



**Application by Gate Burton Energy Park Limited for Gate Burton Energy Park
The Examining Authority's written questions and requests for information (ExQ3)
Issued on Wednesday 25 October 2023**

The following table sets out the Examining Authority's (ExA's) further written questions and requests for information – ExQ3.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe B to the Rule 6 letter of 31 May 2023. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 3 (indicating that it is from ExQ3) and then has an issue number and a question number. For example, the first question on the 'Principle and nature of development' issue is identified as Q3.1.1, as this is the first question, relates to the first issue, and is part of this set of further written questions by the ExA. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact 'GateBurtonSolar@planninginspectorate.gov.uk' and include 'EN010131 - Gate Burton Energy Park' in the subject line of your email.

Responses are due by Deadline 5: Monday 20 November 2023.

Abbreviations used:

PA2008	The Planning Act 2008	LoNI	Letter of No Impediment
AC	Alternating Current	LPA	Local planning authority
ALA 1981	Acquisition of Land Act 1981	MMO	Marine Management Organisation
Art	Article	MP	Model Provision (in the MP Order)
AS	Additional Submissions	MW	Mega Watts
BDC	Bassetlaw District Council	NCC	Nottinghamshire County Council
BESS	Battery Energy Storage System	NE	Natural England
BMV	Best and Most Versatile land	NGED	National Grid Electricity Distribution (East Midlands) Plc
BoR	Book of Reference	NPPF	National Planning Policy Framework
CA	Compulsory Acquisition	NPS	National Policy Statement
CPO	Compulsory purchase order	NRMM	Non-Road Mobile Machinery
CTMP	Construction Traffic Management Plan	NSIP	Nationally Significant Infrastructure Project
dB	Decibels	OLEMP	Outline Landscape and Ecology Management Plan
dDCO	draft Development Consent Order	PoC	Point of Connection
EA	Environment Agency	PSED	Public Sector Equality Duty
EM	Explanatory Memorandum	PV	Photovoltaics
EMF	Electro Magnetic Field	R	Requirement
ERP	Emergency Response Plan	RR	Relevant Representation
ES	Environmental Statement	SI	Statutory Instrument
ExA	Examining authority	SOAEL	Significant Observed Adverse Effect Level

fCEMP	Framework Construction Management Plan	SoR	Statement of Reasons
foEMP	Framework Operational Environmental Management Plan	SoS	Secretary of State
Ha	Hectares	TA	Transport Assessment
HE	Historic England	TP	Temporary Possession
HSE	Health and Safety Executive	TPO	Tree Preservation Order
Kv	Kilo Volt	WFD	Water Framework Directive
LCC	Lincolnshire County Council	WLDC	West Lindsey District Council
LIR	Local Impact Report		

The Examination Library

References in these questions set out in square brackets (eg [REP4-070]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010131/EN010131-000454-Examination%20Library.pdf>

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: Written Question series: issue reference: question number, eg Q3.1.1 – refers to question 1 on issue 1 in this table.



Issue

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ExQ3	Question to:	Question:
1	Principle and nature of development	
Q3.1.1	The Applicant	<p>Scheme Boundary</p> <p>Please provide updated plans of the scheme boundary to reflect changes in the Scheme boundary resultant from the Change Request.</p>
Q3.1.2	The Applicant	<p>Risk management:</p> <p>7000 acres in [REP4-070] query whether the Applicant has carried out a Qualitative and Quantitative risk analysis for the project and if so if it and the resultant risk register can be shared.</p> <ol style="list-style-type: none"> 1) Can the Applicant confirm if it has carried out such an analysis and confirm whether it is prepared to share the outcomes. 2) Comment on whether such an analysis is an important and relevant matter in this examination and if not explain why not.
Q3.1.3	The Applicant	<p>Cumulative Assessments</p> <p>Comment on WLDC's suggestion that the cumulative assessment for the Proposed Development and other schemes should include 7 various scenarios to cover the various eventualities of the Proposed Development coming forward with one, some or all of the other NSIPs in the area.</p>
Q3.1.4	The Applicant	<p>Joint Report on Interrelationships between NSIPs [REP4-050]</p> <p>In the Joint Report on Interrelationships between NSIPs references in Paragraph 1.2.1 refers to table 1.2, however there does not appear to be a table 1.2. The Following Table identified as Table 1.4 albeit this is the second table in the document with the preceding table being Table 1.3. There also appears to be two Table 1.3's one on page 5 and one on page 7. The table numbering in the report is incorrect given the references in the text. The tables or referencing needs to be corrected.</p>
Q3.1.5	The Applicant	<p>Joint Report on Interrelationships between NSIPs [REP4-050]</p> <p>Paragraph 3.1.4 of the report refers to the DCO's containing reciprocal Protective Provisions for the other schemes at the appropriate time.</p> <ol style="list-style-type: none"> 1) Is it the Applicants intention to include reciprocal Protective Provisions for the Tillbridge scheme?;

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ExQ3	Question to:	Question:
		<p>2) When will this be included in the dDCO?;</p> <p>3) Should a place holder be included in the current dDCO to be replaced or deleted if not required?;</p> <p>4) Is there a possibility that you won't be in a position to include Protective Provisions for Tillbridge in the dDCO by the conclusion of the Examination, and how will this be addressed if they are required after the close of the examination but before the Secretary of State makes their decision?</p>
Q3.1.6	All Parties	<p>Joint Report on Interrelationships between NSIPs [REP4-050] Comment on Appendix E (Review of Cumulative effects) to the Joint Report on Interrelationships between NSIPs including the approach and overall conclusions.</p>
Q3.1.7	The Applicant	<p>Joint Report on Interrelationships between NSIPs [REP4-050] [REP4-050] sets out the interrelationships between the Proposed Development and other cumulative schemes. At Appendix E, moderate and potentially significant effects are identified however, impacts are concluded to be negligible on the basis that the Proposed Development would have a 'negligible' input to the cumulative effect without explanation or reference to where evidence is in the application to support this. The Applicant should update their assessment to confirm whether there is potential for cumulative effects and where there are, the conclusions of likely significant effects should be updated and report the significance of the cumulative effect and not just the input of the Proposed Development to that effect.</p>
Q3.1.8	The Applicant	<p>Joint Report on Interrelationships between NSIPs [REP4-050] It is stated in [REP4-050] Table 2-2 that it is not possible to confirm whether there is potential for significant cumulative effects and that this will be considered further in ES Chapter 17 Cumulative Effects. However, it is unclear whether the Applicant intends to submit updated information or whether this refers to existing information in the ES. The cumulative effects assessment should be updated to reflect definitive conclusions based on a worst-case scenario; any assumptions should be clearly set out.</p>
Q3.1.9	The Applicant	<p>Cumulative effects: ES Chapter 15 [APP-024], section 15.8 makes a broad assumption on which the assessment of cumulative effects of waste at decommissioning are determined; that appropriate recycling facilities will be in place. This is not a precautionary approach and</p>

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ExQ3	Question to:	Question:
		does not consider a worst-case scenario. Can the Applicant update the assessment to assess likely significant effects from cumulative waste at decommissioning based on an appropriate worst-case scenario. Any assumptions used to inform the assessment should be clearly set out and any mitigation measures e.g. Outline Decommissioning Plan, should be appropriately referenced. Please note that, where relevant, the assessment should align with assessments undertaken for other cumulative developments unless differences are sufficiently explained.
Q3.1.10	The Applicant	<p>Cooperation Agreement:</p> <p>The Joint Report on Interrelationships between NSIPs [REP4-050] contains a copy of the co-operation agreement between the promoters of the various NSIPM schemes would it be appropriate to have the co-operation agreement between the parties as a certified document to secure the co-operation between the parties.</p> <p>What would prevent the parties from amending or dissolving the agreement at some future point and if that is the case what weight can be given to the co-operation agreement and is it an important and relevant matter?</p>
Q3.1.11	All Parties	<p>Supporting Environmental Information Report [CR1-043]</p> <p>Does the supporting Environmental Information in relation to the Change request provide sufficient information to support its conclusions and does it alter any of the overall conclusions reached in respect of the Proposed Development that you have previously raised and submitted into the examination. Please explain any response.</p>
2 Air Quality and Emissions		
Q3.2.1	No further questions at this time	
3 Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))		
Q3.3.1	The Applicant	<p>Electromagnetic field effects (EMF) on fish:</p> <p>The Environment Agency [REP4-063] has suggested a Risk Assessment in relation to EMF is produced centred on the grid connection corridor crossing of the river Trent to understand the risks during the operation of the Proposed Development and whether it is likely to have any impacts on fish including cumulative risks with other schemes.</p>

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ExQ3	Question to:	Question:
		<p>The EA also suggest this should be added to the potential impacts in areas of discussion so that the Statement of Common Ground can be reissued once the matter has been resolved.</p> <ol style="list-style-type: none"> 1) The Applicant should carry out the requested Risk Assessment and submit it into the Examination at the next deadline, deadline 5. In preparing the Risk Assessment this should be undertaken taking account of input from the Environment Agency and Natural England, with any advice or comment they have before the document is finalised. 2) If the Risk Assessment identifies any required mitigation, the Applicant should update the necessary documents or identify any embedded mitigation or prevention, e.g., greater depth of buried cable, update the Outline Design Principles. 3) Comment on how this affects the conclusions of your No Significant Effect report and the Habitats Regulation Assessment and whether there are pathways that may affect protected sites, in particular the Humber Special Area on Conservation (SAC). Also refer to and respond to the Report on Implications for European Sites (RIES) published alongside these questions.
Q3.3.2	The Applicant	<p>Electromagnetic field effects (EMF) on fish:</p> <p>The Applicant concludes that burying the cables to a minimum depth of 0.9m and given the limited span of the corridor this would provide sufficient mitigation to prevent adverse effects on aquatic life and in particular protected species. You have updated the Outline Design Principles to provide a minimum buried depth below the bed of the river Trent of 5m to address CRT's comments. How does this affect these conclusions and any comments in respect of the preceding question.</p>
4 Climate Change		
Q3.4.1	The Applicant	<p>Renewable energy Crops:</p> <p>In terms of the assessment of effects on climate change in the ES has the loss of crops used for the production of renewable energy been taken into account. If so, how has this been done and where is this identified.</p>
5 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		

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ExQ3	Question to:	Question:
Q3.5.1	The Applicant, Crown Estate Commissioners	Crown Land: Provide any further update on negotiations between the Applicant and Crown Commissioners and whether there is any greater clarity on when this matter may be brought to a resolution.
Q3.5.2	Lincolnshire County Council	Financial contribution to Lincolnshire Fire Service: In response to my further written question 2.5.4 Lincolnshire County Council (LCC) have provided further detail of the matters a section 106 legal agreement should secure in respect of a financial contribution towards Battery Energy Storage System Management. The figures and justification are based around a daily rate. LCC should submit the justification or detail as to how the figure for the daily rate of £765 is calculated or justified.
Q3.5.3	The Applicant	Nicholas Hill and Emma Hill In Response to my Further written question 2.5.6 Nick and Emma Hill provided a letter [REP4-073 and 074] suggesting a wayleave or a lease of the land. Explain why these options would not fulfil your requirements for the scheme given that it is suggested it is for a temporary period (albeit 60 years) and why a permanent easement is necessary. Furthermore, detail the alternatives that you have explored to Compulsory Acquisition (CA) of rights, including investigating alternative nearby parcels of land and why this does not resolve your need to CA rights of this land.
Q3.5.4	The Applicant, Mr Ash	Mr Ash withdrawal of objection to Compulsory Acquisition: The Applicants cover letter for the deadline 4 submissions [REP4-001] refers to a joint statement with MR Ash and includes a Joint Position statement which states at the third paragraph "... <i>Mr Ash is willing to withdraw his objection to the Applicant seeking Compulsory Acquisition rights for the scheme</i> " (my underlining) This is not a definitive statement that Mr Ash withdraws his objection. Can either Mr Ash confirm that he withdraws his objection to the Applicant seeking Compulsory Acquisition rights or Both parties have this statement amended and both parties resign and submit again to confirm the objections are now withdrawn. Mr Ash remains an IP and so this would not affect his ability to continue to participate and engage with the examination.

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ExQ3	Question to:	Question:
6 draft Development Consent Order (DCO)		
Q3.6.1	The Applicant	<p>Article 44 and Schedule 9 Draft Marine Licence:</p> <ol style="list-style-type: none"> 1) Confirm that the methodology proposed in the draft Marine Licence is the worst-case scenario and explain why other potential scenarios would not be worst case scenarios or would not be used and how this would be controlled or restricted. 2) Given that the Marine Management Organisation (MMO) maintain its position that the matters proposed are covered by an exemption and they do not support the inclusion of a dML in the dDCO there are two options a) remove the provisions; or b) seek to maintain the provisions in the dDCO. Confirm your intentions and if b) provide further justification for the inclusion of the dML including identifying other DCO's where an exemption has applied and a dML has been included in a made DCO. Furthermore, justify each of the suggested conditions in the dML and the basis on which such conclusions are reached.
Q3.6.2	The Applicant	<p>Abatement or abandonment of works:</p> <p>Sturton By Stow Parish Council in its representation [REP4-058] raised the potential for a clause in the DCO related to abatement or abandonment of works. Comment on the applicability of such a clause in this DCO and if not appropriate explain why not.</p>
Q3.6.3	The Applicant	<p>Article 7 Defence to proceedings in respect of statutory nuisance</p> <p>Given the cumulative addition of schemes being simultaneously or sequential detail why the removal of the ability for local residents etc to seek Statutory Nuisance redress is reasonable, proportionate and robust. The Explanatory Memorandum should be updated in this respect.</p>
Q3.6.4	Nottinghamshire County Council, Bassetlaw District Council	<p>Schedules 4, 5, 6, 7, and 8</p> <p>In relation to the Change Request version of the draft DCO [CR1-016] comment on the proposed additional provisions for streets, works and regulations added to Schedules 4 (Streets Subject to Street Works), 5 (Alteration of Streets), 6 (Streets and Public Rights of Way), 7 (Permanent Means of Access to Works), and 8 (Traffic Regulation Measures) and confirm whether you are content that these cover all necessary matters for these streets and works in respect of the effects resultant from the Change Request.</p>
7 Historic Environment		

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ExQ3	Question to:	Question:
Q3.7.1	Historic England, Nottinghamshire County Council, Bassetlaw District Council	<p>Updated Archaeological Mitigation Strategy:</p> <p>Given that the Archaeological Mitigation Strategy has been updated at the Change Request (in particular see Part 2 related to Grid Connection Corridor [CR1-032]) will Historic England, Bassetlaw District Council and Nottinghamshire County Council confirm that they are still satisfied that the AMS is acceptable and fulfils its aims and addresses any additional impacts resultant from the extension of the Order lands.</p>
8 Human Health and Wellbeing		
Q3.8.1	The Applicant	<p>Health Impact Assessment:</p> <ol style="list-style-type: none"> 1) Why have you not undertaken and submitted a Health Impact assessment (HIA)? 2) If you consider one is not necessary or required, please explain and justify why you have reached this conclusion.
Q3.8.2	The Applicant	<p>Rapid Health Impact Assessment Matrix (HUDU):</p> <p>7000 Acres raise concern that The Rapid Health Impact Assessment Matrix Tool (HUDU) applies only to urban areas. Please expand on your justification for it forming the basis of the approach adopted to assess impacts on health in Chapter 14 of the ES as identified at paragraph 14.6.3 [APP-023].</p>
Q3.8.3	The Applicant	<p>Deprivation in Gainsborough wards</p> <ol style="list-style-type: none"> 1) Concerns have been expressed with regard to Deprivation in two neighbouring wards in Gainsborough being excluded as these may be affected by the Proposed Development. Explain the basis on which these Wards were excluded given their geographical proximity 2) Is further mitigation required to address potential impacts from the Proposed development. <ol style="list-style-type: none"> a) If yes identify the mitigation and confirm how secured; b) If no explain why not.
Q3.8.4	The Applicant	<p>Human Health Impacts:</p> <p>Explain and justify the 500m buffer incorporated in the Assessment of impacts on health and wellbeing including on the potential for cumulative effects and people moving through the area rather than static receptors.</p>

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ExQ3	Question to:	Question:
9 Landscape and Visual		
Q3.9.1	The Applicant	Framework Decommissioning Environmental Management Plan (FDEMP): The FDEMP [REP4-037] at Table 3-13 b states that tree protection method will be adhered to as set out in Appendix A . However, in that document Appendix A only has a cover sheet entitled Soil Resource Management Plan and no other document. Should this be similar to Appendix B in the Framework Construction Environmental Management Plan which is entitled Outline Tree Protection Measures or is it a different document. Correct the reference and attach appropriate document to the FDEMP.
Q3.9.2	The Applicant	Mitigation measures for landscape effects: What measures are included to address potential failures of planting or proposed mitigation and how is this to be managed and secured. Either provide an explanation or signpost the appropriate measures in the Framework Construction Environmental Management Plan, Outline Landscape and Ecology Management Plan or other documentation that secure such matters.
Q3.9.3	The Applicant	Mitigation measures for landscape effects: Explain why a continued management plan has not been secured beyond the initial 5 years when vegetation planting is anticipated to mature at year 15 of operation.
Q3.9.4	The Applicant	Mitigation measures for landscape effects: Explain what monitoring is in place to ensure the success of mitigation planting in light of changing climatic conditions.
Q3.9.5	The Applicant	Mitigation measures for landscape effects: Explain who is responsible for undertaking any required monitoring and ensuring any changes to management plans are undertaken in response to the results of any monitoring and how they are empowered and secured to take any necessary changes.
10 Major accidents and Disasters		
Q3.10.1	The Applicant	Battery Energy Storage System fire suppression system: Given the concerns expressed that the potential fire suppression system is not an appropriate method to address a Thermal Runaway event rather than a conventional fuel air fire which should be addressed through cooling by water. The BESS Frequently Asked

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ExQ3	Question to:	Question:
		Questions does not directly address this point. Update the FAQ to explain how the fire suppression system would be employed in combination with other controls or whether alternative strategies are proposed to deal with a thermal runaway.
Q3.10.2	The Applicant	<p>Battery Energy Storage System layout:</p> <p>The Applicant confirms at 3.6.1 of the Frequently Asked Questions regarding the BESS [REP4-048] that 6m separation of modules will be observed unless certain factors apply. Can the Applicant confirm that there is sufficient space available within the area allocated for the BESS area to satisfy the 6m separation if required to be applied and explain how this is the case if the Indicative Site layout and the BESS layout attached to the FAQs is based on 240 units and illustrates a layout where many of the units appear to be spaced at less than 6m.</p>
11 Noise		
Q3.11.1	No further questions at this time.	
12 Socio-economic Effects and Land Use (including Agricultural land and BMV)		
Q3.12.1	The Applicant	<p>Agricultural Land Classification survey in Grid Connection Corridor:</p> <p>It is confirmed in the cover letter for the deadline 4 submissions [REP4-001] and the updated Framework Construction Environmental Management Plan [REP4-035] that an Agricultural land classification survey in the grid connection corridor has now been carried out.</p> <ol style="list-style-type: none"> 1) Provide a copy of the survey results report; 2) Confirm and explain if this affects the assumptions and conclusions in the ES with regard to Best and Most Versatile land including the quantum of various grades of agricultural land affected. And if it does explain the effect and consequences; 3) Explain how the survey results will be used to inform the detailed soil management plan that is to be produced; and 4) Explain how the conclusions and results have been tested or verified to ensure they are robust and independent.
Q3.12.2	Lincolnshire County Council	Best and Most Versatile Land:

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ExQ3	Question to:	Question:
		<p>In the email from Lincolnshire County Council dated 4 October 2023 [REP4-053] at the 4th paragraph of the quoted comments it states “.....<i>It should be captured by an appropriately worded requirement and possibly by Section 106 Agreement to provide a level of certainty that this will be done.</i>” In relation to soil testing and restoration of soils.</p> <ol style="list-style-type: none"> 1) Do you consider that requirement 17 in relation to soil management fulfils this suggestion? 2) If not explain why not and how it could be amended to capture any shortfall. 3) Is it being suggested that a legal agreement is required as well as the requirement and if so, what is it expected that agreement would capture and secure? Explain why this would not be duplication with the Requirement.
<p>13 Transportation and Traffic</p>		
Q3.13.1	Nottinghamshire County Council	<p>Framework Construction Transport Management Plan (FCTMP) redesign of accesses:</p> <p>NCC confirm whether they are satisfied with the changes to the FCTMP regarding the proposed approach to redesign of retained accesses for operation of the Proposed Development along the Grid Connection Corridor including the list of accesses to which it relates as set out at paragraph 6.3.3 and 6.3.4 of the FCTMP part 1.</p>
Q3.13.2	The Applicant	<p>Framework Construction Transport Management Plan (FCTMP):</p> <p>Paragraph 7.6.2 of the FCTMP refers to “... <i>the following condition wording is proposed</i>”. What does this mean? It is not secured as a Requirement in the DCO and it is not a commitment in the FCTMP, but suggests it is proposed. This is not a Planning Permission and a ‘condition’ in that respect is not imposed or inserted by a reference in the FCTMP. Please clarify how it is anticipated that this wording is included and secured with an appropriate form of wording in the FCTMP.</p> <p>If the Applicant is agreeing to include these matters, they should be set out as commitments within the FCTMP in appropriate terms or included as a requirement in schedule 2 of the dDCO.</p>
Q3.13.3	The Applicant	<p>Framework Construction Transport Management Plan FCTMP and potential for joint Construction Transport Management Plan (CTMP)</p>

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ExQ3	Question to:	Question:
		The Applicant has sought to accommodate a joint CTMP by way of including wording suggested from a Host Authority. See above question. The Gate Burton Energy Park FCTMP if including appropriate wording could thereby secure a joint CTMP at a future date in co-operation with the other promoters with similar provisions included in each of the other promoters CTMP's for their respective schemes. The Report on Interrelationships between NSIPs suggests that such a commitment cannot be made. Is this undermining the suggested change to the FCTMP? Which at paragraph 7.6.3 seeks to include such a provision and Appendix D and at section 1.6 on the shared grid connection corridor states that " <i>For example Joint CTMP could be prepared between the scheme, the IGP projects and Tillbridge solar post consent to manage and mitigate cumulative effects if necessary once further details are known on project time frames and the approach for a shared grid connection corridor. This would be secured as part of the detailed CTMPs</i> "
Q3.13.4	Lincolnshire County Council, Nottinghamshire County Council	Appendix D to the Joint Report on Interrelationships between NSIPs Comment on Appendix D (Cumulative Impacts on Traffic Technical Note) to the Joint Report on Interrelationships between NSIPs [REP4-050] including on its approach and conclusions.
14 Water Environment (including flooding)		
Q3.14.1	No further questions at this time.	