
EAST YORKSHIRE SOLAR FARM

East Yorkshire Solar Farm
EN010143

Draft Statement of Common Ground between East Yorkshire
Solar Farm Limited and the Environment Agency

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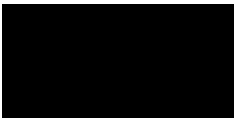
Statement of Common Ground

Signatures ~~FINAL VERSION TO BE SIGNED~~

This Statement of Common Ground has been prepared and agreed by East Yorkshire Solar Farm Limited and the Environment Agency

Helen Standing, NSIP Development Manager on behalf of East Yorkshire Solar Farm Limited

Date:.....03/09/2024.....

Signed:..... 

~~Name, Position~~Matthew Wilcock, Planning Specialist, on behalf of the Environment Agency

~~Date:~~.....

Date: 03/09/2024.....

Signed:..... 

1. Introduction and Purpose

1.1 Purpose of this Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared to support an application (the Application) made to the Secretary of State for Energy Security and Net Zero for a Development Consent Order (DCO) under section 37 of the Planning Act 2008 (PA 2008) for the proposed East Yorkshire Solar Farm (the Scheme). The Application is submitted by East Yorkshire Solar Farm Limited (the Applicant).
- 1.1.2 This SoCG has been prepared between (1) the Applicant and (2) the Environment Agency (EA) (jointly referred to as the Parties).
- 1.1.3 The EA works to protect and improve the environment and in England is responsible for regulating major industry and waste; treatment of contaminated land; water quality and resources; fisheries; inland river, estuary and harbour navigations; conservation and ecology; and managing the risk of flooding from main rivers, reservoirs, estuaries and the sea. The EA is listed as a prescribed consultee in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and so has been consulted throughout the preparation of the Application and following its acceptance.
- 1.1.4 The Examining Authority has requested that this SoCG includes the following matters as set out in the Rule 6 Letter **[PD-002]**:
- a. Assessment of hydrological, water quality, water resource and wildlife effects;
 - b. Adequacy of Flood Risk Assessment and the approach to flood risk modelling and the effects on flood risk management assets;
 - c. Water Framework Directive including adequacy of baseline data;
 - d. Other water environment effects including, but not limited to, surface water crossings, the use of horizontal directional drilling (HDD), run-off, and contamination of surface and groundwaters and land drainage;
 - e. Ground contamination;
 - f. Effects on ecology, including European Sites, Biodiversity Net Gain and invasive species;
 - g. Environmental permits including Flood Risk Activity Permits;
 - h. Disapplication of relevant legislation;
 - i. Climate change considerations;
 - j. Mitigation and enhancement measures, including likely effectiveness, monitoring procedures and method for securing such measures within the draft DCO;
 - k. Drafting of the draft DCO, including the Articles and Requirements;
 - l. Protective Provisions;
 - m. Compulsory Acquisition affecting Environment Agency interests; and
 - n. Any other relevant matters.

- 1.1.5 It can be taken that any matters not specifically referred to in sections 2 and 3 of this SoCG are not of material interest or relevance to the EA's representations and therefore have not been considered in this document.
- 1.1.6 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Parties, where agreement has not been reached (and that is the Parties' final position) and where discussions are still ongoing. This SoCG will be revised and updated as discussions between the Parties progress during the Examination.

1.2 Description of the Scheme

- 1.2.1 The Scheme comprises the construction, operation (including maintenance) and decommissioning of a solar photovoltaic electricity generating facility with a total capacity exceeding 50 megawatts and export connection to the national grid, at National Grid's Drax Substation. A detailed description of the Scheme is included in Chapter 2: The Scheme, Environmental Statement Volume 1 which was submitted with the DCO Application [APP-054] and a description of the development to be authorised is set out in Schedule 1 of the draft DCO [REP1-006].

1.3 Format of Document and Terminology

- 1.3.1 Section 2 of this SoCG summarises the engagement the Parties have had with regard to the Scheme.
- 1.3.2 Section 3 of this SoCG summarises the issues that are 'agreed', 'not agreed' or are 'under discussion'. 'Not agreed' indicates a final position where the Parties have agreed to disagree, whilst 'Agreed' indicates where the issue has been resolved. The Parties have also indicated the likelihood that agreement will be reached on each item.
- 1.3.3 Abbreviations used within the SoCG are provided in **Table 1-1** below.

Table 1-1. Abbreviations

Abbreviation/Term	Definition
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
DEMP	Decommissioning Environmental Management Plan
EA	Environment Agency
EPR	Environmental Permitting Regulations (England & Wales) 2016
ES	Environmental Statement
FRA	Flood Risk Assessment
GQRA	Generic Quantitative Risk Assessment
H++	'high-end' climate change scenarios
HDD	Horizontal directional drilling
IDB	Internal Drainage Board

Abbreviation/Term	Definition
INNS	Invasive Non-Native Species
LEMP	Landscape and Ecological Management Plan
LLFA	Lead Local Flood Authority
OEMP	Operational Environmental Management Plan
PEI Report	Preliminary Environmental Information Report
PV	Photovoltaic
WFD	Water Framework Directive

2. Record of Engagement

2.1 Record of Engagement

2.1.1 **Table 2-1** below sets out a summary of the meetings and correspondence between the Parties in relation to the Scheme.

Table 2-1. Schedule of Meetings and Correspondence

Date	Form of correspondence and attendees	Summary of topics discussed and outcomes
20 January 2023	Email	Email from the Applicant to request a meeting with the EA to discuss flood risk issues and Climate Change.
3 February 2023	Meeting	Joint meeting with the EA and East Riding of Yorkshire Council regarding flood risk, general flood risk information, hydraulic models available, climate change expectations with regards additional modelling requirements.
9 February 2023	Email	Email from the Applicant to the EA to request a meeting with the LLFA and IDBs to discuss Scheme proposals, mitigation and WFD. Response from the EA to confirm that this was being considered.
23 February 2023	Email	Email from the Applicant requesting data from the EA on the River Derwent and River Ouse.
15 March 2023	Meeting	Meeting to discuss: <ul style="list-style-type: none"> • An overview of the Scheme; • Water environment baseline; • Water receptor importance classification; • PEI Report summary; and • Issues from Scoping opinion.
4 April 2023	Email	Email from the EA to the Applicant to provide feedback on the model report review.
13 April 2023	Email	Email from the Applicant to the EA to confirm ecology/otter surveys were due to be undertaken.
9 May 2023	Email and letter	Email and letter from the Applicant to the EA informing them of the Section 42 Statutory Consultation period.
10 May 2023	Email	Email from the Applicant to the EA to request a meeting to discuss modelling methodology.

Date	Form of correspondence and attendees	Summary of topics discussed and outcomes
16 June 2023	Email	Email from the EA with their Section 42 response to Statutory consultation.
13 July 2023	Email	Email from the Applicant with request to the EA to review the modelling approach for the Scheme.
13 July 2023	Email	Email from the EA to confirm that the request for feedback had been logged.
8 August 2023	Email	Email from the EA providing feedback on the modelling method statement.
1 September 2023	Email	Email from the Applicant to the EA informing them of the Targeted Consultation period following minor changes made to the Order limits since Statutory Consultation.
29 September 2023	Meeting	<p>Meeting to discuss:</p> <ul style="list-style-type: none"> • Overview of the Scheme changes since statutory consultation; • Feedback from consultees received to date; • Flood Risk background and approach to Solar PV Area 2a and Solar PV Area 1e; and • Application deliverables and next steps. <p>EA raised no issue with regard to flood risk mitigation approach but raised issue of impact on flood defences.</p>
16 October 2023	Email	Email from the Applicant with request to EA for flood defence information, including flood defence assets in the location of the proposed river crossings on the River Ouse and the River Derwent.
18 October 2023	Email	Email from the Applicant to the EA with notes on meeting that took place on 29 September 2023.
19 October 2023	Email	Email from the Applicant to provide update to the EA on the flood modelling report and FRA.
7 November 2023	Email	Email from the EA to the Applicant to provide update on modelling review and to request an update on the FRA.

Date	Form of correspondence and attendees	Summary of topics discussed and outcomes
24 November 2023	Email	Email from the Applicant to EA to provide the FRA for review.
29 November 2023	Email	Email from EA providing feedback to the Applicant on the modelling approach for the Scheme.
15 December 2024	Email	Email from the Applicant to the EA requesting a meeting with the EA's Evidence and Risk Team to discuss the modelling comments.
16 January 2024	Letter	Letter from the EA stating that the FRA is acceptable subject to: <ul style="list-style-type: none"> • Modelling being signed off by the EA as fit for its intended purpose; • The EA taking a detailed review of the CEMP/ DEMP; and • Comments on the FRA are addressed.
25 January 2024	Email and letter	Email from the Applicant to the EA informing them of the relevant representation period.
31 January 2024	Email	Email from the Applicant requesting an update on when a meeting can be held with EA's Evidence and Risk Team to discuss the modelling comments.
7 March 2024	Email	Email from the EA confirming that the Modelling Method Report submitted was reviewed as part of the modelling review carried out and the comments the EA provided on the model review take the report into consideration
20 March 2024	Email	Email from the Applicant to the EA requesting a meeting with the EA's Evidence and Risk Team to discuss the modelling comments.
21 March 2024	Email	Email from the EA providing a copy of their Relevant Representation
28 March 2024	Email	Email from the EA to the Applicant notifying them of new legislative powers to recover its costs for all stages of the NSIP consenting regime.
4 April 2024	Email	Email from the EA responding to the Applicant's request for flood defence information sent by the Applicant on 16

Date	Form of correspondence and attendees	Summary of topics discussed and outcomes
		October 2023, providing details of flood defence assets within the Esk and Derwent catchment, and Ouse catchment.
15 April 2024	Meeting (Teams)	Meeting to discuss EA's relevant representation and previous comments relating to flood modelling. It was agreed that the Applicant would carry out checks on flood modelling and provide comments to respond to the EA comments provided by the EA on 29 th November 2023.
24 April 2024	Email	Email from the Applicant to the EA with minutes from the meeting held on 15 April 2024, and agreement to undertake the actions agreed in the meeting as well as providing responses to comments.
7 May 2024	Email	Email from the Applicant to the EA informing them of the publishing of the Rule 6 letter and requesting any comments to the minutes sent on 24 April 2024. The Applicant also notified the EA that they are drafting a Statement of Common Ground and wish to agree protective provisions.
20 May 2024	Email	The Applicant provided the draft SoCG to the EA and requested information on the tenants omitted from the Book of Reference.
4 June 2024	Email	The Applicant provided documents on the flood modelling as requested by the EA in meeting 15 April 2024.
4 June 2024	Email	Confirmation that the EA had received the documents.
13 June 2024	Email	The Applicant followed up with the EA on the tenants omitted from the Book of Reference and the draft SoCG.
18 June 2024	Email	Confirmation from the EA that the SoCG is an accurate reflection of discussion to date and that the tenant interests had been followed up with the Estates Team.
21 June 2024	Email	The Applicant responded to the EA with regards to the draft SoCG and requested who the appropriate person was to speak to regarding the disapplication of EPR and impact on defences.

Date	Form of correspondence and attendees	Summary of topics discussed and outcomes
24 June 2024	Email	The Applicant forwarded previous correspondence with the EA regarding built information of the Ouse catchment onto the EA.
24 June 2024	Email	The Applicant followed up on the email sent 4 June 2024 regarding flood modelling.
26 June 2024	Email	Response from the EA to provide further comments on the Scheme and flood modelling.
26 June 2024	Email	The Applicant followed up the EA regarding Protective Provisions, the disapplication of EPR and impact on defences, cable easements and omitted tenants.
27 June 2024	Email	Response from the EA regarding the omitted tenants.
4 July 2024	Email	The Applicant requested further information with regards to the omitted tenants.
5 July 2024	Email	Response from the EA to confirm the licence agreement on the land for the omitted tenants.
<u>14 August 2024</u>	<u>Email and meeting (teams)</u>	<u>The Applicant and EA correspondence and meeting regarding progress with the protective provisions and disapplication of the EPR</u>
<u>3 September 2024</u>	<u>Meeting (teams)</u>	<u>Meeting with the EA to discuss progress with the protective provisions and disapplication of the EPR and SoCG</u>

3. Areas of Discussion Between the Parties

3.1 Water Environment Effects, Proposed Mitigation and Adequacy of Flood Risk Assessment

Table 3-1. Water environment effects, proposed mitigation and adequacy of Flood Risk Assessment

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.1.1	Relevant Representation	Assessment in the ES in relation to flood risk, groundwater, land and water	The EA confirms at this stage that the ES provides a satisfactory assessment of the Scheme with relation to flood risk, groundwater, land and water.	<p>The Applicant notes that the EA confirms at this state that the content of Chapter 9: Flood Risk, Drainage and Water Environment, ES Volume 1 [APP-061] in relation to flood risk, groundwater, land and water provides a satisfactory assessment of the Scheme. This chapter covers the following:</p> <ul style="list-style-type: none"> • Assessment methodology; • Description of baseline conditions, proposed embedded mitigation; • Assessment of likely impacts and effects; • Proposed additional mitigation, enhancement and monitoring required to mitigate effects; 	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.1.2	Relevant Representation and correspondence dated 26 June 2024	Mitigation and enhancement measures in the ES	<p>The EA considers the mitigation and enhancement measures identified for the construction and development to be appropriate and consider the flood modelling to be suitable for its intended purpose subject to the following minor updates requested in the correspondence dated 26 June 2024:</p> <p>(1) update the model report (Annex B of Appendix 9-3: Flood Risk Assessment, Volume 2, ES [APP-097]) to include the latest H++ scenario results using the model provided to the EA on 4 June 2024; and</p> <p>(2) include a brief paragraph within the model report (Annex B of Appendix 9-3: Flood Risk</p>	<ul style="list-style-type: none"> • Summary of the residual effects; and • Cumulative effects. <p>The Applicant notes that the EA considers the mitigation and enhancement measures identified in the ES in relation to flood risk, groundwater, land and water for the construction and development of the Scheme as set out in Chapter 9: Flood Risk, Drainage and Water Environment, ES Volume 1 [APP-061] to be appropriate. These measures are also set out in the Framework CEMP [REP1-053REP4-0103] and Framework OEMP [REP1-055REP3-013], which will inform detailed management plans which will need to be approved post consent prior to construction with the relevant local authorities, and are secured by a requirement in Schedule 2 to the draft DCO [REP1-006REP3-004].</p>	Agreed


Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>Assessment, Volume 2, ES [APP-097]) which summarises the outcome of the sensitivity tests.</p>	<p>A meeting was held on 14 April 2024 with the EA where the Applicant agreed to carry out checks on the flood modelling and close out EA comments. No request was made to re-run the flood model. The EA confirmed that the flood model was suitable for the purpose of informing the flood risk assessment subject to some minor updates requested in the correspondence dated 26 June 2024. The Applicant is undertaking <u>has undertaken</u> these updates and will submit <u>is submitting</u> an updated <u>update to the FRA Annexes</u> (Appendix 9-3, Volume 2, ES) for a <u>Deadline 45. The updates do not affect the conclusions of the FRA presented in APP-097.</u></p>	
3.1.3	Relevant Representation	Depths of crossings beneath main rivers	<p>The EA highlights that the Framework CEMP [REP1-053] outlines the potential impacts of installing cables under a main river and commits to using trenchless technology to cross a main river. The EA states that the crossing of a minimum of 5m below the bed level of a main river should continue at</p>	<p>Mitigation measures for trenchless crossings of watercourses are stated within the Framework CEMP [REP1-053] [REP4-010]. A detailed CEMP (which must substantially accord with the Framework CEMP) will need to be approved post consent prior to construction with the relevant local authorities and this is secured by a</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>the required minimum depth beneath any defences. The EA are supportive that the final depth will be based on site specific risk assessment and construction of the defences themselves.</p> <p>The EA strongly recommends the Applicant enters detailed discussion regarding the main river crossings in order to determine the required depths beneath the main rivers Ouse & Derwent and their related defences.</p>	<p>requirement in Schedule 2 to the draft DCO [REP1-006<u>REP3-004</u>]. This includes the commitment from the Applicant to seek information from the EA on the construction details of the flood defence embankments that may need to be crossed. This will inform the approach for directional drilling beneath the Rivers Ouse and Derwent and associated flood defences.</p> <p>The current approach for directional drilling beneath the Rivers Ouse and Derwent and associated flood defences includes a minimum 16 m buffer between HDD send or receive pits from the landward toe of flood defences, as specified in the Framework CEMP [REP1-053<u>REP4-010</u>].</p> <p>Following an information request from the Applicant, the EA provided further information on the embankments of the Esk and Derwent catchment and the Ouse catchment. The Environment Agency also noted there is no as built</p>	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				<p>or specific information regarding the flood embankments affected due to their age.</p> <p>The Applicant will continue to engage with the EA throughout the detailed design stage of the Scheme. The protective provisions at Part 5 of Schedule 14 of the draft DCO [REP1-006REP3-004] require the Applicant to obtain the EA's prior approval for plans of specified works before commencing construction of those works. This would include the plan of works for crossing of main rivers.</p>	
3.1.4	Relevant Representation	Other watercourse crossings	<p>The EA agrees that existing crossings will be used where possible, and that where new crossings are required that they will be of an open span design, and that there will be no new culverts as part of the Scheme.</p>	<p>The Applicant notes that the EA agrees with the strategy set out in Chapter 9: Flood Risk, Drainage and Water Environment, ES Volume 1 [APP-061], and the Framework CEMP [REP1-053REP4-0103] and Framework OEMP [REP1-055REP3-013], which will inform detailed management plans to be secured by a requirement in Schedule 2 of the draft DCO [REP1-006REP3-004], for crossings and</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				<p>culverts for the Scheme, which state that:</p> <ul style="list-style-type: none">• The Scheme layout has been designed to avoid new drainage ditch and watercourse crossings where practicable. 25 crossings are required in total, with eight of these being new crossings.• Where a new drainage ditch crossing is required, an open span bridge crossing will be used, with the specific type of crossing selected being determined based on site-specific factors and in consultation with the relevant authority (generally the Internal Drainage Board/Lead Local Flood Authority for the Solar PV Site).• There would be no new culverts as part of the Scheme, however existing culverts may be extended by up to 2 m with length-for-length equivalent watercourse enhancements required.	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.1.5	Relevant Representation	Assessment scenarios and climate change	The EA agrees that whilst the Scheme's lifetime is to be 40 years, that it has been assessed for 75 years, and that a credible maximum scenario has also been considered and is detailed within the Flood Risk Assessment, along with appropriate climate change allowances (including the impacts of tidal flooding).	<p>The Applicant notes that the EA agrees with the assessment set out in the FRA (Appendix 9-3, ES Volume 2 [APP-098]) which assessed the Scheme for 75 years in relation to flood risk, with a Credible Maximum Scenario which includes:</p> <ul style="list-style-type: none"> • The H++ climate change allowances for sea level rise (+ 1.9 m); • The upper end allowance for peak river flow for the relevant management catchment; <ul style="list-style-type: none"> – Hull and East Riding – 66%; – Derwent Humber – 54%; – Wharfe and Lower Ouse – 48%; • An additional 2 mm for each year on top of sea level rise allowances from 2017 for storm surge. 	Agreed
3.1.6	Relevant Representation	Flood risk mitigation requirements	The EA supports the inclusion of the flood risk mitigation requirements 9.6.40 to 9.6.46 within Chapter 9: Flood Risk, Drainage and Water	The Applicant notes that the EA supports the inclusion of flood risk mitigation requirements 9.6.40 to 9.6.46 set out within Chapter 9: Flood	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>Environment, ES Volume 1 [APP-061], which includes the provision of compensatory storage – the design of which is to be agreed in writing at detailed design stage.</p>	<p>Risk, Drainage and Water Environment, ES Volume 1 [APP-061], and the Framework OEMP [REP1-055REP3-013] which will inform a detailed OEMP and be secured by a requirement in Schedule 2 of the Draft DCO [REP1-006REP3-004], which sets out that to compensate for the approximate 150 m³ of floodplain volume lost as a result of the Scheme, flood compensation is proposed, with an indicative area shown on Figure 9-4, ES Volume 3 [APP-154]. The precise location and design of the compensation area will be determined at the detailed design stage post consent. Following decommissioning of the Scheme, the compensation area will be reinstated to a flat field as existing.</p>	
3.1.7	Relevant Representation	The effects on flood risk management assets	<p>The EA would like to highlight that in some locations the flood defences in situ are likely to require some works over the lifetime of the development. The EA have general concerns if infrastructure remains in situ, with respect to degradation, subsidence,</p>	<p>Mitigation measures for trenchless crossings of watercourses are stated within the Framework CEMP [REP1-053REP4-010]. A detailed CEMP (which must substantially accord with the Framework CEMP) will need to be approved post consent prior to</p>	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>theft and vandalism. This aspect may benefit from ongoing discussions and clarification on the CEMP and DEMP as new understanding and/or guidance becomes available.</p> <p>The EA have concerns regarding the main river crossings under the rivers Ouse and Derwent, where the applicant is looking to cross using trenchless techniques for the grid connection to Drax Power Station. It is likely that despite using trenchless techniques the works would be considered high risk. The EA has areas of concern around the conditions of some flood risk management assets and therefore it is likely that the EA would require monitoring to be undertaken to ensure that there is no detrimental impact on flood defences (to ensure that their standard of protection is maintained).</p>	<p>construction with the relevant local authorities and this is secured by a requirement in Schedule 2 to the draft DCO [REP1-006REP3-004]. This includes the commitment from the Applicant to seek information from the EA on the construction details of the flood defence embankments that may need to be crossed. This will inform the approach for directional drilling beneath the Rivers Ouse and Derwent and associated flood defences.</p> <p>The current approach for directional drilling beneath the Rivers Ouse and Derwent and associated flood defences includes a minimum 16 m buffer between HDD send or receive pits from the landward toe of flood defences, as specified in the Framework CEMP [REP1-053REP4-010].</p> <p>Following an information request from the Applicant, the EA provided further information on the embankments of the Esk and Derwent catchment and the</p>	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>The EA also need to ensure that the works do not impact their ability to carry out future maintenance or improvement works. The EA would therefore strongly recommend further discussion regarding this as detailed in their response to the Applicant’s statutory consultation dated 16 June 2023.</p> <p>The EA notes that the depths and construction of the flood defence embankments (with reference to paragraph 9.7.121 of Chapter 9: Flood Risk, Drainage and Water Environment, ES Volume 1 [APP-061]) will be identified through liaison with the Environment Agency and that the directional drilling is to be at a sufficient depth to not compromise those assets. The EA would like the Applicant to ensure that the directional drilling does not compromise its ability to carry out any required maintenance or possible future improvement works.</p>	<p>Ouse catchment. The Environment Agency also noted there is no as built or specific information regarding the flood embankments affected due to their age. The Applicant will continue to engage with the EA throughout the detailed design stage of the Scheme.</p> <p>Part 5 of Schedule 14 of the draft DCO [REP1-006REP3-004] sets out the protective provisions for the EA. Protective provision 51 specifically ensures that the Scheme does not impact the ability of the EA to gain access to carry out maintenance or improvement works to any flood defences. The protective provisions at Part 5 of Schedule 14 of the draft DCO [REP1-006REP3-004] also require the Applicant to obtain the EA’s prior approval for plans of specified works before commencing construction of those works. This would include the plan of works for crossing of main rivers.</p>	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
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3.2 Ecology

Table 3-2. Ecology

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.2.1	Relevant Representation	Assessment in the ES in relation to ecology	The EA confirms at this stage that the ES provides a satisfactory assessment of the Scheme with relation to ecology.	<p>The Applicant notes that the EA confirms at this stage that the content of Chapter 8: Ecology, ES Volume 1 [AS-060] provides a satisfactory assessment of the Scheme in relation to ecology. This chapter covers the following:</p> <ul style="list-style-type: none"> • Assessment methodology; • Description of baseline conditions, proposed embedded mitigation; • Assessment of likely impacts and effects; 	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				<ul style="list-style-type: none"> Proposed additional mitigation, enhancement and monitoring required to mitigate effects; Summary of the residual effects; and Cumulative effects. 	
3.2.2	Relevant Representation	Mitigation and enhancement measures in the ES	The EA considers the mitigation and enhancement measures identified for the construction and development to be appropriate subject to flood modelling completed to inform the application being signed off as being fit for its intended purpose.	The Applicant notes that the EA considered the mitigation and enhancement measures identified in the ES in relation to ecology for the construction and development of the Scheme as set out in Chapter 8: Ecology, ES Volume 1 [APP-060] to be appropriate. These measures are also set out in the Framework CEMP [REP1-053 REP4-010] and Framework OEMP [APP-239] which will inform detailed management plans and will be secured by a requirement in Schedule 2 of the draft DCO [REP1-006 REP3-004].	Agreed
3.2.3	Relevant Representation	Embedded Mitigation	The EA states that the embedded mitigation is suitable and has identified all potential adverse effects, and devised ways to eliminate or greatly reduce them e.g. HDD will safeguard aquatic	The Applicant notes that the EA states that the embedded mitigation set out in Chapter 8: Ecology, ES Volume 1 [APP-060], as well as the Framework CEMP [REP1-053 REP4-010], Framework OEMP [REP1-055 REP3-013] and	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			habitats, and tunnelling under hedges will preserve them.	Framework LEMP [APP-246 REP3-016], which will inform detailed management plans which will be secured by requirements in Schedule 2 of the draft DCO [REP1-006 REP3-004], is suitable. Chapter 8: Ecology, ES Volume 1 [APP-060] sets out that there are no residual significant adverse effects that have been identified during construction, operation or decommissioning of the Scheme. As noted by the EA, the chapter states that the use of HDD will safeguard aquatic habitats, and tunnelling under hedges will preserve habitats for mammals.	
3.2.4	Relevant Representation	Bird nesting season	The EA states that an ecologist should be on site and overseeing any vegetation clearance in the bird nesting season. This requires further work and alteration to the current wording.	As set out in Chapter 8: Ecology, ES Volume 1 [APP-060] and the Framework CEMP [REP1-053 REP4-010] which will inform a detailed CEMP which will be secured by a requirement in Schedule 2 of the draft DCO [REP1-006 REP3-004], vegetation clearance will be undertaken in advance of construction and at an appropriate time of year to avoid the nesting bird period. Where vegetation clearance cannot avoid the inactive season and is	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.2.5	Relevant Representation	Large drain mitigation for eels	The EA states that for the crossing of larger drains, if over pumping is required, this will need a 2 mm diameter mesh screen on the intake to comply with the Eel Regulations to prevent the entrapment of eels. The EA requests that an amendment to the fish section on page 8-623 of Chapter 8: Ecology, ES Volume 1 [APP-060] is provided.	<p>proposed within the nesting bird period, these will be checked for the presence of any nests by a suitably experienced ornithologist, prior to vegetation removal, and if active nests are found, then appropriate buffer zones would be put in place and the area monitored until the young birds have fledged.</p> <p>To clarify, an ornithologist is an ecologist that specialises in birds.</p> <p>The Applicant accepts that if over pumping is required for the crossing of larger drains, a 2 mm diameter mesh screen on the intake to comply with the Eel Regulations is required. This will be added to the mitigation and enhancement measures in Table 3 within the Framework CEMP [REP1-053REP4-010], in relation to the clearance or damage of habitat to facilitate construction – resulting in temporary or permanent reduction in habitat extent and potential direct and indirect effects on associated species. A detailed CEMP (which must</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.2.6	Relevant Representation	Eradication Plan	<p>The EA states that for INNS (plants) the Applicant needs to develop an eradication plan. The EA note that Himalayan balsam is easy to control by pulling, strimming, or spraying (before it seeds seed), while the New Zealand Pygmyweed (<i>Crassula helmsii</i>) would likely require burial or very careful physical removal.</p>	<p>substantially accord with the Framework CEMP [REP1-053REP4-010]) will need to be approved post consent prior to construction with the relevant local authorities and this is secured by a requirement in Schedule 2 to the Draft Development Consent Order [REP1-006REP3-004].</p> <p>Terrestrial and aquatic INNS have been identified within and in the vicinity of the Site through site survey and desk-based study. See Chapter 8: Ecology, ES Volume 1 [APP-060], Appendix 8-2, ES Volume 2 [APP-083] and Appendix 8-3, ES Volume 2 [APP-084].</p> <p>The following mitigation measures are included in the Framework CEMP [APP-238]. A detailed CEMP (which must substantially accord with the Framework CEMP [REP1-053REP4-010]) will need to be approved post consent prior to construction with the relevant local authorities and this is secured by a requirement in Schedule 2 to the Draft</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				<p>Development Consent Order [REP1-006REP3-004]</p> <ul style="list-style-type: none">• Pre-construction surveys will be undertaken where required to provide an update on the presence and location of any INNS that could be impacted by the Scheme, the findings of which will inform the implementation of measures to prevent their spread.• A Biosecurity Plan will be produced prior to construction which will set out procedures to ensure that no invasive species are brought onto the Site, exported out of the Site or spread within it (e.g. Wildlife and Countryside Act 1981 (as amended) Schedule 9 species. In the event that any future infestations of INNS are identified prior to and or during the development process, exclusion zones will be established around them, and a suitably qualified ecologist contacted for advice as required. Site / species specific	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				method statements (or similar will be prepared as required).	
3.2.7	Relevant Representation	Additional Mitigation	The EA welcomes the measures detailed in the Additional Mitigation section of Chapter 8: Ecology, ES Volume 1 [APP-060]; as stated, these will off-set any potential adverse effects from the development.	The Applicant notes that the EA welcomes the additional mitigation set out in Chapter 8: Ecology, ES Volume 1 [APP-060], which are also set out in the Framework CEMP [REP1-053REP4-010]. A detailed CEMP (which must substantially accord with the Framework CEMP) will need to be approved post consent prior to construction with the relevant local authorities and this is secured by a requirement in Schedule 2 to the draft DCO [REP1-006REP3-004]. The additional mitigation includes maintained agricultural land and the creation of permanent wet/damp grassland part of the Ecology Mitigation Areas 1g and 1h, portable noise fencing, habitat enhancement measures and monitoring.	Agreed
3.2.8	Relevant Representation	Biodiversity Net Gain	The EA is pleased to see that the project is predicted to result in a net gain of 80.42% for area-based habitat units, and a net gain of	An updated Biodiversity Net Gain Assessment Report [REP1-061] was	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>10.09% for watercourse units. The EA would like to see that the net gain of 3.89% in hedgerow units can be increased to meet the 10% ambition for this habitat type.</p>	<p>submitted at Deadline 1. The Scheme is predicted to result in a net gain of 80.42% for area-based habitat units, a net gain of 10.30% for hedgerow units, and a net gain of 10.09% for watercourse units. The Framework LEMP [REP1-063REP3-016] sets out that the Applicant commits to achieving a minimum 10% BNG for all units.</p>	
3.2.9	Relevant Representation	HRA Assessment conclusions	<p>The EA has reviewed the Habitats Regulations Assessment [APP-244] for the various European sites: River Derwent SAC, Lower Derwent Valley SPA, SAC, Ramsar site, Humber Estuary SPA, SAC, Ramsar, Skipwith Common SAC, Thorne and Hatfield Moors SPA; and Thorne Moor SAC. The EA are satisfied that the measures in it will prevent any Likely Significant Effect on the interest features of these sites.</p>	<p>The Applicant notes that the EA accepts the measures set out in the HRA Report [REP2-012], which are also set out in the Framework LEMP [REP1-063REP3-016] which will inform a detailed LEMP and be secured by a requirement in Schedule 2 of the draft DCO [REP1-006REP3-004]. These include the creation of permanent wet/damp grassland and the provision of suitable arable habitat within the Ecology Mitigation Areas 1g and 1h, which will prevent any likely significant effects on the interest of features of the River Derwent SAC, Lower Derwent Valley SPA, SAC, Ramsar site, Humber Estuary SPA, SAC, Ramsar, Skipwith</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				Common SAC, Thorne and Hatfield Moors SPA; and Thorne Moor SAC.	

3.3 Other Environmental Matters

Table 3-3. Other Matters

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.3.1	Relevant Representation	Assessment in the ES in relation landfill and waste	The EA confirms at this stage that the ES provides a satisfactory assessment of the Scheme with relation to landfill and waste.	The Applicant notes that the EA confirms at this stage that the content of Chapter 16: Other Environmental Topics, ES Volume 1 [AS-016] provides a satisfactory assessment of the Scheme in relation to landfill and waste, which covers the following: <ul style="list-style-type: none"> • Assessment methodology; • Description of baseline conditions, proposed embedded mitigation; • Assessment of likely impacts and effects; 	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.3.2	Relevant Representation	Mitigation and enhancement measures in the ES	The EA considers the mitigation and enhancement measures identified for the construction and development to be appropriate subject to flood modelling completed to inform the application being signed off as being fit for its intended purpose.	<ul style="list-style-type: none"> • Proposed additional mitigation, enhancement and monitoring required to mitigate effects; • Summary of the residual effects; and • Cumulative effects. <p>The Applicant notes that the EA considered the mitigation and enhancement measures identified in the ES in relation to waste and landfill for the construction and development of the Scheme as set out in Chapter 16: Other Environmental Topics, ES Volume 1 [AS-016] to be appropriate. These measures are also set out in the Framework CEMP [REP1-053] and Framework OEMP [REP1-055], which will inform detailed management plans which will need to be approved post consent prior to construction with the relevant local authorities and are secured by a requirement in Schedule 2 of the draft DCO [REP1-006].</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.3.3	Relevant Representation	Temporary drainage	The EA welcomes that temporary drainage will be monitored throughout construction and that specific details will be confirmed in a detailed CEMP secured by draft DCO requirement 1.	The Applicant notes that the EA welcomes that temporary drainage will be monitored throughout construction, with specific details to be set out in the detailed CEMP which must be substantially in accordance with the Framework CEMP [REP1-053 REP4-010], and will be secured by a requirement in Schedule 2 of the draft DCO [REP1-006 REP3-004].	Agreed
3.3.4	Relevant Representation	Contamination	The EA welcomes that the potential for unexpected contamination has been considered. If, during development, contamination not previously identified is found to be present at the Site then a remediation strategy detailing how this contamination will be dealt should be submitted to the relevant planning authority, and a verification plan and subsequent verification report should be produced.	The Applicant notes that the EA welcomes the methodology to be adopted if unexpected contamination as set out in the Framework CEMP [REP1-053 REP4-010]. The Framework CEMP [REP1-053 REP4-010] sets out that site investigation (where required, for example in areas of potential contamination and to inform HDD design) and GQRA is to be undertaken post-consent. The delivery of these items is secured through the detailed CEMP which will need to be approved post	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
				consent prior to construction with the relevant local authorities and will be secured by a requirement in Schedule 2 of the draft DCO [REP1-006 REP3-004].	
3.3.5	Relevant Representation	Waste	The EA has no objection to the application from a waste management perspective.	The Applicant notes that the EA has no objection to the application from a waste management or landfill perspective, and therefore accepts the assessment of waste in Chapter 16: Other Environmental Topics, ES Volume 1 [AS-016].	Agreed
3.3.6	Relevant Representation	Landfill	The EA has no objection to the application from a landfill perspective.		Agreed

3.4 Water Framework Directive

Table 3-4. Water Framework Directive

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.4.1	Relevant Representation	WFD Assessment conclusions	The EA concurs with the conclusion of the WFD Assessment [APP-095] that the Scheme throughout its life will not cause	The Applicant notes that the EA concurs with the conclusion of the WFD Assessment (Appendix 9-2:	Agreed

deterioration in any WFD quality element for any waterbody, nor will it prevent future improvement, including the achievement of the wider WFD objectives in the Humber River Basin Management Plan, or mitigation measures developed to achieve Good status.

WFD Assessment, ES Volume 2 [APP-095]).



3.5 Draft DCO

Table 3-5. Draft DCO

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.5.1	Relevant Representation	Requirement 11 and CEMP	The EA is supportive of the inclusion of Requirement 11 of the draft DCO [REP1-006]. The EA notes that a Framework CEMP [REP1-053] has been provided which includes measures to take into account the impacts of flood risk and to minimise these.	The Applicant notes that the EA is supportive of the inclusion of Requirement 11 in the draft DCO [REP1-006], which states that no part of the authorised development may commence until a detailed CEMP has been submitted and approved by the relevant planning authority.	Agreed
3.5.2	Relevant Representation	Disapplication of EPR, protective provisions for the EA	The EA is currently considering whether or not it would be appropriate to agree to this disapplication of EPR. The EA do not normally agree to disapplication	The Applicant intends to work <u>is working</u> with the EA to agree the approach to, and scope of, the disapplication of Regulation 12 of the Environmental Permitting	Under discussion

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>without protective provisions in their preferred form being included in the DCO.</p> <p>The EA would like to see Flood Risk Activity Permits referenced in the Consents and Agreements Positions Statement [APP-020].</p>	<p>(England and Wales) Regulations 2016. The Applicant awaits any comments from the Environment Agency in the form of protective provisions currently included in the draft the DCO [REP1-006REP3-004] (Schedule 14, Part 5).</p> <p>The draft DCO [REP1-006REP3-004] states in Part 2(6)(1)(f) that regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(f) in respect of a flood risk activity only does not apply in relation to the construction of any work of the carrying out of any operation requirement for the purposes of the authorised development.</p>	
3.5.3	Relevant Representation	Requirement 18 of the draft DCO [AS-008] and DEMP	The EA is supportive of the inclusion of requirement 18 regarding decommissioning and restoration, which makes reference	The Applicant notes that the EA is supportive of the inclusion of Requirement 18 in the draft DCO [REP1-006 REP3-004] which sets	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			<p>to the decommissioning of the site at the end of its lifetime. A Framework DEMP is included [REP1-057] with the details of the sequence and programme of decommissioning to be provided in the detailed DEMP.</p>	<p>out the requirement for decommissioning to commence no later than 40 years following the date of final commissioning, and that the undertaker must submit a decommissioning management plan to the relevant planning authority within 12 months of the date that the undertaker decides to decommission any part of the authorised development. A Framework DEMP [REP1-057] setting out the decommissioning strategy is included with the Application. A detailed DEMP (which must substantially accord with the Framework DEMP [REP1-057]) will need to be approved prior to decommissioning with the relevant local authorities and this is secured by a requirement in Schedule 2 to the Draft DCO [REP1-006REP3-004].</p>	

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
3.5.4	Relevant Representation	Land interests	<p>The EA state that the following details of current tenants (occupiers) on EA land entries have been omitted from the book of reference [AS-012] (Plot no, EA plot reference, Type of occupancy, Tennant/ Occupier)</p> <ul style="list-style-type: none"> • 18/107 River Derwent Plot 2 seasonal grazing licence • 18/108 River Derwent Plot 2 seasonal grazing licence 18/109 River • 18/110 River Derwent Plot 21 Farm Business Tenancy Mr J Bramley, Woodhall, South Duffield, Selby YO8 6TG • 21/140 River Ouse Plot 8 Farm Business Tenancy Mr RA Nicholson, Sickle Croft Farm, Thorpe in Balne, Doncaster DN6 0DZ • 21/141 River 21/142 River Ouse Plot 9 Farm Business Tenancy 	<p>The Applicant issued a number of requests for information in order to gain details for inputting into the Book of Reference [AS-012]. The Applicant received a response from the EA regarding the grazing licenses for Plot 2.</p> <p>The Book of Reference has been<u>was</u> updated with these details at Deadline 3- <u>[REP3-008]</u>.</p>	Agreed

Ref	Relevant Application Document	Summary of Description of Matter	EA Current Position	Applicant Current Position	Status
			Mr JS Spetch, Ship Farm, Long Drax, Selby YO8 8NH		