



Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

**The Applicant's Response to
Deadline 5**

Date: 01 February 2016

**Document Ref: 2505-TKC-CON-
K-KX-0156**

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Date of Approval:	01 February 2016
Revision:	1.0

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Offshore Wind Farm Limited
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2	Written Summary of The Applicant's Oral Case put at Compulsory Acquisition Hearing on the afternoon of Wednesday 20 January and Thursday 21 January 2016
3	Written Summary of the Oral Case put at the DCO Hearing held on 22 January
4	The Applicant's Credentials for the Issue Specific Hearings 19-22 January 2016
5	Land Interest Group 22 December Meeting Minutes
6	Slides presented at hearings on the 19th and 21st January 2016
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8	Minutes from LCC Traffic Meeting
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30	Statement of Common Ground between Triton Knoll Offshore Wind Farm Limited and the Environment Agency
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32	Statement of Common Ground between Triton Knoll Offshore

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33	Triton Knoll Offshore Windfarm Limited and IDBs - Update Statement
34	Response to submission from Mr J. Mowbray at Deadline 4
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37	Updated Crossing Schedule (parts 1 – 3)

1. SUMMARY

1.1 In response to the Examining Authority's (ExA) letter of 11th September 2015 (the Rule 8 Letter), which set out the procedural timetable for the examination of the Triton Knoll Electrical System Application (Application Reference EN020019) ('the proposed development'), Triton Knoll Offshore Wind Farm Limited (The Applicant) has prepared the following:

- Written summaries of oral cases put at hearings;
- Post hearing documents;
- The Applicant's comments on responses to the ExA's second written questions;
- The Applicant's comments on information received at Deadline 4;
- Applicant's revised draft DCO;
- Updated Schedule of Compulsory Acquisition;
- A status update on Statements of Common Ground; and
- Miscellanea; Information and update on Restrictive Covenants.

1.2 These documents (collectively 'the Response') are submitted for the deadline of 1 February 2016 specified in the Rule 8 Letter (Deadline 5) and are discussed in more detail below.

2. Written summaries of oral cases

2.1 The Applicant has prepared written summaries of its oral submissions from the issue specific hearings held on the 19, 20, 21 and 22 January 2016. These comprised the following:

- Local Impacts (19 January 2016);
- Compulsory Acquisition (20 and 21 January 2016);
- The Development Consent Order (22 January 2016).

2.2 The Written summaries for the hearings are provided at Appendices 1 to 3 of this Response.

2.3 A document presenting summary information for individuals appearing on behalf of the Applicant at the hearings is presented at Appendix 4.

3. Post hearing documents

3.1 The Applicant has drafted several clarification notes in response to issues raised and requests made during the issue specific hearings in January 2016. These documents, provided as Appendices to this Response, comprise the following:

- The agreed minutes of a meeting held with the Land Interest Group (LIG)¹ on 22 December 2015 at Appendix 5
- Copies of several figures used to assist clarifications provided during the Local Impacts ISH on the 19 January 2016 and at the Compulsory Acquisition hearing on the 21 January 2016, being taken from Appendix 29 of the Applicant's response to Deadline 4; specifically Figures 6, 8, 10 and 12 of that document and Figure 7-1 taken from the Outline Landscape Strategy and Ecological Management Plan, document reference 8.8) [APP-109]; resubmitted to assist the ExA at Appendix 6 of this Response.
- Minutes of a meeting held with the Lincolnshire County Council Public Rights of Way (PRoW) Officer on the 13 January 2016 at Appendix 7.
- Minutes of a meeting held with Lincolnshire County Council Highways on the 13 January 2016 at Appendix 8.
- A clarification note responding to new issues raised by LCC Highways during the issue specific hearing of the 19 January 2016 at Appendix 9.
- A clarification note responding to tourism issues raised by LCC during the issue specific hearing of the 19 January 2016 at Appendix 10
- Updated Funding Statement at Appendix 11 and a comparison version illustrating changes made from the original at Appendix 12
- A clarification note on the Lincolnshire Coastal Grazing Marsh Field 6/Site E providing information relating to issues raised and discussed at the local impacts hearing of the 19 January 2015 at Appendix 13
- Updated Outline Soil Management Plan at Appendix 14 and a comparison version illustrating changes from the original version submitted at Application at Appendix 15
- An update to Application Document 8.2; diagram of application documents relationships requested by the ExA at the issue specific hearings at Appendix 16
- An update to Application Document 8.15, presenting a schedule of mitigations and monitoring relating to the proposed development at Appendix 17 and a comparison document at Appendix 18

¹ The Land Interest Group (LIG) is a working party formed from representatives of the National Farmers' Union, the Lincolnshire Association of Agricultural Valuers and the Country Land and Business Association.

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- A clarification note presenting further information on agricultural land issues raised at the issue specific hearings as well as drainage reinstatement and associated matters at Appendix 19
 - A clarification note providing further description of highways alteration works at Appendix 20
 - A clarification note on the Applicant's progress on Protective Provisions with statutory undertakers at Appendix 21
 - An updated crossing schedule at Appendix 37

4. The Applicant's response to Interested Parties' responses to the ExA's second written questions

4.1 The Applicant has responded to each of the Interested Parties' responses to the second written questions submitted at Deadline 4 on 5 January 2016. The Applicant's responses are set out in Part 1 of the Response and adopt the chronology of the ExA's second written questions. In each case the question is included, followed by the Applicant's comments.

5. The Applicant's comments on information received at Deadline 4

5.1 The Applicant has also responded to further written submissions from Interested Parties (IPs) received by the ExA in respect of the proposed development at Deadline 4. The responses are set out in Part 2 of the Response and, where indicated, within the Appendices to the Response.

6. The Applicant's revised draft DCO

6.1 The Applicant has submitted revision F of the draft DCO at Appendix 22 of the Response, which incorporates changes made as a result of discussions with stakeholders and suggestions from the ExA at the hearings held in January 2016.

6.2 Comparison versions of the revised draft DCO, highlighting changes between the current version (Revision F) and Revision E and also between Revision F and Revision B (submitted in advance of the commencement of the Examination) are provided at Appendix 23 and 24 respectively of this Response.

6.3 To assist the ExA, the Applicant has also provided an update to the Schedule of Changes to the draft DCO at Appendix 25 and an accompanying explanatory document at Appendix 26 to incorporate these further amendments.

7. Updated Schedule of Compulsory Acquisition

7.1 The Applicant provided an update as to the status of the schedule of compulsory acquisition in its responses to Deadlines 1, 2, 3 and 4. As requested in the Rule 8 letter, the Applicant has provided a further update at Appendix 27 to this Response.

8. Statements of Common Ground

8.1 The Applicant has provided an update on the status of Statements of Common Ground (SoCGs) at each Deadline and submitted signed documents, as well as unsigned drafts (where these were considered helpful to the ExA) between the Applicant and a number of Interested Parties through the Examination to date. The Applicant has provided a further update in this Response at Appendix 28.

8.2 In order to assist the ExA, an update on SoCGs that are yet to be finalised is provided, in summary form, below. The Applicant is continuing to seek to progress and finalise all SoCGs ahead of Deadline 7.

Anglian Water Services

8.3 The Applicant has engaged in consultation with Anglian Water with discussions on the matters raised in their relevant representation and a possible SoCG.

8.4 The Applicant and Anglian Water Services have agreed Protective Provisions, as included in Revision F of the draft DCO. The parties are in discussions regarding the notification and process of determination of ownership of private sewers. An updated SoCG will be submitted once agreement has been reached. An updated SoCG is provided at Appendix 29 of this Response.

The Canal and River Trust

8.5 The Applicant has engaged in consultation with the Canal and River Trust with discussions on the matters raised in their relevant representation and a possible SoCG.

8.6 The Applicant will continue to try and discuss these matters with the Canal and River Trust, though notes that the Trust have not responded to repeated requests on this matter.

8.7 The Applicant intends to submit a SoCG commenting on these matters if engagement is forthcoming.

ConocoPhillips (UK) Ltd

- 8.8 The Applicant has engaged in consultation with ConocoPhillips (UK) Ltd with discussions on the matters raised in their relevant representation and in pursuing the agreement of a possible SoCG.
- 8.9 The Applicant noted the submission from ConocoPhillips (UK) Ltd to the ExA of the 25 November 2015 and can confirm that the parties are engaged in ongoing technical discussions in order to progress a SoCG.
- 8.10 The Applicant intends to submit a SoCG commenting on these matters once agreed for the appropriate deadline.

EDF Energy Renewables Ltd

- 8.11 The Applicant has engaged in consultation with EDF with discussions on the matters raised in their relevant representation and a possible SoCG. The Applicant has provided a draft Good Neighbour Agreement to EDF for comment, and received comments on 1 February 2016. The Applicant intends to submit a SoCG commenting on these matters once agreed at the earliest opportunity.

The Environment Agency

- 8.12 The Applicant and the EA have agreed a SoCG, which was submitted at Deadline 1. The matters that were previously under discussion in relation to comments raised by the EA in their Relevant and Written Representations are now resolved. The Applicant and the EA have submitted an updated SoCG to Deadline 5 at Appendix 30 of this Response.
- 8.13 There remains an outstanding matter in relation to land interests.

The Marine Management Organisation

- 8.14 The Applicant is pleased to note to the ExA that a final SoCG between the Applicant and the Marine Management Organisation is submitted at Appendix 32 of the Applicant's response to Deadline 5.
- 8.15 Agreement has been reached on all matters, with the exception of the Article 5, Transfer of the Benefit. The Applicant and the Marine Management organisation have set out their respective positions in Appendix B to Appendix 32 of the Applicant's response to Deadline 5, noting that the parties will not be able to reach agreement on this matter.

Natural England

- 8.16 The Applicant is pleased to advise the ExA that it has agreed a final SoCG with Natural England, submitted at Appendix 31 of this Response, with all matters now agreed.
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The Internal Drainage Boards

- 8.17 The Applicant and IDBs had agreed to prepare a joint SoCG. Initial progress was made between the Applicant and the IDBs, with a draft SoCG submitted at Deadline 1. Subsequent discussions identified issues that required resolution before the SoCG could be further progressed. As indicated at the hearings in November 2015, the parties agreed to meet on the 3 December 2015 to discuss outstanding matters. The parties prepared and submitted a Joint Statement to set out the outstanding matters and detail the discussions held at the meeting in December 2015, as Appendix 37 at Deadline 4.
- 8.18 The Applicant and the IDBs have continued to discuss the outstanding matters; the Applicant has submitted an Update Statement as Appendix 33 of the submission to Deadline 5.

National Grid

- 8.19 NGET and NGG (together "National Grid") submitted a joint statement on 20 January 2016 and the Applicant submitted confirmation on 21 January 2016 that this document can be regarded as a joint statement and made on behalf of the Applicant.
- 8.20 The joint statement sets out agreement on all matters, but notes that National Grid reserve its right to submit further written representations to the Examining Authority should land documents have not been concluded by Monday 29 February 2016.

Lincolnshire County Council.

- 8.21 The Applicant notes to the ExA that Lincolnshire County Council provided the Applicant with comments on the draft SoCG, which was provided to the Council on the 9 December 2015, at 16.28 pm on 1st February 2016. The Applicant confirmed to LCC that it does not have any objection to LCC submitting this version of the SoCG to the examination at Deadline 5, as long as it is made clear that this version is the Council's mark up and the Applicant has not had the opportunity to review in detail or to comment on it.
- 8.22 The Applicant will continue to engage with LCC and will provide an update on progress at Deadline 6.

9. Miscellanea

Restrictive Covenants

- 9.1 As explained at Item 13(a) of the Written Summary of the Applicant's Oral Case put at the Compulsory Acquisition Hearing, which forms Appendix 2 to this Deadline 5 response, a number of landowners and statutory and non-statutory undertakers
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(including the Environment Agency, Internal Drainage Boards and Lincolnshire County Council in its capacity as local highway authority) raised concerns regarding the imposition of a restrictive covenant.

- 9.2 The Applicant undertook to review the form of restrictive covenant included in the Application draft Development Consent Order [APP-010] to take account of the concerns raised. This resulted in the Note on proposed modifications to form of Restrictive Covenant which formed Appendix 30 to the Applicant's Deadline 4 response [REP4-060] ("the RC Note"), which included a proposed amended form of restrictive covenant and an explanation of the reasons for the changes.
- 9.3 The Applicant has continued to liaise with the relevant parties with a view to agreeing a revised form of restrictive covenant, and in light of comments made by the Internal Drainage Boards ("IDBs"), Land Interest Group ("LIG"), Lincolnshire County Council ("LCC") and the Environment Agency ("EA") during and following the Compulsory Acquisition Hearing, the Applicant made further modifications to the form of restrictive covenant. These are explained in detail in the Schedule of DCO Amendments and in the Schedule of Amendments- Explanatory Document which form Appendices 25 and 26 to this Deadline 5 response, but may be summarised as follows:
- To address concerns raised by the LIG/landowners and IDBs regarding the activities specified as being subject to, and excluded from, the restriction in paragraph (c), paragraph (c) has been split into sub-paragraphs and additional descriptive wording added for clarity.
 - To address concerns raised by the LIG/landowners, paragraph (e) has been amended to limit the requirement to prevent, to those things which the landowner can reasonably foresee may interfere with the exercise of the other rights set out in Schedule 5, the use of the authorised project, or which may render the authorised project in breach of any statute etc.
 - To address concerns raised by the IDBs, EA and LCC in its capacity as local highways authority, that the covenant would prevent the exercise of their statutory functions, a new paragraph (f) has been inserted which makes it clear that nothing in paragraphs (a) to (e) restricts the exercise of statutory functions, powers, rights, duties, responsibilities or obligations.
- 9.4 Carol Bolt on behalf of the EA has confirmed that the revised form of covenant included in Schedule 5 of the draft Development Consent Order (Revision F) is acceptable to the EA. Abbie Turner on behalf of the IDBs has also confirmed that the revised form of restrictive covenant is acceptable to the IDBs, subject to Board approval. The Applicant anticipates Board approval being received imminently and will update the ExA at Deadline 6.

- 9.5 The Applicant considers that inclusion of new paragraph (f) should address the concern raised by LCC regarding the exercise of its statutory functions as highway authority.
- 9.6 Discussions are ongoing with the LIG and LCC with regard to a couple of minor outstanding drafting points on paragraph (c). The Applicant anticipates these will be resolved imminently and will update the ExA at Deadline 6.

Part 1 The Applicant's comments on responses to the ExA's second written questions

Question Number	Topic Heading/ Respondent	Question
DCO 2.7	<p><i>Article 2 – the definition of 'Commence'</i></p> <p>The Applicant</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that you accept that the removal of hedgerows should only take place in accordance with the mitigation measures set out in the Outline Landscape and Ecological Management Plan and the Outline Construction Method Statement and that you are discussing this with Natural England.</p> <p>Provide an agreed statement on the outcome of, or if strictly necessary the progress with, these discussions, setting out how this intent is to be secured in the draft DCO.</p>

DCO 2.7

1. The Applicant notes that Natural England (NE) has provided a response to this question.
2. The Applicant welcomes NE's agreement to the revised wording to Requirement 13 and refers the ExA to paragraph 4.259 of the Statement of Common Ground (SoCG) with NE (Appendix 31 of the Applicant's Response to Deadline 5) where this matter is agreed.

Question Number	Topic Heading/ Respondent	Question
DCO 2.8	<p><i>Article 2 – the definition of ‘Commence’</i></p> <p>The Marine Management Organisation (MMO)</p>	<p>Applicant has proposed removing the phrase “exit for HDD and related works” {ExA Note: this is stated to be “including exit for HDD” in the <i>DCO Schedule of Amendments Explanatory document</i> [REP3-047]} from the definition of “commence”.</p> <p>Indicate your acceptance or otherwise of this proposed amendment.</p> <p>You may respond to this question in conjunction with question DCO 2.30, below</p>

DCO 2.8

1. The Applicant notes that the Marine Management Organisation has responded to this question and, as suggested by the ExA in its second written questions, also addressed DCO 2.30 in this response.
2. The Applicant welcomes confirmation from the MMO that the changes made to the draft DCO (Revision C), provided by the Applicant at Appendix 21 of its response to Deadline 2, resolve the matter and that the MMO are content with the changes. As set out in paragraph 4.139 of the Statement of Common Ground with the MMO (Appendix 32 of the Applicant’s Response to Deadline 5).

Question Number	Topic Heading/ Respondent	Question
DCO 2.12	<p><i>Article 5 – Transfer of benefit of Order</i></p> <p><i>The MMO</i></p>	<p>The Applicant has included additional wording as article 5(5) to disapply section 72 of the Marine and Coastal Access Act 2009 (see previous question). Indicate your acceptance or otherwise of this proposed amendment.</p>

DCO 2.12

1. The Applicant notes that the Marine Management Organisation has responded to this question.
2. The Applicant notes the comments from the MMO relating to their wider concerns on the partial Transfer of Benefit of the Order. Both parties have discussed the issue and are agreed that a final position has been reached on this matter. The positions of both parties are set out at Appendix B of the SoCG with the MMO, submitted at Appendix 32 of this Response.
3. The Applicant would like to reiterate, as noted at the ISH on 22 January 2016, a summary of which is presented in section 4 of Appendix 3 of this submission, that partial transfer of the benefit of the Order under article 5(6) has been examined on most offshore wind farms schemes, and to date the position of the MMO, that transfers without the consent of the SoS should not be permitted, has not been accepted by the SoS in the final orders made.

Question Number	Topic Heading/ Respondent	Question
DCO 2.13	<p><i>Article 6 – Application and modification of legislative provisions</i></p> <p>The Applicant</p>	<p>The Written Summary of the Applicant’s Oral Case put at DCO Issue Specific Hearing on the 12 November 2015 [REP3-037] states that you have noted the need to secure agreement from the relevant bodies to the disapplication of legislation, as set out in the Additional Consents Document [APP-121] and that you are engaged in ‘ongoing’ discussions on this.</p> <p>Provide a statement on the outcome of, or if strictly necessary the progress with, these discussions.</p> <p>The ExA reminds the Applicant of the importance of obtaining these agreements.</p>

DCO 2.13

1. The Applicant notes that the Environment Agency has provided a response to this question.
2. The Applicant notes and welcomes the EA’s confirmation of no objection to the principle of the inclusion of Article 6 *Application and modification of legislative provisions* of the draft DCO. Paragraph 4.83 of the SoCG (Revision 2.0) between the Applicant and the EA, submitted at Appendix 30 of the Applicant’s response to Deadline 5, re-confirms this position. The Applicant and the EA have now finalised wording of the Protective Provisions that are agreeable to both parties subject to any addition required which arises from the discussions on the cable rights, as set out in paragraph 4.84 of the SoCG. The final agreed drafting has been included in the draft DCO (Revision F) submitted at Appendix 22 of the Applicant’s response to Deadline 5.
3. The Applicant can also now confirm that discussions with the IDBs have concluded in relation to the wording of the Protective Provisions. The final agreed drafting (which is the same Protective Provisions as for the EA) has been included in the draft DCO (Revision F). In the Joint Statement between the Applicant and the IDBs,

submitted as Appendix 37 of the Applicant's response to Deadline 4, it was stated that:

"The IDBs shall be able to confirm that there is no objection in principle to the inclusion of Article 6 in the draft DCO, and thereby agree to the disapplication of the legislative provisions relevant to them under the Land Drainage Act 1991, subject to the agreement of suitable Protective Provisions within Schedule 8, Part 1 of the draft DCO and to the resolution of issues in relation to the restrictive covenants within Schedule 5 of the draft DCO. The IDBs shall provide written confirmation of agreement to the disapplication of legislative provisions at the appropriate time."

4. The IDBs have also provisionally agreed the form of the Restrictive Covenant, subject to board approval, and therefore the Applicant anticipates that the IDBs will be able to confirm their agreement to the inclusion of Article 6, and the disapplication of legislative provisions relevant to them under the Land Drainage Act 1991, in due course.
5. Lincolnshire County Council has confirmed that it is content for the Sandhills Act to be dis-applied by Article 6 of the draft Development Consent Order. A new provision (Article 6(3)) has been agreed with Lincolnshire County Council and included in the draft DCO (Revision F) submitted as Appendix 22 to the Applicant's Deadline 5 response, as follows:

"(3)The following provisions do not apply in relation to the exercise of any power conferred by this Order-

the provisions of the Lindsey County Council (Sandhills) Act 1932 (d)"

(Note: The citation (d) has also been updated to include the calendar year and chapter number- "1932 c.lxxxvi".)

Question Number	Topic Heading/ Respondent	Question
DCO 2.14	<p><i>Article 9 – Temporary stopping up of streets</i></p> <p>The Applicant</p> <p>East Lindsey DC</p> <p>Boston BC</p>	<p>The Applicant has inserted a sub-paragraph putatively setting a timescale for notification under this Article. The Applicant states [REP3-047] that it is in negotiation on the actual timescale.</p> <p>i) The Applicant Justify the placing of this new sub-paragraph under 9(3) rather than under 9(4)</p> <p>ii) The Applicant East Lindsey DC and Boston BC Provide a progress report on negotiations in respect of this Article, stating where any disagreements exist.</p>

DCO 2.14

1. The Applicant notes that East Lindsey District Council (ELDC) and Boston Borough Council (BBC) have responded to this question.

East Lindsey Borough Council

2. The Applicant notes that ELDC has not provided any comment on the drafting of article 9(4) relating to the timescales for providing notification to the relevant planning authority in respect of and stopping up or diversion of streets, but instead has stated that is content for the highways authority to lead on these matters. With respect to ELDC's view, the Applicant does not agree that the highways authority should be the authority named in this article and it should not have responsibility for discharging any consents or requirements of the DCO.
3. As set out in the Applicant's response to Lincolnshire County Council's D3 representation:

"...the Applicant explained at the Hearing on 12 November the Applicant has deliberately drafted the DCO on the basis that the relevant planning authority

(either East Lindsey District Council or Boston Borough Council) would be the discharging authority for the requirements.

This is the approach that has been taken in a number of authorised development consent orders for other offshore wind farms (including Hornsea Project 1 requirements 11 and 16; Dogger Bank Teesside A&B requirements 24, 32 and 34; Dogger Bank Creyke Beck requirement 17 and 27; and East Anglia 1 requirements 14, 25 and 26). In all cases the relevant planning authority is the body responsible for discharging the requirement, following consultation with the highways authority. Such consultation is also provided for in respect of the highways-related matters for requirement 8 (highways accesses and improvements) and requirement 18 (construction traffic) to ensure that LCC's comments are taken into account in the schemes submitted to the relevant planning authorities for approval.

The Applicant would highlight that, in addition to following recognised practice in the drafting of DCOs, the adoption of the relevant planning authority as the discharging authority for the requirements also accords with the enforcement powers set out in the Planning Act 2008 that regulate the implementation and operation of development consent orders. The powers in sections 164, 167, 169 and 171 are only available to the "relevant planning authority", defined in section 173 as "the local planning authority" and, in these circumstances in accordance with section 173(5) "the relevant planning authority is the district planning authority".

4. The Applicant maintains the position that the relevant planning authorities are the appropriate bodies in relation to the approval of highways matters within the DCO.

Boston Borough Council

5. The Applicant notes BBC's response regarding the 28 day notification period that had been suggested for article 9(4) of the draft DCO. This was the period that was proposed by the relevant planning authorities at the hearings in November. The Applicant has revised the drafting of this article following the DCO hearing on 22nd January with the effect that the 14 day notification period only applies to streets which are planned to be stopped up or diverted (and set out in Schedule 3 of the draft DCO). Any additional stopping up or diversion would require the highway authority's consent and would be subject to the relevant processes and time periods. It is the Applicant position that 14 days is appropriate for streets that are identified in Schedule 3 of the draft DCO as these are known and have been consulted upon as part of the TKES examination.

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6. The Applicant notes that the ExA sought confirmation of the length of notice which will be given of the temporary closures at the onshore issue specific hearing on the 19th January 2016. During the hearing the Applicant confirmed that 14 days' notice would be given prior to stopping up the PRow and that this has been agreed as a minimum period in the meeting minutes with LCC PRow submitted at Appendix 7 of the Applicant's Response to Deadline 5.
 7. The Applicant concurs with the BBC view that the relevant planning authorities are the relevant bodies in respect of stopping up and diversion of streets identified in Schedule 3 of the draft DCO and the highways-related requirements of the draft DCO.

Additional note

8. The Applicant is also aware that LCC is currently considering an application to the Magistrates Court under section 116 of the Highways Act 1980 to stop up the existing route of Anderby Footpath 17 between Pinfold Lane (to the South-East-East of Manor Farm caravan park) and Roman Bank, and create a new diverted footpath along the northern bank of the main drain from Pinfold Lane to the junction of Roman Bank and Sea Road.
9. The relevant Right of Way Plan showing the existing line of Anderby Footpath 17 is sheet 2 of the plans (document reference 2.7) [APP-127].
10. We understand that LCC is unable to confirm when such an application is likely to be made and that there is the potential for other footpaths to be diverted prior to the TKES construction works being completed. In order to address this issue the Applicant has revised the wording of article 9(3)(b) to state:

As such, in relation to any footpath specified in Columns (1) and (2) of Schedule 3 temporarily stop up, alter or divert the footpath to the extent of the diversion zone for that footpath shown on the public rights of way plans or in respect of any diverted footpath to the extent of the diversion zone agreed with the highway authority.

11. In addition, a "diverted footpath" is defined as "a footpath identified in Columns (1) and (2) of Schedule 3 that has been diverted by the highway authority prior to commencement of the onshore works"
12. The Applicant has also made an addition to Section 3 (Public Rights of Way) of the Outline Construction Method Statement at paragraph 3.4 as follows:

“TKOWFL recognise that there is an ongoing programme of PRow network improvements managed by LCC, which may result in temporary and permanent diversions to existing PRow prior to the completion of construction works. TKOWFL will maintain communication with LCC in this regard and if PRow are diverted into the cable corridor appropriate management measures will be adopted in line with this section of the Outline CMS.”

Question Number	Topic Heading/ Respondent	Question
DCO 2.15	<i>Part 3 – Streets</i> Lincolnshire CC	<p>The <i>DCO Schedule of Amendments Explanatory document</i> [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 the relevant schedules.</p> <p>Set out your agreement, or otherwise, with this statement</p>

DCO 2.15

1. The Applicant notes that Lincolnshire County Council has responded to this question.
2. The Applicant notes that “the County Council considers that they should be consulted as the local Highway Authority” in relation to matter covered by Articles 8 and 9 of the draft DCO. In response to this and following discussions following Deadline 4 but prior to the local impacts hearing on Tuesday 19th January, the Applicant has updated Articles 8 and 9 in Revision F of the draft DCO submitted at Appendix 22 of the Applicant’s Response to Deadline 5. The changes accommodate LCC’s request to be notified of any works or stopping up of highways as set out in Schedule 3 of the draft DCO.
3. The Applicant has also updated Article 9 to make it clear that the stopping up of any other streets, i.e. those not set out in Schedule 3 of the draft DCO and not currently known, will require the consent of the highway authority which may attach reasonable conditions to any consent and such consent may not be unreasonably withheld or delayed.
4. The Applicant acknowledges LCC’s request for a 13 week notification period for the highway authority consent, which the Applicant believes may stem from LCC’s practice of recommending 13 weeks being allowed for the consideration of, and consultation on, a temporary traffic regulation order (TTRO) under section 14 of the

Road Traffic Regulation Act 1984. The Applicant considers that this period is unnecessary in relation to streets identified in Schedule 3 of the draft DCO as the detail of the stopping ups and the powers to effect them are provided for in the DCO. In respect of any other streets that the Applicant may need to stop up under article 9(4)(b), the Applicant recognises that these will be subject to the normal statutory processes and timescales that must be followed.

5. The Applicant is pleased to update the ExA that the update to Article 9 has been agreed with LCC. This matter will be detailed as such in the SoCG when finalised.

Question Number	Topic Heading/ Respondent	Question
DCO 2.21	<p><i>Requirement 14 - Code of construction practice (onshore) and construction environmental management plan</i></p> <p>Boston BC</p> <p>East Lindsey DC</p> <p>Lincolnshire CC</p>	<p>The Applicant proposes to include the phrase “including the management of public rights of way” into 14(2)(a). Set out your agreement, or otherwise, to this amendment</p>

DCO 2.21

1. The Applicant notes that Boston Borough Council, East Lindsey District Council and Lincolnshire County Council have responded to this question.

Boston Borough Council

2. The Applicant notes and welcomes BBC’s confirmation of no objection to the inclusion of “including the management of public rights of way” into Requirement 14(2)(a).

Lincolnshire County Council

3. The Applicant welcomes LCC’s agreement to this insertion.

East Lindsey District Council

4. The Applicant notes that ELDC has not provided any comment regarding the proposed amendment to Requirement 14 relating to the management of public rights of way but has suggested that Lincolnshire County Council is the appropriate body for highways matters within the DCO. The Applicant refers the ExA to its comments on LCC's Response to Deadline 3, submitted at Appendix 6 of the Applicant's Response to Deadline 4 [REP4-033], which provided a comprehensive response on this matter.

Question Number	Topic Heading/ Respondent	Question
DCO 2.26	<p><i>Schedule 11 – Discharge of Requirements: paragraph 5(1)</i></p> <p>Boston BC</p> <p>East Lindsey DC</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that the Applicant confirms that the fee payable in accordance with paragraph 5(1) of Schedule 11 is per requirement discharged, not per request.</p> <p>Confirm or otherwise the acceptability of this interpretation</p>

DCO 2.26

1. The Applicant notes that Boston Borough Council (BBC) and East Lindsey District Council (ELDC) have responded to this question.
2. The Applicant notes both BBC's and ELDC's comments and confirms that the suggested wording has been included in section 5(1) of Schedule 11 of the draft DCO (Revision E) submitted as Appendix 15 of the Applicant's response to Deadline 4 [REP4-042].

Question Number	Topic Heading/ Respondent	Question
DCO 2.27	<p><i>Means of controlling unexpected contamination</i></p> <p>The Applicant</p> <p>The Environment Agency</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that the Applicant and the Environment Agency remain in discussions regarding the appropriate means of controlling unexpected contamination within the draft DCO.</p> <p>Provide an agreed statement on the outcome of, or if strictly necessary the progress with, these discussions</p>

DCO 2.27

1. The Applicant notes that the Environment Agency has provided a response to this question.
2. The Applicant confirms that, as set out in its own response to DCO 2.27 submitted at Deadline 4, the Applicant and EA have agreed to the inclusion on a new requirement to deal with unexpected contamination which may be encountered during construction of the onshore works. The Applicant has included the drafting of the new requirement (Requirement 15 *Unexpected Contamination*) in the draft DCO (Revision F) submitted as Appendix 22 of the Applicant's response to Deadline 5. The outstanding discussions in relation to the drafting, heard at the DCO Issue Specific Hearing held on 22 January 2016 have now been resolved. Paragraph 4.81 of the SoCG (Revision 2.0) between the Applicant and the EA, submitted as Appendix 30 of the Applicant's response to Deadline 5 confirms that the EA are in agreement with the adequacy of this Requirement.

Question Number	Topic Heading/ Respondent	Question
DCO 2.28	<p><i>Schedule 9 - Condition 3(3)</i></p> <p>The Applicant</p> <p>The MMO</p> <p>The Marine and Coastguard Agency (MCA)</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that the Applicant has 'noted' the MMO's comments on this draft Condition.</p> <p>The MMO's Response to the ExA's Deadline 3 [REP3-010] states, in connection with this Condition, that the MMO is content to leave this to the applicant and the MCA to determine and if no agreement is reached then the ExA/Secretary of State may need to make the conclusive decision.</p> <p>a) The Applicant</p> <p>Justify your decision not to take any further action on the MMO's comments</p> <p>b) The MMO</p> <p>Do you have a preferred wording for this Condition? If so, provide this.</p> <p>c) The Marine and Coastguard Agency</p> <p>The MCA has not made any submissions for Deadline 3. The Statement of Common Ground between the Applicant and the MCA [REP1-082] shows an agreement that Condition 3 will retain both 3(1) {ExA's Note: Condition 3 in REP3-044} and 3(3) {ExA's Note: Condition 3(2) in REP3-044} in the draft DML.</p> <p>Comment on the MMO's stated concerns related to this Condition.</p>

DCO 2.28

1. The Applicant notes that the Marine Management Organisation and the Marine and Coastguard Agency have responded to this question.

Marine Management Organisation

2. The Applicant notes the comments from the MMO and refers the ExA to the Maritime and Coastguard Agency's (MCAs) response to this question in their Deadline 4 submission (REP4-003) which states that in regards to Condition 3;

"...we do not believe they are duplicating any requirements. This has been articulated to the MMO and Applicant.

3. The Applicant and the MMO have reached agreement on the wording for Condition 3 as set paragraph 4.149 of the SoCG (Appendix 32 of the Applicant's response to Deadline 5) where this matter is agreed.

The Marine and Coastguard Agency

4. The Applicant notes and welcomes confirmation from the MCA that it is content with Conditions 3(1), 3(2) and 3(3) as they are drafted in the DCO.

Question Number	Topic Heading/ Respondent	Question
DCO 2.29	<i>Schedule 9 - Condition 5(13)</i> The MMO The MCA Trinity House United Kingdom Hydrographic Office (UKHO)	<p>The Applicant has added “Trinity House, MCA and UKHO” to the bodies to which reports must be made under this Condition.</p> <p>Indicate your acceptance, or otherwise, of this proposed amendment.</p>

DCO 2.29

1. The Applicant notes that the Marine Management Organisation and the Marine and Coastguard Agency have responded to this question. No response has been received from Trinity House or the UK Hydrographic Office.

Marine Management Organisation

2. The Applicant notes the comments from the MMO. The Applicant highlights to the ExA that agreement has been reached with the MMO on the wording for Condition 5(13) as set out in Revision F of the draft DCO, presented at Appendix 22 of this Response. The Applicant refers the ExA to paragraph 4.152 of the SoCG with the MMO at Appendix 32 of this Response, where this matter is agreed.

The Marine and Coastguard Agency

3. The Applicant also notes and welcomes the Maritime Coastguard Agency’s submission of the 14/01/2016 which provides an updated response to DCO 2.29, stating that the MCA is content with the amended wording of the condition.

Question Number	Topic Heading/ Respondent	Question
DCO 2.31	<i>Schedule 9 - Condition 8(1)</i> The Applicant Historic England Lincolnshire CC	<p>The Applicant has amended the wording of Condition 8(1) regarding timescales for provisions of reports to OASIS and notification to Lincolnshire County Council. Indicate your acceptance, or otherwise, of this proposed amendment</p>

DCO 2.31

1. The Applicant notes that Historic England (HE) has responded to this question, however no response at Deadline 4 from Lincolnshire County Council was noted.
2. The Applicant notes and welcomes HE's response to this question confirming their satisfaction with the wording now included in Condition 8(1) of the dML in Schedule 9 of the draft DCO.
3. The Applicant would highlight to the ExA that at the DCO issue specific hearing held on the 22 January 2016, LCC requested that it is not referred to in this Condition. It was agreed at the hearing that LCC would seek acceptance from HE that LCC could be deleted from this Condition.

Question Number	Topic Heading/ Respondent	Question
DCO 2.33	<p><i>Schedule 9 – proposed new Condition 12</i></p> <p>The Applicant</p> <p>The MMO</p>	<p>Note: The Comparison document draft DCO against revision C [REP3-044] shows this as (new) Condition 12 whereas the DCO Schedule of Amendments Explanatory document [REP3-047] states that this is Condition 13.</p> <p>The DCO Schedule of Amendments Explanatory document states that The MMO have provided an alternative to the current drafting in relation to paragraph (b) of the condition.</p> <p>Provide an update on discussions on this proposed change of wording to this Condition and detail any areas of potential disagreement.</p>

DCO 2.33

1. The Applicant notes that the Marine Management Organisation has responded to this question.
2. The Applicant notes the comments from the MMO. The Applicant and the MMO have reached agreement on the wording for Condition 13(2)(b) (which now includes an additional sub-clause at 13(2)(c)) as set out in Revision F of the draft DCO, presented at Appendix 22 of this Response. The Applicant refers the ExA to paragraph 4.171 of the SoCG (Appendix 32 of the Applicant's response to Deadline 5) where this matter is agreed.

Question Number	Topic Heading/ Respondent	Question
DCO 2.34	<p><i>Schedule 9 – proposed new Condition 14</i></p> <p>The Environment Agency The MMO East Lindsey DC</p>	<p>The <i>DCO Schedule of Amendments Explanatory document</i> [REP3-047] states that the condition relating to bathing water quality has now been agreed by the MMO and is included as a new condition 14 of the dML.</p> <p>i) To the MMO Signify that you have agreed the wording of this proposed new Condition;</p> <p>ii) To the EA Comment on whether the wording of this proposed new Condition satisfies your request for the inclusion of a requirement relating to the Bathing Water Directive;</p> <p>iii) To East Lindsey DC Comment on the acceptability and wording of this proposed new Condition</p>

DCO 2.34

1. The Applicant notes that the Environment Agency (EA), the Marine Management Organisation (MMO) and East Lindsey District Council (ELDC) have responded to this question.

Environment Agency

2. The Applicant notes and welcomes confirmation from the EA that Condition 14 of the draft dML satisfies its request for the inclusion of a requirement relating to bathing water quality status and the Bathing Water Directive. Paragraph 4.82 of the SoCG between the Applicant and the EA, submitted as Appendix 30 of the Applicant's response to Deadline 5, confirms agreement between the parties on this Condition.

The Marine Management Organisation

3. The Applicant notes and welcomes the MMO's confirmation that it is in agreement with all parties on this matter and that the MMO are content with the wording of this Condition.

East Lindsey District Council

4. The Applicant notes ELDC's response to this question and confirms that ELDC has been added as a consultee to Condition 14 of the dML in the draft DCO (Revision F) submitted at Appendix 15 of the Applicant's response to Deadline 4. The Applicant also refers the ExA to the confirmation from the MMO with respect to this Condition in their '*Submission in lieu of attendance at the draft Development Consent Order Hearing on 22 January 2016*' published on the Planning Inspectorate website on 22nd January 2016 which states that:

"The MMO opinion remains as that stated in our written response to Deadline 4 dated 22 December 2015, in that that we are in agreement with all parties on the drafting of the Bathing Water Quality condition which was included at the request of the Environment Agency. However the MMO would be content to include East Lindsey District Council as an additional consultee in this condition."

Question Number	Topic Heading/ Respondent	Question
AH 2.1	<i>dDCO wording</i> The Applicant ELDC Boston BC	<p>For the project, the definition of ‘commencement’ as set out in Paragraph 2 of Part 1 of the dDCO [REP3 -043] specifically excludes archaeological investigations.</p> <p>i) Explain whether as drafted, the Written Scheme of Investigation, which is required under Requirement 12 of Schedule 1 of the dDCO, would not necessarily need to be agreed prior to any archaeological works taking place.</p> <p>ii) Update the dDCO to ensure that the archaeological investigations cannot be carried out until the Written Scheme of Investigation is agreed.</p>

AH 2.1

1. The Applicant notes that East Lindsey District Council and Boston Borough Council have responded to this question.
2. In response to the submissions from both Councils and the representations made at the local impacts hearing of the 19 January 2016 (see summary presented at Appendix 1 of this Response), the Applicant has progressed discussions with Historic England and has agreed that Requirement 12(4) should be revised to read:

“12(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive ground works shall only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline onshore written scheme of investigation and which have been submitted to and approved by the relevant planning authority.”

3. The effects of this change are to ensure that pre-construction archaeological survey work will not be deemed to be “commencement” of the works under the draft DCO (which would trigger the need to discharge all relevant requirements), but is undertaken in accordance with an approved scheme that both confirms the

appropriateness of the archaeological surveys and methodology, and ensures that any risks to archaeological remains from those surveys is properly and appropriately managed. This revised drafting has now been agreed with Historic England and Heritage Trust of Lincolnshire and has been issued to ELDC, BBC, and LCC for review and comment. The drafting has been included in Requirement 12 of the revised draft DCO (Revision F) submitted as Appendix 22 of the Applicant's response to Deadline 5.

Question Number	Topic Heading/ Respondent	Question
AH 2.5 AH 2.6; and AH 2.7	<i>Sibsey Lancaster Memorial</i> The Applicant	Questions relating to access provisions, communications and model provisions.

AH 2.5, 2.6 and 2.7

1. The Applicant notes that East Lindsey District Council has provided a response to the three questions posed by the ExA with respect to the Sibsey Lancaster Memorial.
2. The Applicant notes ELDC's point of clarification and agrees that the attendance of ELDC and/or the County Archaeological service when works are taking place in the vicinity of the Sibsey Lancaster Memorial (the Memorial) is a reasonable and appropriate request. The Applicant suggests that this detail will be picked up through the development and sign off of the relevant stage-specific WSI for the stage of works that is in the vicinity of the Memorial.

Question Number	Topic Heading/ Respondent	Question
AH 2.8	<p><i>Draining Scoop Wheel and Channel</i></p> <p>East Lindsey DC</p> <p>Historic England</p> <p>Heritage Trust for Lincolnshire</p>	<p>Question AH 1.10 [PD-009] asked: <i>Evidence the statement in paragraph 8.52 of Volume 3, Chapter 8 of the Environmental Statement [APP-049] that the Grade II listed Draining Scoop Wheel and Channel will not be impacted by the scheme given that Map 10 of Figure 1.1 of the Historical Environment Baseline [APP-085] shows this listed building to be immediately adjacent to a temporary construction compound.</i></p> <p>The Applicant's answer to AH 1.10 [REP1-004], confirmed in Paragraph 1.3.134 of ES Volume 5 Annex 8.1 (Ref 6.2.5.8.1) [APP-085] states that the location of the Grade II Listed Draining Scoop Wheel and Channel, which is identified as RSK ID 698 in Figure 1.1, Map 10 of ES Volume 5 Annex 8.1 [APP-085] is in fact incorrect. The heritage asset is in fact located at the point identified as RSK ID 699, slightly further to the north, and is separated from the Temporary Construction Compound (TCC) by a private residence. Thus, the Applicant concludes there would be no impact on the heritage asset.</p> <p>Confirm that the heritage asset is incorrectly plotted and the Applicant's assertion that there would be no impact to the heritage asset from the TCC</p>

AH 2.8

1. The Applicant notes that East Lindsey District Council (ELDC) and Historic England (HE) have responded to this question, although no response was apparent from the Heritage Trust for Lincolnshire.

East Lindsey District Council

2. The Applicant notes ELDC's response to this question and refers the ExA and ELDC to the responses on this matter submitted by HE [REP4-011] and by the

Applicant [REP4-027] at Deadline 4. HE has confirmed that the data originally provided is incorrect which subsequently led to the incorrect plotting of the location of the Draining Scoop Wheel and Channel. The Applicant has set out that the correct location of the asset has also been shown in the Historic Environment figures and that the assessment of impacts has been carried out on the basis of its *actual* location, rather than the incorrect location. The Applicant will update Figure 1, Map 10 of the Outline WSI [APP-111] which will be submitted to the ExA at Deadline 7 along with the full suite of other management plans which have been updated throughout the Examination process.

Historic England

3. The Applicant notes HE's response to this question and its confirmation that the Drainage Scoop Wheel and Channel is incorrectly located; the Applicant welcomes HE's confirmation that the data will be corrected. As stated in the Applicant's response to AH 2.9 (submitted at Deadline 4) and noted above, the Applicant will be updating Figure 1, Map 10 of the Outline WSI to show only the correct location, and submitting the updated version at Deadline 7.
4. The Applicant notes that HE's response states that "*it is for the applicant to demonstrate their case that given the corrected location, harm will not occur due to screening by the intervening private residence*". Paragraph 8.52 of Volume 3, Chapter 8 Historic Environment of the ES (document reference 6.2.3.8) [APP-049] confirms that the asset will not be impacted by the scheme. Further, the Applicant confirmed, in response to AH 1.10 of the ExA's first written questions, that there is no risk of accidental damage during construction use, and dismantling, of the temporary construction compound.

Question Number	Topic Heading/ Respondent	Question
AH 2.10	<i>Outline Onshore Historic Environment WSI</i> Heritage Trust for Lincolnshire Lincolnshire County Council	Please provide a response in respect to the ExA's first question AH 1.7 [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.

AH 2.10

1. The Applicant notes that Lincolnshire County Council has responded to this question. However, as far as the Applicant is aware no response was received from the Heritage Trust for Lincolnshire.
2. As set out in the Applicant's response to AH 2.10 submitted at Deadline 4; the process for developing the TK EIA Evidence Plan included a specific Review Panel to consider the assessment and mitigation of the TKES on the onshore historic environment. The Onshore Historic Environment Review Panel comprised representatives from Historic England, Lincolnshire County Council (representing ELDC) and the Historic Trust for Lincolnshire (representing Boston Borough Council). The Onshore Historic Environment Review Panel met on 15 May 2014, 7 August 2014 and 11 February 2015.
3. Appendix I, Annex C1 of the EIA Evidence Plan [APP-116] documents the specific meetings and discussions held in relation to Onshore Historic Environment.
4. The Outline Onshore WSI was discussed during a Historic Environment (onshore) review panel meeting in February 2015, where all consultees confirmed that the Outline Onshore WSI was acceptable subject to minor amendments; these

amendments were made and the document was re-issued to the review panel members for further comment pre-application.

5. The Applicant can therefore confirm that the Outline Onshore WSI was reviewed and agreed by Heritage Trust for Lincolnshire and LCC pre-application. Further, the TK EIA Evidence Plan was signed by LCC Historic Environment Officer on 17th April 2015 and also by the Senior Historic Environment Officer from the Heritage Trust for Lincolnshire on 8th April 2015. The email confirming acceptance of the relevant content by LCC can be viewed at Appendix IV “Stakeholder Notices of Acceptance of the EIA Evidence Plan Final draft” of the EIA Evidence Plan. The Applicant has noted that the email confirming acceptance of the relevant content by Heritage Trust for Lincolnshire has not been included in Appendix IV of the EIA Evidence Plan as submitted with the Application.
6. The Applicant notes that there was further discussion on this matter at the Local Impacts Issue Specific Hearing on 19th January 2016. The Applicant refers the ExA to the summary of the oral case put at that hearing, submitted at Appendix 1 of this Response.
7. At the local impacts hearing, the Applicant described the investigations which are committed to in the Outline Onshore WSI, which include a scheme-wide geophysical survey. A geophysical survey is a non-intrusive survey used to define the spatial limits of known heritage assets. This information determines the areas that are targets for trial trenching and can identify areas of previous disturbance. The technique likely to be used will be a magnetometer survey and this will be undertaken in accordance with the 2008 English Heritage publication “*Geophysical Survey in Archaeological Field Evaluation*”. Paragraphs 5.4 – 5.10 of the Outline Onshore WSI set out the details of the pre-construction geophysical surveys to be undertaken which are secured through Requirement 12(4).
8. The results of the geophysical surveys will subsequently be used to inform what further archaeological investigation work is necessary by identifying targets for evaluation trial trenching. The results of trial trenching will subsequently refine the programme of mitigation works discussed in the Outline WSI and are noted to include activities including metal detecting survey, earthworks survey, open area excavation and preservation *in situ* where appropriate. Each archaeological investigation will be carried out in accordance with specific the WSI that is developed for each stage of the onshore works.
9. The results of these investigations will in turn be used to inform the stage-specific WSI for the construction phase, which will contain any management measures necessary for ensuring the protection of archaeological remains that will have been refined on the basis of the pre-construction investigations.

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10. The Applicant has acknowledged, throughout the development of the project, the position of the archaeological advisors to LCC in relation to the timing of pre-construction archaeological investigations and the ExA sought to understand LCC's position further during the hearing.
 11. It is the Applicant's position that geophysical survey and trial trenching are not necessary prior to determination of the application because the baseline study is considered sufficiently robust to develop a mitigation strategy which can appropriately and adequately accommodate the discovery of any archaeological remains.
 12. It was captured in the EIA Evidence Plan logs for onshore Historic Environment (document reference 8.16) [APP-132], following the Historic Environment Review Panel meeting in Lincoln on 7 August 2014, that pre-determination geophysical survey and trial trenching of targets across the Proposed Development Boundary, ahead of determination of the application, was not an option. The reasons that this was not possible are as follows:
 - Access constraints for environmental surveys, in relation to land within the Order Limits, which is further detailed in paragraphs 6.10 – 6.29 in the Statement of Reasons (document reference 4.1) [APP-129];
 - The time required to undertake a full suite of geophysical survey and trial trenching would have delayed the consent submission date and the Applicant considers that it would not reduce the potential impact on the historic environment, since appropriate mitigation measures will still be adopted;
 - The Applicant considers that undertaking geophysical survey and trial trenching pre-consent does not reduce the potential impact on the historic environment or improve the efficacy of mitigation measures as the implementation of a WSI is secured through Requirement 12 of the draft DCO; and
 - Further, undertaking geophysical survey and trial trenching pre-consent does have a material impact on cost due to the early nature of the expenditure and the fact that it is at risk.
 13. Following further pre-application discussion and agreement on a range of historic environment issues, Historic England set out in its Section 42 (S42) consultation response that *"in the light of the work already done on desk and aerial survey assessment and route refinement, commitments to post consent geophysical survey and intrusive investigations and crucially RWE's commitment to a suite of mitigation measures (including where appropriate preservation in situ through*

Horizontal Direct Drilling alongside archaeological mitigation solutions), we are satisfied that we can proceed on the basis RWE put forwards.”

14. Previous comparable nationally significant infrastructure projects (NSIPs) such as East Anglia One Onshore Cable have been determined without pre-determination geophysical survey and trial trenching investigations. This approach has therefore been tested and found suitable in the NSIP process.

Question Number	Topic Heading/ Respondent	Question
AH 2.12	<i>Offshore SoCG</i> The Applicant Marine Management Organisation	Confirm and update, as referred to on Page 16 of Appendix 13: Statements of Common Ground Summary and Index submitted at Deadline 3 30 November 2015 [REP3-049] that a Statement of Common Ground (SoCG) with the Marine Management Organisation will be submitted no later than Deadline 4 and will agree the effects if any on the offshore historic environment and the mitigation measures required to avoid and reduce these effects.

AH 2.12

1. The Applicant notes that the Marine Management Organisation has responded to this question.
2. The Applicant and the MMO have produced an updated SoCG which has been submitted as Appendix 32 of the Applicant's response to Deadline 5.
3. The Applicant notes the comments from the MMO. The Applicant and the MMO have discussed the effects on offshore historic environment and agreed that, as set out paragraph 4.131 of the SoCG (Appendix 32 of the Applicant's response to Deadline 5), no specific applied mitigation or monitoring is required beyond that secured by the production of a Written Scheme of Investigation in Condition 7(g).

Question Number	Topic Heading/ Respondent	Question
CA 2.3	<i>acquiring land by negotiation</i> the National Farmers Union and the Lincolnshire Association of Agricultural Valuers	<p>In a number of places in your Written Summary of Oral Submissions Made on Behalf of the National Farmers Union and the Lincolnshire Association of Agricultural Valuers at the Compulsory Acquisition Hearing on 13 November 2015 [REP3-027] you state that Agents felt unable to recommend the Heads of Terms to their clients. Explain why this is so.</p>

CA 2.3

1. The Applicant notes that the National Farmers' Union (NFU) and the Lincolnshire Association of Agricultural Valuers (LAAV) have (jointly) responded to this question.
2. The Applicant has addressed the matter of the form of rights sought in its response to second written questions CA 2.5, submitted at Deadline 4.
3. The Applicant highlights to the ExA that it has acknowledged the existence of occupiers through the Book of Reference [APP-130].
4. The Applicant strongly refutes the suggestion that it has "*refuse[d] to adequately acknowledge the evidence of, or meaningfully engage with, occupiers*".
5. Furthermore, engagement with occupiers by the Applicant is detailed in the Consultation Report [APP-131] and Site Selection & Design Report [APP-117] as well as within the Schedule of Negotiation submitted for Deadline 4 [REP4-073]. Engagement with occupiers was also discussed by the Applicant at the Issue Specific Hearing of the 19th January 2016. The Applicant refers the ExA to the summary of oral case presented at Appendix 1 of this Response.

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6. The Applicant also refers the ExA to the Agricultural Land Drainage Clarification Note (Appendix 26 of the Applicant's response to Deadline 2) [REP2-026], which explains that the Applicant has made several commitments in regards to land drainage in the Heads of Terms for private treaty agreements sent to landowners in September 2015.
 7. These commitments are set out, along with wider commitments in relation to agricultural land drainage, in Section 4 of the Outline Soil Management Plan (Revision B) (Appendix 25 of the Applicant's Response to Deadline 4) [REP4-052] and secured via Requirement 14 of the draft Development Consent Order [REP4-042].
 8. The Applicant has proposed financial consideration, which it believes is reasonable for the rights and land sought and is not in a position to comment on the commercial drivers and considerations applied by other project promoters. Nevertheless, as confirmed by the Applicant during the Issue Specific Hearing of 19 January 2016, the Applicant has made a time-limited, substantially improved financial offer to landowners and has now issued revised Heads of Terms to landowners based on that revised financial offer.
 9. The response to CA 2.3 from the NFU and LAAV asserts that the provisions on future crop loss payments are "*inequitable and unacceptable*" without explaining the reasons why this is considered to be the case. Notwithstanding this, however, the Applicant believes that the Land Interest Group (a working party formed from representatives of the National Farmers' Union, the Lincolnshire Association of Agricultural Valuers and the Country Land and Business Association) is now in agreement with the principles of compensation for crop loss contained within the latest revision of the Heads of Terms.
 10. The NFU/LAAV response also asserts that "*the restrictions as set out in the draft Deed of Grant are too onerous and unacceptable*". The Applicant assumes that the Representation is referring to the restrictions in the draft Deed of Grant which follow the same form of wording as that proposed for the restrictive covenant contained within the draft Development Consent Order. The Applicant has proposed modifications to the drafting of the restrictive covenant and is seeking agreement on this revised form of wording, as explained in Appendix 30 of the Applicant's submission at Deadline 4, '*Note on proposed modifications to form of Restrictive Covenant*' [REP4-060].
 11. With regards to payment for survey access during the option period, the Applicant's proposal is not unconventional and the Applicant understands that the Land Interest Group (LIG) is now also in agreement with the principles of
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compensation for survey access contained within the latest revision of the Heads of Terms.

12. The NFU/LAAV response also asserts that *“The scope of the Indemnity clause within the draft Deed of Grant is too narrow”* without explaining the reasons why this is considered to be the case. The Applicant would highlight to the ExA that its proposal is consistent with other development projects implemented by the Applicant, including other offshore wind farm projects. Again, the Applicant is pleased to advise the ExA that it understands that the LIG is now in agreement with the indemnity provisions contained within the latest revision of the Heads of Terms.
13. With regards to the payment of professional costs incurred by landowners in negotiating Heads of Terms for private treaty agreements, the Applicant explained in its ‘Written Summary of Oral Case put at Compulsory Acquisition Hearing on 13 November 2015’ [REP3-038] that the Applicant has offered to pay reasonable fees incurred as a result of Heads of Terms discussions, with an initial cap which is normal practice to keep control of project expenditure. Where negotiations are progressing towards an agreement the Applicant has offered to raise that cap. Interim invoices from agents for ongoing Heads of Terms negotiations are being submitted to the Applicant and are being paid. The Applicant has agreed fee caps with statutory undertakers where they have been expressly requested in respect of discussions regarding Protective Provisions.

Question Number	Topic Heading/ Respondent	Question
CA 2.6	<p><i>Alternatives to compulsory acquisition</i></p> <p>The National Farmers Union and Lincolnshire Association of Agricultural Valuers</p>	<p>In your Written Summary of Oral Submissions Made on Behalf of the National Farmers Union and the Lincolnshire Association of Agricultural Valuers at the Compulsory Acquisition Hearing on 13 November 2015 [REP3-027] you state that the compulsory acquisition of land or rights over land is a draconian measure which should only be sanctioned as a measure of last resort.</p> <p>Show where in statute or guidance the test of ‘last resort’ is required or suggested.</p>

CA 2.6

1. The Applicant notes that the National Farmers’ Union (NFU) and the Lincolnshire Association of Agricultural Valuers (LAAV) have (jointly) responded to this question.
2. The Response from the NFU/LAAV refers to ‘*Guidance on Compulsory purchase process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion*’ published by the Department for Communities and Local Government (October 2015), and quotes a sentence from that Guidance at paragraph 2.1 of the Representation, but omits the important context from paragraph 1 of the Guidance that:

“Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change.”

3. The response subsequently provides fuller extracts from the Guidance at paragraphs 6 onwards, including from paragraph 2 of the Guidance:

“Acquiring authorities should use compulsory purchase powers where it is expedient to do so.”

“...if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost.”

4. Furthermore, the Applicant notes that the NFU/LAAV response seeks to provide background to the issue of compulsory acquisition.
5. The Applicant would highlight to the ExA that, as explained in the Applicant’s ‘*Written Summary of Oral Case put at Compulsory Acquisition Hearing on 13 November 2015*’ [REP3-038], Heads of Terms for private treaty agreements were first sent to landowners in December 2014. This was after the statutory consultation required by section 42 of the Planning Act 2008. It is the Applicant’s opinion that it would have been premature to have issued Heads of Terms prior to that consultation.
6. The NFU/LAAV submission also queried the engagement with landowners undertaken by the Applicant. The Applicant summarised the position in respect of negotiations, consultation and engagement at paragraphs 1.36 to 1.52 of Appendix 2 of the Applicant’s Response to Deadline 3, the ‘*Written Summary of The Applicant’s Oral Case put at Compulsory Acquisition Hearing on 13 November 2015*’ [REP3-038]. This sets out the extensive consultation that has taken place in respect of the proposed Triton Knoll Electrical System works.
7. As noted and clarified in the Applicant’s response to second written questions CA 2.3 and CA 2.5, it was not until the Compulsory Acquisition hearing of 13 November 2015 that the LIG made it clear to the Applicant that the position of its constituent members was that they would not recommend a permanent easement to their clients. In order to reach agreement, the Applicant notes to the ExA that it has responded to this issue and revised its offer to all landowners, proposing a time-limited form of rights rather than a permanent easement for private treaty agreements.
8. The NFU/LAAV response also goes on to comment on matters relating to the legal and policy framework of Compulsory Acquisition. By way of response to this, the Applicant would refer the ExA to the Applicant’s submissions made at the Compulsory Acquisition Hearing of the 20th January 2016, and the Applicant’s subsequent summary of Oral Case submitted at Deadline 5 (Appendix 2 of this Response).

Question Number	Topic Heading/ Respondent	Question
CA 2.20	<p><i>Special Category Land</i></p> <p>The Applicant</p> <p>Lincolnshire County Council</p>	<p>In its <i>Written Summary of The Applicant's Oral Case put at compulsory Acquisition Hearing on 13 November 2015</i> [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.</p> <p>At the Compulsory Acquisition Hearing held on 13 November 2015 Lancashire CC did not consider that the order land, when burdened with the order right, will be no less advantageous than it was before (s.132(3) of the PA 2008).</p> <p>Given the statement from the Applicant referred to above, justify your position.</p>

CA 2.20

1. The Applicant notes that Lincolnshire County Council has responded to this question.
2. The Applicant refers to its own response to CA 2.20 submitted at Deadline 4, which responded to the matters set out by LCC in their Deadline 3 response and to which they refer to in their response to CA 2.20 submitted at Deadline 4.

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3. LCC also raised concerns regarding the English Coastal path; the Applicant refers the ExA to the publications on the English Coastal path from Natural England², first published on 18 September 2015 and updated on 03 November 2015 (Stage of progress moved to stage 2: developing the route) which states:

“Natural England has begun to investigate how to improve coastal access along a 26km stretch of the Lincolnshire coast between Skegness and Mablethorpe. This new access is expected to be ready in early 2018.

Officers from Lincolnshire County Council are providing Natural England with expert local advice and helping to make sure there is full consultation with local interests during the development of the route.

After final discussions have been held with those who have a legal interest in the land, Natural England will begin refining and checking their proposals to improve access to this stretch of coast. This may start sooner for some sections of the stretch than others.

The proposals will be finalised and then published in a report to the Secretary of State for the Environment, Food and Rural Affairs. This is expected to take place in 2016. Once published, the report will be available on GOV.UK and advertised in the local press.”

4. The Applicant notes that no detailed map of the route is currently available. The latest map available is titled Coastal Access in Lincolnshire: Skegness to Mablethorpe³.
5. The Applicant recognises that a key part of the tourist appeal is the public access to the beach and around the coastal area in general. It is for this reason that the Applicant has made every effort to minimise temporary and permanent closures of Public Rights of Way (PRoW). The Applicant would highlight that, as set out in the Applicant’s response to SE 2.3 of the ExA’s second written questions, North-South access on the beach and the sand dunes will remain open throughout the construction period. The ExA is directed to Sheet 1 of the Public Rights of Way Plans (document reference 2.7) [APP-127]. It is the Applicant’s position that impacts (even during construction) have been effectively minimised and that the mitigation put in place is appropriate and satisfactory. In addition, as part of the EIA Evidence Plan Process, areas of agreement with LCC included;

² <https://www.gov.uk/government/collections/england-coast-path-skegness-to-mablethorpe#history>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460885/skegness-mablethorpe-stretch-map.pdf

“Access including Public Right of Way (PRoW) mitigation, including diversion requirements as part of the PRoW Diversion Plan”

6. The Applicant highlights that a further meeting was undertaken with a representative of LCC on 13 January 2016 to discuss PRoW. Agreed minutes from the meeting are submitted as Appendix 7 of the Applicant's Response to Deadline 5.
7. The Applicant has been informed at the meeting with the LCC representative on 13 January 2016 that although the exact route of the English Coastal path in the vicinity of Anderby Creek is not currently known, it is LCC's understanding that in general Natural England prefer not to use beaches, due to the difficulty of walking on the sandy beach. The Applicant therefore understands that the Coastal Path is likely to route from the south through Ande/964 (Sand Lane) and then to the north from Moggs Eye to Marsh Yard (crossing Hutt/10/5) using the existing physical pathway to the west of the dunes flood defence.
8. The Applicant acknowledges that LCC are acting to assist and advise Natural England on the planning phase of the Coastal Path, that LCC undertake any works that are required, part funded by Natural England and that LCC will operate the Coastal Path once complete. LCC is therefore clearly an important stakeholder in the Coastal Path.
9. LCC confirmed at the meeting on 13 January 2016 that it had no obvious concerns regarding the availability of the Coastal Path to the general public during construction of the TKES as it is already dealt with by existing provision on PRoW, for example the Applicant's commitment to maintain public access to Hutt/10/5, therefore there will be no impact on the Coastal Path.
10. It is the Applicant's understanding that following the meeting on 13 January 2016, LCC is content with the statement highlighted in the meeting minutes relating to Statements of Common Ground (at Appendix 7 of this Response), taken from a draft (v7) SoCG (cited as paragraph 7.46 of the SoCG), which states;

“It is agreed that Section 3 of the Outline Construction Method Statement (document reference 8.7.1) sets out an appropriate approach on how public rights of way (PRoW) diversions will be managed, and the broad principles that will ensure the use of PRoWs during construction is managed safely and that any disruption caused to the general public is minimised.”
11. It is the Applicant's position therefore that all outstanding issues in respect of access to and use of the Coastal Path have been resolved.

Question Number	Topic Heading/ Respondent	Question
CA 2.21	<p><i>Statutory Undertakers</i> The Applicant Environment Agency Drainage Authorities Network Rail Infrastructure National Grid Gas plc National Grid Electricity plc Anglian Water Canal & River Trust</p>	<p>The draft DCO [REP3-043] contains the following draft Protective Provisions at Schedule 8:</p> <ul style="list-style-type: none"> • The Environment Agency • Drainage Authorities • Network Rail Infrastructure • National Grid Gas plc • National Grid Electricity plc • Anglian Water • Canal & River Trust • Electricity, gas and sewerage undertakers and • Operators of electronic communications code networks. <p>According to the <i>Statements of Common Ground Summary and Index</i> [REP3-049], protective provisions remains an issue with Anglian Water Services, the Canal & River Trust and the Environment Agency.</p> <p>Provide a statement on Protective Provisions indicating the status of each in terms of the achievement of, or progress towards, final agreement and indicating whether it is intended that provisions will be agreed with any other body.</p>

CA 2.21

1. The Applicant refers to the table of progress on the Protective Provisions submitted at Appendix 21 of the Applicant's response to Deadline 5
2. The Applicant confirms that Protective Provisions are agreed with the following statutory undertakers:-
 - a. Environment Agency and the Drainage Authorities;
 - b. National Grid Gas plc and National Grid Electricity plc; and
 - c. Anglian Water.

3. The draft DCO submitted for Deadline 5 has been amended to include the final agreed protective provisions for these statutory undertakers.
4. Discussions are on-going with Network Rail and Western Power Distribution. Matters are substantially agreed and all parties expect the protective provisions to be agreed before the end of the examination.

The Applicant has continually sought to engage with the Canal and River Trust (CRT) on the Protective Provisions but to date has not had a response. The Applicant will continue to seek to engage with CRT.

Question Number	Topic Heading/ Respondent	Question
CA 2.22	<i>Statutory Undertakers - s.127 and s.138</i> The Applicant	Provide an update, jointly with affected Statutory Undertakers where possible, on the position on s.127 and s.138 showing where agreement has been reached and representations withdrawn.

CA 2.22

1. The Applicant notes that the Environment Agency provided an update to the ExA in response to this question.
2. The Applicant would identify to the ExA that, in addition to its comments regarding the Environment Agency at Agenda item 8 within the Applicant's Oral Case Summary of Compulsory Acquisition Hearing (Appendix 3 of this Response), the Applicant confirms that good progress is being made with the negotiations for a private treaty agreement with the Environment Agency. Furthermore, the Applicant is willing incorporate within the private treaty agreement a requirement to provide access to the Environment Agency to the relevant land plots to enable it to undertake flood defence maintenance works when required.

Question Number	Topic Heading/ Respondent	Question
EOf 2.1	<p><i>Points of clarification</i></p> <p>Natural England</p>	<p>Could Natural England confirm whether it is satisfied with the Applicant's responses in respect to the following matters:</p> <p>a) Appendix 9 to Deadline 2 [REP2-016] which states that matters relating to seabed preparation have been resolved (indicate if already responded to HRA 2.3);</p> <p>b) pre-lay ploughing techniques as raised in question EOf 1.5 [PD-009]</p> <p>c) mechanical trenching as raised in question EOf 1.6 [PD-009]; and</p> <p>d) sandwave crests as raised in question EOf 1.8 [PD009].</p>

EOf 2.1

1. The Applicant notes that Natural England (NE) have provided a response to this question.
2. The Applicant's welcomes NE's response confirming that it is content with the Applicant's responses at Deadline 2 in response to the ExA's first written questions regarding seabed preparation and offshore cable installation techniques (including pre-lay ploughing techniques and mechanical trenching).

Question Number	Topic Heading/ Respondent	Question
EOf 2.2	<p><i>Sediment transfer</i></p> <p>The Applicant</p> <p>Natural England</p>	<p>The Statements of Common Ground Summary and Index [REP3-049] states that discussions are ongoing with regards to outstanding matters, which now relate to a single issue on sediment transport and the potential need for monitoring to be agreed.</p> <p>i) Detail the nature of this issue and whether agreement is likely to be reached on it</p> <p>ii) Provide a review of the paper currently being finalised by Natural England on this issue, ensuring that the Natural England paper and all relevant supporting documents are submitted into the Examination along with your review, by Deadline 4.</p> <p>iii) In particular,</p> <p>a) what monitoring is proposed?</p> <p>b) has this been agreed with Natural England? And</p> <p>c) will the DCO require updating to reflect any agreement reached?</p>

EOf 2.2

1. The Applicant notes that Natural England (NE) have provided a response to this question.
2. The Applicant welcomes the provision of the paper from NE '*The Greater Wash – Evidence of unanticipated impacts in relation to benthic and coastal processes receptors*' (2015). The Applicant has worked closely with NE regarding the relevance of this paper to the TKES and has agreed revised wording with NE for Conditions 13(2)(b) and 13(2)(c), securing a subsequent bathymetric survey targeted on agreed locations to demonstrate that any changes to bedforms or sediment movement are within the ranges predicted in the environmental

statement. The Applicant refers the ExA to the revised draft DCO (Revision F) submitted at Appendix 22 to this Response.

3. The Applicant would draw the ExA's attention to paragraph 4.275 of the Statement of Common Ground (SoCG) with NE (Appendix 31 of the Applicant's Response to Deadline 5) where this matter is now agreed.

Question Number	Topic Heading/ Respondent	Question
EOn 2.5	<p><i>Lincolnshire Coastal Grazing Marshes</i></p> <p>The Applicant</p> <p>Natural England</p> <p>The Lincolnshire Wildlife Trust</p>	<p>In their written representations for Deadline 3, both JE Spence & Son [REP3-011] and Roger Wardle [REP3-030] express concern in respect of the impact of your proposals on site E (site 6) and suggest either Horizontal Directional Drilling (HDD) or thrust boring under the site to reduce the impact. Roger Wardle also suggests a third option, namely avoiding works during the breeding season [REP3-030].</p> <p>i) To the Applicant: with reference to paragraphs 5.13 and 5.14 of your response to Deadline 3 [REP3-035],</p> <p>a) is this matter being discussed with these parties?</p> <p>b) are you willing to commit to any of these three options at this location?</p> <p>ii) To the Applicant: if you are willing to commit to one of these three options,</p> <p>a) have these methods been assessed in the Environmental Statement?</p> <p>b) how would this be secured in the DCO? and</p> <p>c) will the trenchless crossing plan which you are providing need updating?</p> <p>iii) If you are not willing to commit, explain why</p> <p>iv) To Natural England and the Lincolnshire Wildlife Trust: do you have a view on which method(s) should be used at this location?</p>

EOn 2.5

1. The Applicant notes that Natural England (NE) and the Lincolnshire Wildlife Trust (LWT) have both provided a response to this question.

Natural England

2. The Applicant welcomes NE's answer to EOn 2.5 and notes that one of the three suggested mitigation measures outlined in the question (i.e. avoiding trenching works during the breeding season) was adopted and included in Appendix 22 of the Applicant's response to Deadline 4. The other mitigations described within question EOn 2.5 are discussed in detail within the LCGM Site E / Field 6 Clarification Note submitted as Appendix 13 of the Applicant's Response to Deadline 5.
3. The Applicant is of the view that the realignment of the cable route to run parallel with the field edge does not alter the level of impact predicted on breeding birds or grazing marsh habitats when in comparison with the proposed cable route (see Figure 1 in Appendix 13 of the Applicant's Response to Deadline 5). Although the Applicant acknowledges that HDD of Site E / Field 6 would remove the issue of temporary habitat disturbance, the ability of the Applicant to effectively re-instate the habitat and minimise impacts on the breeding birds removes the need to undertake a long trenchless crossing which increases the scheduling and engineering risks during the construction phase of the TKES. It is noted that NE agrees with the Applicant that potential impacts on terrestrial ecology receptors are predicted to be minor adverse or below and therefore "not significant" (paragraph 4.80 of Appendix 18 of the Applicant's response to Deadline 2).

Lincolnshire Wildlife Trust

4. The Applicant acknowledges that the Lincolnshire Wildlife Trust (LWT) would prefer the Lincolnshire Coastal Grazing Marsh (LCGM) target area at Burgh Le Marsh to be avoided by the cable route, and in particular Site E / Field 6. The Applicant is also aware that should the proposed route cross Site E / Field 6 that LWT would favour a trenchless crossing (e.g. HDD) or a realignment of the cable route whilst crossing this field. These preferences have been discussed by the parties prior to the submission of LWT's response to question EOn 2.5, as evidenced in a Statement of Common Ground (paragraph 4.9 of Appendix 34 of the Applicant's response to Deadline 4).
5. The Applicant welcomes the input from LWT in agreeing a set of mitigations that ensure that should the TKES project progress as proposed (i.e. crossing Site E / Field 6 using open trenching methods) that the potential impacts will be no more than minor adverse and not significant with regard to Environmental Impact Assessment (as confirmed paragraph 4.33 of Appendix 34 of the Applicant's response to Deadline 4 and LWT's late submission of 18th January 2016).

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6. The mitigations described within question EOn 2.5 (i.e. realignment of cable route and trenchless crossing) are discussed in detail within the LCGM Site E / Field 6 Clarification Note submitted as Appendix 13 of the Applicant's Response to Deadline 5. The Applicant adopted one of the three suggested mitigation alternatives outlined in the question (i.e. avoiding trenching works during the breeding season) which is set out in Appendix 22 of the Applicant's response to Deadline 4.
 7. The Applicant is of the view that the realignment of the cable route to run parallel with the field edge does not alter the level of impact predicted on breeding birds or grazing marsh habitats when in comparison with the proposed cable route (see paragraph 4.8 of Appendix 13 of the Applicant's Response to Deadline 5). Although the Applicant acknowledges that HDD of Site E / Field 6 would remove the issue of temporary habitat disturbance, the ability of the Applicant to effectively re-instate the habitat and minimise impacts on the breeding birds removes the need to undertake a long trenchless crossing which increases the scheduling and engineering risks during the construction phase of the TKES.
 8. The Applicant acknowledges that detailed design of the mitigation proposed will be required prior to construction commences. This detailed design and its agreement is secured through Requirement 14 of the draft DCO. This requirement ensures that a Code of Construction Practice is produced. Within this document the mitigation measures described within the Outline Construction Method Statement (Appendix 22 of the Applicant's response to Deadline 4) for works within Site E / Field 6 will be fully detailed.
 9. The Applicant does not agree with the opinion that there is a risk that the mitigation proposed would not be achievable in Site E / Field 6. This habitat was created (approximately 5 years ago) from an arable field that was drained and regularly disturbed. Further, in creating the grazing marsh habitat excavations were undertaken on the site to remove the existing drainage and dig the foot drains. Therefore, the Applicant remains of the position that restoring this habitat is both feasible and achievable (for more detail see Appendix 13 of the Applicant's Response to Deadline 5). Furthermore, it should be acknowledged that LWT agree that impacts on this field will be minor adverse and not significant (paragraph 4.33 of Appendix 34 of the Applicant's response to Deadline 4); a view repeated in the clarification of their answer to ExA question EOn 2.5 submitted on 18th January 2016.

Question Number	Topic Heading/ Respondent	Question
EOn 2.6	<p><i>Noise monitoring</i></p> <p>The Applicant</p> <p>Local Planning Authorities</p>	<p>In paragraph 1.5 of Appendix 20 to the Applicant’s Deadline 3 submission [REP3-056], the Applicant states a commitment to adding a new paragraph to the outline Noise and Vibration Management Plan (document reference 8.7.3) [APP-101], as follows:</p> <p>“Whilst no specific noise limits will be applied during construction, as the potential noise impacts of construction will be controlled by the mitigation measures outlined herein, it is recognised that in some circumstances the Local Authorities may find it beneficial to have a record of measured noise levels that occur during construction. Noise levels within construction areas will be monitored as part of the standard monitoring procedures that will be employed to ensure construction plant and equipment is operating within expected parameters, and these measurements will be forwarded on to the Local Authorities on request.”</p> <p>i) Has this new paragraph been agreed with the local planning authorities?</p> <p>ii) If so, provide an updated outline Noise and Vibration Management Plan at Deadline 4</p> <p>iii) If not, explain why.</p>

EOn 2.6

1. The Applicant notes that East Lindsey District Council and Boston Borough Council have responded to this question.

East Lindsey District Council

2. The Applicant notes ELDC’s response to this question; the local authorities were invited to make further comment during the Local Impacts Issue Specific hearing

held on 19th January 2016, where it was confirmed that there are no outstanding comments with respect to the update made to the Outline Noise and Vibration Management Plan (NVMP) submitted as Appendix 23 of the Applicant's response to Deadline 4 [REP4-050].

Boston Borough Council

3. The Applicant notes and welcomes BBC's confirmation of satisfaction with the revision to the Outline Noise and Vibration Management Plan (NVMP) submitted as Appendix 23 of the Applicant's response to Deadline 4 [REP4-050]. As identified above for ELDC, BBC confirmed at the Local Impacts Issue Specific hearing held on 19th January 2016 that it had no outstanding comments with respect to the update made. Further summary of this is set out in Appendix 1 of the Applicant's response to Deadline 5.

Question Number	Topic Heading/ Respondent	Question
EOn 2.9	<p><i>Flood Risk</i></p> <p>The Applicant</p> <p>The Environment Agency</p>	<p>In their written representations for Deadline 3, both Mr Bowler [REP3-006] and Bicker Parish Council [REP3-019] state that the Environment Agency has confirmed increased flood risk due to closure of pumping stations.</p> <p>i) Is this correct?</p> <p>ii) If so,</p> <p>a) are you satisfied that the increased risk is acceptable?</p> <p>b) are you satisfied that the increased risk will be properly managed?</p> <p>c) how will this be achieved and</p> <p>d) show where the draft DCO provides adequate security that risks in this respect will be properly and effectively managed</p>

EOn 2.9

1. The Applicant notes that the Environment Agency (EA) has responded to this question.
2. The Applicant welcomes the EA's response to EOn 2.9 which confirms that the Flood Risk Assessment (FRA) has demonstrated that there will be no increase in flood risk to third parties elsewhere in the catchment as a result of the proposed development. The Applicant has no further comment to add beyond its own response to EOn 2.9 submitted at Deadline 4.

Question Number	Topic Heading/ Respondent	Question
HRA 2.2	<i>Mitigation plan</i> Natural England	<p>In its response to question HRA 1.9 [REP1-044], the Applicant did not provide a draft plan of the Annex I mitigation scheme.</p> <p>Are you satisfied that the DCO is sufficiently flexible to enable the necessary mitigation to be adequately secured?</p>

HRA 2.2

1. The Applicant notes and welcomes Natural England's response to this question. The Applicant refers the ExA to paragraph 4.270 of the Statement of Common Ground (SoCG) with NE, presented at Appendix 31 of this Response where this matter is agreed.

Question Number	Topic Heading/ Respondent	Question
HRA 2.3	<i>Seabed preparation</i> Natural England	<p>Further to your response to question HRA 1.11 [REP1-033],</p> <p>i) are you satisfied with the Applicant's proposals in respect of seabed preparation contained in</p> <p>a) its response to question HRA 1.11;</p> <p>b) within the Statement of Common Ground (SoCG) with Natural England submitted as Appendix 18 at Deadline 2 [REP2-034]; and</p> <p>c) within the Clarification Note submitted by the Applicant at as Appendix 25 at Deadline 2 [REP2-025]?</p> <p>ii) if not, please explain and indicate what further information the Applicant needs to submit to address your outstanding concerns</p>

HRA 2.3

1. The Applicant notes and welcomes Natural England's response to this question. The Applicant refers the ExA to paragraphs 4.127-4.148 of the Statement of Common Ground (SoCG) with NE presented at Appendix 31 of this Response where this matter is agreed.

Question Number	Topic Heading/ Respondent	Question
LV 2.7	<i>Draft DCO</i> The Applicant Boston BC	North Kesteven District Council has requested [REP3-028] that Requirement 15 of the dDCO submitted at Deadline 3 should specify the hours of illumination and the means of control. Comment on this request.

LV 2.7

1. The Applicant notes Boston Borough Council has responded to this question.
2. The Applicant refers the ExA to Requirement 16 of the draft DCO (Revision F) (Appendix 22 of the Applicant's Response to Deadline 5), which deals with the control of operational artificial light emissions:

“16.—(1) Work Nos 9A and 50A shall not be brought into operation until a written scheme for the management and mitigation of artificial light emissions for the relevant work, has been submitted to and approved by the relevant planning authority.

(2) The approved schemes for the management and mitigation of artificial light emissions must be implemented before and maintained for the lifetime of Work Nos 9A and 50A.”

3. The ExA is also referred to the final SoCG with ELDC and BBC (Appendix 18 and 20 of the Applicant's Response to Deadline 2) at paragraph 13.14, which state their agreement with the wording of Requirement 15 (now 16):

“It is agreed that the wording of Requirement 15 [now 16] of the draft DCO (document reference 3.1) adequately secures a written scheme for the

management and mitigation of artificial light emissions during the operational phase of the project at the IEC and substation.”

4. The Applicant notes that Boston Borough Council has responded to this question. The Applicant notes and welcomes BBC’s confirmation of its satisfaction that *“Requirement 15 (now 16) seeks the submission of a scheme for the management and mitigation of artificial light. It would seem implicit that such a scheme would include proposals for hours of illumination and their means of control.”*
5. The Applicant agrees with BBC in this regard and confirms that the control of operational artificial light emissions, including hours of illumination, during the operation life time of the IEC and Substation will be secured through Requirement 16 of the draft DCO (Revision F) submitted at Appendix 22 of the Applicant's Response to Deadline 5.
6. The Applicant also notes BBC position that these matters are adequately addressed in the Outline Artificial Light Emissions Plan (ALEP) (document reference 8.7.6) [App-104], in relation to construction period.

Question Number	Topic Heading/ Respondent	Question
LV 2.8	<p><i>Draft DCO</i></p> <p>The Applicant</p> <p>Boston BC</p> <p>East Lindsey DC</p>	<p>In respect of Requirements 6 (Provision of Landscaping), 7 (Implementation and Maintenance of Landscaping) and 13 (Ecological Management Plan) of Schedule 1 of the dDCO, are the parties satisfied that the wording, which requires that each approved scheme ‘accords with the outline ecological management plan’ is sufficiently precise?</p> <p>Suggest alternative wording if not.</p>

LV 2.8

1. The Applicant notes that East Lindsey District Council and Boston Borough Council have responded to this question.
2. The Applicant notes and welcomes the confirmation from both Local Authorities that they are content with the wording of Requirement 6 *Provision of Landscaping*, Requirement 7 *Implementation and Maintenance of Landscaping* and Requirement 13 *Ecological Management Plan* of the draft DCO; and Outline Landscape Strategy and Ecological Management Plan (OLSEMP).

Question Number	Topic Heading/ Respondent	Question
LV 2.12	<i>Brown zone</i> The Applicant East Lindsey DC	State whether the Intermediate Electrical Compound would be less visually intrusive if located at the Wainfleet Industrial Estate (the 'Brown Zone', referenced as 'Site Int_ZA' in ES Volume 1 Chapter 4 6.2.1.4 [APP-023]).

LV 2.12

1. The Applicant notes that East Lindsey District Council has responded to this question, but has no further comment to add beyond that which is set out in its own response to the question, submitted at Deadline 4 [REP4-027].

Question Number	Topic Heading/ Respondent	Question
LV 2.13	<p><i>Brown zone</i></p> <p>Applicant</p> <p>East Lindsey DC</p> <p>Lincolnshire CC</p>	<p>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 Compound. One of those reasons cited were problems aligning the cable route through the site.</p> <p>a) Could the Applicant explain why this site was therefore initially judged as its preferred site if it knew of such problems?</p> <p>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.</p>

LV 2.13

1. The Applicant notes that East Lindsey District Council and Lincolnshire County Council have responded to this question.

East Lindsey District Council

2. The Applicant notes ELDC's response to this question. The Applicant has no further comment to add above that which is set out in its own response to the question, submitted at Deadline 4 [REP4-027].

Lincolnshire County Council

3. The Applicant notes and agrees with the response by LCC. The Applicant again refers the ExA to its response to this question at Deadline 4.

Question Number	Topic Heading/ Respondent	Question
LV 2.14	<p><i>Green zone</i> The Applicant Boston BC</p>	<p>At the Landscape and Visual Hearing, held on Wednesday 18 November 2015 [EV-026 and EV-027], Boston Borough Council confirmed that its support for the proposed siting for the Substation (the 'Blue Zone' referenced as 'Site Sub_J' in ES Volume 1 Chapter 4 6.2.1.4 [APP-023]) principally stemmed from local views, and that because the Substation would be capable of being served by a permanent access road which could be taken directly from the A52.</p> <p>a) Explain whether all the shortlisted sites were proposed with permanent access roads.</p> <p>b) Explain from where the Green Zone (Cow Bridge referenced as 'Site Sub_F' in ES Volume 1 Chapter 4 6.2.1.4 [APP-023]) permanent access road would have been taken.</p> <p>c) Explain whether a permanent access road from the A17 to the Green Zone site was sufficiently explored.</p> <p>d) If the Green Zone had a suitable access, would Boston BC have supported this location over the proposed site, having regard to its proximity to the existing NG substation?"</p>

LV 2.14

1. The Applicant notes that Boston Borough Council has responded to this question.
2. The Applicant notes and welcomes BBC's response to this question and its helpful summary of the process and discussions which took place in order to select the substation site. The Applicant has nothing further to add to this question above that provided in its response at Deadline 4 [REP4-027].

Question Number	Topic Heading/ Respondent	Question
LV 2.16	<p><i>Management and maintenance of the planting</i></p> <p>The Applicant</p> <p>East Lindsey DC</p> <p>Boston BC</p>	<p>a) Confirm when the 10-year period of management and maintenance of the planting, as specified in Requirement 7(2) of the dDCO [REP3-043] would commence (i.e at 'Year 1' commencement of construction) and whether this is secured in the draft DCO.</p> <p>b) Clarify whether the 10-year period of management and maintenance of planting, as specified in Requirement 7(2) of the draft DCO [REP3-043] would be sufficient to ensure the successful establishment of the planting.</p> <p>c) State whether you consider that the draft DCO is sufficiently precise as to the responsibility of the management and maintenance within the 10-year period.</p>

LV 2.16

1. The Applicant notes that East Lindsey District Council and Boston Borough Council have responded to this question.
2. The Applicant notes and welcomes confirmation from both Councils that they are content with the provisions of Requirement 7 *Implementation and Maintenance of Landscaping* of the draft DCO and of the adequacy of the 10 year period for which management and maintenance of planting is proposed. The local authorities were invited to make further comment during the Local Impacts Issue Specific hearing held on 19th January 2016. It was confirmed that there are no outstanding comments with respect to the implementation and maintenance of landscaping. A summary of this point made at the hearing is set out at Appendix 1 of this Response.

Question Number	Topic Heading/ Respondent	Question
LV 2.17	<p><i>Planting on the cable route</i></p> <p>The Applicant</p> <p><i>All parties</i></p>	<p>In responses to Deadline 3, Lincolnshire County Council [REP3-024] states that the Applicant's assertion that only shallow root systems can be planted over the cable route is not justified.</p> <p>Please respond stating your reasons for supporting or refuting this assertion.</p>

LV 2.17

1. The Applicant notes that Boston Borough Council and East Lindsey District Council have responded to this question.

Boston Borough Council

2. The Applicant notes and welcomes BBC's response to this question and welcomes the Council's support for the position set out in paragraph 5 of the Applicant's response to LV 2.17, submitted at Deadline 4 [REP4-027].

East Lindsey District Council

3. The Applicant notes and welcomes ELDC's response to this question; the Applicant has nothing further to add beyond its own response to LV 2.17, submitted at Deadline 4 [REP4-027].

Question Number	Topic Heading/ Respondent	Question
SE 2.12	<i>Agricultural Liaison Officer</i> The Applicant	<p>In the outline Soil Management Plan [APP-103] you outline the role of the Agricultural Liaison Officer (ALO) in relation to soil sampling, crop regimes, field boundaries, existing drainage and existing access arrangements.</p> <p>i) Will the ALO be involved proactively in meeting landowners and farmers on a regular basis to understand their concerns?</p> <p>ii) What other planning, design, construction, operation and decommissioning issues do you consider the ALO will need to address?</p> <p>iii) Do you consider that one or more ALOs should be appointed now?</p> <p>iv) How many ALOs do you think will be needed and over what timeframe to ensure proper coverage of these issues?</p> <p>v) Provide further details of the roles and responsibilities of the ALO in dealing effectively and efficiently with these issues to the satisfaction of landowners and farmers over the lifetime of the project, either in the Soil Management Plan or another Management Plan, ensuring that these details are secured through the DCO by Deadline 4.</p>

SE 2.12

1. The Applicant notes that Boston Borough Council has provided a response to this question and to the associated question SE 2.13, which is not repeated in this Response but which relates to the aftercare of soils post-construction.

2. The Applicant welcomes the confirmation from BBC that the Council will ensure future conversations with respect to the discharge of Requirement 14 are held such that the detail of the roles and responsibilities of the Agricultural Liaison Officer (ALO) are satisfactory. The Applicant has made significant updates to the Outline Soil Management Plan (SMP) [REP4-052], submitted as Appendix 25 of the Applicant's response to Deadline 4, as discussed at the Local Impacts Issue Specific Hearing held on 19th January 2016. The Applicant is seeking agreement primarily with the Land Interest Group with respect to the detail now included in respect of the ALO in the revised Outline SMP submitted for Deadline 5 (Appendix 14), and welcomes comment on these updates from any other relevant interested party.

Question Number	Topic Heading/ Respondent	Question
TT 2.3	Access to the landfall site The Applicant The Local Highway Authority	<p>The Applicant's response to question EOn 1.23 [REP1-044] 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 ..."</p> <p>i) Is this also the public right of way PRow/Hutt/10/4 which will be temporarily closed?</p> <p>ii) Does the local highway authority consider that this is a suitable access?</p> <p>iii) Has the local highway authority agreed the proposed route in principle?</p> <p>iv) If not, have other options for access to the landfall site been considered and assessed in the ES?</p>

TT 2.3

1. The Applicant notes that Lincolnshire County Council has responded to this question.
2. The Applicant met with the LCC PRow officer on 13th Jan 2016 to review the assessment and understand any outstanding concerns in relation to PRow matters. The Applicant refers the ExA to Appendix 7 of this Response, where the agreed minutes of this meeting are presented for information.
3. The LCC PRow officer has now been able to review the submitted material including the Outline CMS, which sets out the methodology to deal with temporary PRow diversions and closures.
4. The LCC PRow officer expressed concerned about how communications in relation to the PRow would be managed. The Applicant's position is that

paragraph 2.7 in the Outline Communications Plan provides for necessary communication measures as follows:

“PROW closures / diversions will be communicated to Lincolnshire County Council and other relevant organisations, including Parish Councils. Information will include the duration and proposed alternative routes. A PROW Diversion Plan has been prepared which contains further details of the proposed diversions (Application Document 2.7). Those diversions are also addressed within the Outline Construction Method Statement (Application Document 8.7).”

5. Following discussion the LCC PRoW officer was happy to agree to paragraph 7.46 of the SoCG with LCC which states:

“It is agreed that Section 3 of the Outline Construction Method Statement (document reference 8.7.1) sets out an appropriate approach on how public rights of way (PRoW) diversions will be managed, and the broad principles that will ensure the use of PRoWs during construction is managed safely and that any disruption caused to the general public is minimised.”

6. The Applicant acknowledges that whilst Hutt/10/4 is only recorded as a footpath, there remains the potential for “higher rights” and that as such, the stopping up of rights needs to refer to all forms of public user, not solely those on foot. The Applicant can confirm that the existing provision in the DCO provides for the stopping up of all rights at Article 9(1) of the DCO.

7. The Applicant acknowledges that LCC wants to ensure that commitments to restore the land (footpath) to its original condition following construction would ensure that Hutt/10/4 would be not changed from its existing surfacing, following construction. The Applicant is able to agree that restoration needs to take Hutt/10/4 back to its former condition as a predominantly recreational resource. To do this, stone would be removed and it would be returned to a ‘green lane’. This would be secured through the details approved for Requirement 21 of the DCO, which states that:

“Land above MHWS, which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated in accordance with details approved by the relevant planning authority.”

8. The Applicant and LCC PRoW officer agreed that safe alternative beach access is available in the vicinity of Hutt/10/4 via route Hutt/9, which is LCC owned and promoted for access to the beach and also available via Sand Lane (Ande/964/1).

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9. The Applicant is able to confirm that Hutt/10/5 (the section over the sea defence and dunes) will remain open throughout the construction period with all public access carefully managed in a safe manner by the Applicant.
 10. The Applicant acknowledges that LCC would like to ensure that an advisory notice would be included at the junction between Hutt/10/1 and Hutt/10/2 to guide users away from closed section. This is set out in the Outline Communications Plan (paragraph 2.7) and would be agreed in detail as part of the CoCP for this stage of the development.
 11. The Applicant and the LCC PRoW officer agreed that the two limited, temporary periods of closure of Hutt/10/4 is appropriate to manage the safety of public users during the construction phase.
 12. It is the Applicant's position therefore that all outstanding issues in respect of access to the landfall area have been resolved.

Question Number	Topic Heading/ Respondent	Question
TT 2.6	<i>Vehicle routeing</i> The Applicant	<p>i) Will the proposed permanent access road for the proposed new substation also be used by you to undertake works at the existing National Grid substation nearby?</p> <p>ii) If so, do you see any potential benefit to the local community in encouraging the use of this proposed permanent access road by other parties during the lifetime of the proposed project?</p> <p>i) iii) Do you see any other potential for enhancement for the local community?</p>

TT 2.6

1. The Applicant notes that Boston Borough Council has provided a response to this question and to the associated question TT 2.5, which is not repeated in this Response but which relates to vehicle occupancy.
2. The Applicant notes BBC's confirmation that it is content that the Traffic Management Plan(s) will set out how Construction Access and Travel Plans will be devised, monitored and enforced. The Applicant also notes BBC's, primarily relating to TT 2.6 on Requirement 19 (formerly 18) and confirms to the ExA that an agreed form of wording for Requirement 19(2) has been updated as follows:

“(2) Construction and contractor traffic related to the authorised development shall only use Work No 48 or Work No 49 to access Work Nos 50 to 55 inclusive and the timings for the construction of Works Nos 48 and 49 shall be included within the Construction Method Statement approved as part of the relevant Code of Construction Practice.”
3. The Applicant would highlight to the ExA that BBC reconfirmed its acceptance of this wording during the Local Impacts Issue Specific hearing held on 19th January 2016, as set out In Appendix 1 *Written Summary of the Oral Case* of the

Applicant's response to Deadline 5. This wording has been included in the revised draft DCO (Revision F) submitted as Appendix 22 of this Response.

4. In relation to the additional point raised by BBC on potential benefits to the local community in encouraging use of the permanent access road, the Applicant highlights to the ExA that this matter was also discussed during the Local Impacts Issue-Specific hearing held on 19th January 2016. At the hearing, the Applicant explained that the proposal was rejected on the grounds of being unfavourable with local landowners as it may exacerbate issues currently experienced relating to trespassing and illegal hare coursing. Further detail on these discussions is set out in the Written Summary of the Oral Case put at Local Impacts Issue Specific hearing, submitted as Appendix 1 of the Applicant's response to Deadline 5.

Question Number	Topic Heading/ Respondent	Question
TT 2.7	<i>Vehicle routeing</i> North Kesteven District Council	<p>In your written representation [REP3-028], you consider that either Requirement 14 or Requirement 18 should include reference to construction traffic routeing and any prohibited routes, along with the means by which such restrictions may be enforced.</p> <p>Would it be better to specify information on the routeing of construction traffic, prohibited routes and enforcement of restrictions on construction traffic in the Traffic Management Plan instead?</p>

TT 2.7

1. The Applicant notes and welcomes North Kesteven District Council's response to this question, confirming that whilst deferring to the advice of the local Highways Authority on this matter, the Council considers that the Traffic Management Plan is an appropriate method of addressing these matters, confirming that it therefore has no objection.

Question Number	Topic Heading/ Respondent	Question
TT 2.9	<i>Monitoring and enforcement</i> Lincolnshire CC Boston BC East Lindsey DC North Kesteven DC	<p>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?</p> <p>ii) If not, what measures do you think need to be included and why?</p>

TT 2.9

1. The Applicant notes that Lincolnshire County Council, Boston Borough Council, East Lindsey District Council and North Kesteven District Council have responded to this question.

Lincolnshire County Council

2. The Applicant welcomes LCC's confirmation that it agrees with the provision for monitoring and enforcement of restrictions on construction traffic movements as set out in the Outline Traffic Management Plan [APP-110].

Boston Borough Council

3. The Applicant notes BBC's response to TT 2.9 and in particular the comments made in relation to the appointment and funding of a Travel Plan Coordinator; as stated by BBC. It is the Applicant's position that the details of the travel plans and coordination of them will be discussed in the process of developing the Traffic Management Plans in the pre-construction phase. The Applicant's response to TT 2.5 of the ExA's second written questions, submitted to Deadline 4 [REP4-027],

outlines the detail that is secured with respect to Travel Plans, which is embedded in Section 5 of the Outline Traffic Management Plan [APP-110]. The Applicant has nothing further to add beyond its previous submissions.

East Lindsey District Council

4. The Applicant notes ELDC's response to this question and refers the ExA to the comments made by the Applicant on ELDC's response to DCO 2.14 of this Response with respect to the discharging authority for all requirements lying with the relevant planning authority (in this case Boston Borough Council and East Lindsey District Council). The Applicant also refers the ExA to the response to this question from BBC [REP4-024] which states that *"the Council is content that the submission of staged discharges of this requirement is the only way in which to address of particular monitoring and enforcement"*; the Applicant therefore notes BBC's support for discharging requirements relating to highways matters.

5. Paragraph 10.5 of the SoCG between the Applicant and ELDC, submitted as Appendix 20 the Applicant's response to Deadline 2 [REP2-036], confirms that:

"It is agreed that the implementation of a Traffic Management Plan (TMP) is adequate for securing appropriate routing of construction traffic, and that the approach set out in the Outline TMP (document reference 8.9) is adequate to manage the potential impacts of construction traffic."

6. The Applicant maintains the position that the relevant planning authorities are the appropriate bodies in relation to the approval of highways matters within the DCO.

North Kesteven District Council

7. The Applicant notes NKDC's response to Question TT2.9. Any additional monitoring and enforcement measures for construction traffic management will be agreed with the relevant local authority as set out in Requirement 19 of the draft Development Consent Order [REP4-042]. The measures proposed by NKDC are typical traffic management measures that can be discussed with the relevant planning authority when drawing up a more detailed Traffic Management Plan (TMP) prior to discharge of the Requirement.

8. As noted above, the Applicant refers the ExA to the BBC (the neighbouring Authority to North Kesteven District Council) response to this question [REP4-024] which notes that there are sources of information that BBC intend to use to inform future discussions with the Applicant when drawing up stage-specific TMPs. BBC also note that these details are for those future discussions of the TMP.

Question Number	Topic Heading/ Respondent	Question
TT 2.10	<i>Tourist traffic</i> Lincolnshire CC Boston BC East Lindsey DC North Kesteven DC	i) Are you satisfied with the measures proposed in the outline Traffic Management Plan [APP-110] to mitigate effects of the project on tourist traffic? ii) If not, what measures do you think need to be included and why?

TT 2.10

1. The Applicant notes that Lincolnshire County Council, Boston Borough Council, East Lindsey District Council and North Kesteven District Council have responded to this question.

Lincolnshire County Council

2. The Applicant welcomes LCC's confirmation that it agrees with the provision for the control measures proposed in the outline Traffic Management Plan [APP-110] to mitigate the effects of the project on tourist traffic.

Boston Borough Council

3. The Applicant notes BBC's response to this question and has nothing further to add above its own response provided to the question at Deadline 4.

East Lindsey District Council

4. The Applicant notes ELDC's response to this question and refers the ExA to the comments made by the Applicant on ELDC's response to DCO 2.14 with respect to the discharging authority for all requirements lying with the relevant planning

authority (Boston Borough Council and East Lindsey District Council). The Applicant also refers the ExA to the response to this question from BBC [REP4-024] which states that *“The Borough Council does not have any concerns over the effects upon tourist traffic and is aware that there have been specific discussions with East Lindsey DC and the County Council over specific crossing or TCC locations so as not to disrupt tourist traffic”*; the Applicant therefore notes BBC’s support for discharging requirements relating to highways matters and confirmation of its satisfaction with respect to mitigating effects on tourist traffic.

5. The Applicant maintains the position that the relevant planning authorities are the appropriate bodies in relation to the approval of highways matters within the DCO.

North Kesteven District Council

6. The Applicant notes NKDC’s response to Question TT 2.10. As highlighted by the Applicant in its comments to the NKDC response to TT 2.9, the Applicant notes to the ExA that any additional monitoring and enforcement measures for construction traffic management will be agreed with the relevant local authority as set out in Requirement 19 of the draft Development Consent Order [REP4-042]. The measures proposed by NKDC are typical traffic management measures that can be discussed with the relevant planning authority when drawing up a more detailed Traffic Management Plan (TMP) prior to discharge of the Requirement.

Question Number	Topic Heading/ Respondent	Question
TT 2.11	<i>Highways</i> Lincolnshire CC	<p>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, then the Council will be in a position to agree a Statement of Common Ground covering many highway issues. That position cannot be reported further at this stage.”</p> <p>i) Explain what these alterations are</p> <p>ii) Explain what outstanding highway issues there are outside these mitigation plans; and</p> <p>iii) Explain why you are unable to report to the Examining Authority further at this stage</p>

TT 2.11

1. The Applicant notes that Lincolnshire County Council has responded to this question.
2. The Applicant acknowledges the concerns expressed by LCC in relation to highways matters and received a hand written statement on 29th January 2016 (submitted as Appendix 1 of Appendix 9 of the Applicant's Response to Deadline 5) outlining LCC's further concerns raised in relation to traffic and access matters. It is the Applicant position that these matters cover topics which has been previously discussed and agreed as set out in the EIA Evidence Plan (document reference 8.16) [APP-132].
3. LCC's hand written note received by the Applicant on the 29th January 2016 raises concerns in relation to:

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- Routing of construction traffic to the access points and the access used for the landing point.
 - The indicative arrangements for traffic management are not appropriate for the locations identified.
 - The A17 and A158 are main holiday routes and the impacts of slow moving traffic and turning traffic have not been identified to the satisfaction of the highway authority.
 - The Highway Authority considers that the impact on the interface between the A17 and Swineshead level crossing of the construction works has not been appropriately considered in relation to the access point on the A17.
4. The Applicant has responded to these issues in full in its Traffic and Access Clarification Note submitted at Appendix 9 of the Applicant's Response to Deadline 5. In this clarification note the Applicant sets out the background to the EIA Evidence Plan, including the level of detail discussed and the matters agreed through the process, the provision for traffic and access in the DCO, including the structure of the DCO requirements and outline management plans. The note then deal with each of the concerns raised by LCC.
5. In relation to LCC's concerns about the use of the 20%, the Applicant discussed this point with LCC on 13th January 2016 and has an agreed minute of the meeting setting out that this approach was agreed. The minutes have been submitted as Appendix 8 of the Applicant's response to Deadline 5.

Part 2 The Applicant's comments on information received at Deadline 4

In addition to responses to the ExA's second written questions, several IPs also presented written submissions to the ExA at Deadline 4. Submissions were received from:

1. Anderby Parish Council
2. Mr J Mowbray
3. J. Spence (Spence and Sons)
4. Mr B Ward
5. Mr and Mrs. Fox
6. Mrs H Bowler
7. Alco Estates Ltd

1. Anderby Parish Council

- 1.1 Cllr Anthony Cox (Anderby Parish Council) raised queries in his submission to Deadline 4 related to the Applicant's account of discussions during the ISH on the 19 November 2015 (Appendix 5 of the Applicant's response to Deadline 3) regarding designation of Critical National Infrastructure (CNI) by DECC.
- 1.2 The Applicant notes that Cllr Cox considers the potential for the TKES and Viking Link may together be considered CNI (rather than TKES alone). The Applicant would reiterate points made at the ISH on 17 November 2015 (Appendix 3 of the Applicant's response to Deadline 3) regarding the status of Viking Link and the fact that any cumulative assessment, which might include consideration of security issues, is not possible at this time as there is insufficient information available about Viking Link.
- 1.3 The Applicant reiterates points made during the ISH on 19 November that safety and security matters are taken seriously, both for its employees and members of the public. This includes responding to any requests or requirements regarding safety made by DECC at the relevant time. The Applicant's response should not be read, as suggested by Cllr Cox, as confirmation that DECC has communicated the CNI status of TKES, either alone or in combination with Viking Link TKOWFL. TKOWFL have ongoing liaison with DECC on a number of matters and will discuss any communication of proposed CNI status with DECC should such be determined by DECC.

2. Mr J Mowbray

2.1 The Applicant's response to Mr J Mowbray's submission at Deadline 4 is included at Appendix 34 of the Response.

3. Mr J Spence (Spence and Sons)

3.1 The Applicant notes that Mr Spence has made previous submissions to the examination and, in relation to Mr Spence's initial point on the perceived lack of response from the Applicant, notes the submissions and the Applicant's subsequent responses as follows:

- Relevant Representation submitted by J E Spence and Son (Mr A Spence) [RR-146]
- Response to Rule 6 letter (Additional Submissions) submitted by Mr A Spence [AS-004]
- The Applicant's Responses to Relevant Representations and Additional Submissions [REP1-045]
- Written Representation submitted by J E Spence and Son published at Deadline 3 [REP3-011]
- Response to submission from Mr J.E. Spence and Son at Deadline 3 submitted by the Applicant and published at Deadline 4 [REP4-032]
- Written Representation submitted by Mr A Spence published at Deadline 4 [REP4-017]
- Response to submission from Andrew Spence at Deadline 4 (this document) submitted by the Applicant

3.2 The Applicant appreciates that, at the time of writing his Deadline 4 submission, Mr Spence will not have had the opportunity to see the Applicant's response to his Deadline 3 submission (letter from November 2015 which is referenced).

3.3 The Applicant has provided further clarification in relation to this point in its Lincolnshire Coastal Grazing Marsh – Field 6 / Site E Clarification Note submitted at Appendix 13 of the Applicant's Response to Deadline 5.

3.4 Mr Spence, in his submission to Deadline 4, requested specific information on construction techniques. The four topics specifically referred to in the submission are:

- Type of temporary road;

- De-watering of excavations;
- Burial depth; and
- Trench supports.

3.5 At this stage of the development the detailed design and procurement of the Triton Knoll Electrical System has not taken place. It is therefore not currently possible to detail exact construction techniques however, it is possible to provide some general information on each point raised.

Type of temporary road

3.6 The temporary haul road is likely to be created from one of three main types of material; these being high density polyethylene (HDPE) panels (e.g. Dura-base, Tufftrak), aluminium panels or timber bog mats. Each of these solutions has been used previously by statutory undertakers (e.g. National Grid) to provide access solutions through sensitive sites such as Sites of Special Scientific Interest. It is acknowledged that each solution has certain drawbacks; for example aluminium panels require a 24 hour security presence due to their value as scrap metal and timber bog mats are heavy and tend to degrade with extended use. During the procurement process contractors will be asked to provide tenders based on the most appropriate solution. If consent is granted, the type of surface and the methods required to install it safely will be detailed in the Construction Method Statement (CMS) (secured through Requirement 14 of the draft DCO) in line with paragraph 2.14 of the Outline Construction Method Statement (Revision C) (Appendix 21 of the Applicant's Response to Deadline 4), which states "*Where a haul road is required, it may be constructed from stone, matting or a specialist track.*" and the specific mitigation set out in Appendix 1 (Appendix 21 of the Applicant's Response to Deadline 4).

3.7 Where the ground undulates there are a variety of solutions to ensure that the individual panels can fix together and provide a safe road way. These include the use of sandbags, the use of soil/aggregate (sometimes with a pipe to enable water flow) wrapped within a geo-textile membrane, temporary bridges or localised grading. Again the best solution will be determined during the detailed design and procurement process and secured through the suite of construction phase management plans which must be submitted to and approved by the relevant planning authority prior to the commencement of works.

De-watering of excavations

3.8 Excavations may need to be de-watered depending on the conditions encountered. Water would be pumped from the trenches only and directed to the adjacent drainage ditches or to scrapes elsewhere on the field (as detailed in the agreed mitigation

measures set out in the Outline CMS, submitted as Appendix 22 of the Applicant's Response to Deadline 4 [REP4-049]). Paragraph 2.48 of the Outline CMS secures that:

“Any discharge (e.g. from de-watering or vehicle washing) to watercourses will require the consent and appropriate licensing from the Environment Agency and relevant management authority (e.g. IDB); treatment prior to discharge to maintain water quality; and, will likely need to be discharged at the IDB specified rate or less (less than 1.4 l.s-1.ha-1 or a de minimis rate of 5 l.s-1)“

- 3.9 It is not considered that it will be necessary to dewater the entire field for the purposes of the construction works. It should further be noted that the timing of the works on Site E / Field 6 are committed to commence at the end of summer to ensure that the driest conditions are encountered during the trenching operation.

Burial depth

- 3.10 Burial depth will be determined following detailed design, using information gathered during site investigations and topographical survey. The cable ducts will be buried at a sufficient depth to ensure that normal field management can continue, including the management of the foot drains that are present across Field 6 / Site E. On this basis, the Applicant acknowledges that cables are likely to be buried deeper than the minimum 1.2 metre depth in this field.

Trench supports

- 3.11 Trench supports are likely to be required during the construction to ensure that excavations do not collapse. These supports can take a number of forms including trench boxes and walers. Trench support systems are used regularly throughout the UK, ensuring that their supply and usage will not result in any need to develop a novel approach.
- 3.12 It had been the Applicant's understanding that the habitat was created by impeding the flow of water (entering as rainfall) into the drainage ditches that surround the site. This, it was understood, was achieved through the compaction of soil around the fields' perimeter and the breaking of the existing drainage infrastructure. This information was provided to the Applicant by Mr Roger Wardle (a consultant who had previously been employed by the Lincolnshire Coastal Grazing Marsh project to design the habitat creation techniques used) in a meeting held on 12th October 2015. However, during the Local Impacts Issue Specific Hearing held on 19th January 2016 Mr Spence confirmed this to not be the case. The Applicant had noted that LWT had confirmed that this technique has been used elsewhere within the Lincolnshire Coastal Grazing Marsh project area to create grazing marsh habitat in localised fields. This information

was used, in part, in the development of the updated mitigation measures discussed with LWT and Mr Wardle on 3rd December 2015.

- 3.13 It was identified during the Local Impacts Issue Specific Hearing held on 19th January 2016 that the land owner (Mr Spence) had used a different technique to raise the water table level in the field. Mr Spence (who undertook the habitat creation works directly) is now known to have installed a water control mechanism in the adjacent ditch system allowing the water to be impounded, thereby providing the ability to prevent or slow down water loss from the adjacent field. In addition the field drains that had been operational when the field was in arable production were rendered inoperable.

Location of the cable route

- 3.14 Further concerns were raised by Mr Spence at the Local Impacts Issue Specific Hearing held on 19th January 2016 in relation to the route of the cable corridor through the field.
- 3.15 The routing of the cable through Field 6 / Site E (and sections on either side) has been designed to minimise cable length, reduce tension on the cables when being pulled through the ducts (i.e. the straightest route is preferred in this respect), reduce potential issues associated with working in close proximity, and parallel to, the drainage network (e.g. loss of fines from stored soil) and to minimise the potential for the creation of drainage pathways from the field into the adjacent ditch network.
- 3.16 The realignment of the cable route preferred by LWT, Mr Wardle and Mr Spence would not markedly alter the areas of habitat affected by the construction works. The Applicant's proposed cable route and the suggested realignment overlap considerably with 1.3 ha (73%) of the proposed cable route being shared with the suggested realignment. This is set out clearly in Figure 1 of the LCGM Site E Field 6 Clarification Note submitted at Appendix 13 of the Applicant's Response to Deadline 5). It should also be noted that the realignment requires disturbance of a greater area (an increase of 12%) of land than the proposed cable route (1.99 ha vs. 1.78 ha). This level of overlap is the minimum possible, when imposing a 10 m stand-off to the ditch network that runs parallel to the public highway. This stand-off is in line with the Environment Agency's Pollution Prevention Guidelines (works and maintenance in or near water) and also ensures that the operation of plant could be carried out safely (i.e. set bank from bank sides). It is acknowledged that the Environment Agency Pollution Prevention Guidance was withdrawn on 14th December 2015 – however the guidance still remains valid in terms of good practice and is yet to be replaced.

3.17 It should also be noted that the realignment preferred by LWT, Mr Wardle and Mr Spence would not alter the need to undertake works across the same foot drains as those crossed by the current cable route.

3.18 Further detail on the location of the cable route is set out in the LCGM Site E Field 6 Clarification Note submitted at Appendix 13 of the Applicant's Response to Deadline 5).

4. Mr B Ward

4.1 The Applicant's response to Mr B Ward's submission at Deadline 4 is included at Appendix 35 of the Response.

5. Mr and Mrs Fox

5.1 The Applicant notes the submission by Mr and Mrs Fox to Deadline 4 of the 01 January 2016. On review of the document provided it is apparent that the submission is the same as was submitted by this IP at Deadline 3. The Applicant would refer the ExA to its response to this written submission provided at Appendix 8 of its response to Deadline 4.

6. Mrs H Bowler

6.1 The representation submitted by Mrs Helen Bowler for Deadline 4 in response to the Applicant's Response to Deadline 3 raises a number of specific issues and concerns regarding the potential impacts arising from the proposed development, structured into the following categories:

- Use of Brownfield sites;
- Cumulative Effect and Visual Impact;
- Loss of prime agricultural land; and
- Increased flood risk.

6.2 The Applicant notes that Mrs Bowler submitted a Relevant Representation (reference RR-039) and two Written Representations (references REP1-010 and REP3-006) to which the Applicant has responded in Appendix 1 of the Applicant's response to

Deadline 1, Appendix 7 of the Applicant's response to Deadline 2 and Appendix 3 of the Applicant's response to Deadline 4.

- 6.3 The points raised by Mrs Bowler were also raised in the previous representations and addressed in Appendix 7 of the Applicant's response to Deadline 2 and Appendix 3 of the Applicant's response to Deadline 4.

Use Of Brownfield sites

- 6.4 The Applicant refers the ExA to paragraphs 1.36 – 1.47 of Appendix 3 of the Applicant's response to Deadline 4 which sets out the Applicant's case in respect of site selection and how brownfield locations were considered in the evaluation of sites.

Cumulative Effect and Visual Impact

- 6.5 The Applicant refers the ExA to paragraphs 1.9 – 1.17 of Appendix 3 of the Applicant's response to Deadline 4 which sets out the Applicant's case in respect of the cumulative impacts, including landscape and visual, from the proposed development, Heckington Fen Wind Farm, the extension to the National Grid Bicker Fen substation and the Viking Link Interconnector.

Loss of prime agricultural land

- 6.6 The Applicant refers the ExA to paragraphs 1.18 – 1.27 of Appendix 3 of the Applicant's response to Deadline 4 which sets out the Applicant's case in respect of the loss of prime agricultural land.

Increased Flood Risk

- 6.7 The Applicant refers the ExA to paragraphs 1.48 – 1.70 of Appendix 3 of the Applicant's response to Deadline 4 which sets out the Applicant's case in respect of flood risk.
- 6.8 In particular the Applicant refers the ExA to paragraph 1.51 which sets out the agreement with the EA on the assessment and significance of flood risk impacts for the project alone and cumulatively.

7. Alco Estates Ltd

- 7.1 The Applicant's response to the submission from Alco Estates Ltd at Deadline 4 is included at Appendix 35 of the Response.