



NORTH LINCOLNSHIRE GREEN ENERGY PARK

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Procedure) Regulations
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North Lincolnshire Green Energy Park

Volume 9

9.30 Applicant's Responses to ExAs

ExQ3

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Contents

1.	INTRODUCTION	3
2.	Overview.....	3
1.2	The Proposed Development	3
1.3	Structure of the Responses to Written Questions	4
2	RESPONSES TO EXAMINING AUTHORITY WRITTEN QUESTION	6

Acronyms and Abbreviations

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

1. INTRODUCTION

2. Overview

- 1.1.1 This report responds to the Examining Authority's (ExA) further written questions, issued on 17 April 2023.
- 1.1.2 The report responds to each of the questions that were addressed to the Applicant.
- 1.1.3 Where there were questions addressed to specific Interested Parties, the Applicant has not responded directly. However, a review will be conducted once these responses have been made available and comments provided to the ExA as appropriate.

1.2 The Proposed Development

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

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

1.2.4 Additional information regarding the proposed development can be found in Chapter 1 and Chapter 3 of the submitted Environmental Statement (APP-049 and REP6-018).

1.3 Structure of the Responses to Written Questions

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

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

2 RESPONSES TO EXAMINING AUTHORITY WRITTEN QUESTION

EXQ3	TO	QUESTION	RESPONSE
1. General and Cross-topic Questions			
Q1.0.1	The Applicant, NLC, The Environment Agency	<p>Vermin Control</p> <p>(i) In light of the ongoing concerns identified by AB Agri in their D7 objection and the expectation that appropriate vermin control would be in place as set out in NPS EN-3 paragraphs 2.5.59 – 2.5.63. Can each party respond setting out their position on whether the DCO and supporting mitigation documents provide the necessary controls, or whether any additional measures should be secured?</p> <p>(ii) Is there a justification for additional controls as paragraph 2.5.63 of NPS-EN3 suggests might be appropriate? If this is considered appropriate, how should the DCO or mitigation measures be adjusted to resolve any concerns?</p>	<p>(I)The Applicant has considered the potential for vermin infestation and the need for additional controls.</p> <p>The RDF will be delivered by road, train and ship in manners and forms that will be inaccessible to pests (such as gulls and rats) while in transit. The Applicant will require its suppliers and hauliers to follow the RDF Code of Practice: Refuse Derived Fuel - Code of Practice (RDF CoP) (Version 1, October 2017) prepared and published by the RDF Industry Group. On arrival at the ERF the RDF will be delivered into the tipping hall and subsequently transferred to the fuel bunker. From this point various features included in the design will mitigate against pest or vermin access to the RDF as follows.</p> <ul style="list-style-type: none"> • The tipping hall at NLGEP will have a single door, which is easier to maintain closed. The door will operate automatically, reducing the likelihood of operator error. A second manual door may be provided to ensure closing of the door should the fast-acting door fail to ensure the sealed building is maintained. • The tipping hall and fuel bunker will be maintained in a negative pressure environment which will prevent the escape of odours and dust into the ambient area outside the ERF. The likelihood of failure of the negative pressure due to failure of the combustion air fans or failure of a combustion line is very low. Preventative maintenance will be carried out to ensure operation of the primary air fans, to ensure the resilience of the facility. The facility could not operate without the primary air fans; as such maintenance of this equipment is crucial for commercial operation, not

			<p>just from an environmental perspective. Additionally, the facility has three combustion lines. Co-incident failure of all three lines is unlikely. An extended common outage, for a turbine outage for instance, would if necessary be accommodated by planning in advance and gradually reducing the bunker volume over a period of weeks, minimising any risk from stored fuel. During a prolonged outage, the fast-acting door/manual door would be closed to ensure the sealed building is maintained.</p> <ul style="list-style-type: none"> • The fuel bunker is sized to allow for 5 days of storage before stacking of RDF, which reduces the likelihood of spilled waste entering the tipping hall from the bunker. <p>The Applicant has conducted a biohazard risk assessment of its operations. The risk assessment considered how potentially contaminated RDF could be exposed to the environment and then took a source-pathway-receptor approach to look at possible transmission from aspects of the Project to sensitive receptors (namely the AB Agri facility), including the behaviour of pest species that could be involved in any transmission. The risk assessment considered transport of RDF as well as its end use in the ERF. Based on the risk assessment the likelihood of the operating Project having an adverse effect on sensitive receptors is very small even without the application of a series of proposed measures, above and beyond compliance with the RDF CoP and rerouting RDF deliveries. 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. The Applicant's proposed re-routing of vehicles will reduce a very low risk further.</p> <p>It is the view of the Applicant that compliance with the RDF Code of Practice and the routing change to avoid proximity of transported RDF to AB Agri, will minimise any risks to AB Agri involved in</p>
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			<p>transporting RDF. These commitments have been included in the Operational Environmental Management Plan and will be secured by the DCO. In addition, the Applicant has committed to certain design considerations in the Design Principles and Codes Document that will be secured within the DCO. The operation of the Project within the installation boundary will be regulated by the terms of the Environmental Permit from the Environment Agency and a more detailed risk assessment will be undertaken as part of the permit application, which may lead to additional measures as well as a formal Pest Management Plan. It is anticipated that many 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. Any operational environmental management requirements that fall outside the remit of the Environmental Permit will be addressed by an Operational Environmental Management Plan (OEMP) (which will be approved by North Lincolnshire Council, with input from the Environment Agency) and is secured by DCO Requirement 4.</p> <p>(ii)Additional controls may be determined as necessary in the course of the Environmental permit application as noted above. It is not considered that any further controls in the DCO are required.</p>
2. Agriculture			
Q2.0.1		No further questions at this time	
3. Air Quality and Emissions			
Q3.0.1	North Lincolnshire Council, The Environment Agency	<p>Plumes:</p> <p>In light of the comments made by Mr Nicholson on behalf of Residents Against Incinerators (RAIN) in [REP4-045] and the Applicant's response in [REP6-033] could each party provide an update of their position</p>	<p>Simon Nicholson has provided further comments [see REP7-045] following their submission of REP5-045.</p> <p>The Applicant has provided a response to this further submission in the Comments on submissions received at Deadline 7 document (Document Reference 9.33 submitted at this deadline).</p>

		in respect of the issues raised and the response provided by the Applicant and the further detail provided by Mr Nicholson at Deadline 7.	This sets out the Applicant's position in respect of the issues raised by Mr Nicholson.
Q3.0.2	Applicant, NLC, The Environment Agency	<p>Odour Control</p> <p>AB Agri maintain their objection in their D7 submission to the proposal. They continue to explain the potential for negative pressure not to be maintained. The ExA understands the operating regime proposed by the Applicant, but to date there has not been as far as we are aware an explanation of what could happen in the event of a failure of a system, a malfunction, or some other unplanned event.</p> <ul style="list-style-type: none"> (i) Can each party please respond setting out how they expect that this should be dealt with, and what process should be in place to manage such an eventuality. (ii) Can the Environment Agency explain whether an Environmental Permit would be expected to have controls in place to cover such eventualities, or if in their view this should be controlled through a mechanism within the DCO. (iii) If it is to be managed/controlled through the DCO, can each party explain what the control mechanism is and whether they consider this to be appropriate 	<p>The tipping hall at NLGEP has a single door, which is easier to maintain closed. The doors will operate automatically, reducing the likelihood of operator error. A second manual door may be provided to ensure closing of the door should the fast-acting door fail to ensure the sealed building is maintained.</p> <p>Preventative maintenance should be carried out to ensure operation of the primary air fans, which would increase the resilience of the facility. The facility cannot operate without the primary air fans, as such maintenance of this equipment is crucial for commercial operation, not just from an environmental perspective. Additionally, the facility has three combustion lines. Co-incident failure of all three lines is unlikely. An extended common outage, for a turbine outage for instance, as discussed in the report can be accommodated by planning in advance and gradually reducing the bunker volume over a period of weeks, minimising the risk of stored fuel. During a prolonged outage, the fast-acting door/manual door can be closed to ensure the sealed building is maintained.</p> <p>The bunker at NLGEP is sufficiently sized to allow for 5 days of storage without stacking of RDF. Space for a trench between the stored RDF and the tipping face, has been allowed for, to ensure that space is always available for vehicles to discharge RDF into. A section of inaccessible waste at the base of the bunker, as noted in the report, has also been allowed for in the bunker sizing (such that this volume does not constitute any of the 5 days of storage).</p> <p>The project will utilise baled fuel which reduces the risk of spillages.</p>

			Given that the primary controls will be via the Permit we do not consider if needs further controls to those already included in the DCO.
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EXQ3	TO	QUESTION	RESPONSE
4. Alternatives			
Q4.0.1		No further questions at this time	
5. Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))			
	The Applicant, Natural England, The Environment Agency	<p>Report on the Implications for European Sites (RIES):</p> <p>Within the RIES a series of questions were raised which are duplicated below in the event they have not been identified earlier by the relevant parties. The numbering from the RIES is included within the question for ease of reference. In the event responses have already been prepared to answer these questions, it is not necessary to duplicate that response, but it would be helpful if confirmation is given where the response can be found.</p>	This is noted.
5.1 Habitats Regulations assessment			
Q5.1.1	Natural England (NE)	Q2.1.1 Can NE confirm that all relevant European sites and or European site features that could be affected by the project have been identified by the Applicant?	
Q5.1.2	Natural England	Q2.5.1 Can NE confirm that it is satisfied with the Applicant's approach to use air quality modelling results for the Humber Estuary Special Protection Area (SPA) and Special	

		Area of Conservation (SAC) in respect of the Humber Estuary Ramsar?	
Q5.1.3	Environment Agency (EA)	Q2.5.2 Can the EA comment on whether it considers that the use of Energy Recovery Facility (ERF) performance data 2021 Incineration Monitoring Reports is a reasonable proxy for the expected emissions' limits for Oxides of Nitrogen (NOx) and Ammonia (NH3) that would be established through a future environmental permitting process?	
Q5.1.4	Applicant	Q2.5.3 Can the Applicant define the term HCl.	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.5	Applicant	Q2.5.4 Can the Applicant explain why the reasonable case emissions' values for NOx and NH3 (set out in Table 2.1 of Appendix 1 to [AS-016]) cannot be secured in the Development Consent Order (DCO)? What would be the implications if they were?	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.6	Applicant	Q2.5.5 Can the Applicant confirm whether the Reasonable Operating Case (ROC) still assumes a worst case of 100% of material movements during operation being by road? If not, what has been assumed about the number of traffic movements?	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.7	Applicant	Q2.5.6 In response to the Examining Authority's second written questions (ExQ2) (Q2.5.1.2) the Applicant [REP6-032] stated it	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.

		<p>'would not be appropriate to secure any one parameter, as at any one time one parameter might exceed the value used in the reasonable operating case, while another may be below the value.' The Examining Authority (ExA) remains unclear as to how this approach would ensure that the assessed parameters are not exceeded, potentially giving rise to Likely Significant Effects (LSE) that have not been assessed in the Habitats Regulations Assessment (HRA), noting that the draft Development Consent Order (dDCO) [REP6-004] limits effects by reference to the ES (not the Report to Inform HRA) and that the Environmental Statement (ES) has not been updated to reflect the ROC modelling. Can the Applicant provide further explanation? In its response, it should comment on whether any of the parameters could be secured in the DCO and what the implications would be if they were secured. It should also explain why ES Chapter 5 [REP4-009] has not been updated and submitted into the Examination.</p>	
Q5.1.8	Natural England	Q2.5.7 Can NE comment on the acceptability of the ROC modelling parameters as a basis for assessment and identification of LSE from operational emissions to air, given that these parameters are not proposed to be secured in the DCO?	

Q5.1.9	Applicant	Q2.5.8 The Applicant is requested to submit the detailed air quality modelling at Deadline 8.	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.10	Applicant	Q2.5.9 Can the Applicant provide further clarification as to why the use of the revised standard for short term NOx emissions is appropriate given that the original standard represents the critical level as identified in Air Pollution Information System (APIS)?	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.11	Natural England	Q2.5.10 Can NE comment on the use of the revised standard for short term NOx emissions and whether it considers this to be appropriate as a standard to measure air quality impacts?	
Q5.1.12	Applicant	Q2.5.11 Can the Applicant clarify its conclusion for nitrogen deposition in combination to the Humber Estuary SPA, as paragraph 4.6.3.15 of [AS-016] suggests that the combined Process Contributions (PC) is 0.9 – 1.02% (minimum), ie potentially above the 1% critical level.	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.13	Natural England	Q2.5.12 Can NE confirm if it is content with the Applicant's revised screening conclusions in [AS-016] in respect of operational emissions to air from the Proposed Development alone and in-combination? If not, please explain for which pollutants and	

		qualifying features there are outstanding concerns.	
Q5.1.14	Natural England	<p>From RIES Table 2.3</p> <p>ID 2.1.1 - Construction phase traffic emissions Q. Following review of [AS-016], can NE either</p> <ul style="list-style-type: none"> (i) confirm whether it is content that there is no impact pathway and as such the potential for LSE does not need to be considered or, if not, (ii) confirm the qualifying features for which it considers this potential impact pathway to be relevant. <p>If this includes qualifying features of the Humber Estuary SPA, can NE explain why it considers this potential impact pathway to also be relevant to the SPA, noting the distance between it and the Proposed Development.</p>	
Q5.1.15	Natural England	<p>From RIES Table 2.3</p> <p>ID 2.1.2 - Operational phase traffic emissions</p> <p>Q. Following review of [AS-016], can NE either</p> <ul style="list-style-type: none"> (i) confirm whether it is content that there is no impact pathway and as such the potential for LSE does not need to be considered or, if not, 	

		<p>(ii) confirm the qualifying features for which it considers this potential impact pathway to be relevant.</p> <p>If this includes qualifying features of the Humber Estuary SPA, can NE explain why it considers this potential impact pathway to also be relevant to the SPA, noting the distance between it and the Proposed Development.</p>	
Q5.1.16	Natural England	<p>From RIES Table 2.3</p> <p>ID 2.1.2 - Operational phase traffic emissions</p> <p>Q. Following review of [AS-016], can NE either</p> <ul style="list-style-type: none"> (i) confirm whether it is content that there is no impact pathway and as such the potential for LSE does not need to be considered or, if not, (ii) confirm the qualifying features for which it considers this potential impact pathway to be relevant. <p>If this includes qualifying features of the Humber Estuary SPA, can NE explain why it considers this potential impact pathway to also be relevant to the SPA, noting the distance between it and the Proposed Development.</p>	

Q5.1.17	Natural England, Applicant	<p>From RIES Table 2.3</p> <p>ID 2.1.4 – Noise and vibration impact to migrating river and sea lamprey - construction</p> <p>Q. Following review of [AS-016], can NE confirm that it is content that there is no impact pathway and as such the potential for LSE does not need to be considered?</p> <p>Q. If NE considers that this impact pathway should be assessed at appropriate assessment stage, can it advise what additional information it requires as part of the assessment and clarify whether comments about mitigation in (Q2.5.1.6 in [REP6-041]) apply to lamprey qualifying features?</p> <p>Q. Can the Applicant explain how use of percussive/ impact piling would be controlled through the DCO to ensure that it would only be used exceptionally and for a duration of a few hours.</p> <p>Q. Can the Applicant explain on what basis the ExA can be satisfied that LSE to lamprey from use of percussive/ impact piling can be excluded, given that an assessment of impacts has not been provided.</p>	<p>Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.</p>
Q5.1.18	Natural England	From RIES Table 2.3	

		<p>ID 2.1.5 - Noise and vibration impact to migrating river and sea lamprey –vessel movements</p> <p>Q. Does NE agree with the Applicant regarding impacts on migrating sea and river lamprey from vessel movements? Is it content a LSE can be screened out?</p>	
Q5.1.19	Natural England	<p>From RIES Table 2.3</p> <p>ID 2.1.7 - Noise/ vibration/ light disturbance to bird features</p> <p>Q. Following review of [AS-016], can NE confirm that it is content that there is no impact pathway and as such the potential for LSE does not need to be considered, other than for mallard as part of the assemblage feature?</p> <p>Q. If not content, can NE confirm for which other qualifying interest features/ criterion of the Humber Estuary Ramsar site it has concerns and in relation to which impact pathway?</p>	
Q5.1.20	Natural England, Applicant	<p>From RIES Table 2.3</p> <p>ID 2.1.7 - Noise/ vibration/ light disturbance to bird features</p> <p>Q. With this in mind, can the Applicant and NE comment on whether a LSE should be screened in for this potential impact pathway?</p>	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.

		<p>Q. Can the Applicant explain whether the use of percussive/ impact piling would result in any change to the predicted noise levels and therefore the conclusion that LSE can be excluded to bird qualifying features of the Humber Estuary Ramsar. Please provide evidence to support the response.</p> <p>Q. Can the Applicant provide a complete version of paragraph 4.5.1.2 of [AS-016] as there is missing text, which appears to cross-refer to relevant information in other assessments.</p>	
Q5.1.21	Natural England, Applicant	<p>From RIES Table 2.3</p> <p>ID 2.1.8 – Loss of Functionally Linked Land (FLL)</p> <p>Q. Further to the Applicant’s additional survey information, can NE confirm whether it considers there to be a LSE in respect of loss of FLL, and if so, for which qualifying interest features/criterion of the Humber Estuary SPA and Ramsar site?</p> <p>Q. Can the Applicant provide the quantum of FLL that will be lost as a result of temporary and permanent land take for the Proposed Development?</p>	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.22	Natural England, Applicant	<p>From RIES Table 2.3</p> <p>ID 2.1.9 - Noise/ vibration/ light disturbance to bird features using FLL during construction and operation</p>	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.

		<p>Q. Can the Applicant confirm that its updated assessment in [AS-016] considers impacts to bird features using FLL of the Humber Estuary Ramsar site (as well as the Humber Estuary SPA), as this is not clear from the current drafting?</p> <p>Q. Following review of the additional information on noise levels, does NE consider there to be a LSE in respect of noise/ vibration/ light disturbance to birds using FLL during construction and operation, and if so, for which additional qualifying interest features/criterion of the Humber Estuary SPA and Ramsar site?</p>	
Q5.1.23	Natural England	<p>From RIES Table 2.3</p> <p>ID 2.1.10 – Recreational Disturbance</p> <p>Q. Can NE confirm, following the Applicant's responses [REP4-021],[REP4-028],[AS-016], whether it considers a LSE should be screened in for recreational disturbance? If LSE cannot be excluded, can NE confirm for which qualifying interest features/ criterion of the Humber Estuary SPA and Ramsar site would be affected?</p>	
Q5.1.24	Natural England, Applicant	<p>From RIES Table 3.1</p> <p>ID 3.1.2 - Operational stack emissions– in-combination</p> <p>Q. Following review of [AS-016], can NE confirm whether it agrees with the Applicant's conclusion of no Adverse Effects on Integrity</p>	<p>Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.</p>

		<p>(AEol) from operational air quality emissions in combination with Keadby 2 and 3?</p> <p>Q. What is the Applicant's response to NE's concerns that nitrogen deposition could undermine the conservation objectives of the sites?</p>	
Q5.1.25	Natural England	<p>From RIES Table 3.1</p> <p>ID 3.1.3 – Construction dust</p> <p>Q. Following review of [AS-016], does NE consider that AEol can be excluded? If not, can NE advise what further information it considers is required from the Applicant?</p>	
Q5.1.26	Natural England, Applicant	<p>From RIES Table 3.1</p> <p>ID 3.1.4 – Noise/vibration/ light disturbance to bird features – construction</p> <p>Q. What is the Applicant's response to NE's suggestion that the timing of construction activities be secured within the DCO?</p> <p>Q. What is the Applicant's response to NE's suggestion that Appendices K and M of the Code of Construction Practice (CoCP) [REP6-024] should be updated to incorporate clearer references to trigger points for mitigation based on the evidence used in its assessment?</p> <p>Q. Does NE agree with the Applicant's conclusion of no AEol, irrespective of</p>	<p>Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.</p>

		whether the timing of construction activities can be secured?	
Q5.1.27	Natural England, Applicant	From RIES Table 3.1 ID 3.1.5 – Noise/vibration/light disturbance to bird features using FLL – construction Q. The ExA's questions in ID 3.1.4 are also relevant to this impact pathway and the Applicant and NE are requested to respond on that basis.	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.28	Natural England, Applicant	From RIES Table 3.1 ID 3.1.6 – Operational stack emissions – in-combination Q Can the Applicant and NE comment on whether measures to improve Site of Special Scientific Interest (SSSI) units would be viewed as mitigation or compensation and provide reasoning for the response?	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.29	Applicant	Q3.4.1 Can the Applicant provide a summary of all mitigation measures it seeks to rely on to avoid AEol and explain how these would be secured in the DCO?	Please refer to the response provided in the Response to RIES document (Document Reference 9.31), submitted at this deadline.
Q5.1.30	Natural England	Q3.4.2 Aside from the matters raised in [REP6-041] and summarised in Table 3.1 of this RIES, does NE have any outstanding concerns about mitigation measures and how these are proposed to be secured? If so, please provide further details.	

Q5.1.31	Natural England	Annex Q.1.1. Following review of the ROC Report to Inform HRA [AS016], NE is requested to confirm whether there are any site/features/impact pathways shaded orange and denoted with a '?' for which it does not agree with the Applicant's conclusion.	
Q5.1.32	Natural England	Annex Q.1.2. NE is requested to confirm whether there are any site/features/impact pathways shaded light green and denoted with a '?' for which it does not agree with the Applicant's conclusion.	

EXQ3	TO	QUESTION	RESPONSE
6. Climate Change			
Q6.0.1	Applicant, Environment Agency	<p>Following on from Q2.6.0.2 the EA advised at D7 <i>"we can now comment that carbon capture readiness, i.e. sufficient land and any known barriers, does not apply to energy from waste plants so the guidance we follow does not include them. Accordingly, we are unable to offer any assistance on these matters"</i></p> <p>The Department for Energy Security and Net Zero published its consultation on Decarbonisation Readiness on 13 March 2023 with the consultation closing on 24 April</p>	<p>(i) If adopted, the project would be required to comply with the decarbonisation readiness requirements to attain an Environmental Permit. This would require the facility to pass the following tests:</p> <p>a. A space requirement which would require the the project to demonstrate that the plant is capable of locating a carbon capture facility onsite, and that this land is maintained until the capture plant is constructed. In the response to the second set of examiner's questions at Q2.6.0.2 [REP6-032], the</p>

		<p>2023. Within it, it proposes amongst other things, the following:</p> <ul style="list-style-type: none"> - Removing the 300 MW minimum capacity threshold at which the requirements apply. - Moving the Decarbonisation Readiness (DR) requirements from the planning consent process to the environmental permitting process - Expanding the generation technologies in scope to include biomass (as well as biogas from anaerobic digestion), energy from waste (EfW), and combined heat and power (CHP) to support the rapid decarbonisation of the electricity system, complement existing technology-specific decarbonisation policies, and make the requirements simpler and more consistent across technology types. - Applying transitional arrangements to the implementation of DR, to ensure that policy is not changed for plants for which investment decisions have already been. This will ensure that investor confidence is preserved. <p>Including both new build and substantially refurbishing combustion power plants in scope and enabling existing combustion power plants to voluntarily apply for a DR permit. The consultation as drafted proposes</p>	<p>Applicant demonstrated that there is likely to be sufficient space available on site, within the current red line boundary, subject to technology selection. As such, the project would likely pass this test.</p> <p>b. A technical feasibility test, which demonstrates that the facility is capable of achieving a capture rate of at least 95%. The facility has proposed to use amine carbon capture. Technology providers of these systems have stated that their technologies are capable of achieving this capture rate.</p> <p>A transport and storage test. The facility is located in close proximity to the Low Carbon Humber pipeline . The pipeline provides a feasible route to export captured carbon dioxide, and for export to a geological storage site.</p> <p>c. That it is likely to be economically feasible to retrofit CCS. The facility has committed to limited CCS to provide CO₂ to on-site users already. At present, full scale CCS would not be economically feasible at any sites without government support. Whilst the the project was not successful under Track 1 Phase 2 of the Cluster Sequencing Process this was to be expected given it has not yet secured consent. There will be a further opportunity later this year to apply to be part of phase 2. However, as energy from waste is brought into the emissions trading scheme (ETS), an economic incentive for CCS is more likely to develop. Additionally, as a portion of the carbon dioxide emitted by EfW is biogenic, capturing carbon dioxide provides an opportunity for negative emissions, and therefore sale of carbon credits to other, harder to decarbonise,</p>
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		<p>that Decarbonisation Readiness (DR) as a requirement comes into force for newly built and substantially refurbishing plants from 1 July 2024. Going on to state “<i>This should allow sufficient time after the legislation has been made for the Environment Agency to carry out any further necessary engagement with stakeholders and publish any further guidance or supporting documents on the requirements, ahead of them coming into force.</i>”</p> <ul style="list-style-type: none"> (i) As currently drafted, it would appear that the current proposal would be caught by this change in requirement, and it would therefore be helpful to understand the implications this may have for the proposed development if this change were introduced. The ExA would also find it of assistance if both the Applicant and the EA could respond to the following questions. (ii) Does the Applicant have anything further to add to the responses already provided to Q2.6.01 and Q2.6.02 in [REP6-032]? (iii) The Consultation referred to above follows a technical study undertaken on behalf of BEIS by AECOM dated 30 June 2022 available at carbon_capture_readiness_report.pdf (publishing.service.gov.uk) Can the EA provide any further advice in light of the Applicant’s response to 	<p>industries. Additionally, this test is non-mandatory to pass under the regulations.</p> <p>As such, the facility is likely to pass the tests for decarbonisation readiness should this be required for an Environmental Permit, subject to technology selection and the influence of this on space requirements. The implementation of these requirements would therefore have the influence of additional documentation required to properly demonstrate compliance, and the requirement to retain the land required for carbon capture throughout the lifetime of the facility.</p> <ul style="list-style-type: none"> (ii) The applicant does not have further comment on the information submitted in Q2.6.01 and Q2.6.02 in [REP6-032]. (iii) This question is not for the Applicant. (iv) This question is not for the Applicant.
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		<p>Q2.6.0.2 and the assessment information set out within the study?</p> <p>(iv) Can the EA advise if there is any reason to dispute the response provided by the Applicant to Q2.6.02?</p>	
Q6.0.2	Environment Agency, Natural England, NLC	<p>Environmental Permits/ Licences/ Permissions</p> <p>Can you advise whether there are any impediments that may stand in the way of granting any licence, permission or permit within your area of responsibility.</p>	

EXQ3	TO	QUESTION	RESPONSE
7. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations			
Q7.0.1		No further questions at this time	
7.1 Draft Development Consent Order (DCO)			
Q7.1.1		No further questions at this time	
7.2 Electricity Connections and Other Utility Infrastructure			
Q7.2.1	Applicant	<p>Electricity Connection</p> <p>Within [APP-039] it states under paragraph 2.1.1.3 that the DCO includes Associated Development of an electrical grid connection. This does not appear to be explicitly defined in any of the Work Nos.</p> <p>(i) Can the Applicant clarify if this connection is intended to form part of Work No.14, or is it intended that this is covered under (m) of Work No.1, or as set out in answer to the ExQ7.2.2 that the connection is intended to be delivered through the powers available to Northern Powergrid as a statutory undertaker?</p>	<p>It is confirmed that this work forms part of Work No. 14. The wording of this within the dDCO (submitted at this deadline) has been amended to make this clearer.</p> <p>The connection agreement with Northern PowerGrid (NPG) follows the route of Stather Road. NPG can only provide a connection offer using their powers as a statutory undertaker using adopted highways.</p> <p>The proposed route in the DCO is along the new access road (as shown on APP-019). As the construction of the new access road is not consented and some of the DHPWN is on private land, we have included powers within the DCO to build the grid connection route to enable NPG to follow the Projects preferred route.</p>
8. Ground Conditions, Contamination and Hydrogeology			
		No further questions at this time	

9. Historic Environment			
Q9.0.1	Historic England	<p>Requirement 11 and outstanding concerns</p> <p>Can you advise whether you consider Requirement 11 of the dDCO and the updates to Chapter 12 of the ES [REP4-011] that have occurred since your responses to first written questions have resolved the concerns you identified in the responses to Qs 9.01, 9.0.5 and 9.0.6</p>	
10. Landscape and Visual Impacts			
Q10.0.1		No further questions at this time	
10.1 Lighting			
Q10.1.1		No further questions at this time	
11. Major Accidents and Hazards			
Q11.0.1		No further questions at this time	
12. Noise and Vibration			
Q12.0.1		No further questions at this time	
13. Other Strategic Projects and Proposals			
Q13.0.1	Applicant, NLC	Can both parties advise if there have been any additional projects or changes to	Following liaison with NLC the Applicant confirms that there are no additional projects or changes to projects that impact our cumulative EIA / HRA assessments.

		projects which the ExA should be aware of since the examination commenced.	The Applicant intends to follow a Town and Country Planning Act (TCPA) planning application process with the submission of a Screening Request for the relocation of the Wharfside Court 14 commercial units, a relocation site with betterment for the Rainham Steel stocking area and an additional laydown area for the Flixborough Wharf on land outside the dDCO red line boundary (RLB).
14. Policy			
Q14.0.1	Applicant, NLC, all IPs	The Government published further iterations of the National Policy Statement (NPS) Energy Suite of national policies for consultation, the period of which will run until the 23 May 2023. Could each IP provide an update on their position in respect of the status of these policy documents, what elements within them should be regarded as important and relevant in the ExAs recommendation and subsequently in the Secretary of State (SoS) decision. Could IPs advise on what weight they consider the ExA should give to these documents and advise on whether there are any particular aspects of the consultation documents the ExA should have particular regard to.	<p>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.</p> <p>One relevant change that the Applicant wishes to draw the ExAs attention to is to paragraph 3.7.29 within the revised draft NPS EN3 which states:</p> <p><i>"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."</i> (our emphasis)</p> <p>This supports the Applicant's position that older EfW will find it increasingly hard to compete and therefore that older plant which may struggle to meet increasingly challenging environmental controls (e.g. under BREF).</p> <p>Further, it supports our position that not all plants will be considered 'fit for the future' in terms of their ability to install carbon capture equipment and transport carbon dioxide for storage. This may be due to a lack of space close/adjacent to the site, the lack of availability of a connection to the transport and storage networks (noting the currently supported T&S schemes are in the Mersey, Humber and Tees estuaries), or</p>

			<p>commercial impacts expected from installation of carbon capture due to initial low efficiency. Installation of carbon capture may require an overhaul to the existing ERF to allow increased lifetime to pay back the costs of the investment. We have identified low potential for CCUS in our assessment and consider that this prudently indicates potential existing capacity that should not be included in the definition of capacity for the purposes of assessing potential over-capacity in the future.</p> <p>It is also noted that revised draft NPS EN3 para 3.7.32 gives further clarity on the need for flexibility for EfW and biomass facilities while para 3.7.43 continues to recognise the role of EfW in the waste hierarchy, stating, 'EfW plants need not disadvantage reuse or recycling initiatives where the proposed development accords with the waste hierarchy'.</p> <p>An updated NPS tracker, taking into account the revised draft NPS's will be submitted at Deadline 9.</p>
Q14.0.2	Applicant, NLC	Can both parties provide an update in respect of progress on the draft Local Plan and if there have been any changes that the ExA should be aware of since the examination commenced.	Following liaison with NLC the Applicant confirms that there are no substantial updates to report on the Local Plan Examination. NLC anticipate publishing their response to the Local Plan Inspectors initial questions on the submission version of the plan by 12th May 2023.
15. Socio-economic Effects			
Q15.0.1		No further questions at this time	
16. Transportation and Traffic			
Q16.0.1		No further questions at this time	
17. Waste			

Q17.0.1	Applicant, Environment Agency, UKWIN	<p>Waste Capacity</p> <p>If it was demonstrated the proposed development were to create an excess capacity of energy from waste plants or there was a shortage of supply of waste for the generation of energy from waste either locally, regionally or nationally, is there any evidence which you can refer to that identifies at what level this may create an adverse effect on prevention, re-use or recycling, as expected within the waste hierarchy?</p>	<p>Firstly, it should be noted that the Applicant's position is that there will not be an excess of energy from waste capacity as a result of the Proposed Development, at a local, national or regional level (see response to UKWIN's Deadline 6 submission [REP7-032]).</p> <p>However, if the ExA were to consider that the development would create an excess capacity of energy from waste plants at a local, regional or national level, the Applicant's view is that this would not create an adverse effect on prevention, re-use or recycling. Nor does the Applicant aware of any evidence that there would be such an effect. The key regulatory, market and policy reasons why this would be the case are set out below.</p> <p>Paragraph 3.7.43 of draft NPS EN-3 continues to recognise the role of EfW in the waste hierarchy, stating, 'EfW plants need not disadvantage reuse or recycling initiatives where the proposed development accords with the waste hierarchy'.</p> <p>Requirement 15 of the draft DCO will ensure that only RDF, where the waste hierarchy has already been applied to wastes arising, is accepted at the proposed ERF. This requirement will also be secured by the Environmental Permit through specifications of specific EWC codes for waste that can be accepted at the facility and will specifically exclude source segregated recyclable waste.</p> <p>The Environment Agency made clear the obligations of waste producers and other handlers in the chain with respect to the waste hierarchy set out in the Waste (England and Wales) Regulations, 2011, Regulation 12 in its previous response (REP6-040). These obligations would not change in the event that there was an excess of capacity in respect of need, and Regulation 12 would continue to be applied as it is currently, thus ensuring that legal compliance with the waste hierarchy will</p>
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			<p>be maintained. There should not be a need to duplicate this legal control mechanism.</p> <p>Consequently, implementation of the waste hierarchy and adherence to Regulation 12 alongside compliance with the DCO requirement and the Environmental Permit would ensure that there is no adverse effect on securing improved (and legally required) rates of prevention, re-use or recycling. Were this to be the case, the duty to apply the hierarchy would not have been discharged, a position, together with the requirement for recording that the hierarchy had for every load of waste received at the EfW facility been applied on all waste transfer notes, would risk prosecution by the Agency.</p> <p>Notwithstanding the Regulatory requirement to apply the waste hierarchy, the market acts strongly to support it. It is less expensive for waste producers that they intervene to ensure that materials and mixed wastes are managed at as high a level in the hierarchy as possible. WRAP's most recent gate fee report (WRAP, Gate Fees 2021/22 report, August 2022) shows that the mean gate fees for Materials Recycling Facilities, In-Vessel Composting or Anaerobic Digestion plant are much lower than the mean gate fee for EfW (see pages 4-7), even when considered net of the value of recyclables in the case of dry recyclables. Where gross gate fees are considered, the difference is a multiple of two or more.</p> <p>Thus, there is a clear and substantial financial disincentive for waste producers actively to constrain waste prevention or to divert reusable and recyclable materials to EfW. By contrast, there is a very clear incentive to divert waste from landfill to EfW or further up the waste hierarchy. The mean gate fee for non-hazardous landfill presented on page 8 of WRAP's report, together with the Landfill Tax, greatly exceeds the gate fee for those management levels above landfill in the waste hierarchy. The Landfill Tax was introduced precisely to have this effect, but</p>
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			<p>achieving its ambition relies on there being sufficient capacity available for diversion. Constraining capacity of EfW and other infrastructure prevents the Landfill Tax from acting as intended. It is essential that there is sufficient EfW capacity available. It is notable that the Government Response on the consultation on the draft EN-3 makes clear that there is no current proposal to introduce any moratorium on new EfW facilities.</p> <p>As the market acts to provide sufficient capacity, were there to be an excess, this would result in a shortfall in residual waste fuel compared with the aggregate permitted throughput of EfW facilities. In this scenario, one or more facilities would be 'under-utilised'. Facilities are able to run with a throughput less than design capacity, albeit at a commercial disadvantage, and at the margin, a fuel shortfall would be readily accommodated. Were the shortfall in fuel sufficiently large, this might cause a facility to contemplate ceasing operations. In a competitive market, one might expect that to be the oldest, least efficient, least environmentally attractive and most expensive of the fleet, where capital costs are depreciated and the service unattractive by comparison with other providers.</p> <p>Nonetheless, a new facility would not be able to secure funding and be constructed unless there is a high degree of confidence that its intended throughput can be secured, through contracts or memoranda of understanding that indicate an intent to supply. EfW plant capital costs are £100ms; and capital markets would not commit such funding without certainty of return at an attractive rate.</p> <p>Government policy presages further action to reinforce the regulatory and market mechanisms outlined above that will act to prevent any excess in EfW capacity prejudicing the hierarchy.</p> <p>Government intends to act further to ensure that waste is minimised and/or managed through the upper levels of the</p>
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			<p>hierarchy in order to meet the mandatory recycling targets in the Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 and the residual waste reduction target in the draft Environmental (Residual Waste) England Regulations 2022.</p> <p>The Environmental Improvement Plan 2023 sets out a series of targets and measures that will progressively require and incentivise this outcome. The Plan includes both interim and long term targets for reduction in residual wastes, waste collection and packaging reforms and a ban on some single-use plastic items. An overhaul of Extended Producer Responsibility (EPR) that places the burden on producers will incentivise packaging reduction and design for reuse and recycling. A take-back system for fibre-based composite cups will also be introduced through EPR. A Deposit Return System for plastic and metal drinks containers will also drive high rates of recycling for this component of mixed waste streams. Government intends to provide capital funding for mandatory free food waste collection schemes (£295m) introduced in the Net Zero Strategy.</p> <p>These measures will either require or support and incentivise the prevention, reuse and recycling levels of the waste hierarchy. Whilst there is much to do in this space to deliver on the mandatory targets (assumed to be achieved in our capacity assessment) the Government focus and investment in these areas is independent from and not impacted by what may occur in the EfW market.</p> <p>Together with the regulatory and market mechanisms outlined above, the Applicant considers that any excess of EfW capacity would lead only to that capacity being under-utilised.</p>
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