicant makes clear its view in terms of the conservatism of the original GHG assessment in APP-054 and the need to explore further the benefits of the facility in paragraphs 2.42 1) and 2.24 2) and implications of these combined investigations in REP5-037 paragraphs 2.24 11) and 2.24 12).
- 6.23 In response to paras 85-88, a 68% rate for landfill gas recovery was modelled as part of the conservative worst case approach in the APP-054 assessment. In practice, the recovery rate is likely to be a substantially lower figure. Even the 55-65% envelope quoted by the Applicant in REP5-037 paragraph 2.24 3) v) would be high, given this only refers to the period of active management of the landfill. As a result, the benefits of diverting waste from landfill will be significantly greater than those reported in the worst case.
- 6.24 UKWIN quotes text in para 89 from APP-054 exploring sensitivities around only the conservative worst case. The Applicant makes clear its view on restricting the perspective to these outcomes in the light of contributions to the benefit of the scheme excluded from the original assessment in REP5-037 paragraphs 2.24 11) and 2.24 12).

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- 6.25 Responding to comments in para 90, the Applicant is content with the further consideration of the GHG benefits of the scheme that it has communicated beyond the original assessment in APP-054 in response to UKWIN's written representations in REP3-022, 9.17 pages 55-63. It notes that UKWIN does not take issue with these.
- 6.26 Considering para 91:
- a. In referring to RDF exports, the Applicant anticipates its fuel supply chain including both RDF derived from sources that currently send waste to landfill and sources from which waste is currently exported as RDF to be recovered in facilities in mainland Europe, but where this option is increasingly constrained by policy in the destination country, the result would be more waste going to landfill in the UK. The Applicant's point is that in either scenario, RDF processed through the ERF would be diverted from landfill and moved up the waste hierarchy.
 - b. NPS EN-3 states at paragraph 1.1.1 that "*Electricity generation from renewable sources of energy is an important element in the Government's development of a low-carbon economy*". It further states at paragraph 1.8.1 that "*This NPS covers the following types of nationally significant renewable energy infrastructure: Energy from biomass and/or waste (>50 megawatts (MW) ...*". Energy from waste is a supply of renewable energy contributing to the low-carbon economy through the use of a fuel that is partly renewable.
 - c. The Applicant's GHG assessment presented in APP-054 does not rely on connection to the East Coast cluster to secure the benefits of the extent of carbon capture modelled. A higher rate of capture would increase the reduction of GHG emissions associated with the development if and when that provided practicable in the future, with an example of that increase presented in REP3-022, pages 61-62. There would be costs associated with additional capture and removal of carbon dioxide whatever the means through this were to be achieved, as is the case at any other facility where the technology is being contemplated. The operator would make a commercial decision on the further extent of this element of the development dependent on the balance of costs and benefits of the options available to it at the time. The Applicant referred to the weight that the ExA could place on potential future connection to the HLCP project in their response to first written questions Q6.0.8 where it states:

"The Applicant considers that the ExA can give moderate weight to the potential for a connection to this pipeline in the future. The Humber Low Carbon Pipelines (HLCP) project is currently at its statutory stage of consultation and its delivery is a fundamental part of Government policy to decarbonise the Humber and facilitate the introduction of a dedicated hydrogen network. Its purpose is to decarbonise major generators of carbon in the Humber area and the proposed pipeline passes within 3km of the south of the southern DHPWN. The Applicant

has made representations to National Grid Carbons Venture’s consultation to seek an amendment to their proposals to facilitate this. However, even if an amendment is not made, given the very close proximity, it is reasonable to assume that the project could be connected to the HLCP in the future, given the strength of policy to support this. The Applicant does however propose that the ExA place substantial weight on the CO₂ to be captured by the Project from the outset, which can be achieved without the HLCP connection. The current proposals (explained in greater detail in question 6.0.3) show a potential for 46,652 tpa of CO₂ for sequestration from the outset. If the CCS was scaled up to full capture by 2027 there is potential for storing up to 679,037 tpa of CO₂.”

d. This point is addressed above in response to paragraphs 80-81.

6.27 In paras 92-93 UKWIN states that “...the BEIS marginal emissions factors are designed to be used when considering the impact of a sustained change in electricity demand, ...” (Applicant’s emphasis). UKWIN goes on to state that “...and that this can derive not just from a reduction in usage but also the introduction of new capacity such as from new incineration capacity.” (Applicant’s emphasis). Whilst reduced usage clearly is a change in demand, the introduction of new capacity does not lead to that outcome. This is an assertion without foundation.

6.28 UKWIN does not reference in full the relevant text in the BEIS guidance in paras 94-95, which refers to estimating the effects of demand-side changes, which will clearly lead to marginal changes in grid electricity supply. To provide context, in full this is as follows (with BEIS’ own emphasis retained):

“3.22 For estimating changes in emissions from changes in grid electricity use, analysts should use the (long run) marginal grid electricity emissions factors in data table 1. These emission factors will vary over time as there are different types of power plants generating electricity across the day and over time, each with different emissions factors. An example of the calculation is presented in Box 3.5.”

[Box 3.5 provides an example that hypothesises an energy efficiency programme which reduced the use of electricity by households – a demand-side intervention.]

“3.23 There are complex mechanisms that determine the effects of sustained but marginal changes to the grid electricity supply (from either displacement with other generation or a demand reduction). A small reduction in grid electricity consumption will be met through a reduction in supply from a small subset of plants, rather than through an equal drop across all generation plants. Very temporary changes in consumption will likely only result in short run changes to generation levels, rather than changes in capacity. However, sustained changes in consumption will result in changes to generation capacity – in terms of the timing, type, and amount of generation plant built and / or retired – as well as changes in generation levels. Modelling undertaken by BEIS has estimated these longer-term dynamics, and they are reflected in the marginal emissions factors. Further information may be found in chapter 2 of the background documentation accompanying this guidance.”

6.29 The demand-side reduction that UKWIN refers to on para 96 is, as its name suggests, a decrease in the demand for electricity by its consumers. The provision of new electricity generating capacity is a 'supply-side' matter and not relevant to demand-side reduction.

6.30 Finally, in response to paras 97-99, a conventional gas-fired power station is the comparator clearly stated by Defra in the Guide. Unquestionably, the Applicant is correct in applying it. Consideration of the effect on the GHG assessment of the prospects for carbon capture at offset gas-fired generating capacity would demand also that the prospects of increased rates of carbon capture at the development are taken into account. Given that the direct emissions intensity of generation are higher at the development than at a gas-fired power station, if these prospects were to be equal, then the benefits of the development would increase. Forecasts of the relative prospects of each and their timing are beyond the reasonable scope of the GHG assessment, given the current status of carbon capture deployment.

Requirement 15 (REP9-042 para 100-108)

6.31 In view of the ExA's preference to see the original wording for requirement 15 reinserted into the dDCO, the Applicant makes no further comment on UKWIN's responses on this.

Applicant's comments on REP6-043

6.32 Given that each party has set out its response to the ExA's request to complete Annex A of ExQ2 (in REP6-032 for the Applicant and REP6-043 for UKWIN), the Applicant does not propose to comment in detail on UKWIN's response to the ExA's second written questions as the commentary above covers most of the points.

6.33 However there are some points which do require comment as follows:

- In paragraph 2c) UKWIN states that the Applicant has a 'general practice' of 'halving study area figures to produce Yorkshire and Humber figures. This is incorrect – data is available for both regions and the relevant data has been used for each region.
- In paragraph 5b), UKWIN uses a 2017 Eunomia report to justify its assumption of 1mte waste going to cement kilns in 2030. The Applicant has reviewed this document but has not been able to find reference to this figure.
- In paragraph 6 UKWIN refers to SAF facilities. It appears that UKWIN has subtracted from the 'waste as fuel available' line its assumption of 2.1 mtpa of use by SAF facilities. None of these facilities has reached financial close, only one has planning consent, and the Jet Zero

Policy (which has not yet been enacted) does not specify which feedstocks should be used to meet an SAF mandate. Hence UKWIN's assumption is considered to be highly speculative.

7.0 APPLICANTS' COMMENTS ON AMY OGMAN'S DEADLINE 6 SUBMISSION

7.1 Further comments were submitted at Deadline 6 from Amy Ogman (REP6-049), outlining a number of concerns. These include concerns relating to noise from the commissioning stage and potential flood issues at Amcotts as a result of the site.

Noise concerns

7.2 Noise levels during commissioning, estimated to last for 6 months, will normally be similar to operational noise levels. However, certain activities have the potential to generate increased noise off-site. They include:

- steam blowing and subsequent venting; and,
- tests which result in steam bypassing the steam turbine (turbine trips).

7.3 Steam blowing will be carried out during the day (up to three times a day) and will comprise short continuous bursts of approximately 15-20 minutes, with large periods in-between to allow for cooling and inspections. This will occur over a period of around a month.

7.4 Activities which could increase the risk of turbine trips would be planned during the day, however, it is possible that in exceptional cases unplanned trips could occur at other times throughout commissioning.

7.5 Local residents will be kept informed of planned potentially noisy commissioning activities, through the Project's ongoing stakeholder engagement process. As commissioning activities are expected to be noisy only briefly, and take place during the night only occasionally, adverse effects are not considered significant.

Flood concerns

7.6 A Flood Risk Assessment (FRA) has been undertaken for the site and approved by the Environment Agency (document ref APP-070). Hydraulic modelling was undertaken to support the FRA based on the latest available model for the site.

7.7 The design of the NLGEP proposals ensure that the new development is at a low risk from flooding for the lifetime of the development, but also that it does not increase the risk to other sites. This includes sites in the wider surrounding area, including Amcotts Village. To achieve this, different design iterations were undertaken to minimise potential impacts of flooding. This resulted in development and flood mitigation interventions being offset away from the river bank edge which

allows overtopping to continue to occur on the east side rather than increase levels and overtopping in other areas.

- 7.8 Although the FRA states what the impact of the proposals are in the vicinity of the site, changes in flood level were interrogated across a wider area, including Amcotts village, and were found to be negligible as a result of the new development.

8.0 FURTHER INFORMATION REQUESTED FROM CAH1

- 8.1 The Applicant has set out the compelling reasons why the Project should proceed in the Planning Statement [REP2-017], Explanatory Memorandum [REP5-007] and Statement of Reasons [REP5-011] and other Application documentation where applicable.
- 8.2 However, the Examining Authority also asked for a table at CAH1 (8th March 2023) to address each of the prime development areas of the Project over which compulsory acquisition powers are sought and to signpost the relevant Application document which explains how the balance has been weighed between individual rights and the compelling case in the public interest.
- 8.3 Table 6 summarises each land interest where permanent acquisition is sought together with the requested justification and signposting to the relevant Application documents where appropriate.

Table 6 – Land acquisition justification Table

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
Andrew Green (6-20, 6-30, 6-31, 6-35, 6-37, 6-42, 6-49)	Agricultural and vegetation adjacent to existing disused railway.	Landscaping mitigation (Work No. 12 and 12A) and provision of pedestrian footbridge either side of railway (Work No. 3).	<p>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 railway line splitting Church Farm 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 payment by way of 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</p>	<p>The land is required to facilitate access during reinstatement and operation of the disused railway and to provide planting to mitigate landscape and visual impacts to Flixborough. The line will be brought back into operation to facilitate the transportation of waste feedstock to the ERF and PRF to reduce road transport and facilitate the containerised handling of refuse derived fuel. Aggregate and concrete products will also be transported by rail and there is potential to transport carbon dioxide.</p> <p>The land in Mr Green's ownership comprises a strip either side of the reinstated railway works. The permanent works will not be affected by any ongoing agricultural operations on the land.</p> <p>The Planning Statement (paragraphs 5.7.34), Written Summary of Oral Submissions made at ISH1 [REP1-015] and CAH1 [REP6-035] explains the compelling reasons for bringing the disused railway back into beneficial use.</p>

⁴ Note that this column is reiterating the information provided in Appendix 5 of the Board Report – Assessment of Private Loss v Public Benefit [Appendix 2 of CAH1 Post-Hearing Submissions, REP6-035] submitted at Deadline 6 and is included for ease of reference only.

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
			<p>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> <p>The Applicant has now reached agreement with Mr Green for the voluntary acquisition of land, and the parties are in the process of signing heads of terms.</p>	<p>In summary, Government policy requires us to make the most of existing infrastructure.</p> <p>NPS EN3 encourages multi-modal transport (para 2.5.25) and that decision takers should expect materials to be transported by water or rail wherever possible.</p> <p>NN NPS (2014) recognises that railways are a vital part of the country’s infrastructure (para 2.28). Also recognises that the railway must, inter alia, provide for the transport of freight across the country, and to and from ports, in order to help meet environmental goals and improve quality of life (para 2.30).</p> <p>The National Networks NPS recognises the importance of rail freight in transporting goods and materials:</p> <p>“Rail freight is therefore of strategic importance, is already playing an increasingly significant role in logistics and is an increasingly important driver of economic growth, particularly as it increases its market share of container traffic. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national rail network to meet the need set out in paragraphs 2.28 and 2.29.”</p> <p>The reinstatement of the railway therefore addresses important aims of Government policy</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>with relatively little additional works, primarily to facilitate safe crossing of the railway and to deliver landscaping and environmental improvements.</p> <p>One of the proposed footbridges also replaces a current level crossing with a safe, improved pedestrian crossing of the railway.</p>
Nisa Retail (6-58, 6-60, 6-65)	Grassland and track.	Ditch landscaping mitigation (Work No. 12 and 12a).	<p>Only a small area of land is required to link up FLIX178 footpath to the rest of the Public Right of Way (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 the PRoW network will exceed this loss.</p>	<p>FLIX179 currently connects to the wider PRoW network via the disused railway.</p> <p>There is evidence that the branch line is currently used as an informal recreational walking route without consent. In order to provide the continued amenity access along the route of the branch line, the Applicant has included land within the Order Limits that it is seeking to acquire on a permanent basis in order to provide a footpath link from footpath FLIX178 along the southern side of the branch line to join the open access land. This would ensure the ongoing connectivity between the existing PROW and would provide an enhancement of benefit to the public (Statement of Reasons, paragraph 4.1.5 [REP5-011]).</p> <p>These works are required to ensure continuity of the PRoW network, albeit as an enhancement given that the current position is informal.</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The opening of the disused railway is a benefit of the Project and to address its impacts as described above.</p> <p>This land provides an important enhancement to the Project with no operational impact to Nisa.</p>
<p>Lincoln Diocesan Trust (5-6, 5-9, 5-79 (freehold acquisition) 5-8 (new rights))</p>	<p>Agriculture and farming.</p>	<p>This includes land for:</p> <ul style="list-style-type: none"> - Residue Handling and Treatment Facility (Work No. 2) and Concrete Block Manufacturing Facility (Work No. 2(b)). - Mitigation landscaping - native woodland blocks and hedgerows (Work No. 12 and 12a). 	<p>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. The Applicant is in ongoing discussions with the landowner with a view to reaching an agreement for voluntary acquisition.</p>	<p>The RHTF and CBMF are fundamental parts of the ERF, to ensure its operational effectiveness and to make the most effective use of by-products from the combustion process (see paragraph 3.7 of the Explanatory Memorandum Revision 2 [REP5-007]).</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44). The assessment of the private loss to individuals against the public benefit can be seen in this document but also in Appendix 5, of Appendix 1 of the Written summaries of oral submissions at CAH1 REP6-035.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the Project (refer to Agenda Item 4 (11) of the Written summaries of oral submissions at ISH1, REP1-015).</p> <p>The new landscape and wetland area to the south of the ERF will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				creating wildlife-rich habitats and improved access to nature and providing overall good design, as required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).
North Lincolnshire Council (NLC) (5-16, 5-35)	<p>NLC have various land interests across the Application Site.</p> <p>Much of the land relates to parcels adjoining and crossing existing highways. There is also land within NLC ownership to the south of the existing Flixborough Industrial Estate, currently in use as a laydown area for storing steel following unloading at the existing wharf (Plot 5-16)</p> <p>Glanford House was previously an office block but was demolished and currently lays as a</p>	<p>This includes land required for:</p> <ul style="list-style-type: none"> - The ERF, water treatment facility and feedstock storage (Work No. 1); - Part of the Residue Handling and Treatment Facility and Concrete Block Manufacturing Facility (Work No. 2); - Pedestrian and cycle path connection between ERF and plastics recycling facility (Work No. 1(p)); - Northern DHPWN and to facilitate access to the grid 	<p>The Glanford House site (Plot 5-35) has been redundant and is not delivering any revenue for NLC. The Project will deliver new highly paid and highly skilled jobs, and significant revenues to the region annually. There are no jobs currently associated with the site and have not been for many years.</p> <p>In relation to Plot 5-16 this is currently used as a lay-down area for imports from the nearby port. The land is currently leased by the Council to RMS Trent Ports for lay-down/storage purposes. There are no jobs currently associated with the site, save for security, and the Applicant has already agreed an option to acquire the Port site from RMS Trent Ports. Notwithstanding this whilst there would ordinarily be the impacts on the landowner and occupier (similar to those set out for Rainham Steel) 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,</p>	<p><u>ERF, RHTF and CBMF</u></p> <p>The compelling case in favour of the ERF (and its required grid connection) is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p> <p>The RHTF and CBMF are fundamental parts of the ERF, to ensure its operational effectiveness and to make the most effective use of by-products from the combustion process (see paragraph 3.7 of the Explanatory Memorandum Revision 2 [REP5-007]).</p> <p><u>Mitigation landscaping</u></p> <p>Mitigation landscaping is required to ensure that the landscape and visual effects of the ERF are reduced to an acceptable level. The ES (chapter 11 – APP-059) demonstrates that significant landscape and visual effects will almost entirely be removed after 15 years as a result of the proposed planting.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
	level brownfield site (Plot 5-35).	(Work No. 10 and 11); - Substations and switchyard (Work No. 1(k)); - Mitigation landscaping (Work No. 12 and 12A).	means the private loss has been mitigated against so that this is minimal. The Council will suffer loss through the loss of the land parcels, 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 and the wider community.	<p>Project (Agenda Item 4 (11) of the written summaries of oral submissions at Issue Specific Hearing 1 – REP1-015).</p> <p>The new landscape and wetland area to the south of the ERF will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through creating wildlife-rich habitats and improved access to nature and providing overall good design, as required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).</p> <p>Providing safe and appropriate pedestrian and cycle access is a fundamental requirement of planning policy and good design.</p> <p><u>DHPWN</u></p> <p>The DHPWN addresses fundamental aims of Government policy to make the most effective use of excess heat generated by the combustion process. NPS EN1, paragraph 4.6.2, makes the benefits of district heating networks clear as a means of reducing the amount of fuel which would otherwise be needed to generate the same amount of heat and power separately. Policy specifically requires the consideration of CHP in all types of thermal generating stations, including EfW.</p> <p>The CHP Assessment [APP-038] makes it clear that the facility will be constructed as CHP enabled from the outset and configured as a CHP-Ready plant,</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>thereby meeting another central aim of Government policy.</p> <p>The Project includes two DHNs:</p> <ul style="list-style-type: none"> (i) The Northern DHPWN (ii) The Southern DHPWN <p>The Northern Network runs in the same trench as the high voltage grid connection required to connect NLGEP to the national grid. It therefore achieves the benefits of a district heating network without additional works and impacts.</p> <p>The provision of the DHPWN ensures that the benefits of more affordable, low carbon electricity and excess heat generated by the ERF can be shared with the local community and businesses in the future.</p>
Rajan Marwaha (5-38, 5-41)	<p>Reputed owner of Bellwin House.</p> <p>Vacant offices. Building in dilapidated condition and not capable of occupation without substantial refurbishment.</p>	<p>This includes land for the ERF, water treatment facility and feedstock storage (Work No. 1 and 1A).</p>	<p>Mr Marwaha purchased the site in 2018 in the name of a charity that has since ceased functioning, was never a registered charity and the transfer into Mr Marwaha's name has not been registered at the Land Registry. 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 commissioned for the site taking into</p>	<p>Bellwin House is located under the footprint of the proposed ERF.</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p> <p>Bellwin House is not currently capable of occupation or providing any employment.</p> <p>The Proposed Development will provide 3,510 net direct jobs (falling to 2,940 when leakage, displacement and multiplier effects are taken into</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
			<p>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 where agreement reached. No employment exists on the current site and has not for many years. 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>	<p>account) during construction and 136 during operation (rising to 175 when multiplier effects are included) [Table 16 and 18 of REP6-022].</p> <p>The wider public benefit of the ERF in terms of climate change, meeting Net Zero, diverting waste from landfill and the significant additional jobs is considered to more than compensate for the loss of Bellwin House.</p>
Raymond and Simon Ogg (5-63, 5-70, 5-72, 5-87, 5-88, 5-89, 6-16, 6-18)	Agriculture and farming	<p>This includes land for:</p> <ul style="list-style-type: none"> - Substations and switchyard (Work No. 1 (k)) - Hydrogen production and storage facility (Work No. 7 and 8); - Hydrogen and natural gas Above 	<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 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>As noted in the Statement of Reasons [REP5-011], the Project will include two Hydrogen production facilities, enabling the production of hydrogen from the low carbon power produced by the ERF:</p> <ul style="list-style-type: none"> (i) The first facility will be located at the south of the Energy Park Land, adjacent to the Electric Vehicle (EV) and H2 re-fuelling station. This facility will comprise a standalone building, housing Polymer Electrolyte Membranes (PEM)

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		<p>Ground Installation (AGI) (Work No. 7 and 8);</p> <ul style="list-style-type: none"> - Internal vehicle access road (Work No. 1); - Enhancement landscaping (Work No. 12 and 12A). 	<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>	<p>units, with additional ancillary equipment, including pumps, heat exchangers, fin-fan coolers, oxygen separators, buffer tanks, compressors, high pressure gas storage, gas AGI and pipework needed to feed H2 to the distribution hub and Private Wire Network, outside of the electrolyser building.</p> <p>(ii) The second H2 production facility will be located to the north of the Energy Park Land, adjacent to the Gas AGI and will be of a similar design to the first, incorporating a standalone building housing an electrolyser and the additional ancillary buildings to incorporate the necessary ancillary equipment. However, at this location, the pipes will feed H2 to the AGI for future distribution into the gas grid.</p> <p>As set out paragraph 3.7 of the Explanatory Memorandum [REP5-007], the hydrogen production and storage facility will have a production capacity of 150kg/h hydrogen (1,300 tpa – capable of heating 17,600 homes), equivalent to an electrical demand of 10MW, which will either be: stored; delivered to the gas grid or to end users along the DHPWN; used to supply the hydrogen refuelling station; or used to supply the planned East Coast Cluster dedicated</p>

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				<p>hydrogen network. All of these uses will contribute further with the decarbonisation of gas supplies to achieve Net Zero by 2050.</p> <p>The Project will include the construction of up to two new gas above ground installations (AGI) which will facilitate the export of hydrogen to the gas grid at a point in the future when the concept has been validated.</p> <p>The H2 refuelling station will have a refuelling bay for buses and lorries, enabling Scunthorpe buses to transition to a Net Zero future and offering the opportunity for HGVs associated with the NLGEP and Flixborough Industrial Estate as a whole to be more sustainable.</p> <p>Policy announcements in March 2023, together with policy in the British Energy Security Strategy (BESS), 2022 and the Ten Point Plan (2020) have made the Government’s position on hydrogen clear:</p> <ul style="list-style-type: none"> • An ambition for 10GW of hydrogen production by 2030. • An aspiration for hubs where renewable energy, CCUS and hydrogen congregate. • The commitment of £240m in the Net Zero hydrogen fund, with the successful applicants (15 projects) announced on 30th March 2023.

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				<ul style="list-style-type: none"> • Announcement of the shortlist of projects for due diligence in the first electrolytic hydrogen round, supporting up to 250MW of capacity. • Announcement of intention to launch a second electrolytic allocation round later this year, through which they intend to support up to 750MW capacity, and to publish a hydrogen production delivery roadmap by the end of the year. <p>The Applicants response to Q6.0.10 [REP2-033] referred to The Energy Networks Association (ENA), which represent all electricity and gas networks in UK and Ireland, which published its Hydrogen Blending Delivery Plan in January 2022, which clearly stated the commitment of all energy networks to enable hydrogen blending by the end of 2023.</p> <p>National Grid Future Energy Scenarios, July 2022, also considers the role of hydrogen under four possible scenarios – falling short, leading the way, consumer transformation and system transformation. The document notes that the credible range of possible hydrogen use is very wide, and this impacts the development of hydrogen infrastructure. While hydrogen for power generation is needed in all our Net Zero scenarios to support electricity Security of Supply, the broader levels of</p>

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				<p>demand, hydrogen production methods, and end uses vary greatly between the scenarios.</p> <p>National Grid’s Leading the Way scenario meets the 10GW of hydrogen production by 2030 set out in the BESS. Future Energy Scenarios also notes that: “To fully realise the whole system benefits of hydrogen, and to provide energy security without unabated gas, high levels of hydrogen storage will be required. This is the case across all the Net Zero scenarios and, given the likely geological aspect of these projects, strategic investment is required now.”</p> <p>This scale of ambition will only be realised if projects like NLGEP are allowed to proceed.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the Project (refer to Agenda Item 4 (11) of the written summaries of oral submissions at Issue Specific Hearing 1 – REP1-015).</p> <p>The new landscape and wetland area to the south of the ERF will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through creating wildlife-rich habitats and improved access to nature and providing overall good design, as</p>

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				required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).
Vosloh Cogifer (8-10, 8-11, 8-12, 8-16)	Rail infrastructure manufacturing.	Reinstatement of disused railway (Work No. 3 and 4)	<p>This Project will deliver a net private benefit for Vosloh 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 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>	<p>The Planning Statement (paragraph 5.7.34 of APP-035), Written Summary of Oral Submissions made at ISH1 [REP1-015] and CAH1 [REP6-035] explains the compelling reasons for bringing the disused railway back into beneficial use.</p> <p>In summary, Government policy requires us to make the most of existing infrastructure. NPS EN3 encourages multi-modal transport (para 2.5.25) and that decision takers should expect materials to be transported by water or rail wherever possible.</p> <p>NN NPS (2014) recognises that railways are a vital part of the country’s infrastructure (para 2.28). Also recognises that the railway must, inter alia, provide for the transport of freight across the country, and to and from ports, in order to help meet environmental goals and improve quality of life (para 2.30).</p> <p>The National Networks NPS recognises the importance of rail freight in transporting goods and materials:</p> <p><i>“Rail freight is therefore of strategic importance, is already playing an increasingly significant role in logistics and is an increasingly important driver of economic growth, particularly as it increases its</i></p>

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				<p><i>market share of container traffic. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national rail network to meet the need set out in paragraphs 2.28 and 2.29.”</i></p> <p>The reinstatement of the railway therefore addresses important aims of Government policy with relatively little additional works, primarily to facilitate safe crossing of the railway and to deliver landscaping and environmental improvements.</p> <p>The proposed footbridge also replaces a current level crossing with a safe, improved pedestrian crossing of the railway.</p>
Rainham Steel (5-17, 5-21, 5-84)	Storage and laydown area for steel some of which have been imported through RMS Trent Ports' operated Flixborough Wharf.	This includes land for: <ul style="list-style-type: none"> - The Residue Handling and Treatment Facility (Work No. 1); - Concrete Block Manufacturing Facility (Work No. 2). 	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	<p>The RHTF and CBMF are fundamental parts of the ERF, to ensure its operational effectiveness and to make the most effective use of by-products from the combustion process (see paragraph 3.7 of the Explanatory Memorandum Revision 2 [REP5-007]).</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p>

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			<p>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 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. Heads of terms have been signed between Rainham Steel and the Applicant and draft documents are being progressed.</p>	

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<p>Wharfside Court (various land interests) (5-40, 5-43, 5-44, 5-45, 5-46, 5-47, 5-48, 5-49, 5-50, 5-51, 5-52).</p>	<p>Two small terraces of commercial/industrial units (14 units) with a central car parking area, occupied by small local businesses such as Se7en Motorsports (a racing car parts shop) and Rainbow Graphics (a photo graphics business).</p> <p>It is estimated that the existing units provide in the region of 40 jobs [REP6-022, paragraph 8.2.1.6].</p>	<p>This includes land required for:</p> <ul style="list-style-type: none"> - Energy Recovery Facility (ERF) (Work No. 1 and 1A); - Water treatment facility and feedstock storage (Work No. 1 and 1A). 	<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 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</p>	<p>Wharfside Court is located under the footprint of the proposed ERF.</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p> <p>The Proposed Development will provide 3,510 net direct jobs (falling to 2,940 when leakage, displacement and multiplier effects are taken into account) during construction and 136 during operation (rising to 175 when multiplier effects are included) [Table 16 and 18 of REP6-022].</p> <p>The wider public benefit of the ERF in terms of climate change, meeting Net Zero, diverting waste from landfill and the significant additional jobs is considered to more than compensate for the 40 jobs lost at Wharfside Court.</p> <p>Nevertheless, the Applicant is working with the occupants of Wharfside Court to seek to find relocation sites within the local area. Whilst the Applicant is not relying on this as part of its compelling case, it is in pre-application discussions with North Lincolnshire Council on a proposed relocation site for the occupants of Wharfside Court.</p>

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			<p>be subject to securing local planning authority consent for development. The agreed commercial terms for the occupants of the Wharfside Court units 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. Agreement has now been reached with all of the Owners and Occupiers of Wharfside Court, and signed heads of terms are either in place or being sought.</p>	
AB Agri	Thin strip of land around southern boundary comprising verge and hardstanding.	Temporary requirement for construction period.	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	The land is required temporarily to ensure safe access during construction of the ERF. After construction has been completed the land is no longer required.

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			<p>construction of the flood defences 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>The land required falls outside of AB Agri's operational site and can be used without any impact on their business.</p> <p>It is needed to enable the construction of the ERF, flood defences and to address construction impacts.</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p>
<p>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, 4-101, 4-102, 4-</p>	<p>Agriculture and farming. The site was granted planning consent for a commercial business park in May 1991 which has since lapsed.</p>	<p>The Jackson land included land for a variety of uses across the Application site.</p> <p>This includes land for:</p> <ul style="list-style-type: none"> - The Residue Handling and Treatment Facility (Work No. 1); - Concrete Block Manufacturing Facility (Work No. 2). - Plastic recycling facility (Work No. 6); - Electric Vehicle Charging and 	<p>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 alternative arrangements for this on their other land holdings.</p> <p>Whilst it is acknowledged that there will be private loss as a result of the acquisition of the freehold of the Jackson owned land, this will be compensated on terms more favourable than the landowner would be</p>	<p><u>RHTF and CBMF</u></p> <p>The RHTF and CBMF are fundamental parts of the ERF, to ensure its operational effectiveness and to make the most effective use of by-products from the combustion process (see paragraph 3.7 of the Explanatory Memorandum Revision 2 [REP5-007]).</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p> <p><u>Plastics recycling facility</u></p> <p>Recycling is at the heart of Government waste policy. The waste hierarchy (referenced in EN1 at para 5.14.2) sets out clearly that the priorities for managing waste must be applied as follows:</p> <ul style="list-style-type: none"> • Prevention

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<p>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</p> <p>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.</p>		<p>hydrogen re-fuelling station (Work No. 1);</p> <ul style="list-style-type: none"> - Hydrogen production and storage facility (Work No. 7 and 8); - Battery storage (Work No. 1); - Access Road (Work No. 5). - Mitigation wetland habitat planting, SuDS features, swales/drains, and visual landscaping mitigation (Work No. 12 and 12A) 	<p>entitled to if they were compensated under the Compensation Code.</p> <p>In addition, 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.</p>	<ul style="list-style-type: none"> • Preparing for re-use • Recycling • Other recovery including energy recovery • Disposal. <p>The Resources and Waste Strategy (2018) sets a target recycling rate of 75% for packaging by 2030 and 65% for municipal solid waste by 2035. It also includes a strategic ambition to eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan.</p> <p>Plastics recycling is therefore a key part of Government policy.</p> <p>RDF will be purchased in bulk and will include an element of plastic materials which are capable of being recycled but nevertheless usually end up being recovered through the ERF. By delivering the PRF as part of the Project, the Applicant will be able to ask the RDF to be source segregated and enable the recycling of plastics that would otherwise not be recycled.</p> <p>The Environment Food and Rural Affairs committee have set out objectives to eliminate the export of plastics by 2027 which would require additional capacity to manage the 2.5m tonnes currently exported. The UK capacity to recycle this volume of plastic is not operational. The Government response</p>

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				<p>to the committee (in January 2023) didn't take on board all of the committee's recommendations, but it was clear that plastics recycling (and reuse) is still an absolute priority, particularly given the move away from compostable plastics. For instance, the response notes:</p> <p><i>"On the subject of compostable plastic, the Committee should note there has been a change in the government's position since the Resources and Waste Strategy was published in 2018. In this, we committed to work towards all plastic packaging placed on the market <u>being reusable, recyclable or compostable by 2025</u>. However, since then, we are <u>now focusing on increasing reuse and recycling, not composting of plastic packaging</u>. Compostable plastics are inherently single-use and are not in line with our vision for a circular economy for plastics."</i> (our emphasis)</p> <p>The current plastic separation and recycling technologies do not facilitate the recycling of all types of plastic. A co-location of a plastic recycling facility that can recover energy from the non-recyclable fraction will increase the volume of waste plastic that can be recycled. As technologies develop and the commercial viability increases, more plastics can be recycled.</p>

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				<p>The ability to utilise the process residues in the manufacture of concrete products on site improves the environmental benefits of the recycled plastic.</p> <p>In order for the Government to meet their recycling targets (which as explained earlier will be challenging) it is vital that facilities such as that included as part of the Proposed Development are built. The PRF is another way in which the Project is seeking to deliver a modern, low carbon energy park, rather than a traditional ERF.</p> <p><u>EV Charging</u></p> <p>The EV re-fuelling station will have 13 electrical re-fuelling points for both domestic cars and light commercial vehicles and 5 HGV sized vehicle recharging bays.</p> <p>The provision of EV charging points is a critical part of the decarbonisation of the UK transport sector and fundamental to achieving Net Zero.</p> <p><u>Battery storage</u></p> <p>The Project will include a battery storage facility which will have a storage capacity of 45MWh and a peak discharge of 30MW.</p> <p>BESS recognises need for battery storage as a fundamental part of meeting Net Zero and its importance for resilience and security of energy network. The provision of battery storage also helps</p>

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				<p>to manage the peaks and troughs, holding power and delivering it to the network when it is needed.</p> <p>It is necessary to have battery storage at both power generators and local distribution networks, to enable electricity to be delivered to the system when it is most needed.</p> <p>National Grid Future Energy Scenarios, July 2022, illustrates four future energy scenarios – Falling Short, Consumer Transformation, System Transformation and Leading the Way. Falling Short doesn't deliver the legally binding commitments of Net Zero. Consumer Transformation and Leading the Way require more than 115 GWh (volume) of electricity storage, compared to less than 30 GWh (volume) today. All scenarios see an increase in capacity of between 1.6GW (Falling Short) and 20GW (Leading the Way) by 2030, and up to 35GW by 2050. This transformational increase cannot be achieved without quickly building many more battery storage projects in the UK than we are currently.</p> <p>The proposed battery storage at NLGEP would provide an important step towards meeting the scale of battery storage necessary by 2030.</p> <p><u>Hydrogen production</u></p> <p>As set out paragraph 3.7 of the Explanatory Memorandum [REP5-007], the hydrogen production</p>

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				<p>and storage facility will have a production capacity of 150kg/h hydrogen (1,300 tpa – capable of heating 17,600 homes), equivalent to an electrical demand of 10MW, which will either be: stored; delivered to the gas grid or to end users along the DHPWN; used to supply the hydrogen refuelling station; or used to supply the planned East Coast Cluster dedicated hydrogen network. All of these uses will contribute further with the decarbonisation of gas supplies to achieve Net Zero by 2050.</p> <p>The Project will include the construction of up to two new gas above ground installations (AGI) which will facilitate the export of hydrogen to the gas grid at a point in the future when the concept has been validated.</p> <p>The H2 refuelling station will have a refuelling bay for buses and lorries, enabling Scunthorpe buses to transition to a Net Zero future and offering the opportunity for HGVs associated with the NLGEP and Flixborough Industrial Estate as a whole to be more sustainable.</p> <p>Policy announcements in March 2023, together with policy in the British Energy Security Strategy (BESS), 2022 and the Ten Point Plan (2020) have made the Government’s position on hydrogen clear:</p> <ul style="list-style-type: none"> • An ambition for 10GW of hydrogen production by 2030.

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				<ul style="list-style-type: none"> • An aspiration for hubs where renewable energy, CCUS and hydrogen congregate. • The commitment of £240m in the Net Zero hydrogen fund, with the successful applicants (15 projects) announced on 30th March 2023. • Announcement of the shortlist of projects for due diligence in the first electrolytic hydrogen round, supporting up to 250MW of capacity. • Announcement of intention to launch a second electrolytic allocation round later this year, through which they intend to support up to 750MW capacity, and to publish a hydrogen production delivery roadmap by the end of the year. <p>The Applicant’s response to Q6.0.10 [REP2-033] referred to The Energy Networks Association (ENA), which represent all electricity and gas networks in UK and Ireland, which published its Hydrogen Blending Delivery Plan in January 2022, which clearly stated the commitment of all energy networks to enable hydrogen blending by the end of 2023.</p> <p>National Grid Future Energy Scenarios, July 2022, also considers the role of hydrogen under four possible scenarios – falling short, leading the way, consumer transformation and system</p>

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				<p>transformation. The document notes that the credible range of possible hydrogen use is very wide, and this impacts the development of hydrogen infrastructure. While hydrogen for power generation is needed in all our Net Zero scenarios to support electricity Security of Supply, the broader levels of demand, hydrogen production methods, and end uses vary greatly between the scenarios.</p> <p>National Grid’s Leading the Way scenario meets the 10GW of hydrogen production by 2030 set out in the BESS. Future Energy Scenarios also notes that: “To fully realise the whole system benefits of hydrogen, and to provide energy security without unabated gas, high levels of hydrogen storage will be required. This is the case across all the Net Zero scenarios and, given the likely geological aspect of these projects, strategic investment is required now.”</p> <p>This scale of ambition will only be realised if projects like NLGEP are allowed to proceed.</p> <p><u>New Access Road</u></p> <p>The Project will involve closing the section of highway on Stather Road between Flixborough Industrial Estate and the existing surface water pumping station north of Neap House and replacing it with a new access road. The need for the new</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>access road is addressed in the Applicant’s response to FWQ Q.14.0.8.</p> <p>The closed section will be on the site of the proposed ERF which there is a compelling case in the public interest for, for the reasons stated elsewhere in this document. It’s loss therefore cannot be avoided.</p> <p>The existing road is not fit for purpose to serve the existing industrial estate and port and is a single track in places. The provision of a new access road to serve the whole industrial estate and port therefore has additional benefits. NLC (the highway authority) are supportive of the proposed New Access Road saying that it will offer significant benefits to road users and residents at Neap House in particular.</p> <p><u>Wetland and landscaping areas</u></p> <p>The Project incorporates important mitigation and enhancement areas for wildlife. In some instances, these are mitigating impacts, for example for visual screening and flood risk mitigation and in other instances they are addressing important aspects of Government policy, either through delivering biodiversity net gain or nature recovery.</p> <p>The new landscape and wetland area to the south of the ERF will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>creating wildlife-rich habitats and improved access to nature and providing overall good design, as required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).</p> <p>Where wetland and landscaping areas are providing mitigation to address impacts identified in the Environmental Statement and Flood Risk Assessment [APP-070], it is necessary to address the effects of the Project.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the Project (refer to Agenda Item 4 (11) of the written summaries of oral submissions at Issue Specific Hearing 1 –REP1-015).</p>
<p>Normanby Estate/Norinc o Norinco Limited (Note that Norinco forms part of the Normanby Estate) (5-5, 5-70, 5-72, 5-77, 6-16, 6-18, 7-4, 7-6,</p>	<p>Agriculture and farming</p>	<p>This includes land for:</p> <ul style="list-style-type: none"> - Plastic recycling facility (Work No. 6); - Visitor Centre (Work No. 1C); - Mitigation native woodland blocks and hedgerows (Work No. 12 and 12A); 	<p>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.</p> <p>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</p>	<p><u>RHTF and CBMF</u></p> <p>The RHTF and CBMF are fundamental parts of the ERF, to ensure its operational effectiveness and to make the most effective use of by-products from the combustion process (see paragraph 3.7 of the Explanatory Memorandum Revision 2 [REP5-007]).</p> <p>The compelling case in favour of the ERF is set out in the Planning Statement and the Statement of Reasons (paragraph 7.13 – justification for the powers sought and 7.40-7.44).</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
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 and 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)		<ul style="list-style-type: none"> - Mitigation formal planting of native tree species (Work No. 12 and 12A); - Mitigation improved grassland habitat (Work No. 12A); - Mitigation wildflower underplanting (Work No. 12A); - Mitigation ditch enhancement (Work No. 12 and 12A); - Railway reinstatement (Work No. 3); - Provision of pedestrian footbridge either side of railway (Work No. 3); - Electric Vehicle Charging and hydrogen re-fuelling station (Work No. 1); 	<p>compensated under the Compensation Code.</p> <p>The land that 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. Compulsory acquisition powers are not sought over the land on which BNG is to be provided. Other parts of the Normanby Estate/Norinco land have been included in the compulsory acquisition powers sought as part of the Application.</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. Agreement has been reached between the landowners and the Applicant, with signed heads of terms in place.</p>	<p><u>Plastics recycling facility</u></p> <p>Recycling is at the heart of Government waste policy. The waste hierarchy (referenced in EN1 at para 5.14.2) sets out clearly that the priorities for managing waste must be applied as follows:</p> <ul style="list-style-type: none"> • Prevention • Preparing for re-use • Recycling • Other recovery including energy recovery • Disposal. <p>The Resources and Waste Strategy (2018) sets a target recycling rate of 75% for packaging by 2030 and 65% for municipal solid waste by 2035. It also includes a strategic ambition to eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan.</p> <p>Plastics recycling is therefore a key part of Government policy.</p> <p>RDF will be purchased in bulk and will include an element of plastic materials which are capable of being recycled but nevertheless usually end up being recovered through the ERF. By delivering the PRF as part of the Project, the Applicant will be able to ask</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
		<ul style="list-style-type: none"> - Battery storage (Work No. 1); - Access Road (Work No. 5). 		<p>the RDF to be source segregated and enable the recycling of plastics that would otherwise not be recycled.</p> <p>The Environment Food and Rural Affairs committee have set out objectives to eliminate the export of plastics by 2027 which would require additional capacity to manage the 2.5m tonnes currently exported. The UK capacity to recycle this volume of plastic is not operational. The Government response to the committee (in January 2023) didn't take on board all of the committee's recommendations, but it was clear that plastics recycling (and reuse) is still an absolute priority, particularly given the move away from compostable plastics. For instance, the response notes:</p> <p><i>"On the subject of compostable plastic, the Committee should note there has been a change in the government's position since the Resources and Waste Strategy was published in 2018. In this, we committed to work towards all plastic packaging placed on the market <u>being reusable, recyclable or compostable by 2025. However, since then, we are now focusing on increasing reuse and recycling, not composting of plastic packaging. Compostable plastics are inherently single-use and are not in line with our vision for a circular economy for plastics.</u>"</i> (our emphasis)</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The current plastic separation and recycling technologies do not facilitate the recycling of all types of plastic. A co-location of a plastic recycling facility that can recover energy from the non-recyclable fraction will increase the volume of waste plastic that can be recycled. As technologies develop and the commercial viability increases, more plastics can be recycled.</p> <p>The ability to utilise the process residues in the manufacture of concrete products on site improves the environmental benefits of the recycled plastic.</p> <p>In order for the Government to meet their recycling targets (which as explained earlier will be challenging) it is vital that facilities such as that included as part of the Proposed Development are built. The PRF is another way in which the Project is seeking to deliver a modern, low carbon energy park, rather than a traditional ERF.</p> <p><u>EV Charging</u></p> <p>The EV re-fuelling station will have 13 electrical re-fuelling points for both domestic cars and light commercial vehicles and 5 HGV sized vehicle recharging bays.</p> <p>The provision of EV charging points is a critical part of the decarbonisation of the UK transport sector and fundamental to achieving Net Zero.</p> <p><u>Battery storage</u></p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The Project will include a battery storage facility which will have a storage capacity of 45MWh and a peak discharge of 30MW.</p> <p>BESS recognises need for battery storage as a fundamental part of meeting Net Zero and its importance for resilience and security of energy network. The provision of battery storage also helps to manage the peaks and troughs, holding power and delivering it to the network when it is needed.</p> <p>It is necessary to have battery storage at both power generators and local distribution networks, to enable electricity to be delivered to the system when it is most needed.</p> <p>National Grid Future Energy Scenarios, July 2022, illustrates four future energy scenarios – Falling Short, Consumer Transformation, System Transformation and Leading the Way. Falling Short doesn't deliver the legally binding commitments of Net Zero. Consumer Transformation and Leading the Way require more than 115 GWh (volume) of electricity storage, compared to less than 30 GWh (volume) today. All scenarios see an increase in capacity of between 1.6GW (Falling Short) and 20GW (Leading the Way) by 2030, and up to 35GW by 2050. This transformational increase cannot be achieved without quickly building many more battery storage projects in the UK than we are currently.</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The proposed battery storage at NLGEP would provide an important step towards meeting the scale of battery storage necessary by 2030.</p> <p>Hydrogen production</p> <p><u>New Access Road</u></p> <p>The Project will involve closing the section of highway on Stather Road between Flixborough Industrial Estate and the existing surface water pumping station north of Neap House and replacing it with a new access road. The need for the new access road is addressed in the Applicant’s response to FWQ Q.14.0.8.</p> <p>The closed section will be on the site of the proposed ERF which there is a compelling case in the public interest for, for the reasons stated elsewhere in this document. It’s loss therefore cannot be avoided.</p> <p>The existing road is not fit for purpose to serve the existing industrial estate and port and is a single track in places. The provision of a new access road to serve the whole industrial estate and port therefore has additional benefits. NLC (the highway authority) are supportive of the proposed New Access Road saying that it will offer significant benefits to road users and residents at Neap House in particular.</p> <p><u>Wetland and landscaping areas</u></p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The Project incorporates important mitigation and enhancement areas for wildlife. In some instances, these are mitigating impacts, for example for visual screening and flood risk mitigation and in other instances they are addressing important aspects of Government policy, either through delivering biodiversity net gain or nature recovery.</p> <p>The new landscape and wetland area to the south of the ERF will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through creating wildlife-rich habitats and improved access to nature and providing overall good design, as required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).</p> <p>Where wetland and landscaping areas are providing mitigation to address impacts identified in the Environmental Statement and Flood Risk Assessment [APP-070], it is necessary to address the effects of the Project.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the Project (refer to Agenda Item 4 (11) of the written summaries of oral submissions at Issue Specific Hearing 1 – REP1-015).</p> <p><u>Rail reinstatement works</u></p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The Planning Statement (paragraph 5.7.34 of APP-035), Written Summary of Oral Submissions made at ISH1 [REP1-015] and CAH1 [REP6-035] explains the compelling reasons for bringing the disused railway back into beneficial use.</p> <p>In summary, Government policy requires us to make the most of existing infrastructure.</p> <p>NPS EN3 encourages multi-modal transport (para 2.5.25) and that decision takers should expect materials to be transported by water or rail wherever possible.</p> <p>NN NPS (2014) recognises that railways are a vital part of the country’s infrastructure (para 2.28). Also recognises that the railway must, inter alia, provide for the transport of freight across the country, and to and from ports, in order to help meet environmental goals and improve quality of life (para 2.30).</p> <p>The National Networks NPS recognises the importance of rail freight in transporting goods and materials:</p> <p><i>“Rail freight is therefore of strategic importance, is already playing an increasingly significant role in logistics and is an increasingly important driver of economic growth, particularly as it increases its market share of container traffic. The Government</i></p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p><i>has therefore concluded that at a strategic level there is a compelling need for development of the national rail network to meet the need set out in paragraphs 2.28 and 2.29.”</i></p> <p>The reinstatement of the railway therefore addresses important aims of Government policy with relatively little additional works, primarily to facilitate safe crossing of the railway and to deliver landscaping and environmental improvements.</p>
<p>Flixborough Wharf Limited (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)</p>	<p>Port operations and storage/laydown area and existing disused railway</p>	<p>Includes land for:</p> <ul style="list-style-type: none"> - Mitigation improved grassland habitat (Work No. 12 and 12A); - Railway reinstatement (Work No. 3); - Provision of pedestrian footbridge either side of railway (Work No. 3). 	<p>An option has already been granted to the Applicant over the Flixborough Wharf land. 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 Project, to the extent that any loss would be minimal.</p>	<p><u>Railway and footbridge</u></p> <p>The Planning Statement (paragraph 5.7.34 of APP-035), Written Summary of Oral Submissions made at ISH1 [REP1-015] and CAH1 [REP6-035] explains the compelling reasons for bringing the disused railway back into beneficial use.</p> <p>In summary, Government policy requires us to make the most of existing infrastructure. NPS EN3 encourages multi-modal transport (para 2.5.25) and that decision takers should expect materials to be transported by water or rail wherever possible.</p> <p>NN NPS (2014) recognises that railways are a vital part of the country’s infrastructure (para 2.28). Also recognises that the railway must, inter alia, provide</p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>for the transport of freight across the country, and to and from ports, in order to help meet environmental goals and improve quality of life (para 2.30).</p> <p>The National Networks NPS recognises the importance of rail freight in transporting goods and materials:</p> <p><i>“Rail freight is therefore of strategic importance, is already playing an increasingly significant role in logistics and is an increasingly important driver of economic growth, particularly as it increases its market share of container traffic. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national rail network to meet the need set out in paragraphs 2.28 and 2.29.”</i></p> <p>The reinstatement of the railway therefore addresses important aims of Government policy with relatively little additional works, primarily to facilitate safe crossing of the railway and to deliver landscaping and environmental improvements.</p> <p>The proposed footbridge also replaces a current level crossing with a safe, improved pedestrian crossing of the railway.</p> <p><u>Landscaping mitigation areas</u></p>

Site/Land Interest	Existing use	Proposed Use	Assessment of Private Loss (i.e., impacts of the landowner) ⁴	Policy Justification
				<p>The Project incorporates important mitigation and enhancement areas for wildlife. In some instances, these are mitigating impacts, for example for visual screening and flood risk mitigation and in other instances they are addressing important aspects of Government policy, either through delivering biodiversity net gain or nature recovery.</p> <p>The new grassland habitat will address important aims of the Government’s Environmental Improvement Plan (2023) and nature recovery programme through creating wildlife-rich habitats and improved access to nature and providing overall good design, as required by NPS EN1 (Design and Access Statement, Revision 2 [REP6-009]).</p> <p>Where landscaping areas are providing mitigation to address impacts identified in the Environmental Statement, it is necessary to address the effects of the Project.</p> <p>Setting the ERF within an enhanced landscaped setting has also been a central component of the Applicant’s design ethos from the inception of the Project (refer to Agenda Item 4 (11) of the written summaries of oral submissions at Issue Specific Hearing 1 – REP1-015).</p>

APPENDIX 1

Attention Mr David Boreham

North Lincolnshire Council,

Church Square House,

30 – 40 High Street,

Scunthorpe,

DN15 6NL

Sent by email and by registered post

11th April 2023

Dear David,

The North Lincolnshire Green Energy Park Development Consent Order (Application)

Submissions made at Deadline 7

We write further to recent discussions in relation to the Application and the submissions made by North Lincolnshire Council (the **Council**) at Deadline 7 of the examination of the Application on 20 March 2023.

We note that the Council states that it has "*no positive case to say that those parcels or land and/or rights over those parcels of land are not required to deliver the DCO development or required to facilitate or are incidental to the DCO. Nor does NLC dispute the evidence from the Applicant that the identified land owned by them is required. Therefore, NLC wishes to defer to the judgment of the Examining Authority on whether the land meets the test in s.122(2) Planning Act 2008*" (see paragraph 3 of document REP6-038).

Notwithstanding the above, the Council does then go on to say that, in relation to the test in section 122(3) of the Planning Act 2008, it does not consider this to be met (see paragraph 4 of document REP6-038). The Council's position is that, "*Whilst the development considered through the DCO process may have some merit, it does not automatically follow that the test in s.122(3) Planning Act 2008 is met. In R. (FCC Environment) v SSECC [2015] Env L.R. 22 the Court of Appeal confirmed this to be the position and set out examples where compulsory purchase powers may not be justified within the DCO despite the proposal drawing support from the relevant NPS. At paragraph [11] of the judgment, the Court of Appeal endorsed the following examples of where compulsory purchase powers were not justified under s.122(3) Planning Act 2008:*

The land may be necessary but, during the course of the Panel's consideration of the application, the owner may agree to sell it willingly rather than by compulsion (a common scenario in compulsory purchase inquiries)."

Paragraph 5 REP6-038 - NLC has received an offer from the applicant in an open letter of 3 March 2023. The Council understands that offer to still be available and it is considering its response. In those circumstances there is no case that the land must be acquired by compulsion and s.122(3) Planning Act 2008 is not met."

Our view is that the approach taken by the Council is flawed in respect of a number of points.

Firstly, the Court of Appeal did not determine the point referred to above as both of the parties in that case had already agreed the point. As such the Court of Appeal was not required to determine this.

Secondly, even if that point was settled law, for this to apply the parties would have to be in the position whereby the seller has willingly agreed to sell the land in question. The Council has not yet agreed to sell the land to us by agreement and as such, our position is that we will need to rely on compulsory acquisition powers to acquire the land in the event the DCO is granted.

Our offer letter of 3 March 2023

In our offer letter we raised a number of points which we note we are still awaiting a response to. Specifically, we asked the Council (and further in CAH1) whether:

1. its position would change in the event that the DCO was granted; and
2. it would be willing to agree a mechanism by which the Council would be willing to voluntarily sell its land interests to us, conditional upon the DCO being granted?

In addition to the above we also highlighted to the Council that the offer made was approximately 1.5 times the current market value of the land and is in excess of the quantum that the Council would in our view receive under the Compensation Code if we were to exercise compulsory acquisition powers.

In light of the above we would like to remind the Council of its statutory duty to obtain best consideration and its wider obligations to deliver value to its constituents, which we believe will be met through our offer. Could you please confirm on what basis you consider (if that is the case) that you do not consider that the offer meets your best consideration obligations.

We would like to reiterate in this letter that the offer remains outstanding. We would welcome any comments on the offer and are happy to provide any additional information as required. In addition we would welcome further discussions with you on how best we can work with the Council to address its concerns. If you could advise of your availability we can arrange a meeting.

Finally, we note the Council's recent press release (dated 17 March 2023) in relation to the provision of Government funding which the Council notes will support its A Green Future Strategy. As has previously been highlighted, should the Application be granted it too will deliver thousands of new Green jobs, will grow the local economy and will help to cut carbon emissions, which will also contribute to achieving the aims of A Green Future Strategy. We draw attention to this here to highlight once again the benefits that will come to the Council and its constituents through the Application.

We look forward to receiving your response to the above questions, a response to the offer and to meeting with you and the NLC Team further.

Kind regards



Colin Hammond

Project Director

APPENDIX 2

Attention Mr David Boreham

North Lincolnshire Council,

Church Square House,

30 – 40 High Street,

Scunthorpe,

DN15 6NL

Sent by email and by registered post

3rd March 2023

Dear Sirs,

We write further to the meeting which took place in person on Thursday 16th February 2023 (**Meeting**) which was attended by Mr John Kidner on behalf of North Lincolnshire Council (**Council**) and North Lincolnshire Green Energy Park Limited (**NLGEPL**) respectively. NLGEPL is the applicant for a development consent order (DCO) for the North Lincolnshire Green Energy Park (**Project**). The meeting was attended by the Council in its capacity as owner of a number of land interests that are affected by the Project. This Meeting was held on an open basis.

NLGEPL would like to place on record the discussions that took place at the Meeting, as well as set out correspondence and meetings that have taken place over the last 3 years between the Council and NLGEPL in relation to the Project. A timeline of such discussions is set out in Appendix 1 to this letter and agreed as part of the Statement of Common Ground between NLGEPL and the Council.

The purpose of the Meeting was to hold further discussions with the Council in order to address any concerns of the Council in respect of the Project and its potential impacts on the Council as landowner and to seek to reach agreement to acquire the property and rights required for the construction and operation of the Project. NLGEPL was also intending to present a draft written offer to the Council at the Meeting for its voluntary acquisition of the Council's interests in the land affected by the Project. As can be demonstrated by the timeline of engagement in Appendix 1, The Meeting was expected to form part of the regular engagement that has been ongoing for 3 years between the parties.

NLGEPL was, however, advised at the start of the Meeting that the Council was not willing to engage further with NLGEPL and would not be in a position to voluntarily agree to the acquisition of land required for the Project. NLGEPL was unequivocally told by the Council that it would have to rely on the powers of compulsory acquisition and temporary possession which it is seeking through the DCO.

Because of the position of the Council at the Meeting, NLGEPL was unable to put forward its offer to the Council, which appeared against the grain of collaborative discussions that had been held to date. Details of the offer are included at Appendix 2 of this letter and currently remains open for acceptance. It remains NLGEPL's preference to seek agreement with the Council in relation to the voluntary acquisition of the Council's land.

Whilst NLGEPL is well aware that the Council is within its rights to not agree to sell its own land, NLGEPL wishes to remind the Council of its statutory obligations to obtain best consideration. The Council will note from the offer at Appendix 2 that it in our opinion is in excess of the quantum of compensation the Council would be entitled to claim if their interests were compulsorily acquired, and their losses were assessed pursuant to the Compensation Code. The Council will note that it is approximately 1.5 times the current market value. The total amount offered to the Council is £892,000 for the Glanford House site, the Sita Composting site and the easements across the red line boundary. Bearing in mind the Council's duty to obtain best consideration and wider responsibility to deliver value to its constituents, NLGEPL would welcome comments on the offer and would be happy to provide further information if required. We also seek confirmation from the Council that officers have delegated powers to consider such offer without first seeking approval from the relevant committee. NLGEPL would welcome sight of the decision of the committee if this is so required by the Council's standing orders.

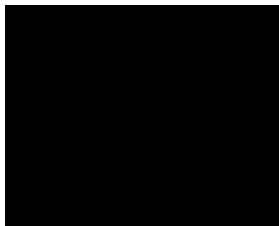
The above is especially pertinent given that the offer from NLGEPL is an enhancement on what would be due to the Council under the Compensation Code should NLGEPL be granted compulsory acquisition powers. The Council's unwillingness to continue the negotiations on this point is disappointing.

Notwithstanding the Council's current position in respect of the voluntary acquisition of the land, NLGEPL wishes to understand whether the Council's position on this would change in the event that NLGEPL was granted a DCO for the Project, and whether at this stage, the Council would be willing to voluntarily agree to a mechanism to sell its land interests to NLGEP conditional upon the DCO being granted?

NLGEPL wishes to resume the open and encouraging dialogue that it has had with the Council up until this point and remains willing to discuss the options in relation to the voluntary acquisition of the Council's land in respect of the Project further.

We look forward to hearing from you as soon as possible.

Yours faithfully



Colin Hammond
Project Director

Encl.

Appendix 1 – Extract of engagement between the Council and NLGEPL

Appendix 2 – Draft Heads of Terms – not presented at meeting of 16 February 2023

Appendix 3 – Heads of Terms offer by NLC for the lease of the Glanford House site.

SUMMARY OF ENGAGEMENT

The below Table 2.1 contains an extract of the record of key correspondence and engagement between the Applicant and North Lincolnshire Council pertinent to the SoCG and land negotiations.

Table 2.1: Summary of Engagement

Date	Attendance	Topics Covered
26/09/2019	Planning Inspectorate, Environment Agency, Natural England, Fichtner, NLC	Stakeholder site meeting, core development and associated development, functional flood plain, flood risk and essential infrastructure, EIA Scoping Submission, Land referencing
18/10/2019	NLC, Solar 21	High level introduction to the scheme and to facilitate any questions from the local MPs ahead of the informal consultation.
11/07/2019	NLC (Place Planning and Housing, Development Management Group Manager, Environmental Protection Team Leader and Officer (Ecologist), Transport Planning Officers, Drainage Manager, Senior Commercial and Investment Officer, Inward Investment Business Specialist, Northern Planners, Solar 21, ERM, Bowland, Buro Happold	Alignment of NLGEP with current and future North Lincolnshire Council strategies; Consideration for economic development, proximity to wharves and local infrastructure, economic benefits, planning policy and status
02/10/2019	NLC – Lisa Longstaff	Conference call to discuss Rainham Steel and the land required for the Project
03/10/2019	NLC – Lisa Longstaff	Email to confirm the inclusion of the NLC land – Glanford House and the Sita composting site currently leased to RMS Ports, within the red line boundary for acquisition.
10/10/2019	NLC, NLGEPL and Rainham Steel	Meeting at Rainham Steel’s office to discuss the potential relocation of Rainham Steel and the land requirement for the Project
18/11/2019	NLC, NLGEPL	Email exchange to confirm the increased RLB to facilitate the re-location of Rainham Steel north of the Flixborough Industrial Estate and to share

Date	Attendance	Topics Covered
		the details of the S35 submission to the joint SoS's
20/12/2019	NLC Chris Barwell, NLGEPL	Email copy of the S35 submission with a request to share this with Leader of the Council Cllr Rob Waltham.
05/02/2020	NLC – Lisa Longstaff and NLGEPL	Signed NDA exchanged to facilitate in-depth discussions on land acquisition
11/02/2020	NLC – Lisa Longstaff and NLGEPL	<p>NLC Agenda:</p> <ul style="list-style-type: none"> • NLC project and other landholdings • Challenges <ul style="list-style-type: none"> - Potential barriers/deal breakers - Confidence levels - delivery of project in North Lincs - delivery of road through private investment - Employment land requirement - Phasing of project - Evidence/demand to support • Timescales/milestones of project
26/02/2020	NLC – Lisa Longstaff and Chris Barwell, NLGEPL	Discussion with NLC around the rejection of the S35 application relating to the Centre of Excellence, the glasshouse development and the Business Park as associated developments to the Project
26/03/2020	NLC, NLGEPL	Submission for preferred sites for inclusion in the revised Local Plan
13/05/2020	NLC Council Leader Andrew Percy MP, Holly Mumby-Croft MP, Solar 21	Preview of content of non-statutory consultation
22/06/2020	NLC – Lesley Potts and Lisa Longstaff, NLGEPL	Discussions around the status and availability of Connesby Quarry as part of the integration of infrastructure being provided by the Project
14/08/2020	NLC – Lesley Potts, David Boreham, Lisa Longstaff from NLGEPL	Email to update the progress with Rainham Steel for relocation – the requirement for proximity to the Wharf and the new railhead.
02/12/2020	NLC – Lisa Longstaff and NLGEPL	NLC shared the latest Contamination and geological surveys for Glanford House as part of the site readiness for inclusion in the Project

Date	Attendance	Topics Covered
02/12//2020	NLC – Lisa Longstaff, NLGEPL	Heads of Terms offer from NLC to lease the Glanford House site to provide revenue to NLC for the site until DCO consent when the site could be valued and marketed to meet NLC rules and governance on property sales.
04/12/2020	NLC – Lisa Longstaff, NLGEPL	Email from NLC confirming that the bidding had closed on Connesby Quarry. Request by NLGEPL for help in securing 28 acres for steel stocking to relocate Rainham Steel
01/02/2021	NLC, Buro Happold	Email to NLC requesting additional model data files from Mott MacDonald for the NLC Lincolnshire Lakes flood model. NLC have requested data from Mott MacDonald.
08/02/2021	NLC, Buro Happold	The Site Access Appraisal Note was sent to NLC (Louisa Simpson) to discuss and agree on junction proposal to link proposed link road with existing network to the south of the site.
11/03/2021	NLC, Solar 21, Northern Planners, ERM, Buro Happold, LDA Design, Fichtner	Flood risk and modelling; highways and traffic; towns investment plan/towns fund; Northern Power Grid Infrastructure Improvements; Glanford House
11/03/2021	NLC, Northern Planners	Project update meeting. Specific discussions were had about flooding impacts and possible construction impacts/closures on the local road network.
25/03/2021	NLC, Buro Happold, Fichtner	DHN/PWN routing traffic impacts and new access road design. FCE and BH discussed the proposed routing of the district heating network and likely construction impacts on traffic. BH discussed lighting and the likely structures required for the new access road.
15/04/2021	NLC, Solar 21, Northern Planners, ERM, Buro Happold, LDA Design, Fichtner, GDSA Architects, Fontcomms	Masterplan framework and landscape design; architectural concept. DHN/PWN Routing impacts meeting - Fichtner reviewed the construction of the DHN/PWN with NLC, noting which sections may have to be constructed by night-time working to reduce traffic impacts.
13/05/2021	NLC, Solar21, Northern Planners, ERM, Buro Happold, LDA Design, Fichtner, GDSA	Design, flooding, power network and DHN, consultation

Date	Attendance	Topics Covered
	Architects, Font Comms, NewgateSEC	
13/05/2021	NLC, Northern Planners	Regular project update meeting. Focused on design update to visitor centre, flood risk update, DHN/PWN update, and consultation strategy.
25/06/2021	NLC, Northern Planners	June project update meeting. An update was given on the statutory consultation currently underway. Funding schemes associated with the DHN/PWN were also discussed. Full details outlined in meeting note.
10/07/2021	NLC -Lisa Longstaff. NLGEPL	Request to access Glanford House site to conduct geophys works.
14/07/2021	Fichtner, LDA Design, Buro Happold, NLC	Private Wire Network, PRoW, crossings, highways sections, flooding and drainage, road design, foot and cycleway, flood defences and road structure, lighting, watercourses along new access route, speed limits
24/08/21	NLC, BH, Fichtner, LDA	DHN/PWN construction access and PRoWs - Fichtner noted changes to the DHN/PWN since the previous meeting, and the proposed construction mitigations required. LDA discussed which construction access points were likely to be required to enable construction of the DHN/PWN.
16/02/2022	NLC, Northern Planners	Discussions re. PROW 178. We confirmed that we are proposing the reinstatement of the footpath with a new footbridge crossing of the branch line. In terms of programme, should the DCO be successful, we confirmed we would anticipate the footbridge being built at the end of year 1 (2023)/start of year 2 (2024). Also discussed that we do not have a detailed design yet and therefore could not provide a specification of the bridge.
27/04/2022	NLC, Ardent, S21, DDM	Estates engagement - discussed and reviewed all 270 titles within the DCO RLB and provided electronic versions of the plans for NLC to review. Discussed options for TCPA applications to provide relocation sites for the Wharfeside Court and Rainham Steel

Date	Attendance	Topics Covered
19/10/2022	NLC, DDM, Ardent	To agree the exact parcels of land owned by North Lincolnshire Council and the boundaries of such land parcels. It was agreed that NLGEPL would engage with NLC to purchase Glanford House and other NLC-owned land as part of a competitive marketing process.
16/02/2023	NLC, DDM, NLGEPL	To finalise discussion on adopted highway, NLC estates and permanent easements