VikingCCS

Viking CCS Pipeline

9.64 Applicant's Response to the Examining Authority's Second Written Questions

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Applicant: Chrysaor Production (U.K.) Limited,
a Harbour Energy Company
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The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(q)
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1 Introduction

1.1 Purpose of this Document

1.1.1 This document has been prepared for the Viking CCS Pipeline (the 'Proposed Development') on behalf of Chrysaor Production (UK) Limited ('the Applicant'), in relation to an application ('the Application') for a Development Consent Order (DCO) that has been submitted under Section 37 of the Planning Act 2008 (PA 2008) to the Secretary of State (SoS) for Energy Security and Net Zero.

1.1.2 This document provides the Applicant's responses to the Examining Authority's (ExA) Second Written Questions as published on Monday 12 August.

1.2 The DCO Proposed Development

1.2.1 The Proposed Development comprises a new onshore pipeline which will transport CO_2 from the Immingham industrial area to the Theddlethorpe area on the Lincolnshire coast, supporting industrial and energy decarbonisation, and contributing to the UK target of Net-Zero by 2050. The details of the Proposed Development can be found within the submitted DCO documentation. In addition to the pipeline, the Proposed Development includes a number of above ground infrastructure, including the Immingham Facility, Theddlethorpe Facility and three Block Valve Stations.

1.2.2 A full, detailed description of the Proposed Development is outlined in *Environmental Statement (ES) Volume II Chapter 3: Description of the Proposed Development* **[APP-045]**.

2 Applicant's response to the ExA's Second Written Questions

2.1.1 This section provides the Applicant's response to the ExA's Second Written Questions. Each table relates to a section of Written Questions, which are set out using an issues-based framework derived from the Initial Assessment of Principal Issues in the Rule 6 letter, Annex C (dated 15 February 2024).

2.1.2 Within each table, 4 columns are provided as follows:

- As provided by the ExA, Column 1 sets out the unique reference number to each question which starts with 'Q1' (indicating that it is from ExAQ1), followed by an issue number, a sub-heading number and a question number;
- As provided by the ExA, Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to;
- As provided by the ExA, Column 3 provides a written description of the question to be answered by Deadline 5; and
- As provided by the Applicant, Column 4 provides a written response to the question(s) raised.

2.1.3 Where deemed necessary, additional information has been provided in support of specific questions by the Applicant, which is presented in the appendices within this document.

Table 2-1: Q2.1 - General and Cross Topic Questions

ExAQ2	Question to	Question	Applicant response
Planning Permissions			
2.1.1	Relevant local authorities	**Phillips 66 Limited and VPI Immingham LLP** Please provide an update, including a likely decision date (if not already decided) for the planning applications by Phillips 66 Limited and VPI Immingham LLP for the carbon capture plant for their respective businesses.	Whilst this question is directed to the local planning authorities, the Applicant notes that Phillips 66 Limited was granted planning permission PA/2023/422 on 5 August 2024 for the construction of a post-combustion carbon capture plant.
Miscellaneous			
2.1.2	Applicant	**Defence Issues** The Defence Infrastructure Organisation made a submission at Deadline 4 [REP4-095] removing their objection subject to certain caveats being fulfilled or stipulated within the draft Development Consent Order (dDCO). Set out clearly whether those caveats are accepted by the Applicant and where, if they have been, these are secured within the dDCO or its controlling documents. If the caveats are disputed, give reasons.	Following further communications with the Defence Infrastructure Organisation (DIO), the Applicant can confirm that a requirement has been added to schedule 2 of the draft DCO (Revision G) [EN070008/APP/2.1] that fully complies with the commitment sought in Appendix A of the DIO's submission at Deadline 4 [REP4-095]
2.1.3	Applicant	**Immingham Facilities Plot Plan** For absolute clarity, can it be confirmed that the indicative Immingham Facilities Plot Plan [APP-019] does not need to change following the first change request [AS-038].	The Applicant can confirm that the indicative Immingham facility plot plans [APP-019] do not need to be changed as a result of the first Change Request [AS-038].
Major Hazards and Accidents			
2.1.4	Applicant	**Mole Drilling** At OFH1, representations were given in respect of pipeline depth conflicting with agricultural operations. In particular, Mr Michael Crookes gave evidence of a mole drilling technique to a depth of 24cm [REP4- 058]. Should such an activity occur, and should the pipeline be buried to a depth where the top part of the pipe is only 0.7m below the surface, there would only be 46cm room for error. 1. Where the pipe would be buried 0.7m below the surface, would the Heads of Terms with the landowner (and/ or any articles within the dDCO) prevent mole drilling from taking place? 2. What measures could be taken to avoid a major accident or disaster given the close proximity of the operations?	1. Most agricultural activities, including ploughing, would not go below 0.7m from ground level. If, due to identified constraints, the pipeline was installed at an upper limit of 0.7m, then for safety reasons certain agricultural activities could be prevented from continuing. The Applicant has discussed this possibility with landowners / occupiers along the route that it is currently engaging with. The land rights acquired by the Applicant, whether voluntarily or through compulsory acquisition, will impose restrictive covenants on the land for the protection of the pipeline. Table 3 (Permanent acquisition of land for pipeline) within the Statement of Reasons [AS-069] sets out a number of restrictive covenants that would be placed on land above the pipeline. This includes *inter alia* to: *"(a) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the pipeline;* *(b) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or telecommunications through the cables ancillary to the pipeline, or support for the authorised development;* *(e) prevent anything to be done by way of mole draining or excavation of any kind in the Land nor any activities which would alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.7m for the purposes of arable farming);* *(g) prevent, without the written consent of the undertaker, the carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development."* Item (e) would therefore prevent mole drilling without the consent in writing of the undertaker. The Applicant would therefore discuss with the landowner what depth the activities were carried out

ExAQ2	Question to	Question	Applicant response
			to, and grant consent where possible. Item (e) does not prevent ploughing to 0.7m. If restrictions were imposed that prevented agricultural operations from resuming, then the landowner/occupier would be entitled to compensation. The potential for deviation is reflected in the commercial heads of terms that have been offered to those clients which include, amongst other things: • An obligation on the Applicant to engage with the landowner where the target depth cannot be achieved, with a view to reaching a mutually agreeable solution; and • An obligation on the Applicant to pay additional compensation where previous agricultural activities cannot be resumed as a result of the Proposed Development. 2. All landowners will be aware of the pipeline location, which will also be identified by markers along the route. Landowners will also be provided with as laid plans to include a cross profile and depth of the Developer's infrastructure, location and coordinates. The Applicant will continue to engage with landowners/occupiers to ensure they are aware of activities that would need to be restricted in close proximity to the pipeline. The Applicant will undertake regular monitoring of the pipeline route to check that no activities are being undertaken that might affect the pipeline. In addition, the Applicant has designed the pipeline in compliance with Engineering Standard BSI PD 8010-1:2016, and has elected to exceed the design requirements set by the standard. This includes taking a conservative approach with thick wall design across the full pipeline length. The use of thick wall pipe will increase the integrity of the pipeline to withstand accidental third-party impact. Any standard agricultural equipment would be unable to materially damage the pipeline on impact based on the thickness chosen. If the pipeline was buried to the upper limit, then it would be considered whether concrete slabbing might be used above the pipeline, further reducing impact risk. It should be noted that, even at the upper limit, the proposed burial depth is beyond the limit of most agricultural activities. The Applicant's expectation is that the target burial depth of 1.2m will be achieved along the entire route and any upward deviation, if required, would be highly localised.
2.1.5	Vincent Loy	**COMAH Regulations and other legislation** You have raised a number of health and safety concerns regarding the potential for amine and nitrosamine compounds, free water and corrosion within the pipeline, potentially increasing the risk of a major accident or health hazard. The Applicant has cited numerous legislative controls that govern how a pipeline operator must conduct business. Why does adherence to the legislation not give you confidence that the pipeline can be run safely?	
2.1.6	Residents of Corner Farm	**Final remarks** The ExA raised questions at Issue Specific Hearing 3 about the alternatives considered for pipeline routeing and the safety of the pipeline in proximity to residents outside built-up areas [EV9-002] [EV9- 003], to which the Applicant presented its case. Please review the recordings and provide any final thoughts you wish the ExA and the Secretary of State (SoS) to be aware of.	

Table 2-2: Q2.2 – Air Quality and Emissions

ExAQ2	Question to	Question	Applicant response
Air Quality Management			
2.2.1	UK Health Security Agency (UKHSA)	**Traffic emissions quantification** The Applicant has submitted a quantitative assessment of pollutant emissions forecast from construction traffic for the Proposed Development [REP3-026]. Provide any responses or comments on this additional detail, and state whether any concerns remain regarding human health impacts.	
2.2.2	UKHSA	**Quantitative Assessment** The Applicant provided an air quality modelling note [REP3-026] in response to your concerns raised at the onset of the Examination [RR-113]. Please review the document and state clearly whether you agree with its findings. If not, why not?	
2.2.3	Applicant	**Air dispersal modelling** At Deadline 3, East Lindsey District Council [REP3-034] requested to be a consultee in respect of any future air dispersal modelling to determine venting stack height. Has this request been accommodated within the dDCO and if not, why not?	The Applicant intends to undertake dispersal modelling to inform a technical design decision on the appropriate height for the vent stack. The vent stack will be designed to comply with all relevant regulations and guidance that apply to that type of infrastructure. The Applicant is not intending to submit the details to any party for approval, and does not consider that there is a need to do so.

Table 2-3: Q2.3 – Assessment of Alternatives

ExAQ2	Question to	Question	Applicant response
Project Alternatives			
2.3.1		No further questions at this time.	This is noted.

Table 2-4: Q2.4 – Climate Change

ExAQ2	Question to	Question	Applicant response
Assessments and Calculations			
2.4.1	All Local Authorities	**Updated ES Chapter 15** The Applicant revised Environmental Statement (ES) Chapter 15 on Climate Change at Deadline 4 [REP4-029] answering requests for information. Furthermore, details of materials to be used and greenhouse gases derived therefrom were supplied as Appendix A to [REP4-041]. In respect of the updated information, do the local authorities have any comments or observations that the ExA should be aware of?	
2.4.2	All Local Authorities	**Climate Resilience** The revised ES Chapter 15 [REP4-029] sets out considerations in respect of climate change resilience for the Proposed Development. No substantive comments have been made about these to date, so the Examining Authority (ExA) assumes there are no fundamental concerns. Please confirm whether the Applicant's ES is robust or not regarding these considerations.	
2.4.3	Applicant	**R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024] UKSC 20 On appeal from: [2022] EWCA Civ 187** Are there any comments the Applicant wishes to make regarding this judgement?	The UK Supreme Court decision in *R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others* [2024] UKSC 20 concerned the scope of an environmental impact assessment (EIA) undertaken for an application for planning permission for an onshore oil extraction development, and the subsequent grant of planning permission by the local planning authority. The case considered the scope of the EIA undertaken for the development and whether this met the requirements of the relevant EIA regulations. In particular, it considered the scope of the assessment of greenhouse gas emissions from the development. The Court held that the greenhouse gas emissions assessment for that development was inadequate, and the EIA did not meet the requirements of the EIA regulations as a result. The Court was clear that their decision was based on the specific facts of that development, as set out further below. The Applicant does not consider that this decision has any impact on the scope of the EIA required or undertaken for the Proposed Development. An assessment of likely effects on the environment from greenhouse gas emissions has been undertaken for the Proposed Development in accordance with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the "EIA Regulations") and is included within Environmental Statement Chapter 15: Climate Change (Revision B) [REP4-029]. The Applicant has briefly set out relevant facts from the *Finch* decision below, and relevant parts of the Court's reasoning. **Facts of the case** A developer applied to Surrey County Council for planning permission to expand oil production from a well site at Horse Hill near Horley in Surrey. The proposed project would involve the extraction of oil from six wells over a period of 20 years. The EIA submitted with the planning application assessed the direct releases of greenhouse gases from within the well site boundary during the lifetime of the project. It did not include an assessment of the greenhouse gas emissions that would occur when the oil extracted from the wells was ultimately burnt elsewhere as fuel. The local planning authority granted planning permission based on this EIA. A local resident, applied for judicial review of the council's decision. She argued that the decision was unlawful because the EIA was required to, but did not, include an assessment of the

ExAQ2	Question to	Question	Applicant response
			combustion emissions It was an agreed fact between the parties in the case that the combustion of the end product was an inevitable causal effect of the development. **Decision** The Supreme Court held that the Council's conclusion that the GHG emissions were not indirect effects of the project was unlawful. In carrying out an EIA of a project for the extraction of oil, the authority was required to assess, as an indirect effect of the project, the environmental effects of greenhouse gas emissions arising from the ultimate combustion of the oil once refined and used as fuel. Key findings of the Court were: - It was found to be not just likely, but inevitable, that the oil extracted from the site would be refined and the end product be combusted resulting in GHG emissions (see paragraph 45 of the judgment). - In the great majority of cases, the question of whether something is an effect of a project admits of only one answer and is not a matter of judgment allowing for inconsistent approaches by different authorities (paras. 59-60). - Whether something is an effect is a question of causation, because an effect is the obverse of a cause (para. 65). - In the present case, it was not only a "likely" significant effect for EIA purposes, but an inevitable effect (paras. 79-80). - The effect can readily be assessed using an established methodology (paragraph 81). - The existence of the intermediate process of refinement had no significance. It did not alter the basic nature and intended use of the commodity. Since it was inevitable, it did not breach the causal connection between the extraction and use of the oil (paragraph 118). - There was no floodgates concern. Oil is very different from iron or steel which may have many different uses and be incorporated into many different end products, depending on innumerable downstream decisions, making it impossible to identify which effects are likely, or to assess them (paragraph 121). - For manufacture of components for use in the construction of cars and airplanes, "the view might reasonably be taken that the contribution is not material enough to justify attributing the eventual impact on that individual component" (paragraph 122). The Court's decision concludes that downstream emissions are necessary to include within the EIA assessment where there is a direct link between the project and their creation. It is an important point that in this case it was an accepted fact that the oil extracted would be burned, and the Court was clear that in other types of development this broader approach would not apply, as the downstream effects could not be identified or directly linked to the development itself. **Application to the Viking CCS Pipeline** As noted above, the Environmental Statement Chapter 15: Climate Change (Revision B) [REP4-029] includes a lifecycle GHG impact assessment for the Proposed Development. This has been undertaken in accordance with leading guidance issued by the Institute of Environmental Management and Assessment (IEMA). There are no direct downstream effects that are caused by the Proposed Development that have not been assessed by the Applicant and that ought to have been in accordance with *Finch*. The assessment undertaken in the Environmental Statement is robust and meets the requirements of the EIA Regulations.

Table 2-5: Q2.5 – Compulsory Acquisition

ExAQ2	Question to	Question	Applicant response
Overarching Case			
2.5.1	Applicant	**Outstanding Objections** There are now little more than six weeks of the Examination remaining. To date, none of the objections that have been made, and are still relevant to the Order Limits, have been withdrawn. Some of these are specifically raised in the succeeding questions, but what approach should the ExA and the SoS take if there are still some objections outstanding at the close of the Examination?	The ExA and the Secretary of State should consider the application in accordance with section 105 of the Planning Act 2008, having regard to (a) any local impact report, (b) any matters prescribed in relation to development of the description to which the application relates and (c) any other matters that are considered both important and relevant to the decision. In accordance with section 106, the ExA and the Secretary of State may disregard representations if they consider that the representations are (a) vexatious or frivolous, (b) relate to the merits of policy set out in a national policy statement, or (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land. The Applicant has responded to all of the representations made through the Examination process and considers that it has responded to the issues raised by Interested Parties. Where outstanding objections question the need for development of carbon dioxide pipelines, the Applicant considers these ought to be disregarded, as the need is well established in NPS EN-1. Where the substance of the objection is that adequate compensation has not been agreed for the acquisition of a right in land, the Applicant also submits that these ought to be disregarded. Whilst there are objections that remain outstanding to the Proposed Development, the Applicant does not consider any of these should represent a barrier to the grant or subsequent implementation of the DCO. In respect of outstanding objections by statutory undertakers, the Applicant considers that in each case their undertaking can be protected through Protective Provisions, such that they do not suffer serious detriment and compulsory acquisition powers over their land can be granted. In respect of other objections that remain outstanding, the Applicant has sought to reach agreement with those parties where possible. Where differences do remain, the Applicant does not consider that any ground of objection has been put forward that should represent an impediment to the DCO being granted. Further, as regards objections relating to the acquisition of land/rights, the ExA/Secretary of State will be aware that it is not incumbent (nor could it reasonably be) on the Applicant to reach agreement with the objecting landowner. Instead, the relevant policy requirement as contained in Paragraph 28 of the DCLG guidance entitled "Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land" is to the effect that "*Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail".* In this respect, the Applicant has engaged carefully and extensively with each such objector in respect of the Proposed Development (and indeed continues to do so); as such the policy requirement is manifestly satisfied.
2.5.2	Applicant	**Recorded objections in the Tracker** The latest Compulsory Acquisition (CA) Tracker [REP4-008] shows eight objections outstanding which are unlikely to be withdrawn prior to the close of the Examination. These are from David Thomas Walter House, Joanna Helen House, Susan House; National Highways, Phillips 66 Limited, Air Products (BR) Limited and Network Rail Infrastructure Limited. In addition, there are the objections from the Driver and Vehicle Standards Agency (DVSA), National Gas Transmissions Plc, R Caudwell (Produce) Ltd, and Humber Oil Terminals Trustee Limited together with Associated Petroleum Terminals (Immingham) Limited to be resolved. Please update the CA Tracker with a full detailed	The Applicant has made amendments to the Compulsory Acquisition Tracker with an updated position on the Affected Persons noted in Questions 2.5.2. Please refer to this document with respect to updates on the status of negotiations and objections remaining. [EN070008/APP/3.5].

ExAQ2	Question to	Question	Applicant response
		explanation as to why agreement has not yet or might not be reached prior to the close of the Examination.	
2.5.3	Applicant	**Offshore consents and the Planning Act 2008 (PA2008)** The ExA asked at Compulsory Acquisition Hearing (CAH) 2 whether the offshore works would amount to a Nationally Significant Infrastructure Project (NSIP) requiring a Development Consent Order (DCO) application and the Applicant responded [REP4-031] by saying: *"The Applicant confirms that a DCO application is not required for the offshore works for the wider Viking CCS Project. Section 31 of the Planning Act 2008 sets out that development consent is required for development to the extent that the development is or forms part of a nationally significant infrastructure project ("NSIP"). Part 3 of the Planning Act 2008 sets out when development will be an NSIP. The proposed offshore works for the Viking CCS Project do not fall within the scope of Part 3 of the Planning Act 2008".* The ExA were expecting a detailed assessment of the position but there is no analysis of the individual sections in the PA2008. It is assumed that the Applicant believes that the proposal does not fall within any of the projects set out at section 14. Can the Applicant explain why the pipeline does not fall within sections 20 or 21 and why the storage facilities are not covered by section 17?	The ExA's assumption is correct that the Applicant considers that the offshore storage facility and offshore pipeline would not fall within any of the project types set out in section 14. The Applicant has set out further detail below in respect of sections 17, 20 and 21. **Section 17 (Underground gas storage facilities)** The offshore storage facility would not fall within the scope of section 17. Development is within that section if it meets one of the descriptions in subsection (2), (3), or (5). Subsection (2) does not apply, as it only relates to the creation or use of underground gas storage facilities "in England". Where England is referred to in legislation, this is to be interpreted in accordance with the definition provided in section 5 and Schedule 1 of the Interpretation Act 1978, unless specified otherwise. Under that Act "England" means "*subject to any alteration of boundaries under Part IV of the Local Government Act 1972, the area consisting of the counties established by section 1 of that Act, Greater London and the Isles of Scilly.*" Whilst there are some examples of county boundaries being extended some distance offshore, no relevant county boundary extends to include the location of the Viking storage area, which is approximately 120km from shore. There is nothing in the Planning Act 2008 to displace this interpretation. Subsection (3) does not apply, as it only relates to activities in Wales. Subsection (5) does not apply, as it again relates to altering underground gas storage facilities "in England". Consistent with the analysis set out above, the Applicant notes that there is a bespoke regime for the consenting of offshore carbon dioxide storage facilities. The North Sea Transition Authority ("NSTA") (formerly the Oil and Gas Authority) is the licensing authority for offshore carbon dioxide storage (as set out in the Energy Act 2008). There are broadly two stages to this consenting process – the first is the approving and issuing of a Carbon Dioxide Appraisal and Storage Licence ("CS Licence"), and the second is the issue of a storage permit. Anyone who wishes to explore for or use a geological feature for the long-term storage of carbon dioxide in a UK offshore area must hold a CS Licence, pursuant to section 18 of the Energy Act 2008, issued by the NSTA. A storage permit may later be applied for and is required for the storage of carbon dioxide in a storage site with a view to its permanent disposal during the operational phase of the CS Licence. The Storage Permit Application is made up of eight key documents which must fulfil the requirements of The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010. The CS Licence will expire at the end of the appraisal/initial term if an application for a storage permit is not made before that date or if the storage permit application is not approved. The offshore carbon dioxide storage regime is explained in more detail at the NSTA's website[1]. The Applicant does not set out any further detail in this response in respect of this issue, as the headline legal position is clear. **Section 20 (Gas transporter pipe-lines)** The offshore pipeline does not fall within the scope of section 20. That section only applies to construction of pipelines by a gas transporter, as licensed under the Gas Act 1986. As set out in subsection (5) it relates to pipelines that convey gas for supply

[1] https://www.nstauthority.co.uk/Regulatory-Information/licensing-and-consents/carbon-storage/, accessed 02/09/2024

ExAQ2	Question to	Question	Applicant response
			(directly or indirectly) to at least 50,000 customers, or potential customers, of one or more gas suppliers. The Applicant is not a gas transporter, and the offshore pipeline would not be used for the purpose of supply of gas to customers. **Section 21 (Other pipe-lines)** The offshore pipeline does not fall within the scope of section 21. Development is within that section if it meets the description in subsections (1) and (2). Subsection (1) requires that a pipeline is a cross country pipeline (as defined in the Pipelines Act 1962), which simply means it is a pipeline which is intended to be more than 16.093 km (i.e. 10 miles) and is one which would have required a cross-country pipelines authorisation under section 1(1) Pipelines Act 1962, but for section 33(1) which expressly overrides that requirement. The Pipelines Act 1962 regime does not, however, extend below mean low water. This has been recognised in successive Government circulars. A copy of Circular 115/76 is appended at Appendix A. Paragraph 6 states "*[i]nsofar as submarine pipelines are concerned the Act only applies to such portion of a pipeline as extends from low water mark to the shore terminal* …". Whilst this circular has been superseded this fundamental point about the extent of the 1962 Act regime remains good. This means that subsection (1) cannot be satisfied by any offshore pipeline works as they are outside the geographical scope of the Pipelines Act 1962 and could not be the subject of an authorisation under section 1(1) of that Act. Subsection (2) provides that a pipeline is within that subsection if one end of it is in England or Wales and either (a) the other end of it is in England or Wales, or (b) it is an oil or gas pipe-line and the other end of it is in Scotland. As noted above, the definition of "England" means within the boundaries of English counties. No English county's boundary extends offshore to include the area of the offshore pipeline and therefore this is not satisfied. For both of these reasons (seaward extent of the Pipelines Act 1962 regime and the geographic limits of England as defined) the offshore pipeline does not fall within section 21.
2.5.4	Applicant	**Extension of Offshore Pipeline** At paragraph 1.1.2 of the Bridging Document [APP-128] the length of new offshore pipeline is described as a 23 kilometres (km) extension but in paragraph 2.1.2 it is noted as a 28km pipeline spur and this is confirmed in the schematic Figure 2-1 on the same page. Yet in both cases the figures recorded appear to relate to the connection to the new offshore installation and neither the 23km nor the 28km figure seems to take into account the additional spurs required to the various depleted reservoirs where storage will take place. What is the total length of the new offshore pipeline including all the proposed spurs?	The new section of pipeline is required to connect the sub-sea end of the existing LOGGS pipeline to the new Not Permanently Attended Installation (NPAI) platform. The latest estimate of the length of this pipeline is 29.13km. At the NPAI platform the CO_2 will be injected directly into the proposed storage reservoirs using directional drilling techniques without the need for additional pipeline spurs.
2.5.5	Applicant	**Viking Carbon Capture and Storage (CCS) Project as a whole** The ExA has been referred by the Applicant to paragraphs 1.1.8 to 1.1.10 of the replies to the ExA's first written questions (ExQ1) [REP1-045] to the recent decisions from the SoS on three other carbon capture schemes being the Hynet Carbon Dioxide Pipeline (Hynet) and Net Zero Teesside (NZT), with the Drax Bioenergy with Carbon Capture and Storage projects (Drax) later referred	The EIA Regulations, and the EIA Directive from which they are derived, have the core objective of protection of the environment. There have been a large number of decisions in both the Court of Justice of the European Union ("CJEU") and UK Courts that have set out that it is not lawful to split a project into multiple parts to avoid the requirement to undertake an EIA, or to avoid undertaking part of it. The CJEU in *Ecologistas en Accion-CODA v Ayuntamiento de Madrid* (C-142/07) determined that a single project could not be divided into a series of smaller projects which each fell below the threshold criteria for environmental impact assessment scrutiny.

ExAQ2	Question to	Question	Applicant response
		to in [REP4-032]. However, the ExA consider there is a fundamental difference between these projects and the application for the Viking CCS Pipeline Project. In this project, both the existing offshore pipeline and the disused reservoirs are owned within the same group of companies as confirmed by the Applicant in its reply to question 1.5.21 of ExQ1 [PD-010 and REP1-045] and yet the Applicant has chosen to deal with the applications separately. This in itself raises the question of whether the offshore and onshore projects are so inter-connected that they are effectively a single project or development. The Applicant referred previously to section 6.3 of the Bridging Document, but this does not explain why the Applicant has chosen to separate the two limbs of the project when it would undoubtedly have speeded up the decision process if there was a single application which could have been made as both elements are within the Applicant's control. The Applicant is asked to respond to this as it could be argued that there has effectively been a "salami slice" of the two projects which was a matter considered by the Court of Appeal in R (Larkfleet) v South Kesteven District Council [2015] EWCA 887 (see paragraph 51).	In R (Larkfleet) v South Kesteven District Council [2015] EWCA 887 referred to by the ExA, the Court of Appeal quoted the relevant paragraphs from the *Ecologistas* judgement that relate to 'salami-slicing', and went on to state at paragraphs 36 – 38 *"36…What these passages are directed towards is avoiding a situation in which no EIA scrutiny is undertaken at all. However, if the two proposed sets of words are properly to be assessed as two distinct "projects" which meet the threshold criteria in the Directive, there will be EIA scrutiny of the cumulative effects of the two projects.* *37. It is true that the scrutiny of cumulative effects between two projects may involve less information than if the two sets of works are treated together as one project, and a planning authority should be astute to ensure that a developer has not sliced up what is in reality one project in order to try to make it easier to obtain planning permission for the first part of the project and thereby gain a foot in the door in relation to the remainder. But the EIA Directive and the jurisprudence of the Court of Justice recognise that it is legitimate for different development proposals to be brought forward at different times, even though they may have a degree of interaction, if they are different "projects", and in my view that is what has happened here as regards the application for permission to build the link road and the later application to develop the residential site.* *38. The EIA Directive is intended to operate in a way which ensures that there is appropriate EIA scrutiny to protect the environment whilst avoiding undue delay in the operation of the planning control system which would be likely to follow if one were to say that all the environmental effects of every related set of works should be definitively examined before any of those sets of works could be allowed to proceed (and the disproportionate interference with the rights of landowners and developers and the public interest in allowing development to take place in appropriate cases which that would involve). Where two or more proposed linked sets of works are in contemplation, which are properly to be regarded as distinct "projects", the objective of environmental protection is sufficiently secured under the scheme of the Directive by consideration of their cumulative effects, so far as that is reasonably possible, in the EIA scrutiny applicable when permission for the first project (here, the link road) is sought, combined with the requirement for subsequent EIA scrutiny under the Directive for the second and each subsequent project…"* The Applicant respectfully submits that the key point is that a single project cannot be 'salmi-sliced' to avoid appropriate scrutiny under the EIA Regulations. Where two interlinked 'projects' (for the purpose of the EIA Regulations) are both subject to EIA, then they will be required to assess the cumulative effects between them. The Applicant does not consider that the Proposed Development and the offshore aspects of the wider Viking CCS Project can properly be said to have been 'salami sliced' to avoid environmental assessment. Whilst the onshore and offshore elements of the project will be interconnected in their operation, the consent applications are being progressed on different timelines, under different consenting regimes and will be determined by different decision makers. Due to the re-use of existing infrastructure, the onshore and offshore areas of construction of new infrastructure are separated by over 100km. The onshore and offshore elements of the wider Viking CCS Project are not legally the same 'project' for the purposes of the EIA Regulations. **Onshore and offshore consent regimes** The Applicant considers that it is important to note that separate statutory regimes are in place for the consenting of the offshore and onshore infrastructure that forms part of the Viking CCS Project. Furthermore, the Applicant already holds some of the primary offshore consents. This is set out further below. The primary consents for the onshore and offshore infrastructure are granted under separate consenting regimes, contained in different Acts of Parliament. The onshore infrastructure, being

ExAQ2	Question to	Question	Applicant response
			the Proposed Development, falls within the scope of the Planning Act 2008 ("PA 2008") as it falls within the definition of a nationally significant infrastructure project for the purposes of the PA 2008. An EIA has been undertaken under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The decision maker for the consent is the Secretary of State for Energy Security and Net Zero. As noted in response 2.5.3 above, there is a bespoke regime for the consenting of offshore carbon dioxide storage facilities. The NSTA is the licensing authority for offshore carbon dioxide storage (as set out in the Energy Act 2008). There are broadly two stages to this – the first is the approving and issuing of a Carbon Dioxide Appraisal and Storage Licence ("CS Licence"), and the second is the issue of a storage permit. Any party who wishes to explore for or use a geological feature for the long-term storage of carbon dioxide in a UK offshore area must hold a CS Licence, pursuant to section 18 of the Energy Act 2008, issued by the NSTA. A storage permit may later be applied for and is required for the storage of carbon dioxide in a storage site with a view to its permanent disposal during the operational phase of the CS Licence. The CS Licence subsists for the whole duration of a carbon storage development, broadly split into three stages: (i) an initial term, after which a storage permit application might be submitted, (ii) the operational term, and (iii) the post-closure period. The CS Licence will expire at the end of the initial term if an application for a storage permit is not made before that date or if the storage permit application is not approved. If at the end of the initial term the developer decides to proceed with the project, then they will submit a Storage Permit Application to the NSTA. The Storage Permit Application is made up of eight key documents which must fulfil the requirements of The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010. These documents are mostly technical in nature, and include: a) Carbon Storage Project Overview b) Storage Site and Complex Characterisation c) Carbon Storage Development Plan d) Containment Risk Assessment e) Monitoring Plan f) Corrective Measures Plan g) Provisional Post-Closure Plan h) Proposal for Financial Security The grant of a permit for storage of carbon dioxide can only be granted once an EIA is carried out under the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 and approved by the Offshore Petroleum Regulator for Environment and Decommissioning. Authorisation for the construction or use of offshore pipelines is granted under section 14 of the Petroleum Act 1998. The decision maker for these offshore pipelines is the NSTA. *Section 150 of the PA 2008* A Development Consent Order can include multiple different forms of consent/authorisation within one approval document. Section 150 of the PA 2008 allows a DCO to include provision to remove a requirement for a prescribed consent or authorisation to be granted, if the body that would otherwise grant that consent agrees to it being authorised through the DCO instead. The list of authorisations and consents that can be included in a DCO is set out in Part 1 of Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 ("the 2015 Regulations"). The grant of a storage permit under the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 is not one of the prescribed consents that is set out within Part 1 of Schedule 2 of the 2015 Regulations. Whilst the 2015 Regulations do allow a CS licence under section 18 of the Energy

ExAQ2	Question to	Question	Applicant response
			Act 2008 to be granted, the Applicant has already obtained those licences for the Viking CCS Project (licence numbers CS005, CS023 and CS024), copies of which were included in Appendix D to the Applicant's response to the Examining Authority's First Written Questions [REP1-045]. **Application to the Viking CCS Project** The Applicant has therefore not chosen to separate the two limbs of the Viking CCS Project for consenting purposes. It was not possible as a matter of law for the Applicant to bring the remaining consents for the storage of carbon dioxide within the scope of the DCO. The fact that separate legal regimes exist to consent the onshore and offshore infrastructure makes it clear that it is entirely appropriate for the two different elements to be treated as separate projects for the purpose of EIA. Furthermore, all of the onshore and offshore infrastructure forming part of the Viking CCS Project will be subject to an EIA. The separate consenting of the onshore and offshore infrastructure is therefore not 'salami-slicing' to avoid a requirement to undertake environmental assessment. The Environmental Statement submitted with the application for the Proposed Development included consideration of cumulative environmental effects between the Proposed Development and the offshore infrastructure. This concluded that there is no pathway for cumulative effects to arise, due to the nature of the works to be undertaken and their separation distance. NPS EN-1 recognises expressly that the various 'links' in the CCS chain will potentially come forward separately in terms of the consenting process, stating at paragraph 4.9.18: *"The chain of CCS has three links: capture of carbon, transport, and storage. Due to the approach of deploying CCS in clusters in the UK with shared transport and storage infrastructure, it is likely that development consent applications for power CCS projects may not include an application for consent for the full CCS chain (including the onward transportation and storage of CO_2)."* The Applicant respectfully submits that this is recognition in national policy that each part can be considered a different 'project' for consenting and EIA purposes. A robust environmental assessment has been undertaken for the Proposed Development, in accordance with the legal framework in place for obtaining the necessary consents. The application has not been structured to 'salami slice' a larger project to avoid the requirements for environmental assessment.
2.5.6	Applicant	**Hynet** The issue raised in Question 2.5.5 above was considered in the Hynet pipeline DCO application. Please refer to the response to ExQ1.1.6 of this cited DCO where it was emphasised that the separate elements of the overall Hynet project were being promoted by different parties. Does the Applicant accept for this purpose, there is a fundamental distinction between the Hynet DCO and the Viking CCS Pipeline application?	The Applicant does not consider this to be a fundamental distinction. The Applicant does not consider that the identity of the party promoting the application to be the determining factor in how the applications for consent are structured. Different legal regimes apply to the consenting of the onshore infrastructure and the remaining consents that need to be obtained for the offshore infrastructure. The Applicant notes for completeness that on the HyNet project, the onshore and offshore elements were originally being developed by different parties within the same corporate group. However, as set out in paragraph 1.3.3 of the Funding Statement for that application, it was always the intention to bring these into the control of a single entity: *"Eni UK Limited shall transfer the CS Licence to the Applicant, together with all relevant interests held by Eni UK Limited that are required for the purpose of developing the Applicant's CO_2 transportation and storage business. Under the CS Licence, the Applicant will reuse and repurpose depleted hydrocarbon reservoirs (the Hamilton, Hamilton North and Lennox fields, currently operated by Eni UK Limited) and associated infrastructure, to permanently store CO_2 captured in North West England and North Wales and transported by the DCO Proposed Development."* The application for a storage permit was subsequently submitted in February 2024 by the same

ExAQ2	Question to	Question	Applicant response
			party (Liverpool Bay CCS Ltd) that applied for the DCO for the onshore pipeline. The approach taken for the development of the HyNet Project is therefore consistent with that taken for the Viking CCS Project.
2.5.7	Applicant	**Net Zero Teeside (NZT)** The reliance on the NZT decision is also difficult to understand when the SoS specifically stated in paragraph 4.13 of the decision letter that they had *"taken additional steps to ensure that the environmental impact of both the onshore and Offshore Elements of the Wider NZT Project have been fully assessed."* Is it not likely that the current Secretary of State will take a similar step when considering the Recommendation Report for this Project?	The Applicant is aware of the requests for additional information on the Net Zero Teesside project. The Applicant considers that sufficient environmental information has been provided within the application for the Proposed Development to allow the Examining Authority and the Secretary of State to fully understand the likely significant environmental effects of the project and how it might interact cumulatively with the offshore infrastructure. The Applicant does not consider that the full EIA for the offshore elements needs to be available to carry out that assessment. The Applicant considers that the Bridging Document [APP-128] provides sufficient information to reach a conclusion that there would be no cumulative effects between the offshore and onshore infrastructure development. A detailed EIA will be undertaken for the offshore infrastructure and submitted to OPRED for approval in due course. The Applicant notes that there is a distinction between the Net Zero Teesside Project and the Proposed Development, in that the Net Zero Teesside Project required a new offshore CO_2 pipeline to be constructed in its entirety, whereas the Viking CCS Project is re-purposing existing offshore infrastructure. There was therefore a greater degree of interconnectivity between the new-build onshore/offshore infrastructure for the Net Zero Teesside Project than there is for the Viking CCS Project.
2.5.8	Applicant	**Drax** The Applicant also relies on the Drax DCO decision. However, this does not seem to take into account the clear limitation in the Recommendation Report which stated that: *"This is subject to a separate DCO application which is yet to be made. Similarly, the Northern Endurance Partnership (NEP) would develop the offshore pipeline and storage. Both projects are outside of the control of the Applicant."* The Applicant is clearly aware of this major distinction as paragraph 3.8 of its Position Statement on the Benefits [REP4-032] so it is difficult to understand how this DCO is being provided as a precedent in this respect. Please explain?	The Drax Bioenergy with Carbon Capture and Storage Project is referred to in the Position Statement on the Benefits [REP4-032] as an example of another project where different aspects of the CCS chain were consented separately, but the Examining Authority and Secretary of State had regard to the benefits of the CCS project as a whole when assessing the planning merits of the development. The Drax decision in particular is one where the Examining Authority and Secretary of State considered whether a Grampian requirement ought to be imposed restricting commencement of development until offshore consents for carbon capture were in place, with the Secretary of State determining that it was unnecessary. The Applicant considers that the key point is that NPS EN-1 recognises that separate links in the CCS chain may be consented separately, but that the Examining Authority and Secretary of State ought to have regard to the benefits of the full CCS chain when assessing the merits of the Proposed Development. The Drax decision supports such an approach, as do the decisions in HyNet and Net Zero Teesside.
2.5.9	Applicant	**Benefit statement** The Applicant has submitted at Deadline 4 a Position Statement on the Benefits of the Proposed Development [REP4-032]. This is in response to Action Point 2 from CAH2. However, this Statement becomes increasingly confused as at paragraph 4.1 it refers to such questions being raised at Issue Specific Hearing (ISH) 2 (which did not in fact occur) and then regularly refers to the socio-economic benefits of the Project even though these were not queried at any stage in the recent hearings. The issue here is actually a very different one. The question was raised at CAH2 as this is central to the assessment of whether or not there is a compelling case for CA. Please update this Statement without reference to the socio-economic case.	The reference in the Position Statement on the Benefits of the Proposed Development to Issue Specific Hearing 2 is an error, and should refer to CAH2. At CAH2, the Examining Authority made reference (at circa 25:00:00 of [EV7-003]) to paragraph 14.1.3 of the Statement of Reasons, which states: *"14.1.3 Beyond the benefits to the UK's climate ambitions, the Proposed Development brings benefits to the economy through the creation of jobs and total spend on the Proposed Development, much of which will benefit the area local to the site. In combination, these significant benefits outweigh the private loss of those impacted by exercise of the compulsory acquisition powers."* The Applicant had interpreted the Examining Authority's comment, at least in part, to relate to the socio-economic benefits of the Proposed Development based on that reference. As it has now been clarified that was not a concern, the Position Statement [EN070008/EXAM/9.49] has been updated and a Revision A submitted at Deadline 5.

ExAQ2	Question to	Question	Applicant response
2.5.10	Applicant	**Further clarification on the benefit statement** The question raised at CAH2 related to the Compulsory Acquisition Guidance from the Government at paragraphs 12 and 13. So there is no further confusion, these are as follows: *"12. In addition to establishing the purpose for which compulsory acquisition is sought, section 122 requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily. 13. For this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss."* In CAH2, the Applicant acknowledged that there were limited benefits for the Proposed Development if taken in isolation, albeit later that the benefits of the whole project must be taken into account. Nonetheless, in view of the limited benefits from the actual proposed development (as listed at paragraph 4.2 of the submitted [REP4-032]) can the SoS be satisfied that this is indeed the case?	The Applicant submits that the Secretary of State can be satisfied that there is a compelling case in the public interest so as to justify the inclusion of compulsory acquisition rights in the DCO as sought, and that the benefits that would arise from the Proposed Development significantly outweigh private loss. As set out in the Statement of Reasons [AS-069] and the Position Statement on the Benefits of the Proposed Development [EN070008/EXAM/9.49], there is significant national policy support for the development of infrastructure that will form part of the carbon capture and storage chain. The Proposed Development will provide transport for up to 10 mtpa of CO_2 by 2030 and 15 mtpa by 2035, providing access to storage for more than half the CO_2 emissions form the Humber area. That would be a considerable public benefit, which could not be realised if the Proposed Development is not built. As noted above, NPS EN-1 recognises expressly that the various 'links' in the CCS chain will potentially come forward separately in terms of the consenting process. Such policy approach necessarily recognises that the benefits of the 'whole' project (i.e. the entirety of the CCS 'chain') must, to a significant degree, be considered when determining an application for any one 'link' in the CCS chain (such as, in this case, the Proposed Development), since otherwise the substantive benefits of that 'whole' project could only ever be considered in the context of determining an application for consent in respect of the final element of the project. Such approach would be wholly contrary to the proper interpretation/application of the NPS, which seeks to provide strong policy support for CCS infrastructure. In the present case it is entirely appropriate for the ExA and the Secretary of State, when considering the question of the compelling case necessary to justify compulsory purchase powers, to have regard to the very substantial benefits which will be delivered by the entirety of the Viking CCS Project (i.e. transport via the on-shore pipeline, offshore pipeline and then storage). It is recognised that, to a limited degree (and only a limited degree), the weight attaching to those benefits should be tempered to have regard to the fact that they will only be delivered once all various elements in the CCS chain have been consented/constructed. However, the weight attaching to them must still be very considerable. This is particularly the case in circumstances where there is no evidence/materials before the examination to suggest that the relevant outstanding consents (and outstanding links in the chain) will not be delivered. Further, it is important to note that without the Proposed Development, those very substantial benefits cannot/ will not be delivered. Compulsory acquisition powers are sought to ensure that the Proposed Development can be delivered. The Applicant has sought to minimise interference with private rights. Where those powers are used, landowners/occupiers would be entitled to compensation. The Applicant considers that the benefits of the Proposed Development significantly outweigh the interference with private rights, and there is a compelling case in the public interest that justifies the inclusion of compulsory acquisition powers in the DCO.
2.5.11	Marine Management Organisation	**Marine Licensable Activities** The Marine Management Organisation (MMO) submitted a representation at Deadline 4 (REP4-103] which reminded *"the Applicant that it is their responsibility to identify any marine licensable activities."* The Applicant's proposal for the offshore pipeline is explained in the Bridging Document [APP-128] which will include (paragraph 5.2.5) the construction of a four-legged steel jacket hosting facility which will (paragraph 1.1.2) *"inject the conveyed CO_2 into the depleted gas reservoirs."*	The Applicant notes that under section 77(1)(b) of the Marine and Coastal Access Act 2009, the following activities are exempted from the need to obtain a marine licence: *"(b) anything done for the purpose of constructing or maintaining a pipeline as respects any part of which an authorisation (within the meaning of Part 3 of the Petroleum Act 1998) is in force."* The Applicant will require to obtain authorisation from the North Sea Transition Authority under Section 14 of the Petroleum Act 1998 for the construction and use of the extended offshore pipeline. The exemption in the Marine and Coastal Access Act 2009 will therefore apply.

ExAQ2	Question to	Question	Applicant response
		The Applicant has explained that a Marine Licence is not required because of the exemption contained in section 77(1)(d) of the Marine and Coastal Access Act 2009, but it occurs to the ExA that the construction of a 28km new pipeline in addition to the new installation would undoubtedly involve a considerable number of "marine activities". Can the MMO explain how it will be involved in the consideration of these?	
2.5.12	Applicant Marine Management Organisation	**Marine Environment** In paragraph 2.4.5 of the Bridging Document [APP-128], it was stated that a Marine Licence was required from the MMO. A summary of the potential impacts on the marine environment is set out at Table 3 of the Bridging Document. The requirement for a Marine Licence is repeated in Appendix B of the Consents and Agreements Position Statement [REP1-018]. It is not helpful to see the Applicant taking a different position at this stage of the Examination especially as whichever licensing regime applies, they will need to address the impact on the marine setting caused by their construction works and thereafter any impacts arising from the facility outlined in the previous question. Has there been any update on the potential impacts shown in Table 3 mentioned above as that document was prepared 10 months ago and it would be expected that this Table would be regularly updated?	The Applicant is preparing an Environmental Statement to be submitted to OPRED for approval under the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020. This will report on the EIA undertaken for the offshore infrastructure. That will include a full assessment of the likely significant effects on the environment for the offshore infrastructure. Table 3 in the Bridging Document [APP-128] summarises the conclusions from the scoping stage of the EIA process for the offshore infrastructure. The information included in Table 3 is still considered sufficient and relevant to conclude that there would be no pathway for cumulative effects between the offshore and onshore elements of the Viking CCS Project. To avoid confusion the Applicant has removed references to a marine licence being required for the offshore works from both the Bridging Document [**APP-128**] and the Consents and Agreements Position Statement [**REP1-018**].
2.5.13	Applicant	**Engagement with the MMO** The Applicant did say in their response [REP1-044] to the Relevant Representation [RR-060] from the MMO that: *"The Applicant will engage with the MMO as necessary as the project progresses. An application to the Offshore Petroleum Regulator for Environmental and Decommissioning (OPRED) for the Viking CCS Project offshore works, some 118km offshore, is being made separately and the MMO will be involved in the process."* This response was given as long ago as the 26 April 2024 and it is disappointing to learn that there has been no engagement with the MMO since then on what is a critical step in the licensing process. Does this delay not dilute the Applicant's argument for the urgent need for the Carbon Capture Project?	The urgent need for the development of infrastructure for carbon capture and storage is set out in national policy (see NPS EN-1 paragraphs 3.5.1, 3.3.63). The Proposed Development would help meet those policy ambitions, and for this reason the Applicant considers that the policy support for the Proposed Development is well established. The Applicant does not consider that this is diluted in any way. The Applicant is continuing to engage with the MMO as necessary as the project progresses. The MMO will be a consultee on the EIA for the offshore works when it is submitted to OPRED. If the Applicant identified a need for a standalone separate marine licence (e.g. for clearance of unexploded ordinance) then they would consult with the MMO at that time. In the context of the Proposed Development, where no marine licence is required for the works being applied for through the DCO, there has been no need to have further detailed engagement with the MMO; indeed, there would be no basis on which the MMO would/could engage with the Applicant, since the Proposed Development is not a project in respect of which the MMO has any interest, responsibility, or obligation.
2.5.14	Applicant Marine Management Organisation	**Timeline and construction programme** It is noted that the construction programme as outlined in [REP4-036] is now acknowledging that construction works are unlikely to commence until 2026 and that the pipeline will not be ready for use until the last quarter of 2028 after commissioning has taken place. However, this assumes that all necessary consents will be obtained by the end of 2025. In view of the range of impacts to the marine environment identified at Table 3 of the Bridging Document [APP-128] this timeline seems highly optimistic. Can both the Applicant and the MMO comment further?	The Applicant refers to the Applicant's Response to Issue 4 - Construction Programme in the Examining Authority's Rule 17 Letter [REP3-031] which responds to this point in more detail. The Applicant does not consider this to be an optimistic timescale. Guidance issued by OPRED suggests that it is "good practice to allow a six-month period" for them to review and approve an EIA. The Applicant is intending to submit the Environmental Statement for the offshore infrastructure to OPRED in Q1 2025, giving a longer period than that suggested as 'good practice'. The process in granting approval under that regime is not comparable to the process and timescales of a DCO application under the PA 2008.
2.5.15	Applicant	**Impediments to delivery of the project** The Applicant was asked at ExQ1 [PD-010] whether it was considered whether there were any impediments to the Compulsory Acquisition which is requested within the Order Limits. In view of the uncertainty over the	The Applicant does indeed maintain the position that it does not consider there are significant impediments to the Proposed Development proceeding. In respect of the construction timeline, the Proposed Development is no different to any other major infrastructure project. It is standard practice to keep construction timelines under review

ExAQ2	Question to	Question	Applicant response
		construction timeline, the assessment of the marine impacts arising from the offshore works, the objections which still remain outstanding and the fact that no application has yet to be made for the offshore works, is the Applicant still maintaining this position? In view of the uncertainties in the offshore application, can the ExA and the SoS be satisfied that the Applicant has demonstrated that project is actually carbon capture ready?	and update them accordingly as the project progresses. There are a number of factors beyond planning/development consent that must be in place before development can commence on large infrastructure projects. Planning permissions and DCOs always afford a certain time period for the consent to be implemented, which takes account of these complexities. The Applicant does not consider that commencing construction in 2026 would be a significant delay and would be well within the timescales for commencement sought in the draft DCO (Revision G) [EN070008/APP/2.1]. This is not considered an impediment to development. The Applicant does not consider there to be any particular/material uncertainty about the assessment of the marine impacts arising from the offshore works. Those impacts will be considered in the usual way by OPRED. The Applicant considers the extent of development of the offshore infrastructure to be relatively modest for marine development. By way of analogy, the platform to be developed is of a similar size to an offshore substation for an offshore wind farm. The Applicant does not consider that there is anything unusual about the offshore development that would make it an impediment to the Viking CCS Project proceeding. Whilst there are objections that remain outstanding to the Proposed Development, the Applicant does not consider any of these should represent a barrier to the grant or subsequent implementation of the DCO. In respect of outstanding objections by statutory undertakers, the Applicant considers that in each case their undertaking can be protected through Protective Provisions, such that they do not suffer serious detriment and compulsory acquisition powers over their land can be granted. In respect of other objections that remain outstanding, the Applicant has sought to reach agreement with those parties where possible. Where differences do remain, the Applicant does not consider that any ground of objection has been put forward that should represent an impediment to the DCO being granted. The Applicant notes that the concern raised in this question is reflected as item PC001 in the Examining Authority's schedule of proposed changes to the draft Development Consent Order, which suggests a new clause be added to Requirement 2 of the draft DCO restricting commencement of development until all necessary offshore consents have been fully obtained. The Applicant does not accept that such a clause is necessary. In the event that the Examining Authority and the Secretary of State disagree with the Applicant's position and determine that such a requirement is necessary, the Applicant would suggest the below wording, which is provided on a <u>without prejudice</u> basis. This wording is similar to Requirement 33(1) of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022. **Defined terms to be added to paragraph 1 of Part 1, Schedule 2 (Requirements) of the draft DCO:** "carbon dioxide storage permit" means any carbon dioxide storage permit granted in terms of The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 or such other licence, authorisation or consent as may replace it; "offshore pipeline and storage works" means works for the offshore carbon dioxide transportation and storage infrastructure into which the authorised development will connect. **Without prejudice requirement** (1) No part of the authorised development may commence until details of the following have been submitted to and approved by the relevant planning authority- (a) evidence that a carbon dioxide storage permit for the offshore pipeline and storage works is in place; (b) evidence of any pipeline works authorisation required by section 14 of the Petroleum Act 1998 for the offshore pipeline and storage works."

ExAQ2	Question to	Question	Applicant response
Statutory Undertakers			
2.5.16	National Gas Transmission PLC	**Section 127 of the Planning Act 2008** The Applicant stated at CAH2 that it was 'unarguable' that the land at Theddlethorpe Gas Terminal does not constitute statutory undertaker land. In response to ExA action points, the Applicant provided submissions at Deadline 4 [REP4-034] setting out why that is the case. Irrespective of whether or not an agreement has been reached between National Gas Transmission Plc (NGT) and the Applicant, the ExA still needs to inform the SoS whether s127 of PA2008 is engaged and whether there is any objection on these grounds. Since the ExA was unable to get your views at previously scheduled Hearings, please provide as full and as comprehensive a response as possible, citing PA2008, to the Applicant's submissions.	
2.5.17	Applicant	**Statutory Undertaker considerations** It is suggested by the Applicant in its Deadline 4 submission [REP4-034] that if the ExA (and also the SoS) had regard to the provisions of s127 Planning Act as to whether or not NGT were a statutory undertaker of the Theddlethorpe Gas Terminal site, then this *"would be to have regard to an irrelevant consideration, giving rise to an error of law."* Does the Applicant still believe this to be the case when it argues on this very point in paragraphs 10.4.7 to 10.4.10 in the Statement of Reasons [REP3-007] and it has not sought to modify this position? As it is included in the current version of the SoR, it is not reasonable for the ExA to consider and report upon the position to the SoS?	The quoted text needs to be read in the context of the whole of paragraph 2.5 of [REP4-034]. This notes that section 127 of the Planning Act 2008 would not be engaged if NGT withdraws its objection. Section 127 is only engaged where an objection is 'live'. Once withdrawn, whether or not the former TGT site is operational land or not is an irrelevant consideration.
2.5.18	Applicant National Gas Transmissions Plc (NGT)	**Position of NGT in respect of extant permissions** The ExA made specific reference in CAH2 to the planning condition on an extant planning permission requiring NGT to reinstate the site to agricultural land and indeed a specific question was asked of Lincolnshire County Council concerning this. They confirmed that the condition (linked to an application for demolition) was still valid. As this is the case, NGT would appear to satisfy the requirement (as set out in paragraph 3.5 of [REP4-034]) that the land is in fact land *"they intend to use in the future for the purpose of their own undertaking."* Do NGT still retain an obligation in the land that engages their statutory undertaker status and why was no reference made to the planning condition in the Response note?	The restoration condition in the historic planning permissions over the NGT land would apply irrespective of who the landowner of this site was. The Applicant does not consider that this is linked to NGT's undertaking in a way that would make the site operational land.
2.5.19	Applicant National Gas Transmissions Plc (NGT)	**Agreements in place** It is acknowledged that the issue becomes less pressing if an agreement is reached with NGT and the objection is withdrawn and the Statement of Reasons (SoR) is updated. However, the Examination will close in little more than a month. What is the latest position with the long running negotiations with NGT as the Applicant did say at ISH2 that it was expected that the Agreement between the parties would have formal approval and completion before Deadline 4?	The Applicant and NGT have agreed terms of a suite of agreements that secure the necessary land rights for the Theddlethorpe Facility and in respect of Protective Provisions for NGT's functions and duties as a statutory undertaker. The Applicant has signed the agreements and awaits confirmation from NGT that it has done the same. The Applicant understands that the agreements are going through NGT's internal approval process, but that completion is due imminently. The Applicant will then update the Protective Provisions within the draft DCO and expects that NGT to withdraw its representations. The Applicant anticipates that this will be completed in advance of Deadline 6 and will advise the Examining Authority when that is the case.

ExAQ2	Question to	Question	Applicant response
2.5.20	Applicant Anglian Water	**Statement of Common Ground with Anglian Water** The submission from Anglian Water at [REP4-102] is noted and the updated Statement of Common Ground (SoCG) is expected by Deadline 5.	The Applicant has submitted an updated SoCG with Anglian Water [EN070008/EXAM/8.6].
Individual Affected Persons			
2.5.21	Mablethorpe Flexible Generation Limited	**Status of representation** There have been regular updates to the Examination about the evolved position between the Applicant and NGT [REP4-034]. Please state whether the objection raised in [RR-056] remains, or if this can be removed in light of the wider discussions ongoing.	The Applicant has had regular monthly update calls with Mablethorpe Flexible Generation and has no reason to believe that both projects cannot co-exist. The Applicant notes that Mablethorpe Flexible Generation Limited have now registered its project with PINS under reference EN0110008.
2.5.22	Island Green Power Stallingborough Energy Project Limited DDM Agriculture	**Status of New Interested Party** This party apparently entered into an Option Agreement with the owners of Plots 7/10, 8/1, and 8/2 as long ago as 25 July 2023 but this has still to be confirmed by the Land Registry. Their intention is to bring forward a solar project and they are intending to make a planning application to the relevant Local Authority before much longer. Why has the registration process taken so long and why was their concerns and interests not brought forward to the Examination until 29 July 2024 which is more than two thirds through the Examination period? The representation made at [RR-090] was hardly sufficient to alert either the Applicant or the ExA.	
2.5.23	Applicant	**Implications of New Interested Party plans on Order land** Notwithstanding this interest coming to light late in the Examination, the Applicant does need to respond and explain how the two separate proposals can co-exist as far as the relevant Plots 7/10, 8/1, and 8/2 are concerned. As is suggested, the entries in the Book of Reference [REP4-005] and the CA Tracker [REP4-008] give no indication of any particular issue. Please elaborate and explain. and were no concerns raised by the landowners or their agents?	During the statutory consultation period, a response was submitted by agents for the owners of Plots 7/10, 8/10, and 8/2. This response indicated that heads of terms had been agreed for a potential future solar farm development on the land and that it was expected that an option agreement would be signed imminently. The response went on to request a change of route for the pipeline, although no alternative route was suggested. Two plans were enclosed with the response, but provided no detail beyond marking the relevant fields as the potential solar farm option area. No detail of the potential developer was provided. Following receipt of the response, the Applicant sought a meeting with the landowner via their land agents to better understand the proposals, how certain they were, and the potential for co-existence should they proceed. No response was received. This request for a potential route change was considered by the Applicant and is reported on in the Consultation Report [APP-034] as DCR048 in table 6-3. As set out in that table, following receipt of the representation, the Applicant undertook further investigations of the Land Registry and local authority planning portal. The Land Registry searches did not disclose any registered option for a developer, and this was not identified in any land interest questionnaires or local inquiries undertaken by the Applicant prior to application. No planning application (or pre-application information) had been submitted for the site in the last five years. The Applicant concluded that, given the early stages and uncertainty in respect of the proposals, it was not necessary or desirable to change the proposed pipeline route at this location. It was considered that a detailed exercise had been undertaken to select the pipeline route as a whole, and the information available did not indicate that an alternative would be better. The Applicant continued (and continues) to regularly review the Land Registry to ensure that land information and the Book of Reference are up to date. These searches have not identified any new land interests in favour of the developer. In July 2024 the Applicant was contacted by the new Interested Party, Island Green Power, in

ExAQ2	Question to	Question	Applicant response
			respect of the proposal and held a meeting with them on 23 August 2024. The Applicant will continue to engage with Island Green Power in respect of the proposals and co-existence. The Applicant considers that co-existence of the pipeline and a solar farm on this site could be possible. The solar farm development cannot be built in a way that might adversely impact the pipeline (e.g. by having panels directly on top of it), but the pipeline will not prevent development of the majority of the field. The Applicant will continue to engage with the developer on how both proposals might co-exist. The Applicant notes for completeness that, in the event that the pipeline prevents development coming forward, the landowner and any party with an interest in the land would be entitled to submit a claim for compensation.
2.5.24	Applicant	**Calor Gas Limited** Calor Gas Limited have an interest at Plot 1/73 and the SoCG [REP1-036] has not been updated since submission. What is the latest position as there does not appear to have been any progress since November 2023?	The Applicant has submitted an updated SoCG with Calor Gas [EN070008/EXAM/8.23]. The Applicant and Calor Gas have agreed terms that will allow Calor Gas to withdraw its objection. The agreement is currently going through formal approval within each organisation for signature. The Applicant anticipates this will complete prior to the close of Examination, allowing Calor Gas to withdraw its objection.
2.5.25	Applicant	**Co-existence of uses** Mark Casswell has made submissions at [RR-061] and [REP1-123] concerning the impact of the Proposed Development on his own proposals for a pig farm. His agent spoke at the CAH2 and the Applicant indicated that it may be possible for the two facilities to co-exist. Further detail was to be provided to the Interested Party. Update the Examination as to the negotiations ongoing and whether resolution is imminent.	The Applicant was not aware of Mr Caswell's intention for a pig rearing unit prior to the supplementary representation published by the ExA [REP1-123] on 30 April 2024. On being made aware of the intention the Applicant obtained a plan of the proposed pig rearing unit from Mr Caswell's agent and the Applicant prepared a composite plan showing the footprint of the pig rearing unit relative to the Order Limits. The composite plan shows that the proposed building will encroach on the Order Limits and has been shared with Mr Caswell's agent. The Applicant has not yet determined the route of the Viking CCS pipeline within the Order Limits and therefore it is unable, at this time, to agree to the construction of a pig rearing unit within the Order Limits. The placement of a building over or within 4m of the pipeline will not be permitted. The Applicant will agree compensation in relation to known or demonstrable prospective development that will be impacted upon by the pipeline, subject to claimants mitigating such losses. Ultimately, the Applicant expects the two developments will be able to be accommodated on Mr Caswell's land, however it will be premature for the Applicant to agree to the siting of a pig rearing unit as currently indicated within the Order Limits. The land owned by Mr Caswell within which a pig rearing unit is intended to be constructed is considerably more extensive than the Order Limits and so could perhaps be accommodated entirely outside of the Order Limits with little to no material detriment.
2.5.26	Applicant	**Phillips 66 Limited (P66)** A further submission has been made on behalf of this Affected Person (AP), [REP4-061], in which the need for CA powers is questioned. It seems that final agreement between the parties is very close and very likely to be concluded before the end of the Examination. On this basis, the P66 queries *"whether the conditions in section 122 of the Planning Act 2008 for which compulsory purchase and temporary possession powers may be authorised are met namely: (a) Whether compulsory acquisition and temporary possession powers are required as a fallback for this section of the Scheme when the Applicant will have acquired through the suite of voluntary agreements with P66 the necessary rights and interests to carry out the works to construct this part of the Scheme; and/or (b) Whether there is a*	The Applicant and P66 have now entered into legally binding agreements to acquire the necessary rights in land over plots owned by P66. The Applicant's position is that where voluntary legal agreements for rights in land have been entered into, it remains appropriate for the DCO to retain compulsory acquisition powers over the land, and for those plots to therefore remain within the book of reference. This 'belt and braces' approach is standard for DCOs and compulsory purchase orders. These powers protect against breach of the agreement by landowner, and in respect of any unknown interests. The Applicant submits that there is a compelling case in the public interest for compulsory powers to be granted for the Proposed Development, and it is entirely appropriate that the fall-back position is maintained to ensure that the Proposed Development is deliverable; it would be wholly undesirable if one party had the power to frustrate the delivery of the Proposed Development as a whole.

ExAQ2	Question to	Question	Applicant response
		compelling case in the public interest for the compulsory acquisition and temporary possession powers sought in these circumstances." This has been a lengthy and detailed negotiation between the Applicant and P66 and the Applicant is asked to respond to the question raised here.	The Applicant therefore considers that the conditions of section 122 of the Planning Act 2008 are met, even in circumstances where voluntary land agreements have been reached. The Applicant notes for completeness that it is common practice for such agreements to regulate the use of compulsory powers as between the parties, and therefore the inclusion of these powers in the DCO does not provide the Applicant with a mechanism to circumvent obligations that it has signed up to voluntarily.
2.5.27	Applicant Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited ("the IOT Operators")	**Immingham Oil Terminals Operators** These APs support the principle of the Viking CCS scheme, but their objection remains [REP4-060] as they do not agree to the effects on the existing pipelines situated in Plot 1/74. It is clear that negotiations have progressed further, but can the Applicant report on whether agreement has been reached? Are the IOT Operators able to confirm that their objection can be withdrawn?	The Applicant and the IOT Operators are finalising the legal documentation to reflect an agreed position on the Protective Provisions to be included in the draft DCO. The IOT Operators are also considering some additional technical information provided by the Applicant. The Applicant anticipates that this will be completed in advance of Deadline 6 and will advise the Examining Authority when that is the case.
Crown land and special category land			
2.5.28	Driver and Vehicle Standards Agency (DVSA)	**Protective Provisions** The Applicant stated at ISH3 [EV9-004] that a side agreement is being drawn up that fixes a mutually beneficial position between the Applicant and the DVSA. The implication of this is that the dDCO does not need specific Protective Provisions written into it in order to protect or otherwise provide for the relocation of the DVSA should the pipeline not take the preferred route. Set out fully your views on this.	
2.5.29	Applicant	**DVSA current position** The DVSA are still objecting to any route of the pipeline which crosses their site. The Applicant has provided further information concerning the routeing, but the Applicant needs to convince the DVSA as unless they do so, there will not only be an outstanding objection but also a failure to obtain section 135 consent. Please confirm the latest position with negotiations with the DVSA.	The DVSA have previously stated that they will continue to object to the Proposed Development until it has a voluntary agreement in place with the Applicant. Negotiations between the two parties have been productive since Deadline 4, with the agreement of a route that does not impede the DVSA's operations. The Applicant believes that all matters have now been resolved and that Heads of Terms are agreed with the DVSA. A final copy of the Heads of Terms has been issued to the DVSA for signing. The Applicant anticipates that once Heads of Terms have been signed, the DVSA will be able to remove its outstanding objection. The Applicant is continuing to engage with the DVSA's solicitors in respect of providing section 135 consent.
2.5.30	Applicant Crown Estate	**Crown Estate consent** In addition to the DVSA site, the Applicant also requires section 135 consent for Plots 36/12, 36/14, 36/15, and 36/16. What is the latest position as no progress is reported in the Schedule of Negotiations [REP4-007]. In the Statement of Reasons lodged with the Application in October 2023 [APP-010] it was stated that "it was not anticipated that there will be any difficulty in securing this agreement." This was echoed in the updated SoR [AS-013].	The explanation given in paragraph 5.10 of the submissions at CAH2 [REP4-054] was in response to a question from the ExA and was intended to set out options that would be available to the Secretary of State in the event that section 135 consent was not obtained by the close of Examination, or by the point of decision. It was not intended to suggest that section 135 consent may not be forthcoming. The Applicant is continuing to engage with the Crown Estate via its solicitors. The latest position is that the solicitors for the Crown Estate are preparing the draft consent documents. The Applicant has discussed anticipated timings for completion with the Crown Estate's solicitors and

ExAQ2	Question to	Question	Applicant response
		The Applicant did report at CAH2 that the consent was expected by the close of the Examination and a meeting was scheduled with the Crown Estate on 1 July 2024. However, in the Applicant's submissions from ISH2, [REP4-054], it seems that the consent may not be forthcoming during the Examination as the Applicant is suggesting a fallback position by way of an additional Requirement. In view of previous assurances, it will be disappointing if this is not resolved so as to be included in the Recommendation Report and the Applicant is urged to make this a priority in the remaining weeks of the Examination. Please confirm the latest position.	believes that this will be possible within the remaining timescales of the Examination. The Applicant confirms that this will remain a priority in the remaining weeks of the Examination.
2.5.31	Applicant	**Discrepancy in position** The suggestion contained in paragraph 5.10 of the submissions at ISH2 [REP4-054] does seem somewhat inconsistent with the Applicant's refusal to accept a similar Requirement that CA powers cannot be used until the offshore consents have been obtained. Please comment.	The explanation given in paragraph 5.10 of the submissions at CAH2 [REP4-054] was in response to a question from the ExA and was intended to set out options that would be available to the Secretary of State in the event that section 135 consent was not obtained by the close of Examination, or by the point of decision. Another alternative would be for the Secretary of State to delete plots where the Crown has an interest from the book of reference, and therefore not grant CA powers over them. The Applicant notes that it does not consider this to be a necessary requirement and does not consider that this should be imposed. Notwithstanding that, the Applicant considers that there is a distinction between imposing a requirement relating to land within the Order Limits (to which the section 135 consent would relate) and imposing a requirement relating to the offshore consents that form part of a different consenting process.

Table 2-6: Q2.6 – Cultural Heritage

ExAQ2	Question to	Question	Applicant response
Above ground heritage assets			
2.6.1	Applicant	**Soil storage, screening and flood risk** In amongst the 'embedded mitigation' it states that soil storage will be used to screen construction works from the settings of heritage assets [REP1-045]. Given the Applicant's commitments not to store soil within the flood plains [REP2-022], how relevant or effective will this 'embedded' mitigation be in such areas?	The Applicant can find no reference in REP1-045 to the reliance upon soil storage bunds providing embedded mitigation for effects on the setting of heritage assets. There is a reference to soil storage acting as an embedded mitigation for screening in general in ES Chapter 3: Description of the Proposed Development [APP-045], however this was included only as an example of what embedded mitigation may include: "*This approach has accordingly provided opportunities to prevent or reduce adverse effects by designing-in measures from the outset and defining the actions and control that will be applied during construction. Embedded mitigation for example includes routeing and siting work which was undertaken to avoid sensitive areas as well as more practicable measures such as the use soil storage as screening, segregation of soil types (topsoil and subsoil) for reuse, sequential phasing to limit the extent of works at any one time and planting to reinstate sections of hedgerow or trees removed during the construction stage of the Proposed Development*." Although in practice temporary stockpiles may help to screen heritage assets during construction, this is not relied on as either embedded or additional mitigation in the Applicant's assessment of effects on heritage assets, as set out in ES Chapter 8: Historic Environment [AS-023].

Table 2-7: Q2.7 – Draft Development Consent Order

ExAQ2	Question to	Question	Applicant response
Interpretation and Articles			
2.7.1	Lincolnshire County Council	**Definition of Commence** In the Deadline 1 response [REP1-059, Q1.7.1] it was said the commencement clause was acceptable providing access points were excluded. Can you confirm whether the commencement definition, as revised by the Applicant, is now acceptable.	
2.7.2	Applicant All Interested Parties All Statutory Undertakers All Local Authorities	**ExA Schedule of Changes to the Development Consent Order** Comments are invited from all parties on the ExA's proposed Schedule of Changes to the Development Consent Order, without prejudice to the respective party's positions on the Proposed Development.	The Applicant has submitted its response to the Examining Authority's proposed schedule of changes to the dDCO [EN070008/EXAM/9.65].
2.7.3	Applicant	**Road permitting scheme and s278 of the Highway Act 1980** Lincolnshire County Council were required by an Action Point [EV8-008] to submit details and reasoning behind their requests for amendments to the dDCO in respect of highway provisions. This was provided [REP4-099], partially hinting that a separate side agreement may resolve the concerns. Whilst the Applicant may wish to respond in full as part and parcel of the 'Responses to information received at Deadline 4', provide a brief response to this question indicating whether the dDCO will be amended or if not, why not.	The Applicant has now updated the draft DCO (Revision G) [EN070008/APP/2.1] to include a new Article 8 (application of the permit scheme) applying the Lincolnshire Permit Scheme to the construction and maintenance of the authorised development. The Applicant has agreed this wording with Lincolnshire County Council.
2.7.4	Applicant	**Article 16** National Highways has objected to the making of Traffic Regulation Orders on the Strategic Road Network (SRN) under the terms of Article 16 [REP4-059]. Please confirm whether or not a separate sub-clause will be added excluding the SRN from the effects of this Article. Explain with reasons.	The Applicant has agreed that the final version of the Protective Provisions for National Highways will sets out that Article 16 will not apply to the SRN without the prior consent of National Highways.
2.7.5	Applicant Lincolnshire County Council	**Articles 38 and 39** The Council maintains an objection to the drafting of articles 38 and 39 [REP4-099] and stated a meeting would be arranged with the Applicant to see if common ground could be found. Update the Examination on the conclusions of that meeting, any subsequent changes to the dDCO or the reasoning/ rationale on any difference of opinion between the parties.	The Applicant considers that sufficient detail has been provided with the application to assess the environmental impact of the powers sought in these articles, and that sufficient mitigation measures are secured through existing outline management plans, including the draft CEMP (Revision E) [EN070008/APP/6.4.3.1], outline LEMP (Revision C) [EN070008/APP/6.8] and Arboriculture Report [APP-086]. As such, the Applicant does not intend to update the draft DCO. The Applicant's position is set out in more detail in paragraphs 3.13 – 3.17 of the Applicant's written summary of oral submissions given at hearings during the week commencing 25 March 2024 [REP1-048] and paragraphs 2.26 – 2.29 of Applicant's Summary of Oral Submissions Issue Specific Hearing 2 (ISH2) [REP4-054].
Requirements			
2.7.6	Applicant	**Links within the CCS chain** The Applicant refers at paragraph 5.3 of its Position Statement on Benefits [REP4-032] to the Hynet Carbon Dioxide Pipeline Order 2024 and also the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024. The Applicant submits that the approach taken in these decisions	The Applicant refers to its responses to questions 2.5.5 – 2.5.15 above. The Applicant maintains that such a Requirement is unnecessary, and is contrary to the policy position set out in NPS EN-1 and previous decisions.

ExAQ2	Question to	Question	Applicant response
		should be followed but the ExA in its previous questions under Compulsory Acquisition has shown that these decisions can be distinguished as in the case of the Viking CCS Project both the onshore and offshore elements are within the control of the Applicant. Accordingly, the response given in [REP4-032] in response to the need for a Requirement linking the onshore and offshore works appears weakened. Please provide an updated position.	
2.7.7	Applicant	**Grampian-style Requirement** It is stated in paragraph 5.2 of the Position Statement on the Benefits [REP4-032] that: "*The Applicant's position remains that imposing such a requirement is unnecessary. Significant capital expenditure will be required to construct the Proposed Development. It is not economically realistic that the Applicant would build the proposed Development without certainty that the consents for the offshore scheme will be granted.*" If for practical and economic reasons the construction of the Proposed Development will not commence until after the offshore consents have been obtained it is difficult to see the objection to the proposed Requirement given, in essence, it would have perceivably little impact or affect from the Applicant's point of view. Please explain.	Paragraph 4.1.6 of NPS EN-1 sets out that the Secretary of State should only impose requirements in relation to a development consent that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. The Applicant's position remains that the requirement suggested is unnecessary. NPS EN-1 and previous decisions on similar projects recognise that different links in the CCS chain can be consented separately without such a requirement. The Applicant does not consider that the requirement should be imposed simply because at this point in time it appears convenient to do so.
Requirements			
2.7.8	Applicant	**National Highways** Schedule 9, Part 9 addresses the Protective Provisions suggested with National Highways (NH). NH has maintained its position concerning the deemed consent provisions and made comments both at ISH2 and also in their subsequent representation [REP4-059]. The Applicant responded that a deemed consent approach was agreed on the Hynet DCO but the ExA has already indicated that they do not see this as a strong precedent and are yet to be convinced that the approach suggested by NH is not justified. The Applicant is asked to provide further reasons and also to report on the other Protective Provisions which are still being negotiated with NH. NH also raised the issue of a financial bond which is a standard requirement – has this been agreed yet and if not, why not?	The Applicant and National Highways continue to discuss suitable terms for Protective Provisions to be included in the draft DCO. Within the Protective Provisions under discussion, the Applicant has agreed that a number of articles within the draft DCO will not be exercisable over the strategic road network without the consent of National Highways. The prior approval process has been agreed with National Highways. The Applicant does not accept that it is a standard requirement for all development types for a financial bond to be provided. The Applicant considers that a bond would be appropriate if the Applicant was undertaking works to the road itself. If the Applicant subsequently did not reinstate the road to a suitable standard, a bond would ensure that National Highways had funds available to complete the works itself. The Applicant does not consider that a bond is necessary for the Proposed Development, where there will not be any breaking into the surface of the road. The strategic road network will be crossed using trenchless techniques. The Applicant has offered an indemnity to National Highways in the unlikely event that any damage was caused and would maintain insurance. In those circumstances, the Applicant considers that a financial bond is unnecessary.
2.7.9	Applicant	**NGT and Protective Provisions** At ISH2 it was indicated that agreement with NGT was expected to be finalised before Deadline 4 but this has yet to be achieved. When can this be expected as the Applicant indicated that Protective Provisions had been agreed?	The Applicant and NGT have agreed terms of a suite of agreements that secure the necessary land rights for the Theddlethorpe Facility and in respect of Protective Provisions for NGT's functions and duties as a statutory undertaker. The Applicant has signed the agreements and awaits confirmation from NGT that it has done the same. The Applicant understands that the agreements are going through NGT's internal approval process, but that completion is due imminently. The Applicant will then update the Protective Provisions within the draft DCO and expects that NGT to withdraw its representations. The Applicant anticipates that this will be completed in advance of Deadline 6 and will advise the Examining Authority when that is the case.

ExAQ2	Question to	Question	Applicant response
2.7.10	Applicant National Highways	**Network Rail Infrastructure Limited (Network Rail)** The Applicant indicated at ISH2 and in its subsequent D4 submission [REP4-054] that agreement is expected with Network Rail before the end of the Examination. If there is to be any further delay, please advise the ExA of any points which remain outstanding.	The Applicant understands that Network Rail are agreeable to the latest set of Protective Provisions that have been proposed by the Applicant. The Applicant and Network Rail are also finalising a 'Framework Agreement' that governs other matters wider than the Protective Provisions. The Applicant expects that this will be completed shortly, at which point the Applicant will include the agreed Protective Provisions within the draft DCO. The Applicant anticipates that this will be completed in advance of Deadline 6 and will advise the Examining Authority when that is the case.
2.7.11	Applicant Northern Powergrid (Yorkshire) Plc (Northern Powergrid)	**Northern Powergrid** Again, the indication at ISH2 was that Protective Provisions had been agreed and Northern Powergrid would confirm the position. Please confirm.	The Applicant confirms that Protective Provisions have been agreed and are included within the draft DCO (Revision G) [EN070008/APP/2.1] submitted at Deadline 5.
2.7.12	Applicant Air Products (BR) Limited	**Air Products (BR) Limited** Their solicitors, Charles Russell Speechlys**,** indicated at D4 [REP4-089] that progress has been made in negotiating the Protective Provisions although no draft has been introduced at Schedule 9 as yet. Accordingly, an objection is still maintained. Please update and clarify the position.	The Applicant and Air Products (BR) Limited are making good progress on the Protective Provisions, with the latest draft with the Applicant for comment. The Applicant will respond to Charles Russell Speechlys in w/c 2 September. Protective Provisions for Air Products (BR) Limited will be included in the final draft DCO.
2.7.13	Applicant Anglian Water Services Limited (Anglian Water)	**Anglian Water** Provisions have been proposed at Part 10, Schedule 9 and Anglian Water have indicated in their D4 submission [REP4-102] that matters are likely to be agreed by Deadline 5. The ExA awaits confirmation of this.	The Applicant confirms that Protective Provisions have been agreed and are included within the draft DCO (Revision G) [EN070008/APP/2.1] submitted at Deadline 5.
2.7.14	Applicant DVSA	**DVSA** The Applicant indicated at ISH2 that Protective Provisions would not be needed with this Affected Person as matters would be dealt with by way of a private land deal. Can this be confirmed by both parties?	The Applicant and the DVSA have agreed heads of terms, which include that the final pipeline route will not encroach on the DVSA's operational land. This commitment will be reflected in the final legal agreement between the parties for land rights. As this protects against any impact on the DVSA's operations, no Protective Provisions are considered necessary.
2.7.15	Applicant Cadent Gas Limited	**Cadent Gas Limited** Draft provisions are contained in Part 5, Schedule 9 and the Applicant indicated at D4 [REP4-054] that there were only a couple of points which remained outstanding. Has agreement now been reached?	Whilst significant progress has been made in seeking to agree a set of Protective Provisions, it has not been possible for the Applicant and Cadent Gas Limited ("Cadent") to reach full agreement. The main point outstanding is the terms of indemnity provided by the Applicant to Cadent in respect of any loss that Cadent suffered in consequence of the construction, use, maintenance or failure of any of the Proposed Development. In particular, the Applicant has sought to restrict any liability for indirect or consequential losses caused to third parties (which Cadent is in turn liable for) to those which are reasonably foreseeable. The Applicant considers that this reflects the default legal position and it should not have a liability that is wider than this. This has not been agreed by Cadent.
2.7.16	Applicant Phillips 66 Limited	**Phillips 66 Limited** Paragraph 2.2 of the latest submission from this Affected Person [REP4-061] indicates that broad consensus has been reached between the parties which includes negotiation of a set of Protective Provisions. The ExA awaits confirmation of this together with sight of the additions which are proposed for	The Applicant confirms that Protective Provisions have been agreed and are included within the draft DCO (Revision G) [EN070008/APP/2.1] submitted at Deadline 5.

ExAQ2	Question to	Question	Applicant response
		the dDCO.	
2.7.17	Applicant IOT Operators	**The IOT Operators** These companies are subsidiaries of Phillips 66 Limited and the Prax Lindsey Oil Refinery Limited. Their latest submission [REP4-060] was lodged at Deadline 4 and indicate that the terms of the proposed Protective Provisions are at an advanced stage of negotiation. It was expected that these negotiations would be completed by the end of August, and it is hoped that confirmation of a settled position by Deadline 5. Please can both parties update.	The Applicant and the IOT Operators are finalising the legal documentation to reflect an agreed position on the Protective Provisions to be included in the draft DCO. The IOT Operators are also considering some additional technical information provided by the Applicant. The Applicant anticipates that this will be completed in advance of Deadline 6 and will advise the Examining Authority when that is the case.
Controlling Documents for the dDCO			
2.7.18	Applicant	**Outline Construction Environmental Management Plan (OCEMP) and restoration** Measures B8 and B9 of the OCEMP [REP2-012] have not yet been amended with regards to restoration timeframes. The Applicant promised a review of restoration matters, including timeframes, at Deadline 1 [REP1-045]. Please provide updates or reasoning in all regards.	Measures B8 and B9 of the OCEMP (Revision E) [EN070008/APP/6.4.3.1] have been updated to include restoration timeframes and an updated version of the OCEMP has been provided at Deadline 5. In responding to question 1.8.8 of the ExA's first written questions [REP1-045], the Applicant did not intend to imply that additional information on restoration, including would be provided, beyond the timeframes cited in the initial response.
2.7.19	Applicant	**OCEMP and barn owl habitat** Measure B29 [REP2-012] requires replacement nest boxes *"within 200m from the DCO site boundary."* Does that mean the boxes would be provided outside of the red line application boundary and, if so, what powers under the dDCO would allow such boxes to be provided on land outside of the control of the Applicant?	The Applicant does not consider there needs to be explicit powers within the draft DCO for the installation of nest boxes. The nest boxes that would be installed are not development that would require planning permission or consent. The works are minimal, have a negligible impact on the use of land and the usual practice would be to reach agreement with the landowner/occupier to install them at a suitable location. The landowner/occupier would be compensated for this. The Applicant therefore does not consider there would be a barrier to delivering the boxes outside of the Order Limits, if required.

Table 2-8: Q2.8 – Ecology and Biodiversity

ExAQ2	Question to	Question	Applicant response
Ecology			
2.8.1	Applicant	**Chalk streams and blow wells** North East Lincolnshire Council has reported that features observed during a site visit are indeed blow wells and request a 10-metre protection buffer around them [REP4-094]. Set out how and where this mitigation should/ is secured.	Measure B39 has been added to the OCEMP [EN070008/APP/6.4.3.1] stating: No works will be undertaken within a 10-metre protection buffer around any confirmed blow wells. These include the following confirmed blow wells: **Water body** / **National Grid Reference (NGR)** Riby Road 1 / TA 19007 09619 Riby Road 2 / TA 18848 09361 Aylesby 1 / TA 19741 08617 An updated version of the OCEMP [EN070008/APP/6.4.3.1] has been provided to the ExA at Deadline 5.
2.8.2	Natural England Local Authorities	**Biodiversity Net Gain (BNG)** Given that BNG on NSIPs is not yet mandatory, provide any information you wish the ExA and the SoS to take into account as to why it is considered a Requirement is necessary for this project?	
2.8.3	Local Authorities	**BNG Details** In light of the Applicant's commitments within the Outline Landscape and Ecology Management Plan (OLEMP) [REP2-026], is there any uncertainty remaining as to what would be done and when, or any amendments required to the OLEMP to provide reassurances of effective and long management?	
2.8.4	East Lindsey District Council	**Clarity of Information** In the Local Impact Report [REP1-053, Paragraph 6.2] there are several instances where the Applicant's information is said to be unclear. 1) Do these concerns remain and, if so, why? 2) If such matters were unresolved at the end of the Examination, explain whether any residual lack of clarity would have any bearing on the outcomes of the ES or upon the recommendations of the ExA.	
2.8.5	Natural England	**Site of Special Scientific Interest (SSSI)** In the Deadline 1 submission [REP1-079, Paragraph 3.3], there is concern raised that there could be unacceptable harm to the Humber Estuary SSSI. This was raised by the ExA during ISH3, to which the Applicant had no certain reply on the current position. Have the concerns been addressed by the Applicant or, if not, what specifically remains outstanding and how should the SoS consider such matters if unresolved come the close of the Examination?	The Humber Estuary SSSI is designated for breeding and non-breeding birds, estuarine habitats, grey seals, river lamprey, sea lamprey and its invertebrate assemblage. The Humber Estuary SSSI overlaps with the Humber Estuary SPA, SAC and Ramsar. The ecology and ornithology chapters of the ES assess the potential for effects upon the Humber Estuary SSSI. In addition, measures proposed within the Report to inform HRA [AS-026] to protect the qualifying features of the European designated sites will also protect the underlying SSSI. The Applicant notes that within REP1-079, references to potential effects on the Humber Estuary SSSI are linked back to any similar comments on the features of internationally designated sites, for example: "*2.3.3 We note that the Humber Estuary SSSI nationally designated site features that are affected by this proposal are broadly the same as the internationally designated site features. Please refer*

ExAQ2	Question to	Question	Applicant response
			to the points in the 'Internationally designated sites' section above for all 'amber' and 'yellow' issues, that also apply to the Humber Estuary SSSI." The Applicant therefore anticipates that Natural England's current position relating to the internationally designated sites (Humber Estuary SAC, Humber Estuary SPA, and Humber Estuary Ramsar) will apply equally to the Humber Estuary SSSI and there will be no significant adverse effects. The responses that relate to internationally designated sites provide the latest position regarding internationally designated sites. These include the Applicant's responses to questions 2.12.3 and 2.12.4, as well as questions RIESQ2, RIESQ3, RIESQ4, and RIESQ7 that were raised in the RIES [EN070008/EXAM/9.63]. It is the Applicant's understanding that all matters pertaining to the internationally designated sites have now been addressed and there will be no outstanding matters at the close of Examination.
2.8.6	Applicant Natural England	**Article 19 of the dDCO** Applicant – With regard to the relationship of the construction works to the nearby SSSIs, how Article 19 would work in practice? Natural England – What would the implications be upon designated SSSI if not amended? What changes would you request are made to Article 19 to reassure you the integrity of the SSSI would be preserved?	The draft DCO (Revision G) [EN070008/APP/2.1] does not seek to disapply the provisions of the Wildlife and Countryside Act 1981. As such, the relevant provisions of that Act relating to SSSIs, and the need for consent/assent from Natural England for certain activities, will apply to the undertaker and the Proposed Development.

Table 2-9: Q2.9 – Environmetal Impact Assessment

ExAQ2	Question to	Question	Applicant response
Ecology			
2.9.1		No further questions at this time.	This is noted.

Table 2-10: Q2.10 – Flood Risk, Hydrology and Water Resources

ExAQ2	Question to	Question	Applicant response
Flood Risk			
2.10.1		No further questions at this time	This is noted.
Hydrology and Ground Water			
2.10.2	Environment Agency	**Hydrogeological Risk Assessment** A revised assessment was not provided at Deadline 4, although a revised Flood Risk Assessment was [REP4-016]. Set out the implications for the Examination if the revised assessment is not received prior to close of the Examination, given that the last iteration of the Statement of Common Ground indicated very little dispute between the parties on major/ fundamental issues.	The Applicant acknowledges that this comment is direct towards the Environment Agency. However, the Applicant confirms that it has liaised further with the EA and provided them with an updated version of the Hydrogeological Risk Assessment [APP-094], addressing its comments. The EA have now confirmed that these changes address its concerns and the Applicant has submitted a copy of this updated version of the Hydrogeological Risk Assessment to the ExA at Deadline 5.

Table 2-11: Q2.11 – Geology and Land Use

ExAQ2	Question to	Question	Applicant response
Farming Operations			
2.11.1	Applicant	**Pipeline depth** Concern has been raised by Savills [AS-056] on behalf of J.W Needham and Co as to the pipeline depth and whether this should be able to be reduced to 0.7 metres (m) in view of the possible impact by farm machinery. The Applicant responded at ISH2 that there would be a right for compensation and at ISH3 that the pipe will have such a thick wall as to be stronger than any farm machinery. Does it remain the Applicant's view that the possibility of a reduction to 0.7m for the pipeline depth is adequately safeguarded?	The Applicant's view remains as stated throughout the examination, and as noted in response at ISH2 and ISH3. The target depth for the pipeline is 1.2m to the top of the pipeline, which will not interfere with normal agricultural operations. The proposed Lease entered into with Landowners would then have an upper limit of 0.7m below the surface of the land. The Applicant anticipates being able to achieve the target depth in all agricultural locations in order that normal farming use can be resumed over the pipeline, however until final alignment is known, the potential need for minor deviations from that cannot be ruled out. Even if the target depth is not achieved, any deviations to the upper limit of 0.7m would be localised. The Applicant would engage with landowners/occupiers to minimise impacts with a view to them being able to resume their previous use of the land. The Applicant further refers to its response to WQ 2.1.4 that sets out more detail on restrictive covenants that would be placed on the land and engineering/practical safeguards.
Other land use matters			
2.11.2	Applicant	**Restoration of agricultural land** Natural England (NE) has made further representations at Deadline 4 [REP4-093] concerning the intention to ensure that all Best and Most Versatile agricultural land (BMV) upon decommissioning is returned to its original Agricultural Land Classification grade; for clarity, NE recommends that this should be specifically included within the Outline Decommissioning Strategy [APP-072], and all relevant mitigation measures secured within the dDCO.	The Applicant and Natural England have had further discussions on this issue. The Applicant is happy to make this commitment and has updated the Decommissioning Strategy (Revision A) [EN070008/APP/6.4.3.5] accordingly. This updated version has been submitted to the ExA at Deadline 5. This has also been incorporated into the CEMP [EN070008/APP/6.4.3.1] where measure F14 relating to the restoration of BMV to its original grade, has been highlighted as a measure that will also be included in the Decommissioning Environmental Management Plan, the provision of which is secured under Requirement 16 of the dDCO [EN070008/APP/2.1].
2.11.3	Applicant	**Soil handling** NE have also requested [REP4-093] further detail concerning the arrangements for soil handling in wet conditions. Apparently, these concerns have been discussed with the Applicant and NE await further clarifications on these points, including the definition of 'extenuating circumstances' which may necessitate handling soils in a wet condition. Provide a response and the measures being taken to reassure NE on these points.	The Applicant and Natural England have had further discussions on this topic. As a result, the Outline Soil Management Plan (Revision B) [EN070008/APP/6.4.10.1] has been revised to respond with consideration to Natural England's concerns and has been submitted to the ExA at Deadline 5.

Table 2-12: Q2.12 – Habitat Regulations Assessment

<table>
<tr><th>ExAQ2</th><th>Question to</th><th>Question</th><th>Applicant response</th></tr>
<tr><td colspan="4">Effect of the Proposed Development on its own and In-combination with Other Plans and Projects</td></tr>
<tr><td>2.12.1</td><td>Applicant

Natural England</td><td>Report on the Implications on European Sites (RIES)

The ExA have published the RIES at the same time as these ExQ2, and the RIES contains questions for both parties. Please address these questions separately.</td><td>Responses to each of the questions raised in the RIES have been responded to in document EN070008/EXAM/9.63 submitted at Deadline 5.</td></tr>
<tr><td>2.12.2</td><td>Natural England</td><td>Adverse Effect on Integrity (AEoI)

In response to first written questions [REP1-078] [REP1-079], NE stated that an AEoI could be ruled out for all European sites except for the Humber Estuary Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar designations. On the basis of information to date in the Examination:

1) Can an AEoI now be ruled out for all European sites? If not, why not?

2) Are derogations, including compensation, necessary for any of the European sites and their qualifying features?

3) Are NE satisfied that the mitigation measures being relied upon by the Applicant, to enable an AEoI to be ruled out, are sufficiently secured either with the dDCO and/ or other controlling documents/ management plans?</td><td></td></tr>
<tr><td>2.12.3</td><td>Applicant

Natural England</td><td>Minor Issues Remaining?

The Applicant stated during ISH3 that only five minor points remained with Natural England [REP4-052, Paragraph 1.2]. It was not explained in any detail what those points are and whether they could be resolved in the Examination. Provide as much detail as possible on these points.</td><td>The issues that remained at that stage were issues NE3, NE6, NE9, NE12, NE16, and NE24.
<table>
<tr><th>Issue No.</th><th>Issue</th><th>Current Position</th></tr>
<tr><td>NE3</td><td>NE3 - We note that the significance of qualifying bird populations has been assessed on a per field basis. We advise there is potential for cumulative impacts to SPA birds using functionally linked land across the project area. The HRA should therefore consider the significance of bird numbers across the project area and the potential for cumulative impacts (see key issue NE12 below). Natural England welcomes that the baseline survey data will be reviewed in order to provide further clarification (SoCG ref. 37). Further detail should be provided on the sequence / timing of works and the availability of roost and feeding sites within the study area to provide context on the proportion of suitable habitat that would be affected at any one time. Natural England welcomes the commitment to update the Report to Inform the HRA to provide further</td><td>The HRA was updated to respond to this point. In response Natural England suggested this statement in 7.3.9 be removed/amended:

"However, there was no evidence that these fields support regularly occurring populations which could be considered to be significant"

And noted that "although birds were recorded irregularly during the surveys, the presence of SPA species over 1% of the estuary population indicates significance and has triggered the need for an appropriate assessment".

The Applicant removed "which could be considered to be significant" from paragraph 7.3.9.

Natural England's Deadline 4 response considered this to be closed.</td></tr>
</table></td></tr>
</table>

ExAQ2	Question to	Question	Applicant response		
				justification for conclusions on loss of functionally linked land (SoCG ref. 37) and will review this once submitted. Discussions are ongoing with the applicant regarding this.	
			NE6	However, Figures 13-31 of Appendix 6-7 indicate other qualifying SPA bird species, including lapwing and pink-footed goose, have been recorded in numbers greater than 1% of qualifying populations in proximity to the red line boundary. We advise that likely significant effects for lapwing and pink-footed goose cannot be screened out and should be included in the list of species in Table 7-1 for further assessment. Natural England welcomes that lapwing and pink-footed goose will be added into Table 7-1 in the updated Report to Inform the HRA (SoCG ref. 37). We advise that the appropriate assessment should consider the potential cumulative impact on these species across the project area (as per key issue NE3).	The HRA was updated to respond to this point. Natural England requested additional information regarding the potential worst case duration of works. The Applicant confirmed that the worst-case scenario has been assessed as approximately 20 days of 'noisy' works per location (i.e. per field). This has been added into the HRA. Natural England's Deadline 4 response considered this to be closed.
			NE9	We note from Table 7-1 of the HRA that likely significant effects from noise and visual disturbance to SPA breeding birds during operation has been screened out. However, section 4.2.30 of the Environmental Statement Volume I – Non-Technical Summary states maintenance to the Dune Isolation Valve is required. We advise that further assessment is required to determine potential impacts to SPA breeding birds at 'Viking Fields' during maintenance visits. The applicant has clarified that maintenance visits will require a maximum of two workers using hand tools or small powered hand tools. The applicant considers it unlikely that the minor maintenance works necessary to maintain the dune valve would create a disturbance event greater than existing baseline levels (SoCG ref. 37). The applicant has verbally confirmed it is expected that visual inspection of the dune value will occur once per month	The Applicant made a commitment that all routine maintenance of the dune valve would occur outside the breeding season which was added to both the HRA (Revision D) [EN070008/APP/6.5] and the Operational Phase Mitigation report [REP2-014]. Measure Op21 states that: *"Routine maintenance visits to the Dune Isolation Valve will be undertaken outside of the bird breeding season (that is, 1st March 31st August inclusive)."* In its Deadline 4 submission Natural England agreed that this issue was now closed.

ExAQ2	Question to	Question	Applicant response		
				and maintenance visits will occur annually. Natural England welcomes that clarity will be provided in the updated Report to Inform the HRA. However, although the maintenance visits are expected to occur infrequently, there is still a possibility that works will be undertaken in proximity to nests and have the potential to cause disturbance and nest abandonment. We advise that further assessment should be made on the suitability of habitat near to the dune valve, to assess if there is potential for SPA birds to nest to in close proximity to the working area. We will review this once submitted.	
			NE12	Justification is provided in section 7.3.8 of the HRA as to why the temporary loss of land will not have negative implications at the population level of SPA bird species. Natural England does not agree that the assessment is sufficient to rule out adverse effects on the Humber Estuary SPA in this case, due to the location of proposed works and number of SPA birds recorded within/adjacent to the construction area. Therefore, we advise that further assessment is required regarding the potential impacts to Humber Estuary SPA birds, in particular curlew, from temporary loss of functionally linked land during construction. Natural England highlights that loss of habitat may result in an increase in local bird densities and have consequences for individual bird fitness in terms of increased energy expenditure for flight, competition with other birds for food, and lack of knowledge of foraging resources in other areas which might make it more difficult to find food (Mander et al., 2021). Consequently, this may lead to effects on breeding productivity and ultimately population size (Baker et al., 2004; Piersma et al., 2016; Studds et al., 2017). Satellite tagging of curlews on the Humber has demonstrated that individuals are highly site faithful and	The Applicant addressed most issues through updates to the HRA. In particular, the Applicant provided further detail of how pipeline construction activities are undertaken as a matter of practice. This would result in the works being undertaken sequentially, rather than simultaneously across the Order Limits. Natural England noted in its Deadline 4 submission [REP4-093] that further information had been provided, and went on to state: *"Based on the information provided we agree with the assessment conclusion".* Natural England also confirm that it considers no further information is required to secure mitigation measures in the DCO.

ExAQ2	Question to	Question	Applicant response
			forage within a short distance of their high tide roost sites. During the study period, curlew home ranges were found to be between 4.4 and 9.6 km2 (Cook et al, 2016). Displacement from foraging sites will therefore have consequences for the birds' fitness in terms of increased energy expenditure for flight, competition with other birds for food, and lack of knowledge of foraging resources in other areas which might make it more difficult to find food. Therefore, we advise further consideration should be given to potential impacts on curlew associated with displacement from known foraging areas. We advise further assessment is required on the scale and timing of construction (i.e. if cable works happening sequentially or simultaneously across the project area) during sensitive periods to understand cumulative impacts. We advise further assessment of available alternative roosting/feeding sites in proximity to the works areas is required. If impacts cannot be ruled out, it may be necessary to consider mitigation measures such as restrictions on the timing/extent of works at sensitive times of the year. Natural England welcomes that the baseline survey data will be reviewed in order to provide further clarification (SoCG ref. 37). Further detail should be provided on the sequence / timing of works and the availability of roost and feeding sites within the study area to provide context on the proportion of suitable habitat that would be affected at any one time. As detailed above (NE6), we advise that the assessment should include pink-footed geese and lapwing. Natural England welcomes the commitment to update the Report to Inform the HRA to provide further justification for conclusions on loss of functionally linked land (SoCG ref. 37) and will review this once submitted.

<table>
<tr><th>ExAQ2</th><th>Question to</th><th>Question</th><th colspan="3">Applicant response</th></tr>
<tr><td></td><td></td><td></td><td></td><td>Discussions are ongoing with the applicant regarding this.</td><td></td></tr>
<tr><td></td><td></td><td></td><td>NE16</td><td>Section 7.3.16 of the HRA states that, with mitigation, average construction noise would be below the baseline. Section 7.3.19 of the HRA states 'noise fencing will be included for works within 500m of the relevant survey fields'. We advise that further detail is provided regarding the locations at which noise mitigation is required, taking into consideration our advice on functionally linked land assessment above (NE12).

Natural England welcomes that additional information will be provided in the updated Report to Inform the HRA outlining the sectors where noise fencing will be required (SoCG ref. 38) and we will review this once submitted.</td><td>Further information including potential acoustic fence locations were provided in the updated HRS Report.

Natural England confirmed that "for general pipeline construction works, it is unlikely that erection of fencing is going to be beneficial if a) it increases the timescale of potential disturbance/loss b) it increases the presence of personnel on site. For general pipeline construction works, within the agreed timeframes, we do not consider that mitigation in the form of fencing is required".

Further to a meeting held on 25 July the Applicant provided more detail regarding how locations for acoustic fencing would be determined. This revised text has been largely agreed by Natural England and it is anticipated that the next iteration will fully resolve this matter.</td></tr>
<tr><td></td><td></td><td></td><td>NE24</td><td>We welcome the noise assessment in Appendix 13-4 of the HRA. We advise it would be beneficial to include a noise contour plan or table for the in-combination assessment, presenting in-combination noise data for the proposed development and other projects in proximity to Rosper Road Pools.</td><td>The Applicant did not consider it was feasible to undertake noise modelling that included other developers' proposals.

Natural England advised that #NLC CULM-19 - PA/2023/502 has the potential to create noise and visual disturbance to Rosper Road Pools but that "with the proposed noise fencing as mitigation, adverse effects from the Proposed Development can be ruled out".

The Applicant provided additional text into the HRA regarding Additional text added to #NLC CULM-19 - PA/2023/502.

In its Deadline 4 response Natural England confirmed this to issue to be agreed.</td></tr>
<tr><td>2.12.4</td><td>Applicant

Natural England</td><td>Natterjack Toads

It has now been accepted that natterjack toad habitat will be directly impacted by the Proposed Development through mole drilling, cabling works and construction works at the Dune Valve Station [REP4-018]. The mitigation measures listed do however remain the same.

Applicant – provide further assessment of the impacts on these species, knowing now that the species is present in close proximity to the construction works. Also set out clearly why and how the intended mitigation would remain effective.</td><td colspan="3">Temporary habitat loss within the field east of the former TGT site will be limited in extent and duration.

Natural England's standing advice on natterjack toad states that:

"Activities that can harm natterjack toads include:

- loss of habitat, such as breeding ponds or land drains - any loss that reduces the possibilities for foraging, breeding and burrowing;
- a change in habitat management and habitat structure;
- habitat fragmentation and isolation of toads by creating barriers between toad populations, for example buildings or walls, ditches or fast-flowing water bodies;</td></tr>
</table>

<table>
<tr><th>ExAQ2</th><th>Question to</th><th>Question</th><th>Applicant response</th></tr>
<tr><td></td><td></td><td>NE – set out clearly your position regarding natterjack toads in respect of whether harm would occur, whether mitigation is effective, whether works could proceed without causing harm in a Habitats Regulation Assessment (HRA)/ land designation context.</td><td>
- hydrological changes, for example siltation of ponds, increased chemical run-off into water or effects on the water table; or,
- increased shading of ponds from trees or buildings.”

Taking each of these in turn, the Applicant considers the potential for impacts to be as follows:
<table>
<tr><th>Activity</th><th>Impacts of the Proposed Development</th></tr>
<tr><td>Loss of habitat, such as breeding ponds or land drains - any loss that reduces the possibilities for foraging, breeding and burrowing</td><td>No ponds would be affected by the proposed works. The electrical connection would be installed over the top of the existing pipeline and no ponds are present, or would be allowed to be created, over the pipeline. Two small drains would be crossed during cable installation, however installation would be undertaken during August or September when the drains are reported to be dry.</td></tr>
<tr><td>A change in habitat management and habitat structure</td><td>There would be no change in habitat management or habitat structure.</td></tr>
<tr><td>Habitat fragmentation and isolation of toads by creating barriers between toad populations, for example buildings or walls, ditches or fast-flowing water bodies</td><td>There would be no barriers to toad movements created as a result of the works.</td></tr>
<tr><td>Hydrological changes, for example siltation of ponds, increased chemical run-off into water or effects on the water table</td><td>There would be no changes to the local hydrology as a result of the works, and no runoff that could cause siltation or other pollution of aquatic habitats.</td></tr>
<tr><td>Increased shading of ponds from trees or buildings</td><td>No works are proposed that could potentially create shading of ponds.</td></tr>
</table>
Commitment B40 has been added to the CEMP [EN070008/APP/6.4.3.1] which sets out that natterjack surveys will be undertaken in the season prior to construction, to allow for a natterjack licence to be applied for, should a natterjack toad be found within the working area during construction.

The report to inform HRA screened in the potential for impacts upon Natterjack Toad. The following mitigation is applied at Appropriate Assessment:

“Immediately prior to works commencing at the dune valve or electrical connection, and ecologist of ecological clerk of works will undertake a walkover of the area and identify any ecological constraint. Any sensitive habitats will be fenced off to prevent accidental encroachment of machinery and a fingertip search will be completed for reptiles and amphibians. In the unlikely event that natterjack toad is found within the works area, works will stop, and Natural England will be consulted for further advice and / or a licence sought.”

The Applicant considers that with the implementation of the above control measures, it can be concluded that the conservation objectives of maintaining the extent and distribution of qualifying natural habitats and habitats of qualifying species or maintaining or restoring the populations of qualifying species is not undermined and will not result in adverse effects upon the integrity of the Humber Estuary SAC and Ramsar.
</td></tr>
</table>

ExAQ2	Question to	Question	Applicant response
2.12.5	Natural England	**Acoustic Fencing** Now that the Examination has moved on since the ExQ1 [PD-010, Q1.12.9], are NE content with 2.4-metre-high acoustic fencing, micro-sited by the Applicant, to be a sufficient mitigation?	
2.12.6	Natural England	**Pink-footed geese** Now that the Examination has moved on since the ExQ1 [PD-010, Q1.12.10], are there any residual concerns about the assessment of or mitigation for this species?	
2.12.7	Natural England	**Water Quality** With regards to water quality impacts (and subsequent downstream effects into European designations and onto functionally linked land), the Applicant has provided a draft Bentonite Management Plan [REP4-012]. Do you have any concerns or additional observations from either a HRA or general perspective arising from this document?	
2.12.8	Natural England	**Displacement** At Deadline 1 [REP1-078], it was raised that displacement of curlew, lapwing, pink-footed geese and avocet could occur and required further exploration. Confirm whether this point has now been satisfactorily resolved or if concerns remain.	The Applicant has worked to address comments made by Natural England at Deadline 1 [REP1-078] and considers that the update provided in answer to 2.12.3 above accurately reflects the current position relating to these species.
2.12.9	Natural England	**Revised HRA** Please state whether there are any significant concerns remaining following receipt of the revised HRA at Deadline 4 [REP4-018].	

Table 2-13: Q2.13 – Landscape and Visual Amenity

ExAQ2	Question to	Question	Applicant response
Lincolnshire Wolds National Landscape			
2.13.1	Natural England	**Matters of common and uncommon ground** Please set out clearly where you agree and where you disagree with the Applicant's summary positions on the Lincolnshire Wolds National Landscape. In relation to the National Policy Statements and the National Planning Policy Framework, frame your response as to whether there are any significant policy conflicts that would otherwise prevent the grant of a Development Consent Order.	
Character and appearance of the countryside			
2.13.2	Local authorities	**OLEMP strategy** Confirm for the record if the landscaping strategy, planting strategy and replacement/ compensatory landscape proposals of the Applicant, as set out in the OLEMP, are satisfactory and fit for purpose. If not, why not?	
2.13.3	Local authorities	**Reinstatement of land and landscape** Notwithstanding decommissioning of the block valve stations and above ground infrastructure, are there any residual concerns regarding the proposals for reinstatement of land and landscape features for the pipeline construction corridor, or does the OCEMP and OLEMP provide sufficient reassurance that the landscape would be reinstated in a timely and effective manner?	

Table 2-14: Q2.14 – Noise and Vibration

ExAQ2	Question to	Question	Applicant response
Noise effects			
2.14.1	Applicant	**Threshold for significant effects** Notwithstanding any discussions with East Lindsey District Council, that Council has stated that: *"…the applicant has effectively disregarded the assessment methods in Sections E.2 and E.3 and relied solely upon noise insulation eligibility as the determiner for a significant effect [REP4-096]."* Set out the threshold at which noise insulation eligibility is required, how that threshold is applied in relation to the Proposed Development and what, if any, reassurances can be given to the ExA regarding the Council's assertions.	Annex E of BS 5228-1 provides examples on how to assess construction noise. Section E.1 states: "*The examples cited in this annex offer guidance that might be useful in the implementation of discretionary powers for the provision of off-site mitigation of construction noise arising from major highways and railway developments*". Although the construction noise assessment examples are based on major highways and railways development, they are considered good practice to apply for all kinds of construction activities. Section E.2 and E.3 of BS 5228-1 provide methods that may be applied when assessing construction noise effects. In total, three different methods are provided: one example using fixed noise thresholds and two 'noise change' methods that reference ambient noise conditions to define thresholds. With reference to the fixed noise thresholds method in section E.2, paragraph E.3.1 of BS 5228-1 states that the 'noise change' methods can be "*An alternative and/or additional method to determine the potential significance of construction noise levels*…". The Association of Noise Consultants Guide to Construction Noise (the ANC Guide) (2021)[2]. Defines the LOAEL and SOAEL based on an interpretation of the methods in section E.2 and E.3 of BS 5228-1. As an example for core daytime construction noise criteria, the ANC Guide takes the lowest threshold from the 'noise change' example methods 1 and 2 of 65 dB LAeq,T as the Lowest Observed Adverse Effect Level (LOAEL) and the highest threshold from 'noise change' example method 1 of 75 dB LAeq,T as the Significant Observed Adverse Effect Level (SOAEL). These levels are subject to change if exceeded by the ambient noise level in accordance with both the 'noise change' methods. During discussions with ELDC and Royal Haskoning (minutes presented in Appendix A of **[**REP4-047]) it was acknowledged that the duration of exposure to noise levels above the LOAEL should be a consideration for identifying potential significant effects. As such, an updated assessment was provided where a significant effect could be identified if a property was exposed to noise levels exceeding the LOAEL for a period of a month or more. The duration of a month exposure is referenced from the 'noise change' example method 2 (section E.3.3 of BS 5228-1), which was identified by Royal Haskoning as appropriate to use (paragraph 5.2 of [REP4-052]). Table E.2 of BS 5228-1 section E.4 provides examples for the typical thresholds for noise insulation eligibility that can be applied in construction projects. These example noise insulation thresholds are reproduced in the table below. These noise levels must be exceeded for a period of 10 or more days of working in any 15 consecutive days or for a total number of days exceeding 40 in any 6 consecutive months for a property to be eligible for insulation. As no property would qualify for insulation based on criteria in section E.4 of BS 5228-1, no consideration of this criteria has been made in Chapter 13: Noise and Vibration [APP-055] or the Technical Note on Noise Assessment [REP4-047]. **Time** | **Relevant Time Period** | **Averaging time, T** | **Noise insulation trigger level dB $L_{Aeq,T}$** Monday to Friday | 07:00-08:00 | 1 h | 70 | 08:00-18:00 | 10 h | 75

[2] https://www.association-of-noise-consultants.co.uk/wp-content/uploads/2021/05/ANC-Construction-Noise-Guide-March-2021.pdf, accessed 02/09/2024

<table>
<tr><th>ExAQ2</th><th>Question to</th><th>Question</th><th>Applicant response</th></tr>
<tr><td></td><td></td><td></td><td>
<table>
<tr><td></td><td>18:00-19:00</td><td>1 h</td><td>70</td></tr>
<tr><td></td><td>19:00-22:00</td><td>3 h</td><td>65</td></tr>
<tr><td></td><td>22:00-07:00</td><td>1 h</td><td>55</td></tr>
<tr><td>Saturday</td><td>07:00-08:00</td><td>1 h</td><td>70</td></tr>
<tr><td></td><td>08:00-13:00</td><td>5 h</td><td>75</td></tr>
<tr><td></td><td>13:00-14:00</td><td>1 h</td><td>70</td></tr>
<tr><td></td><td>14:00-22:00</td><td>3 h</td><td>65</td></tr>
<tr><td></td><td>22:00-07:00</td><td>1 h</td><td>55</td></tr>
<tr><td>Sunday and public Holidays</td><td>07:00-21:00</td><td>1 h</td><td>65</td></tr>
<tr><td></td><td>21:00-07:00</td><td>1 h</td><td>55</td></tr>
</table>
Whilst there is correlation with the defined construction noise criteria (Table 2.1 of REP4-047) an important distinction is that qualification for insulation is based on exposure durations, whereas the construction noise SOAEL does not rely on exposure duration to determine a significant effect. The duration of effect is considered for construction noise levels equal to or above LOAEL and below SOAEL (paragraph 2.1.4 of REP4-047) so a significant effect can be identified even though the SOAEL is not exceeded.

The construction noise assessment for the Proposed Development applies a combination of all methods set out in Annex E BS 5228-1 as follows:
• Noise thresholds for the LOAEL and SOEAL are applied based on the highest and lowest thresholds for all methods in Annex E.
• These thresholds are subject to change if exceeded by the measured ambient noise level as per the 'noise change' example methods 1 and 2.
• The duration of effects where construction noise is above or equal to LOAEL and below SOAEL is considered in accordance with the 'noise change' example method 2.

As such, the statement that the construction noise criteria rely solely upon noise insulation eligibility to determine a significant effect is incorrect. The construction noise criteria are more nuanced than ELDC has asserted as it draws from elements in both section E.2 and E.3 of BS 5228-1. The Applicant considers that the noise assessments undertaken are robust, and have regard to all of the example methods in BS 5228-1 Annex E.</td></tr>
<tr><td>2.14.2</td><td>Applicant

East Lindsey District Council</td><td>Statement of Common Ground (SoCG)

It would be useful for the ExA if an updated SoCG were to be submitted at Deadline 5. In particular, a separate annexe within the SoCG should set out the specific matters of agreement and disagreement regarding the methodology, assessment criteria and application of noise thresholds/ tolerances so that the ExA can clearly see what the disputes and differences are between the parties.</td><td>The Applicant has engaged with ELDC and Royal Haskoning prior to ISH3 to agree an approach on any outstanding areas of concern regarding the construction noise assessment. An approach was agreed to provide additional information and to meet after the information was submitted to agree an approach to mitigation. It was the understanding of the Applicant that there were no outstanding disputes or differences relating to the construction noise assessment subject to agreement on mitigation. The SoCG has been updated accordingly with a separate annex dealing with each point raised by ELDC and Royal Haskoning [EN070008/EXAM/8.4]. These points will be agreed with ELDC to confirm that there are no remaining disputes or differences.</td></tr>
</table>

ExAQ2	Question to	Question	Applicant response
2.14.3	East Lindsey District Council	**Receptors and mitigation** The Applicant's technical note [REP4-047] identifies significant effects at specific residential receptors and suggests mitigation measures accordingly. 1. Is the list of identified receptors complete to your satisfaction, or are there additional receptors that should be considered, assessed or give rise to the concerns from the Council. 2. Are there any residual concerns about the mitigation being applied or the ability for further measures to be derived later in the process, should development consent be granted?	
2.14.4	Applicant	**Clarifications on Noise** Within the technical note of noise [REP4-047], there are several assertions made that the ExA wish clarity on: 1. In paragraph 2.6.4 it states barriers could reduce noise by approximately 5dB. In paragraph 2.6.5 those same barriers are said would reduce noise up to 10dB. The ExA query whether the barriers 'could' or 'would' be effective reducers of noise, why the same barriers have different predicted acoustic reductions and what certainty can be given that they would reduce noise as much as claimed? 2. Unless it has been overlooked, the ExA could not see where the measures written at paragraph 2.6.3 were written into the OCEMP. Please signpost. 3. In respect of receptor 56 be subject to 37 non-continuous days of high noise generating noise, can any indication be given as to the length of time over which those 37 days would appear (i.e. is that 37 days in seven months i.e. five days a month)?	1. A distinction is made between a barrier that could provide partial screening and barriers that could fully block line-of-sight between a source and a receptor. Barriers that could fully block line-of sight are assumed to provide up to 10dB attenuation (as per Appendix B of BS 5228-1). It is expected that this level of attenuation can be achieved during HDD works where the main sources of noise will be static generators and the drive motor as the generator and the drive motor can be located within the working area for an HDD that allows suitable distance from the edge of the Order Limits to include screening in a way that fully blocks line-of-sight. A more conservative approach is adopted for auger bore activities where it may not be possible to achieve full screening of noise sources as there is potential for some auger bore sites to be in close proximity to properties (depending on the final pipeline route), which may result in potential issues such as lack of space or property height. As such, a more conservative 5dB is assumed for partial screening by noise barriers (as per Appendix B of BS 5228-1). 2. Updated mitigation measures from the Technical Note on Noise Assessment [REP4-047] has been included in an updated version of the OCEMP (Revision E) [EN070008/APP/6.4.3.1] submitted at Deadline 5. The Applicant intends to have a meeting with ELDC and its noise consultant to discuss mitigation measures, including those detailed in paragraph 2.6.4 [REP4-047]. At the time of writing, discussions are ongoing regarding a suitable time for this meeting due to the lack of availability of ELDC's noise consultant. Any changes required to mitigation resulting from these discussions will be submitted in an updated OCEMP. 3. The identification of less than 30 non-continuous days over a seven-month period is precautionary. Construction of laydown areas would take place for five days at the start of the seven-month period. Pipe laying activities would last for up to 14 days over the course of the seven-month period with individual pipe laying activities lasting for up to two days. Auger boring would be done within the seven-month period, but the timings would be dependent on the contractor as there would be a dedicated team for trenchless crossings. The Technical Note on Noise Assessment [REP4-047] identified 18-days for the two nearby crossings; however, it is expected that the actual time to carry out the crossings would be shorter than estimated as the crossing lengths are less than 30m whereas the auger crossing duration was based on an estimated 60m per day (with set up and reinstatement). As such, distinct periods of noise may occur over the seven-month construction period; however, noise predictions are worst-case in terms of location and there is scope for works to be undertaken at locations within the pipeline corridor such that construction noise would be reduced.
Vibration Effects			
2.14.5		No further questions at this time	The Applicant notes this response.

Table 2-15: Q2.15 – Socio-Economic Effects

ExAQ2	Question to	Question	Applicant response
Socio-Economic Effects			
2.15.1	Applicant	**Private enterprise** Although the ExA did not raise questions concerning socio economic matters at the June and July hearings, the impact on certain proposed projects was raised. Mr Casswell has mentioned his planned pig unit [REP1-123] and the schedule of negotiations [REP4–007] states that revised Heads of Terms were issued in May 2024. What is the current position as Mr Casswell's agent asked for further detail from the Applicant at CAH2.	The May 2024 Heads of Terms reissue did not address the pig rearing unit as it was unknown at that time. The Applicant will agree compensation in relation to known or demonstrable prospective development that will be impacted upon by the pipeline, subject to claimants mitigating such losses. As set out in the Applicant's response to WQ 2.5.25, the Applicant has prepared a composite plan showing the footprint of the pig rearing unit relative to the Order Limits, demonstrating that the proposed building will encroach on the Order Limits. The Applicant has recently shared this plan with Mr Caswell's agent and anticipates the pig rearing unit to be included within discussions currently being taken forward with Mr Caswell's agent.
2.15.2	Applicant	**Conflict with other proposed developments** R Caudwell (Produce) Limited withdrew some of their objections but still maintained their concerns as to the impact the proposal would have on the proposed solar farm [REP1-100]. There does not appear from the Schedule of Negotiations [REP4-007] to have been any further engagement since April. What is the latest position?	R Caudwell (Produce) Limited are represented by Masons Rural whom the Applicant's Agent has been dealing with and having frequent updates on a number of matters including the Affected Party. The majority of Heads of Terms in which Masons are representing clients have now been returned including 2 No. sets of Heads of Terms where R Caudwell (Produce) Limited are signatories. There is one outstanding matter in respect of the remaining Heads of Terms that the parties are working to resolve in advance of the close of examination. The Applicant believes that the pipeline should not prevent a solar farm development and that the design of the solar farm can be such that it be possible to co-exist with the pipeline with no impact on the power generation. Should there by a demonstratable impact of the pipeline project by the Affected Party then the terms that have been offered allow for this to be dealt with by way of compensation, subject to mitigation.

Table 2-16: Q2.16 – Traffic and Transport

ExAQ2	Question to	Question	Applicant response
Local Road Network			
2.16.1	Lincolnshire County Council North East Lincolnshire Council	**Transport Assessment** Is the Council content with the outcomes of the revised transport assessment [REP3-013]? If not, state specifically why not and the implications for the Examination and decision-making process?	
2.16.2	National Highways	**Revised Transport Assessment** In the Deadline 1 submission [REP1-076] in response to question 1.16.19, it was stated that National Highways have concerns regarding the robustness of the Transport Assessment. A revised Transport Assessment was submitted at Deadline 3 [REP3-013], however, there has yet to be any change to the formal position of National Highways stated at Deadline 1. Please confirm if the revised Transport Assessment has eased the concerns relating to the suitability of the Transport Assessment, or if not, why not.	
2.16.3	Lincolnshire County Council	**Passing bay strategy and a revised Construction Traffic Management Plan** The above referenced documents have been promised by the Applicant to be submitted mid-August. The ExA appreciates this probably gives little time for a full and informed response from the Council at Deadline 5, but the ExA would appreciate as much detail as possible regarding any agreements or disagreements on the content of these documents at that Deadline. Is the Council content that traffic would be effectively managed on the local highway network?	The Applicant issued technical notes regarding the need for passing places to Lincolnshire County Council (Thoroughfare and Thacker Bank) and North East Lincolnshire Council (Thoroughfare and Washingdales Lane) on 14 August. Emailed comments were received back from North East Lincolnshire Council on 27 August, and a meeting was held the same day. It was agreed that the best way to take forward proposals for passing places on these roads was through an additional commitment to be included in the CEMP [EN070008/APP/6.4.3.1]. The wording of the additional measures is as follows: H15 - Temporary passing places will need to be installed on Washingdales Lane, Thoroughfare, and Thacker Bank. Applications will be made to North East Lincolnshire Council and Lincolnshire County Council prior to construction to seek permission to install the temporary passing places. These applications will include the necessary details for each passing place, including both existing unmade passing places and new passing places.
2.16.4	Applicant Lincolnshire County Council	**Permitting Scheme** Details of the Council's permitting scheme were provided at Deadline 4. Provide detail on whether the permitting scheme is/ should be incorporated into the Construction Traffic Management Plan and/ or whether or not it is/ should be incorporated as a Requirement or an amendment to an Article within the dDCO. Provide such a wording for the ExA to consider, if necessary.	The Applicant has now updated the draft DCO (Revision G) [EN070008/APP/2.1] to include a new Article 8 (application of the permit scheme) applying the Lincolnshire Permit Scheme to the construction and maintenance of the authorised development.
2.16.5	Applicant	**Thoroughfare** It was set out in ISH3 that Thoroughfare would only be used by a certain time of Heavy Goods Vehicles (HGV), with the remainder using the haul roads to access the pipeline construction corridor and the block valve station. Can more detail be given on the exact nature of the HGVs that would use Thoroughfare and whether or not this can be secured in the dDCO? What measures would be taken to prevent other HGVs from the haul road turning left or right onto Thoroughfare as a means of exit?	The Applicant can confirm that that largest vehicles that will be permitted to use Thoroughfare will be fixed, flat bodied 3 axle trucks. This stipulation has been included in the updated CEMP [EN070008/APP/6.4.3.1] submitted at Deadline 5 and will be a commitment in the final Construction Traffic Management Plan (CTMP). The final CTMP will be approved by Lincolnshire County Council and North East Lincolnshire Council, as secured by requirement 6 of the draft Development Consent Order [EN070008/APP/2.1]. As an additional measure, all crossings of Thoroughfare will be controlled by a banksman who will ensure that unsuitable vehicles do not turn left or right onto Thoroughfare. Signage will also be installed to notify vehicle drivers of such vehicles that no left or right turn is permitted. This

ExAQ2	Question to	Question	Applicant response
			measure has also been included in the CEMP [EN070008/APP/6.4.3.1].
2.16.6	Lincolnshire County Council	**Thoroughfare crossing** HGVs are stated by the Applicant to principally use the haul roads in proximity to Thoroughfare. Does the Construction Traffic Management Plan (as revised, see 2.16.2 above) give sufficient detail regarding the management of traffic at the haul road/ Thoroughfare interface or, if not, what additional mitigation would be required to make this safe?	Additional control measures at the Thoroughfare location will include a banksman to ensure unsuitable vehicles are not permitted to turn left or right onto Thoroughfare with signage installed to alert approved vehicle drivers of the approved access route.
2.16.7	Applicant Lincolnshire County Council	**Thacker Bank** With regards to questions 2.16.4 and 2.16.5 above, can the Applicant and the Council give corresponding views regarding Thacker Bank.	The Applicant assumes that the ExA is referring to questions 2.16.5 and 2.16.6. The situation with Thacker Bank is different from the situation with Thoroughfare as it is intended that all types of construction vehicle needed to construct the pipeline will be able to travel down Thacker Bank. As such the restriction on vehicle types applied to Thoroughfare, as referenced in the response to 2.16.5 would not apply to Thacker Bank. Likewise, construction traffic using Thacker Bank will need to be able to turn off and on to Thacker Bank at access points 31-AA and 31-AB. As such the additional control measures set out in response to 2.16.6 would not apply to Thacker Bank.
2.16.8	Lincolnshire County Council North East Lincolnshire Council	**National Planning Policy Framework** Could the Council confirm whether, taking into account the answers to the questions above and all material before the Examination, there would be any 'severe' impacts on the highway as a result of the Proposed Development.	
2.16.9	Applicant Network Rail	**Impact of construction traffic on level crossings** In the Deadline 1 submission [REP1-081] it is stated that Network Rail objects to the DCO application in part due to the impact of construction traffic on two level crossings. As far as the ExA is aware, there has not been a submission from Network Rail to change the position from Deadline 1. Please confirm if the objection stands and if so, why.	The Applicant has assessed the impacts on the two level crossings and provided an update in WQ1 Question 1.16.17 [REP1-045] and maintains its position that this assessment remains valid. Two railway level crossing locations have been identified near the pipeline route, at Roxton Road (B-road) and Little London (A1173). Both level crossings would see an increase in traffic during the construction programme, 11% for all traffic at Little London and 24% for all traffic at Roxton Road. In terms of the level crossing along Roxton Road this will be solely limited to LGV traffic with no HGVs required to pass over the line. The Applicant does not expect these increases in construction traffic to have any adverse impact on the operation of the railway level crossings at Little London or Roxton Road, which will continue to operate as before. Network Rail have confirmed to the Applicant that they agree with this conclusion.
Strategic Road Network			
2.16.10	Applicant	**Accesses onto the Strategic Road Network** NH has declared that they cannot allow accesses to be made and taken off the A160 or the A180, which is currently possible under the dDCO drafting of Article 13. Provide a full response as to whether there is a realistic risk of this happening and also whether amendments will be made to provide reassurances to NH.	The Applicant can confirm it has no requirement to create any new access to or from the A180 or the A160 and there is no possibility of this requirement changing. The Applicant has to cross both of the named roads in order to install the pipeline but crossings will be made using trenchless techniques with the methodology being agreed with National Highways. The Applicant will also use both these roads during the construction programme as outlined in the Construction Traffic Management Plan [APP-107] but will use existing junctions for access and

ExAQ2	Question to	Question	Applicant response
			egress Within the Protective Provisions with National Highways in schedule 9 of the draft DCO (Revision G) [EN070008/APP/2.1] the Applicant has included provision that Article 13 could not be exercised in respect of the Strategic Road Network without prior consent of National Highways.
2.16.11	Applicant	**Amendments to Requirement 6** NH has requested amendments to Requirement 6, in line with other made DCOs [REP4-059]. Please make the changes or give reasons as to why such changes are inappropriate or an impediment to the delivery of the project.	The Applicant maintains that it is unnecessary for National Highways to be a discharging authority, that no good reason has been given to depart from ordinary practice that they are a named consultee, and that including multiple discharging authorities can cause delay to the Proposed Development. As set out in its response to WQ1.16.22, the Applicant considers that the standard approach to discharge of a DCO requirement or condition in a planning permission relating to the need for a construction traffic management plan is for the local planning authority to be the discharging authority, following consultation with the relevant highways authorities. Having a single decision maker provides certainty in the procedure for discharging a requirement, including any need for an appeal if the discharge application is refused. Having two decision makers introduces the possibility for delay where one requires further information but the other does not, or where they reach different decisions on the same submission. There is no mechanism to resolve that dispute. The Applicant respectfully submits that the local planning authorities are very experienced in making decisions on such applications to discharge requirements, and are very used to taking account of consultee comments before doing so. The Applicant notes that National Highways have referred to two DCOs where National Highways and the local planning authority were discharging authorities and one where Network Rail was a discharging authority. The Applicant considers these very much the exception to the usual practice and cannot comment on whether there were specific circumstances that led to that being accepted in those examples, or if there were other agreements in the background to regulate the process. The Applicant does not consider that these justify a departure from the usual approach in the draft DCO for the Proposed Development. The Applicant therefore maintains its position that the discharging authority for this requirement should be the local planning authority, in consultation with National Highways.
Public Rights of Way			
2.16.12		No further questions at this time.	

Table 2-17: Q2.17 – Waste and Minerals

ExAQ2	Question to	Question	Applicant response
Waste			
2.17.1	Applicant Environment Agency Local Authorities	**Revised ES Chapter 18** The Applicant revised ES Chapter 18 at Deadline 2 [REP2-012]. Following these revisions, are there any comments or observations arising on waste matters that the ExA should be aware of, or have any/ all issues been resolved? Explain with reasons.	The Applicant has no further comments to make as to the best of its knowledge, all outstanding issues have now been resolved.
2.17.2	Lincolnshire County Council	**Revised Mitigation for JA Young Plastics** Following revisions to the dDCO and the OCEMP, is the Council satisfied that appropriate mitigation now exists (and is correctly defined) for JA Young Plastics?	
2.17.3	Lincolnshire County Council	**Waste Management** The Applicant responded to the Council's Local Impact Report at Deadline 2 [REP2-031] rebutting the concerns raised regarding the waste hierarchy, proximity principles, landfill capacity and study areas underpinning the ES. No response was provided at Deadline 3 from the Council but the ExA assume the point of difference still stands. Can the Council confirm their position as to whether or not the Proposed Development would be acceptable regarding its waste-related impacts.	
Minerals			
2.17.5	Applicant Lincolnshire County Council North East Lincolnshire Council	**Revised ES Chapter 18** The Applicant revised ES Chapter 18 at Deadline 2 [REP2-012]. Following these revisions, are there any comments or observations arising on minerals/ resources matters that the ExA should be aware of, or have any/ all issues been resolved? Explain with reasons.	The Applicant has no further comments to make as to the best of its knowledge, all outstanding issues have now been resolved.
2.17.6	Applicant	**Decommissioning** The Applicant's general assumption regarding decommissioning is that the pipeline that has been laid would be left in situ. Would the pipe be excavated where it crosses the Mineral Safeguarding Area to avoid future sterilisation of such site?	The current decommissioning strategy is to leave the pipe in situ. It is not the current intention to excavate any pipe sections which lie within a Mineral Safeguarding Area. Once the Project is decommissioned, the Applicant does not believe that leaving the pipeline in situ would result in sterilisation of land. This factor will ultimately be considered again as the Proposed Development approaches the end of its operational period, taking account of best practice and legislation at that time.
2.17.7	North East Lincolnshire Council	**Mineral Safeguarding** Having reviewed Appendix H to the Applicant's response to ExQ1 [REP1-045]: 1) Is there agreement with the Applicant that the identified mineral safeguarding area (MSA) could not have been reasonably avoided, given the extent of MSAs in the area, as suggested by the Applicant [REP2-012, Paragraph 7.25.11]? 2) Are there any concerns regarding the routeing of the pipeline through this area?	

ExAQ2	Question to	Question	Applicant response
		3) Is additional mitigation required to ensure that sterilisation of the land is avoided (i.e. any new or modified mitigation to be considered in a decommissioning plan)?	

Appendix A – Copy of Circular 115/76

LIBRARY COPY

Circular 115/76
(Department of the Environment)
Circular 178/76
(Welsh Office)

Joint Circular from the

Department of the Environment
2 Marsham Street London SW1P 3EB

Welsh Office
Cathays Park Cardiff CF1 3NQ

Sir

3 *December* 1976

Pipe-Lines Act 1962

1. This circular consolidates the advice on land pipe-lines contained in earlier departmental circulars.

2. The laying of pipe-lines is, with certain exceptions, governed by the Pipe-Lines Act, 1962. Government pipe-lines are dealt with under the Land Powers (Defence) Act, 1958.

3. The purpose of the 1962 Act was to secure the orderly construction of pipe-lines in such a way as to meet the requirements of the pipe-line users, while at the same time minimising disturbance to farmers and landowners by careful planning of routes and by avoiding unnecessary duplication of pipe-lines.

4. The Secretary of State for Energy is responsible for the administration of the Act. References in this circular to the Secretary of State mean the Secretary of State for Energy unless otherwise stated.

5. The provisions of the Act are substantially directed towards industrial pipe-lines except where these are already covered by existing legislation. Pipes conveying air, water and steam are specifically excluded together with those for domestic purposes or for heating or cooling or (within certain limits) for agriculture, building, education or research. Government strategic pipe-lines and those owned by certain statutory bodies (notably the Gas Corporation, the Electricity Board and the Atomic Energy Authority) are also excluded. Pipe-lines laid by transport undertakings for the purpose of conveying other persons' traffic come within the scope of the Act. (For detailed information on those pipe-lines excluded from or coming within its scope, see Sections 58 to 65 of the Pipe-Lines Act 1962.)

6. Pipe-lines are divided into two categories: local pipe-lines, which are those pipe-lines not exceeding 10 miles (or 16·09 kms) in length, and cross-country pipe-lines, which are those which do exceed 10 miles in length. Section 7(1) of the 1962 Act provides that the construction of a pipe-line not exceeding 10 miles in length as an addition to another pipe-line is to be deemed to be the construction of a cross-country pipe-line (and not of a local pipe-line) if the length of the two together exceeds 10 miles. Similarly, the construction of a pipe-line not exceeding 10 miles to connect two or more others is to be deemed to be the construction of a cross-country pipe-line if the total length of the line and those it connects exceeds 10 miles. In so far as submarine pipe-lines are concerned, the Act applies only to such portion of a pipe-line as extends from low water mark to the shore terminal; in consequence, such pipe-lines will normally be local pipe-lines.

Local Pipe-lines

7. Promoters of local pipe-lines must seek planning permission in addition to notifying the Department of Energy under the provisions of the Pipe-Lines Act. In Greater London an application for planning permission to construct a pipe-line, will be dealt with by the London borough council (or, where the pipe-line is to be constructed in the City of London, by the Common Council). Elsewhere, it will be dealt with by either the county planning authority or the district planning authority, depending upon whether or not the proposal relates to a "county matter" as defined in paragraph 32 of Schedule 16 of the Local Government Act 1972. The relevant planning authority should consult water authorities and statutory water companies through whose area a proposed pipe-line would pass and, where ancient monuments might be affected, the Directorate of Ancient Monuments and Historic Buildings in the Department of the Environment, and any other persons or bodies directly affected. The Secretaries of State for the Environment and for Wales are satisfied, following consultation with local authority associations and other bodies, that this procedure provides adequate safeguards for local interests.

8. There may be cases where the proposed line of a local pipe-line affects the area of more than one planning authority. In such cases, article 13(1)(a) of the Town and Country Planning General Development Order 1973 (as amended) requires a local planning authority, before granting permission for the development, to consult with every neighbouring authority concerned, i.e. every local planning authority to whom an application for permission is made in respect of any part of the pipe-line should consult with the other local planning authorities to whom similar applications have been made.

Further Considerations and Consultations

9. In general, matters concerning the safety of pipe-lines are the responsibility of the Department of Energy (see Sections 20–26 of the Act), but there may be cases where a pipe-line to convey inflammable materials is proposed, which would pass close to a place where there is an exceptional risk of fire or other hazard. In such cases the planning authority should have regard to this special circumstance in deciding the planning application. Chief Fire Officers have been asked by the Home Office to co-operate with planning officers when consulted in respect of applications for permission for the construction of local pipe-lines, and the Secretaries of State for the Environment and for Wales hope that planning authorities will, in accordance with these arrangements, obtain the views of the fire authorities.

10. Article 13(1)(d) of the General Development Order requires a local planning authority to consult with the National Coal Board before granting planning permission for the erection of a building (subject to certain exceptions) in an area of coal working which has been notified to the authority by the Board. Although the Secretaries of State for the Environment and for Wales do not propose to extend this statutory obligation to forms of development other than the erection of buildings, they hope that consultation with the Board will be carried out in the case of pipe-line applications, in the circumstances indicated in Article 13, even though the proposal will not usually involve the erection of a building as defined in the Order.

11. The Secretary of State has made regulations (The Pipe-Lines (Limits of deviation) Regulations, 1962 S.I. 1962 No. 2845) under Sections 2 and 53 of the Pipe-Lines Act prescribing limits of deviation within which local pipe-lines must be laid. These limits have been determined with a view to enabling the powers given to the Secretary of State by Sections 20 to 26 of the Act (ie provision for securing the safety of pipe-lines) to be exercised in appropriate cases. Nevertheless there may be cases where, for reasons connected with proper planning, a lesser limit would be justified and different limits may accordingly be imposed where necessary for particular sections of the line. There is nothing in the Act which requires the limits of deviation to be the same throughout the length of the line. It is open to the Department of Energy to specify different limits for different locations.

12. If the Secretary of State considers that for any reason the construction of any class of local pipe-line ought to be subject to the same controls as cross-country pipe-lines (see below), he may make a statutory order to that effect. He may also make an order excluding the application of the controls if he considers these controls unnecessary for certain pipe-lines in particular areas.

Cross-Country Pipe-lines

13. The Act provides that cross-country pipe-lines may not be constructed without authorisation by the Secretary of State. There must be appropriate publicity for a proposal to construct such a pipe-line, including publication of the proposed route of the pipe-line in the London Gazette and notification to every local planning authority through whose area the pipe-line would pass and to such other persons (if any) as may be specified by the Secretary of State. The Secretary of State would normally specify that every water authority and statutory water company through whose area the proposed pipe-line would pass are to be notified under this requirement. If a local planning authority objects to the proposal the Secretary of State is required to hold a public inquiry: where persons other than a local planning authority object, he has a discretion either to hold a public inquiry or to have an informal hearing instead. By the provisions of section 5 of the Act, the Secretary of State has power, when granting authorisation under the Act for a cross-country pipe-line, to issue a direction at the same time that planning permission shall be deemed to be granted for the works. The Secretary of State normally does issue such a direction when authorising cross-country pipe-lines.

14. The Department of Energy consults the regional offices of the Department of Environment and the Welsh Office on proposals for cross-country pipe-lines. Accordingly, local planning authorities who have been notified of a proposal and who have sent objections or comments to the Department of Energy, in pursuance of their rights under Schedule 1 to the Act, should

inform the relevant regional office of the DOE or the Welsh Office, as appropriate, of the contents of such objections or comments. It is also considered desirable that where more than one planning authority is involved the authorities should consult between themselves before making any such objections or comments. In Greater London, the Greater London Council are the 'local planning authority' for the purposes of Schedule 1 to the Act, and accordingly any London borough council who have been notified of a proposal for a cross-country pipe-line should submit their observations on the matter to the Greater London Council.

15. To avoid unnecessary multiplicity of pipe-lines the Secretary of State may make it a condition that cross-country pipe-lines be constructed to a certain capacity and may impose requirements to secure the right of others to use it on fair terms, and may oblige the owner of a cross-country pipe-line who is not using it fully to share it with others.

Other Considerations

Compulsory Purchase

16. If a pipe-line promoter is unable to secure by negotiation the purchase of any land or rights he needs, he may be authorised by the Secretary of State to acquire them compulsorily, subject to special parliamentary procedure and to appropriate compensation. If there are objections, the Secretary of State must hold either a public inquiry or a hearing. He may attach conditions to a compulsory rights order. The relevant Sections and Schedules of the Pipe-Lines Act, 1962 dealing with compulsory acquisition and compensation are:—

Compulsory acquisition of land—Section 11, Schedule 2 Part I.

Compulsory acquisition of rights over land—Sections 12 and 13, Schedule 2 Parts I and II.

Compensation (land acquisition)—Schedule 3 as amended by the Compulsory Purchase Act 1965.

Compensation (rights acquisition) Section 14.

Pipe-lines in Streets

17. Pipe-line promoters have a statutory right to place their apparatus in streets. Installation is, however, subject to the Street Works Code contained in the Public Utilities Street Works Act 1950 as modified by S. 16 of the Pipe-Lines Act 1962.

Other Provisions of the Pipe-Lines Act 1962

18. Provisions are made for the Secretary of State to specify, in the interests of safety, how works are to be carried out, what materials and components must be included, and at what depth underground pipe-lines must be laid. The Secretary of State may also impose on the owner of a pipe-line conditions regarding its operation and maintenance, and may take steps to prevent abandoned or disused pipe-lines from becoming a source of danger. He may also take steps to rectify the effect of encroachment on the pipe-line route and he may make regulations for securing pipe-line safety generally.

19. The owner of a pipe-line must inform the Secretary of State at once if the pipe-line bursts, explodes, or collapses or if its contents catch fire. The owner has also to make arrangements in advance to ensure that water authorities, fire brigades and police authorities are notified of the occurrence of accidents and must provide them with information and maps for this purpose. The Secretary of State may set up a court of inquiry to enquire into any accident.

20. There are special provisions for the preservation of amenities (Section 43), the protection of water against pollution (Section 44) and the restoration of agricultural land after the construction of pipe-lines (Section 45).

21. Pipe-line constructors must deposit maps with local authorities showing where their lines lie within the areas of the authorities.

22. There is provision to ensure that pipe-lines are subject to the payment of rates under Section 21 and Schedule 3, of the General Rate Act, 1967.

Cancellation

23. Circulars MHLG 69/62, DOE 42/73 and DOE 25/74 are hereby cancelled.

We are, Sir, your obedient Servants,
R T WHITE, *Assistant Chief Planner*

D J TALLIS, *Assistant Secretary*

The Chief Executive
County Councils } in England and Wales
District Councils }
London Borough Councils
The Town Clerk, City of London
The Director General, the Greater London Council

[DOE DPRS 5/108/76]
[WO P11/104/01]

NOTE

DOE Joint Circular 79/76 WO 119/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

DOE Circular 80/76
Local Authority Housebuilding. Local Authority Mortgage Lending.

DOE Joint Circular 85/76 WO 128/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

DOE Joint Circular 90/76 WO 135/76
Pesticides Safety Precautions Scheme Agreed between Government Departments and Industry.

DOE Joint Circular 91/76 WO 125/76
Rate Rebate (Amendment) Regulations 1976.

DOE Joint Circular 92/76 WO 136/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

*Joint Circular DHSS (76) (17) DOE 93/76 DES 8/76
Report of the Working Group on Homeless Young People.

DOE Joint Circular 94/76 WO 138/76
Code of Procedures for Local Authority Housebuilding.

DOE Joint Circular 95/76 WO 139/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

DOE Joint Circular 96/76 WO 134/76
Local Government Act 1972. Rates of Travelling and Subsistence Allowances.

DOE Joint Circular 97/76 WO 148/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

DOE Joint Circular 99/76 WO 157/76
Rates of Interest on Loans to Local Authorities by the Public Works Loan Commissioners.

DOE Joint Circular 100/76 DTP 1/76
Organisation of the Departments of the Environment and Transport.

DOE Joint Circular 101/76 WO 143/76
Compulsory Acquisition of Land. Rates of Interest after Entry.

DOE Joint Circular 102/76 WO 158/76
EEC Directives 71/305 and 72/277. Public Sector Construction Contracts.

DOE Joint Circular 103/76 WO 159/76
The Attack on Inflation—The Second Year. Command 6507 Public Purchasing Aspects.

DOE Joint Circular 104/76 WO 133/76
Housing Schemes—Index to Circulars and Publications.

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