

By email

tkes@pins.gsi.gov.uk

Legal Services Lincolnshire  
County Offices  
Newland  
Lincoln  
LN1 1YS  
Tel: 01522 552573  
Fax: 01522 552588  
MDX 701680 - Lincoln 5

Our Ref: MXW/ENV011.12

Your Ref:

Date: 05 January 2016

Dear Sirs

### **Triton Knoll Electrical System Development Consent Order application**

Please find attached Lincolnshire County Councils' written response to Examining Authorities second written questions and plans that are referred to within that document.

Yours faithfully

*Mandy Wood*

Mandy Wood  
Senior Solicitor  
Direct Dial: 01522 552103  
Email: mandy.wood@lincolnshire.gov.uk  
For Legal Services Lincolnshire

Encs.



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## Lincolnshire County Council's written response to the Examining Authorities second written questions

Question number and topic heading	Question	Lincolnshire County Council ( "the County Council") response
<p><b>DCO 2.15</b></p> <p>Part 3 Streets</p>	<p><i>The DCO Schedule of Amendments Explanatory Document [REP3-047} states that no consultation is considered necessary with the County Council in relation to matters covered by articles 8 and 9 as these are detailed and secured within the draft DCO and relevant schedules.</i></p> <p><i>Set out your agreement or otherwise with this statement</i></p>	<p>The County Council considers that they should be consulted as the local Highway Authority for the County of Lincoln. Whilst the County Council appreciates that both of the District Councils are the relevant planning and enforcement authorities in planning terms for this matter. The County Council are responsible for the highways and public rights of way within the county; this is a statutory function that cannot be delegated to a district authority, therefore neither district authority can agree to items that they do not have a statutory duty to perform or enforce. The enforcement of highway legislation is the responsibility of the County Council.</p> <p>The County Council is of the view that the wording should be amended to allow the County Council to be informed of any works or stopping up of highways and that the district councils should be notified of any such requests. In addition in order to perform its statutory duties under highway legislation in particular the requirements to manage the road network within their area under the Traffic Management Act 2004, the County Council require a minimum of 13 weeks notification of any proposal to temporarily stop up any highway including public rights of way, to allow for the necessary statutory processes to be followed. The County Council would respectfully request that this time frame be considered for Article 9.</p>
<p><b>DCO2.21</b></p> <p>Requirement 14- Code of construction</p>	<p><i>The Applicant proposes to include the phase "including the management of public rights of way" into 14(2)(a).</i></p> <p><i>Set out your agreement or otherwise to this</i></p>	<p>The County Council agrees with this insertion.</p>

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<p>practice (onshore and construction environmental management plan</p>	<p><i>amendment.</i></p>	
<p><b>AH2.10</b> Outline Onshore Historic Environment WSI</p>	<p><i>Please provide a response in respect to the ExA's first question AH1.7 [PD-009], in which we seek your views as to whether an outline onshore historic environment Written Statement of Investigation has been reviewed and agreed by you</i></p>	<p>The Applicant has provided the County Council with a draft copy of a Written Scheme of Investigation; this cannot be agreed due to the fact that the nature of the archaeological potential is still unknown. Currently no programme of archaeological field evaluation has been undertaken; the results would inform the County Council of the most appropriate level of archaeological response.</p> <p>The County Council does not agree with the lack of pre-determination evaluation across the proposed cable route. Field evaluation has not been undertaken; the results would inform the County Council of the impact the scheme would have on surviving but currently unknown archaeology and of any effective mitigation measures that may be needed.</p> <p>The County Council is of the view that as the National Planning Policy Framework states <i>that 'Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'</i> (para 128).</p> <p>The County Council had expected the Environmental Impact Assessment to include the results of any geophysical and field walking surveys of the route corridor, to date these have not been carried out. The Applicants have indicated that at</p>

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		<p>this stage they are too expensive to be carried out. The results would inform the County Council if any trenching strategy is required, the depth, extent and significance of any archaeological deposits which may be impacted by the scheme and the EIA should include a robust mitigation strategy which would identify what measures need to be taken to minimise the impact of the proposal on archaeological remains.</p> <p>The route has evolved, and the supporting documentation includes Chapter 12: Historic Environment, which in 12-29 looks at field assessments and trial trenching, with <i>'Archaeological mitigation measures...following the further assessments described above.'</i>(12.10)</p> <p>The County Council has continued to engage in the process and has agreed the phased methodology which has been proposed, as well as commenting on the draft Written Scheme of Investigation. The County Council find that they are in a situation where no fieldwork evaluation has been undertaken or mitigation strategy agreed.</p> <p>This is in accordance with the requirements of NPPF which states the applicant <i>should 'describe the significance of any heritage assets affected....sufficient to understand the potential impact of the proposal on their significance'</i> (para 128).</p> <p>As the Environmental Impact Assessment should contain sufficient information to enable an informed planning decision to be made, the County Council are of the view that the Environmental Impact Assessment does not contain sufficient</p>
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		information as would be provided for with the inclusion of fieldwork results.
<p><b>CA 2.20</b> Special Category Land</p>	<p><i>in its Written Summary of the Applicants Oral Case put at the Compulsory Acquisition Hearing on 13 November 2015 [REP3-038] , the Applicant states that although there will be temporary interference with the use of limited areas of open space during construction as a result of the exercise of the powers of temporary possession and the works to be undertaken, access to the remainder of the beach will still be available. Indeed, in the long term the open space will remain unobstructed and available for the recreational uses to which it is currently put. The Applicant therefore considers that the recreational use of Plot 01/01 will be no less advantageous to LCC, nor to the general public, than it was before it was burdened with the rights as proposed in the Order. At the Compulsory Acquisition Hearing held on 13 November 2015 Lincolnshire County Council did not consider that the order land, when burdened with the order right, will be no less advantageous than it was before (s132 (3) PA 2008). Given the statement from the Applicant referred to above, justify your position.</i></p>	<p>1. The County Council detailed its view within its written representations submitted for Deadline 3 [REP3-024], at paras 38-42</p> <p><i>"... The construction period will last for a period of up to 14.7 months out of 36 scheduled. It will entail the creation of an area to allow the cables to be driven through and for space to accommodate the exit on the beach itself. It will require fencing at various times throughout that period which will inevitably interfere with the ability to use and enjoy the space. It will also require the closure, without direct compensation of the footpath access to the beach and the alteration of it to form a vehicular access track to the area where the physical works will be carried out. Other footpaths namely Huttoft 965/1 and Anderby17 will also be driven over to allow for the movement of vehicles. Once the works are complete the continued need to enable maintenance and access to all the works will ensure a continued physical presence which will be widely visible in the area. In the LCC's view the works themselves as well as the continued and permanent works will fundamentally alter the area and will bring with it consequential effects. The first and most obvious being that it cannot be said, as a result of the construction and then post construction works that the area remains as being no less advantageous than it was before. Before it was unspoilt and devoid of these modern influences. After it will be known to have been subject to a lengthy and prolonged period of construction, which will of itself have an effect. After that the remnant of</i></p>

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		<p><i>the construction will continue to be visible and will intrude into the area and further a road access will have been created where previously a footpath use existed.</i></p> <p><i>Taken together the situation cannot be said to meet the applicable test and cannot therefore enable the compulsory acquisition of the public open space and further it will have changed the pristine and unspoilt nature of the Park which is the fundamental fabric of the public open space.</i></p> <p><i>The Park and the public open space within it will no longer be as they were before the activity and that change requires the justification for the approach to be clear and weighty. Given the lack of adequate consideration of alternatives, which was relied upon by the LCC in its original representations, the loss of this area is not justified."</i></p> <p>In addition during the hearings the County Council referred to the fact that the County Council is progressing the statutory English Coastal path with Natural England under the Marine &amp; Coastal Access Act 2009 this will fall within the landfall site. The Applicant made it clear during the hearings that they were not aware of this fact and accordingly the potential relevance of and effect on the path has not been taken into account.</p>
<p><b>LV2.13</b> Brown Zone</p>	<p><i>The Applicant stated at the Landscape and Visual Hearing, held on Wednesday 18 November 2015 [EV-026 and EV-027] that other problems existed which prevented the Brown Zone site being considered for the location of the Intermediate Electrical</i></p>	<p>(b) The County Council is of the view that the IEC could not have been accommodated on the brown zone. Extant planning permission has existed on the site since 2001 for a public house, 84 bed hotel, petrol filling station and forecourt, a drive through restaurant, detached office accommodation and industrial units. The County Council considers that the</p>

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	<p><i>Compound. One of those reasons cited were problems aligning the cable route through the site.</i></p> <p><i>a) Could the Applicant explain why the site was therefore initially judged as its preferred site if it knew of such problems?</i></p> <p><i>b) Would the requested parties explain whether, in their view, the IEC could have been accommodated at the Brown Zone, even accounting for the planned development including the construction of a new road.</i></p>	<p>use of the land with the IEC would have been incompatible with the permitted uses. In addition, the IEC required 1.5 ha of land of the total 32 ha. It should be noted that the road scheme is not one that the County Council have promoted but has been indicated on a plan by the writers of the report as an aspiration.</p>
<p><b>TT2.3</b></p> <p>Access to the landfill site</p>	<p><i>The Applicant's response to questions Eon1.23 [REP1-44] states that" access to the site would be served from Roman Bank... a temporary access will be constructed to provide access to the site for the duration of the construction programme. This will utilise an existing farm track from Roman Bank...."</i></p> <p><i>i) Is this also public right of way PROW Hutt 10/04 which will be temporarily closed?</i></p> <p><i>ii) Does the local highway authority consider that this is a suitable access?</i></p> <p><i>iii) Has the local highway authority agree the proposed route in principle?</i></p> <p><i>iv) If not, have other options for</i></p>	<p>i) Yes, this route is also the public footpath 10 and it is also shown on the County Council's list of streets as it is considered that higher public rights may exist on the land i.e. rights of the public to use it on horseback, carriage or bicycle. Therefore if the route is to be temporarily closed and diverted any new route will have to accommodate these higher rights.</p> <p>ii) The County Council have agreed that this is a suitable access subject to the necessary works to upgrade the surface of the route</p> <p>iii) The County Council have agreed in principle that this route can be used</p> <p>It should be noted that the access road crosses through Marsh Yard to Anderby Creek Dunes Local Wildlife Site (LWS) and potentially Huttoft Bank Dunes (part) Site of Nature Conservation Interest (SNCI). The applicant needs to</p>

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	<i>access to the landfall site been considered and assessed in the ES?</i>	document detailed proposed mitigation measures to be agreed by the County Council, copies of plans are attached for information purposes only.
<b>TT 2.9</b> Monitoring and enforcement	<p>i) <i>Are you satisfied with the control measures proposed in the outline Traffic Management plan [APP-110] in respect of monitoring and enforcement of restrictions on construction traffic movements?</i></p> <p>ii) <i>If not what measures do you think need to be included and why?</i></p>	The County Council is satisfied
<b>TT2.10</b> Tourist Traffic	<p>i) <i>Are you satisfied with the control measures proposed in the outline Traffic Management plan [APP-110] to mitigate the effects of the project on tourist traffic?</i></p> <p>ii) <i>If not what measures do you think need to be included and why?</i></p>	The County Council is satisfied
<b>TT2.11</b> Highways	<i>In paragraph 66 of your written representation submitted at deadline 3 [ REP3-024], you state that " subject to some alterations to the Outline Access Management Plan, the Outline Onshore Code of Construction Practice and the Outline Traffic Management Plan which are currently awaited the Council will be in a position to agree a Statement of Common Ground covering the highway issues. That position cannot be reported at this stage "</i>	<p>The County Council has agreed most outstanding issues in relation to highways within the Statement of Common Ground, it no longer holds this view.</p> <p>The County Council consider that the applicant has failed to appreciate or understand the issues within the ES at para 9.26- 9.30 Tables 9.3- 9.5 Volume 3 Chapter 9 and section 1.3 of Volume 5 Annex 9.1 relating to the impact of traffic and traffic movements on the A17 and A158, and in particular the impact on the railway crossing at Swineshead where there have been a number of accidents including a fatality. Neither</p>

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	<p><i>i) Explain what these alterations are</i></p> <p><i>ii) Explain what outstanding highway issues there are outside these mitigation plans ; and</i></p> <p><i>iii) Explain why you are unable to report to the Examining authority further at this stage</i></p>	<p>have they appreciated that the highways impacted by this scheme are the main tourist routes into the east coast. It is noted that full clarification has not been given in relation to paras 9.48- 9.136 of ES Volume 9 Chapter 3, the information provided is either confused or lacks the relevant detail upon which a decision can be made. In addition, para 9.31 of ES Volume 3 Chapter 9 states that a 20% contingency has been applied but the documents do not explain this further, further information is required as it is fundamental to the outcomes of the assessment.</p>
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