



**NORTH
LINCOLNSHIRE
GREEN
ENERGY PARK**

Planning Act 2008

Infrastructure Planning
(Applications
Prescribed Forms and
Procedure) Regulations
2009

North Lincolnshire Green Energy Park

Volume 8

8.2.6 Final Statement of Common
Ground with AB Agri Limited

PINS reference: EN010116

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GLOSSARY

Acronym	Full term / Description
2008 Act	Planning Act 2008
AGI	Above Ground Installations
CCTV	Closed Circuit Television
CBMF	Concrete Block Manufacturing Facility
CCUS	Carbon Capture, Utilisation and Storage
CO2	Carbon Dioxide
CoPA	Control of Pollution Act
DCO	Development Consent Order
DHPWN	District Heating and Private Wire Network
EV	Electric Vehicle
ERF	Energy Recovery Facility
ES	Environmental Statement
FRA	Flood Risk Assessment
FGTr	Flue Gas Treatment Residue
H2	Hydrogen
HGV	Heavy Goods Vehicles
NSIP	Nationally Significant Infrastructure Project
NLGEP	North Lincolnshire Green Energy Park
PRF	Plastic Recycling Facility
RHTF	Residue Handling and Treatment Facility
SoS	Secretary of State
SoCG	Statement of Common Ground
SuDS	Sustainable Drainage Systems

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1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This Statement of Common Ground ('SoCG') has been prepared on behalf of North Lincolnshire Green Energy Park Limited ('the Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under Section 37 of 'The Planning Act 2008' (the '2008 Act').
- 1.1.2 The Proposed Development is an Energy Recovery Facility (ERF) capable of converting up to 760,000 tonnes of non-recyclable waste into 95 MW of electricity and a carbon capture, utilisation and storage (CCUS) facility which will treat a proportion of the excess gasses released from the ERF to remove and store carbon dioxide (CO₂) prior to emission into the atmosphere. It is described in Chapter 3: Project Description and Alternatives of the Environmental Statement (ES).
- 1.1.3 The Proposed Development meets the criteria to be considered as an NSIP under the 2008 Act as a 'generating station' under section 15(2). Section 15(2) defined an NSIP as a proposed generating station which would be located within England, would not be offshore, and would have a total generating capacity of more than 50MW.

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 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, 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 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) refuelling 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.
- 1.2.4 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.
- 1.2.5 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.
- 1.2.6 The overarching aim of the Project is to support the UK's transition to a low carbon economy as outlined in the Sixth Carbon Budget (December 2020), the national Ten Point Plan for a Green Industrial Revolution (November 2020) and the North Lincolnshire prospectus for a Green Future which is currently being developed. It will do this by enabling circular resource strategies and low-carbon infrastructure to be deployed as an integral part of the design (for example by re-processing ash, wastewater and carbon dioxide to manufacture concrete blocks) and capturing waste-heat to supply local homes and businesses with heat via a district heating network.

1.3 Parties to this Statement of Common Ground

- 1.3.1 This Statement of Common Ground is between North Lincolnshire Green Energy Park ('the applicant') and AB Agri Ltd.

1.3.2 AB Agri Ltd owns and operates ABN, a British manufacturer of animal compound feed, in Flixborough Industrial Estate.

1.4 The Purpose and Structure of this Document

1.4.1 The purpose of this document is to summarise matters of agreement and disagreement between the parties on matters relevant to the examination of the Application and to assist the Examining Authority in their determination of the Application. It has been prepared with regard to the guidance in 'Planning Act 2008: examination of application for development consent' (Department for Communities and Local Government, March 2015).

1.4.2 The document is structured as follows:

- Section 2 – sets out the key correspondence and engagement between the parties from the pre-application up to Deadline 9 (10 May 2023) of the DCO Examination process ; and,
- Section 3 – sets out the matters agreed and matters of disagreement between the parties.

2.0 SUMMARY OF ENGAGEMENT

2.1.1 The below Table 2.1 contains a record of key correspondence and engagement between the Applicant and AB Agri Ltd pertinent to this SoCG.

Table 2.1: Summary of Correspondence and Engagement

Date	Relevant Parties	Topics Covered
19/03/2021	Associated British Foods (ABF) for AB Agri and Ardent acting for the Applicant	A call seeking clarification of the proposed acquisition of the site
March – July 2021	ABF for AB Agri	Numerous contacts by ABF to Ardent in response to the proposed acquisition of AB Agri's site.
03/09/2021	ABF for AB Agri and DDM acting for the Applicant	A call to discuss the proposed acquisition of AB Agri's site
19/10/2021	AB Agri Ltd, Solar 21	Response to AB Agri letter dated 22/07/2021 - biosecurity, access, flood mitigation and construction impact. Additional points on a tertiary access to the Port denied by the Port

Date	Relevant Parties	Topics Covered
3/12/2021	AB Agri Ltd (ABF, Rapleys and Arcadis), NLGEP (Buro Happold / Fichtner/LDA/ERM),	Workshop to address agenda items
14/12/2021	Rapleys on behalf of AB agri	A letter from AB Agri to Solar 21, setting out AG Agri's concerns.
14/02/2022	Solar 21	Solar 21's response to AB Agri.
25/04/2022	Rapleys on behalf of AB Agri	A response letter from AB Agri to Solar 21.
24/05/2022 – 03/06/2022	JLL on behalf of AB Agri	Requested meeting via DDM acting for the Applicant.
14/11/2022	JLL on behalf of AB Agri and DDM on behalf of the Applicant	Meeting to discuss the CPO matters.
9/12/2022	AB Agri, NLGEP	Meeting to discuss Relevant Representation responses and SoCG progress.
14/12/2022	Arcadis and Rapleys acting for AB Agri and Buro Happold acting for NLGEP and Solar 21	Meeting to discuss specific matters regarding flood modelling.
31/01/2023	Arcadis and Rapleys acting for AB Agri and Buro Happold acting for NLGEP and Solar 21	Further information shared by Buro Happold with Arcadis and Rapleys in relation to flood risk modelling.
27/02/2023	NLGEP, AB Agri	Working group to discuss biosecurity, on site mitigation proposed by AB Agri and the Applicant's confirmation of the removal of AB Agri's land from temporary possession.
15/03/2023	AB Agri	AB Agri chased the Applicant for feedback on the mitigations proposed by AB Agri and advised the Applicant that its objection still stands without suitable mitigations.
05/04/2023	Solar 21	The Applicant requested further information on the proposed mitigations by AB Agri.

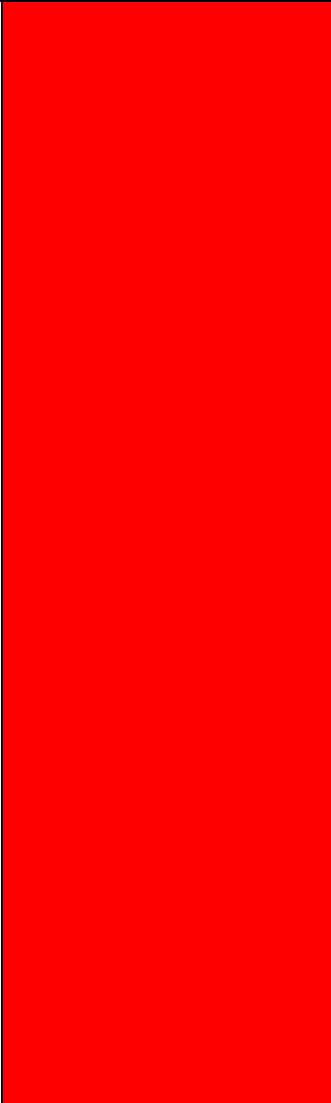
Date	Relevant Parties	Topics Covered
		The Applicant informed that they will look to remove AB Agri's land from the Red Line Boundary before the end of the cross-examination period, as long as this does not pose any structural issues for the flood mitigation.
13/04/2023	AB Agri	Requested information on the on-site mitigation measures was provided to the Applicant.

3.0 MATTERS

3.1.1 The below Table 3.1 contains a list of matters of disagreement between the parties. The bold text sets out the high-level positions with further detail/commentary provided underneath (where necessary). Table 3.2 contains a list of 'matters agreed'. Both tables provide a summary of the relevant position of each party

Table 3.1: List of Matters of Disagreement

AB AGRI LTD POSITION	APPLICANT POSITION	STATUS
Biosecurity Risks to AB Agri's Animal Feed Production Facility and Consequential Impact		
<p>Summary:</p> <p>AB Agri has expressed and reiterated the seriousness of the biosecurity risks to the animal feed production facility and consequential impact on the UK food supply chain throughout the pre-application and DCO examination processes.</p> <p>Having reviewed the Applicant's proposed measures and the Salmonella Risk Assessment submitted by the Applicant [Ref:REP7-033] at Deadline 7 (14 April 2023) and their subsequent submission [Ref: REP8-023] at Deadline 8 (28 April 2023), AB Agri's concern regarding the biosecurity risks to its plant has escalated. In particular, AB Agri disagrees with the Applicant's assertion and judgment on the following matters:</p> <ul style="list-style-type: none"> • Possibility of RDF containing Salmonella; • RDF spillage/exposure during transportation and the effectiveness of compliance with RDF Code of Practice even if it is enforceable; • RDF vehicle delivery route; 	<p>Summary:</p> <p>The Applicant has undertaken proportionate and appropriate risk assessment work to understand any residual risk as a result of the mitigation measures which are already in place. It is not considered that any further restrictive requirements (conditions) may be reasonably imposed and the Applicant does not intend to make any further amendments to the proposed routing and/or additional security measures.</p> <p>The Applicant has engaged with AB Agri to understand their concerns in more detail and establish suitable means to address them which can then be incorporated into the operational procedures for the Project and set out in a revised outline Operational Environmental Management Plan (APP-075). The discussions have covered the matters raised by AB Agri and related matters as follows:</p> <ul style="list-style-type: none"> - The manner in which RDF will arrive at the Project by river rail and road in terms of containment and avoidance of biosecurity risks to AB Agri's operations. - All RDF will be unloaded into the reception pit in a building under negative pressure - Potential (residual) risk pathways between the Applicant's operations and those of AB Agri and additional measures that could be taken to avoid, minimise or reduce risks and included in the Operational Environmental 	

<ul style="list-style-type: none">• The effectiveness of negative pressure environment in the EDF and the ability to maintain it;• The effectiveness of pest management/control;• The extent to which the Environmental Permitting regime can be relied upon in addressing biosecurity risks;• Residual risk to AB Agri and the need for physical mitigations on AB Agri's site; and• Socio-economic impacts of the proposal. <p>AB Agri's position is based on SLR's review of the measures proposed by the Applicant throughout the pre-application/DCO process. SLR has extensive knowledge from firsthand experience of carrying out due diligence, commissioning and operation of a number of ERFs in the UK and was appointed by AB Agri in the absence of the Applicant's meaningful engagement/response following the meeting on 27 February 2023. As such, SLR's technical review is credible evidence that the Applicant's measures do not reduce the risk to AB Agri to a reasonable level and that mitigations at AB Agri's site would be required.</p>	<p>Management Plan</p> <p>The Applicant has considered the concerns raised by AB Agri and conducted a biohazard risk assessment of its operations and the potential for causing Salmonella contamination of AB Agri's operations [REP7-032]. The risk assessment considered existing AB Agri controls, controls proposed by the Applicant, the existing risk profile and the likelihood that the Project would add to an existing level of risk. 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 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 handling and end use in the ERF. Based on the risk assessment 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 CoP and rerouting RDF deliveries. There are no features of the Project that would act to materially 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.</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 transporting RDF. These commitments</p>	
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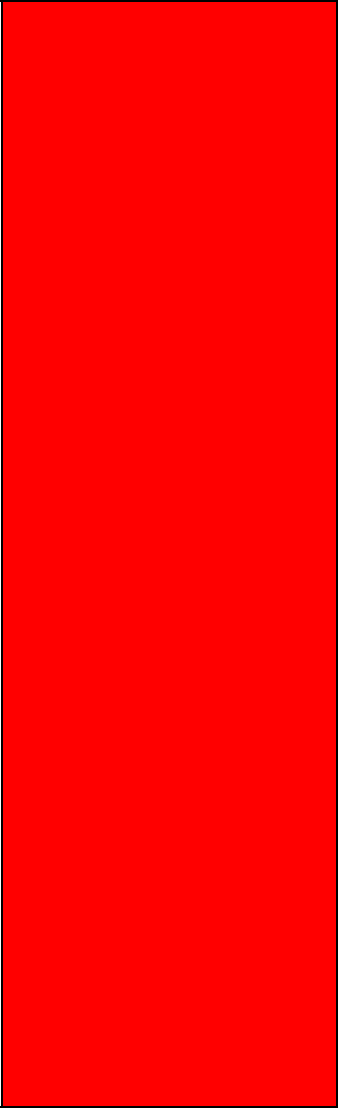
AB Agri considers that, based on available evidence, the Applicant has made a number of unrealistic assumptions and appears to have provided misleading information about RDF routing. Therefore, their position is flawed, lacks credibility, and cannot be relied upon to confirm that there is no residual biosecurity risk to AB Agri.

The Applicant has made an assumption based on their scientific literature review that risks of RDF containing salmonella is 'probably a the lower end of the scale of significant source of pathogen'. However, this is not confirmation that there is no Salmonella contamination in RDF. The Applicant confirmed that it is not possible to eliminate food waste/animal origin waste from municipal waste. Furthermore, commercial and industrial waste (which is not precluded for use by the proposed ERF and would include industrial operations processing animal-origin products) only goes through a minimal pre-treatment process to remove valuable items like metal, leaving a high risk of RDF being contaminated with Salmonella.

The Applicant has proposed a routing plan to prevent RDF vehicles from using First Avenue. However, the proposed layout does not confirm that it is physically designed to allow vehicles not to use the loop around the ERF building, thereby running along First Avenue. Furthermore, vehicles may be fully loaded with RDF and will not go through the cleaning regime after leaving the ERF building.

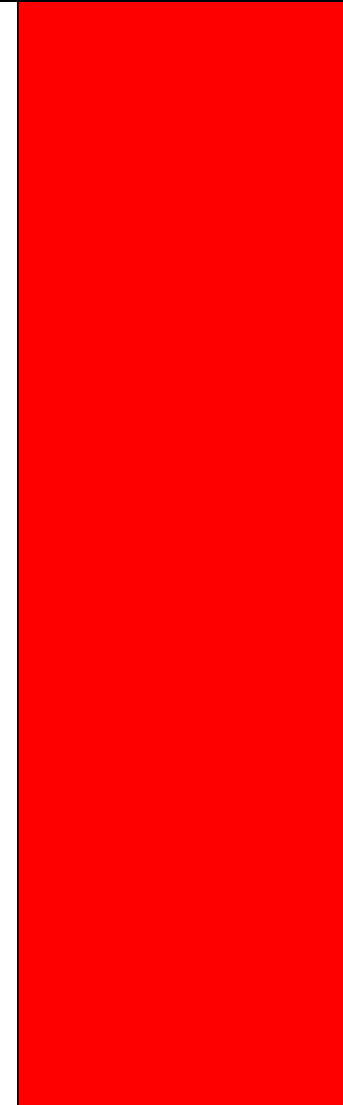
have been included in the Operational Environmental Management Plan and will be secured by the DCO. In addition, the Applicant has committed to certain design considerations in the Design Principles and Codes Document that will be secured within the DCO. The operation of the Project within the installation 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, 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 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.

Having considered all relevant aspects of 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 is placing responsibilities on third parties (particularly in relation to RDF transportation and compliance with RDF Code of Practice) to minimise salmonella transmission, which is beyond the Applicant's control and relies on the ERF having no breakdown or departures from best practice, which is, in reality, not achievable. In particular, evidence strongly indicates that RDF will be delivered loose in covered trailers and there is no evidence to suggest that non-standard practice is feasible commercially. The reliance of the Environmental Permitting regime is not the satisfactory response to AB Agri's concerns as it is not intended to include controls and measures outside the operational area or the operation by third party contractors such as RDF deliveries including matters such as biosecurity risks, waste spillage from vehicles on route and monitoring of day to day operations including 'housekeeping' of facilities.

As such, there remains a significant biosecurity to AB Agri. The existing biosecurity control at AB Agri's site is satisfactory for the existing situation where there is no ERF handling RDF derived from municipal, commercial and industrial waste of significant quantity. Even if the OEMP includes all measures proposed by the Applicant and can be enforced, the increased biosecurity risk cannot be reduced to a reasonable level as the existing control at AB Agri's facility is not proportionate to the increased risk.



<p>Salmonella contamination of the poultry feed plant is notoriously difficult to treat and get rid of, and would result in the prolonged or indefinite closure of the plant, which will ultimately result in significant socio-economic impacts as detailed in our response to the Examining Authority's Written Questions [Ref: REP6-048] at Deadline 6, particularly the shortage of poultry impacting the general population as well as causing animal welfare issues. AB Agri is therefore extremely concerned about the future of its Flixborough plant and the effect it would have on the food supply chain should this proposal be permitted to proceed without the reasonable on-site mitigations at AB Agri's site.</p>		
<p>Temporary possession</p>		
<p>Summary: AB Agri requires full access to the subject land, and further is concerned that construction works and activities in close proximity to AB Agri's material intake would increase biosecurity risks. The Order provides for compensation for 'loss and damage' (clause 31(5)). In the worst case scenario airborne and ground contamination could result in a business extinguishment claim incurring a cost disproportionate to the purposes of the possession and which may have a significant impact on the viability of the project. AB Agri's concerns about the</p>	<p>Summary: Applicant does not intend to disrupt AB Agri operations. Land in question is understood to be non-operational. Applicant preference is for no temporary possession to be required but fall back position is essential to ensure deliverability.</p> <p>The Applicant is not intending to interfere with or disrupt the ongoing operations of AB Agri's access via First Avenue and Second Avenue. The Applicant's understanding is that Plot 5-54 is an area of non-operational grassland, part of which falls within the fence line of AB Agri's land, occupation of which should not cause interference to AB Agri's operations.</p> <p>The flood mitigation wall is currently proposed close to the AB Agri site to maintain clearance within the wharf area</p>	

proposed temporary acquisition is therefore not addressed by the compensation provision in the Order. Notwithstanding that the Applicant noted AB Agri's concerns and agreed to withdraw their application to temporary acquire it at the meeting on 27 February 2023, no further engagement on this matter other than the Applicant reiterating their advice in its correspondence on 5 April 2023 that it intends to remove the site from the Red Line Boundary. For the avoidance of doubt, our objection to the proposed temporary possession still stands.

Temporary Acquisition: Possession for three years of approximately one third of the perimeter of the AB Agri's site and one half of its road frontage will significantly compromise AB Agri's enjoyment of its land, not least due to AB Agri requiring full access around all buildings and temporary land, and the biosecurity and contamination risks that would arise. The Applicant has not demonstrated a compelling case to take temporary possession in light of the potential damage that it may cause AB Agri's business.

for movement of vehicles, minimising any potential impact on existing and future operations within the wharf and to minimise impact on First Avenue. As shown in APP-074 Indicative Utility Diversion Drawings, Drawing No. NLGEP-BHE-XX-XX-DR-C-9105 Sheet 5, within First Avenue and the area west of the AB Agri site, existing Open Reach telecommunication cables are located (information shared with AB Agri in January 2023). It is intended that an appropriate set-back of the proposed flood wall footing from these cables are allowed for. Temporary access within Plot 5-54 is sought to allow, if necessary, the appropriate access required to construct the wall. If construction of the flood defence can be secured without the temporary possession of AB Agri land, this option will be taken. Appropriate measures required to minimise biosecurity and contamination risks during construction will be discussed with AB Agri as part of ongoing discussions.

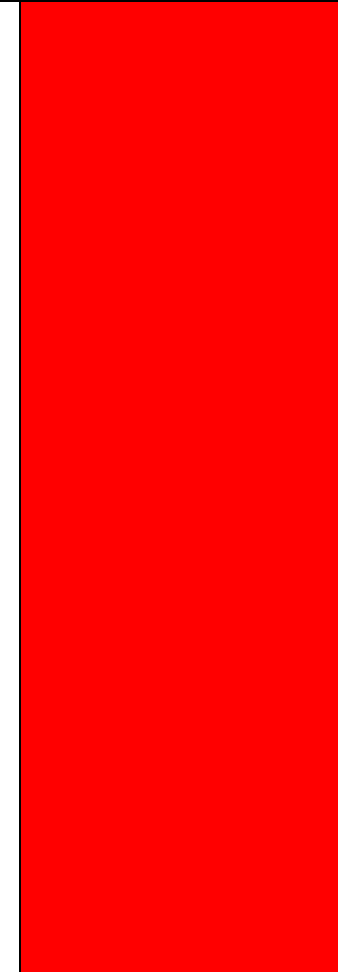


Table 3.2 List of Matters Agreed

AB AGRI LTD POSITION	APPLICANT POSITION	STATUS
Access		
<p>It is requested that the phasing of the construction works ensures that access to ABN for all vehicles is maintained for the duration of the works. We therefore wish to reserve our right to submit a full representation on the basis of the above during the Examination process.</p>	<p>The construction of the Project will not inhibit AB Agri's 24/7/364 operation</p> <p>Construction road traffic will primarily use the new access road, diverting construction traffic away from the Stather Road and the Neap House constraint. Once construction requires the Stather Road closure, traffic for the Flixborough Industrial Estate will then use the new access road. The railway will be used where possible for construction traffic. Traffic flow and construction planning will include liaison with businesses on the Flixborough Industrial Estate. Construction of the Project will not disrupt the 24/7/364 operation of the AB Agri facility.</p>	<p>Agreed</p>
Flood Risk		
<p>Summary</p> <p>Without accurate and detailed flood modelling and necessary mitigation measures, no confidence can be drawn from the information available that the proposed development will not increase the flood risk to AB Agri's site. It is therefore considered that detailed flood</p>	<p>Summary</p> <p>Design is secured by Requirement 3 which requires LPA approval prior to any development being carried out. This provides sufficient control to ensure all pending matters are satisfactorily addressed. AB Agri will be consulted at the detailed design/assessment stage in relation to the</p>	<p>Agreed</p>

modelling/assessment and flood mitigation measures, including physical works, to be informed by the detailed flood risk assessment, are secured by the DCO as a pre-commencement requirement.

The flood model used to inform the Flood Risk Assessment is not suitable for detailed design of flood defences or for informing a flood management and evacuation plan. AB Agri continues to engage with the Applicant on the detailed flood modelling to ensure that necessary flood defence measures are agreed. It is also concerned that the potential overtopping of the existing defences along the dock area may not have been represented accurately in the applicant's model.

The Applicant should engage with AB Agri on the detailed flood modelling and detailed design of flood mitigations including physical works.

detailed design of flood mitigations, including physical works.

The hydraulic model used in the FRA incorporates two sources of data to represent the topography: 2011 LiDAR (compared against 2020 LiDAR with no noticeable differences); and 2016 EA survey of defence crest level. This data was included in the NLC model that the NLGEP model was based upon, and alterations to this base data was not made. The purpose of the NLGEP flood model was to ascertain the key flood mechanisms across the wider site to establish the overall impact of the proposed development with the model being developed and agreed in consultation with the EA.

Information on the estimated design flood event level in the River Trent in the location of the dock area is 6.2mAOD and was shared with AB Agri in January 2023.

If the wharf was to overtop, an assessment of the potential flow routes based on the 2020 LiDAR has been undertaken. The potential flow paths and commentary on potential impact of the proposed scheme was shared with AB Agri in January 2023. This analysis indicates that it is unlikely during an overtopping event (which would occur for less than one hour) to flood to depths that would overtop the grass embankment that currently exists on the north side of First Avenue. The breach scenario immediately south of the wharf considers ingress from the river over an approx. 3.5 hour duration and therefore is considered a worse case scenario when



	<p>informing potential flood mitigation in the vicinity of the AB Agri site.</p> <p>To confirm the level of the wharf and existing defences along the east bank along the site boundary, the Applicant will undertake a ground topographic survey as part of the next stage of design. This survey data, along with the final proposed finished levels of the railway line across the wharf, will then be input into the detailed hydraulic flood model used to carry out the detailed design. This will ensure that the flood mitigation measures being proposed around the AB Agri site are set at the appropriate level and modified where needed. The modelling results will also be used to inform the flood evacuation and management plan. The detailed flood modelling undertaken in the next stage of design will be undertaken in consultation with the EA, based on their latest flood model currently being developed and results and progress will be shared with AB Agri during the process.</p>	
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4.0 SIGNATURES

4.1.1 This Statement of Common Ground is agreed:

On behalf of AB Agri:

Name: Jason Lowes (Rapleys LLP, on behalf of AB Agri)

Signature:

[REDACTED]

Date: 12 May 2023

On behalf of the Applicant:

Name: David Jones

Signature:

[REDACTED]

Date: 12/05/2023