

Cambridge Waste Water Treatment Plant Relocation Project
Anglian Water Services Limited

Post Hearing Submission

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1 Introduction

1.1.1 This document presents the written summary of the Applicants oral submissions for the following hearings that took place as part of the examination of the Cambridge Waste Water Treatment Plant Relocation Project (CWWTPRP).

- Open Floor Hearing (OFH) – opportunity for Interested Party to speak about anything relevant: Tuesday 17 October 2023 at 2:00pm.
- Issue Specific Hearing 1 (ISH1) - dealing with matters relating to the draft Development Consent Order (dDCO): Wednesday 18 October 2023 at 9:30am.
- Issue Specific Hearing 2 (ISH2) - dealing with the principle of the Proposed Development: Wednesday 18 October 2023 at 2:00pm.

1.1.2 The hearings took place at the Hilton Cambridge City Centre and were blended event with attendees joining via MS Teams.

1.1.3 Where detailed submissions have been required these have been provided as appendices within this document. These are as follows:

- Appendix A: The provisions in the draft DCO dealing with the river Cam.
- Appendix B: Detailed submission on the Applicant position regarding the potential for increased vehicle movements along Low Fen Drove Way as a result of the proposed development.
- Appendix C: Working timetable
- Appendix D: Note on Commencement

Table 1-1: OFH Post Hearing Submission

I.D.	Stakeholder comment	Applicants Submission
1	Charles Jones, Chair of Fen Ditton Parish Council	
1.1	Mr Jones objected to the principle of the proposed location the site and believes that alternatives should be considered.	The applicant applied a rigorous 4-stage site selection process considering alternative sites. On balance, the chosen site was found to perform best across a range of key assessment criteria and opportunities for delivering enhancements. A description of the site selection process and the alternatives which have been considered can be found within ES Chapter 3: Site Selection and Alternatives (doc ref 5.2.3 [AS-018])
1.2	<p>Objects to the mitigation package proposed since more should be done to minimise impacts to the parish and visitors if approved.</p> <p>Mr Jones called for further mitigation regarding:</p> <ul style="list-style-type: none"> a) Traffic impacts on the community b) Visual impact of the site resulting from the low bund height as compared to earlier submissions c) Potential flooding of the black ditch d) Impacts of the river Cam 	<p>It is the Applicant’s position that the mitigation measures within the Application are sufficient to minimise as far as possible the impacts of the project on the area and the local population.</p> <p>The Applicant will continue to engage with relevant stakeholders and will assess if there is a necessity for further mitigation measures.</p>
1.3	Mr Jones raised concerns that there is missing and contradictory information in the Application.	Noted. The Applicant believes that the Application is complete and robust. If there is found to be any missing or contradictory necessary information within the Application the Applicant will submit this information or provide clarifications to the Examining Authority as soon as possible.
2	Dr Alan James, Chair of CPRE Cambridge and Peterborough	
2.1	<p>Dr James made comments regarding the impact on the green belt. These included:</p> <ul style="list-style-type: none"> a) The industrialisation of a rural area of the Cambridge Greenbelt. 	<p>The Applicant provides the following response to Dr James’ comments on the greenbelt:</p> <ul style="list-style-type: none"> a) As described under the heading ‘Optimising Land Take’ (paragraph 6.3.1 of the Design and Access Statement, doc ref 7.6 [AS-168]), the masterplan has sought

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	<ul style="list-style-type: none"> b) The visual impact of the proposed buildings. c) That the project will set a precedent of further development in the greenbelt north of the A14 around Cambridge. d) Impact on protected sites and wildlife improvement plans. This includes Wicken Fen SSSI. 	<p>to minimise the total land take for the development. This includes minimising land required for development through efficient planning and optimising the area around it to integrate the development into the countryside and best mitigate its impact on the landscape and Green Belt.</p> <ul style="list-style-type: none"> b) The consideration given in the design process to siting, plant footprint, layout options, the selection of the rotunda solution, how the length of the access road has been minimised and sympathetic treatment of taller structures having regard to Green Belt and landscape setting are described in sections 6.3 - 6.12 and 7.1 - 7.7 of the DAS (Doc Ref 7.6) [AS-168]. The proposed green infrastructure, including the earth bank planting, woodland blocks, hedgerows and hedgerow trees, are essential components of the visual mitigation strategy. The significant area of green infrastructure would provide screening and help to reduce the visual impact of the Proposed Development and, because this area surrounds the proposed WWTP, it would serve to retain openness and contribute to reducing the effect on the openness of the Green Belt. Chapter 5 of the Green Belt Assessment (Doc Ref 7.5.30) [APP-207] describes the mitigation measures incorporated in the design of the Proposed Development to reduce harm to the Cambridge Green Belt. c) As part of the Development Consent Order (DCO) process the Applicant evidences the very special circumstances for building on the Green Belt with the submission of a full assessment of the need of the proposed development in accordance with the National Policy Statement for Waste Water and the national planning policy for Green Belt (as set out in the NPPF), local development plan policies and Cambridgeshire and Peterborough Combined Authority's (CPCA) performance indicators. If the application is granted consent this would not set a new precedent for construction on the Green Belt as each new project would need to demonstrate the relevant special circumstances. d) An assessment of potential impacts and mitigation measures for designated nature conservation sites, including Sites of Specific Scientific Interest, is presented in ES Chapter 8 Biodiversity (Doc ref 5.2.8) [AS 026]. With specific

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		<p>regard to Wicken Fen there are no anticipated impacts upon the designated features of Wicken Fen SSSI due to the project.</p>
2.2	<p>Dr James stated that the Application will not be consistent with national planning policy, specifically the NPPF section 13 paragraph 141. Dr James stated that the chosen site is neither brownfield nor is it underutilised; it is farmed.</p>	<p>It is the Applicant’s position that the application is consistent with national planning policy.</p> <p>In regard to NPPF section 13 paragraph 141, the Applicant acknowledges that the proposed project is within the Green Belt. NPPF policy in relation to Green Belt allows inappropriate development where very special circumstances can be demonstrated (NPPF paragraph 147). As set out at section 6.2 of the Planning Statement (App Doc Ref 7.5) [AS-166], the Applicant considers that the very special circumstances needed to justify the grant of development consent in this instance have been demonstrated.</p>
2.3	<p>Dr James stated relocation of the wastewater treatment plant would not be compliant with the NPPF because it has been demonstrated that a new treatment plant could be built on the existing site, and its capacity therefore increased. The existing plant has sufficient capacity to meet the needs of Cambridge until 2050.</p>	<p>The WWTP is not being relocated due to operational necessity but rather to vacate the land that the current WWTP is on. Based on the details contained within the draft NECAAP, decommissioning and release of the existing WWTP site will enable regeneration and the creation of a new district delivering 8,350 homes (40% affordable), 15,000 new jobs and a wide range of community, cultural and open space facilities (including a community garden and food growing spaces, indoor and outdoor sports facilities) on a brownfield site within the urban area of Cambridge which is recognised as “the most sustainable location for strategic scale development available within Greater Cambridge” (as stated in the relevant representations of both South Cambridgeshire District Council and Cambridge City Council – RR-004 and RR-002).</p>
2.4	<p>The SCDC local plan 2018 spatial strategy states that new development in the Green Belt will only be approved in accordance with the Greenbelt policy in the National Planning Policy Framework. The new development will not be consistent with the current policy.</p>	<p>As stated in Row 2.2 of this table the Application demonstrates very special circumstances and as such is compliant with the National Planning Policy Framework.</p>

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2.5	Dr James commented in regards to access to green spaces for the local population.	<p>The new landscape at CWWTP creates a series of new recreational connections, on site and linking to the wider network. The LERMP (Doc ref 5.4.8.14) [AS-067], illustrates the connectivity to the existing public rights of way network. On the site itself, new links will be created. A publicly accessible path will traverse the eastern part of the site, set between a hedgerow with hedgerow trees, and the edge of the eastern woodland. The path surface is of a suitable width to be shared by pedestrians and recreational cyclists. Internal paths lead around the slopes of part of the earth bank and through the open ridge and furrow grassland. Where paths are in open areas these will be delineated by low level post and rail features, designed to promote the use of the paths, but not prohibit access to the open green spaces. The landscape masterplan provides alternative access and routing for use by pedestrians and those on non-motorised transport through the area and in so doing diffuses and disperses footfall by offering more choice and creating positive experiences for recreational users of this area within the wider landscape</p>
2.6	Dr James stated that grade 2 and 3a agricultural land should not be used for the project.	<p>The large prevalence of best and most versatile (BMV) land within a 2km radius of the selected development location means that there is no alternative to the use of BMV land for the Proposed Development within this location.</p> <p>The Applicant has reduced the impact on the loss of the BMV land by minimising the land required for the project.</p> <p>For further information please see ES Chapter 6: Agricultural Land and Soils (Doc ref: 5.2.6) [AS-024].</p>
2.7	Dr James expressed concern regarding the increased risk of flooding on the Fens.	<p><u>Construction phase</u></p> <p>The cofferdam will reduce the cross-sectional area of the river, potentially leading to increased river velocity and water levels. There would be a moderate adverse temporary effect on fluvial flood risk which is significant, while the cofferdam is in place.</p>

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		<p>The management of water resources and flood risk as set out within Section 7.5 of the CoCP Part A (doc ref 5.4.2.1) [APP-068], water resources and flood risk, which sets out a framework for the control of flood risk during construction, identifying a number of ‘standard’ mitigation measures which will be implemented whilst construction work takes place. These will be reflected in an appended plan to/as part of the CEMP. This will include the following:</p> <ul style="list-style-type: none"> • Requirement to minimise construction period (for river works). • Requirement for the cofferdam to be designed to maintain the flood protection levels currently provided by the riverbank. • The timing of river works in summer months. • Requirement for a flood management plan for construction works within areas at risk of flooding. • Requirement to secure or relocation loose items within compounds, laydown or storage areas within flood zone 2 and 3 to prevent them becoming a debris hazard in a flood event or where practical removed from the flood zone if high rainfall within the catchment is predicted. • Requirement for the Principal Contractor(s) to consult with the Environment Agency, IDB, Lead Local Flood Authority and any other relevant risk management authorities in respect of the flood risks in the preparation of the Emergency Preparedness Plan and Pollution Incident Control Plan. This will include use of the Environment Agency’s Floodline flood warning service for works within areas at risk of flooding. <p><u>Operational phase</u></p> <p>Fluvial flood modelling of the River Cam water levels has been undertaken to understand to determine the impact of final effluent and stormwater discharges to the river upon flood levels . The model indicates that in a 1 in 100-year flood event, with a 20% allowance for climate change, there would be a less than 7mm increase in water levels in the River Cam, leading to a negligible change in the potential area of inundation across the floodplain. The magnitude of impact to</p>

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		fluvial flood risk due to final effluent and stormwater discharges from the proposed WWTP is considered negligible. The effect on potential receptors, which could include properties, dwellings and infrastructure of high sensitivity, is assessed as slight adverse and not significant.
2.8	Dr James raised concern regarding potential effects on the A14.	<p>Application document 5.4.19.7 ES Chapter 19 Appendix 19.7 Construction Traffic Management Plan (CTMP) [AS-109] has been prepared to outline the traffic management measures to be implemented across the Proposed Development during the construction phase. The CTMP includes measures that will reduce the impact on the A14 which include:</p> <ul style="list-style-type: none"> • Specified arrival and departure routes for construction traffic as set out in Section 4.1, Table 4-1 of the CTMP which avoid routing through local roads where possible. • All deliveries to be planned outside of peak hours (8am-9am, 3-4pm and 5-6pm Monday to Friday), unless it is determined to be essential that the delivery is to be completed during these hours (Section 4.2, Paragraph 4.2.5 and Section 6.4 of the CTMP). • Commitment and compliance with safety measures and requirements for the Fleet Operator Recognition Scheme (FORS) and Construction Logistics & Community Safety (CLOCS) (Section 6.2 of the CTMP).
2.9	Dr James raised the potential effect of pumping station on Waterbeach and Waterbeach residents.	Section 2.8.4 of ES Chapter 2: Project Description (App Doc Ref 5.2.2) [APP-034] describes that the new pumping station at Waterbeach does not form part of the development consent sought through DCO and is therefore outside the scope of the Proposed Development. It is expected that the developer of the new pumping station will design and implement appropriate mitigation at the pumping station to prevent significant adverse impacts.
2.10	Dr James stated that Anglian Water should be using its funds to maintain other water treatment sites instead of on the proposed project.	Anglian Water is not providing the funding for the proposed development. The funding is provided by Homes England's Housing Infrastructure Fund (HIF). The £227m of HIF funding is to be used to relocate the existing WWTP and for decommissioning works necessary to take the existing plant out of operational use and to surrender its current operational permits

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2.11	Dr James stated that house building rates in local plans are concerning. As well as the clustering of new houses in Cambridge as opposed to across the country.	The Applicants notes this response. The supply of housing within Cambridge is designated to meet the growing demand.
3	Francis Amrani, Chair of Teversham Parish Council	
3.1	Ms Amrani commented on the potential impact of construction and operational traffic, including cumulative impacts.	<p>The Applicant acknowledges the concerns regarding increased traffic and wishes to provide assurances that the impacts of construction and operational traffic have been carefully considered within the design and traffic managements measures for the Proposed Development.</p> <p><u>Construction Traffic</u></p> <p>Appendix 19.7 Construction Traffic Management Plan(CTMP) (Doc 5.4.19.7)[APP-AS-109] has been prepared to outline the traffic management measures to be implemented across the Proposed Development during the construction phase. Measures to reduce the impact of construction on the A14 and surrounding roads include:</p> <ul style="list-style-type: none"> • Specified arrival and departure routes for construction traffic as set out in Section 4.1, Table 4-1 of the CTMP which avoid routing through local roads where possible. • All deliveries to be planned outside of peak hours (8am-9am, 3-4pm and 5-6pm Monday to Friday), unless it is determined to be essential that the delivery is to be completed during these hours (Section 4.2, Paragraph 4.2.5 and Section 6.4 of the CTMP). • Commitment and compliance with safety measures and requirements for the Fleet Operator Recognition Scheme (FORS) and Construction Logistics & Community Safety (CLOCS) (Section 6.2 of the CTMP). • Temporary speed restrictions to Horningsea Road will be put in place in accordance with the Temporary Traffic Regulation Order set out in Article 16 of the DCO (Doc 2.1) [AS-139] for the duration of the works (Section 6.9, Paragraph 6.9.3 of the CTMP).

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		<p>The CTMP is an outline plan which will be developed further in collaboration with stakeholders to ensure it continues to reflect any concerns raised on the mitigation strategies.</p> <p><u>Permanent Site Access</u></p> <p>Design Plans – Highways and Site Access (Doc 4.11) [APP-025] illustrates the proposed junction layout which once constructed will be used by construction and operational traffic to access the proposed Waste Water Treatment Plant (WWTP). The design of the permanent site access incorporates a traffic island to prevent ‘right turns’ onto Horningsea and the configuration of the existing signalised junction to take vehicles directly into the proposed WWTP from the A14 limiting vehicle movements on the local road network.</p> <p>The design of the permanent site layout and the highway improvements proposed to the immediate vicinity of the permanent site access have been informed through consultation with stakeholders and the community.</p> <p><u>Operational Traffic</u></p> <p>The Operational Workers Travel Plan (Doc 5.4.19.8) [APP-149] sets out measures to encourage sustainable travel and reduce single occupancy private vehicle use associated with all operation and maintenance activities with the overall aim of reducing vehicle trip and encouraging active travel.</p>
3.2	Ms Amrani raised a concern regarding flooding and storm release into the Cam.	<p>See Point 2.7 of this table for the Applicant's response in regard to flooding.</p> <p>There will be a decreased frequency of stormwater discharge to the River Cam from the proposed WWTP, as compared to the existing Cambridge WWTP. Fluvial flood modelling of the River Cam water levels has been undertaken to understand to determine the impact of stormwater discharges to the river upon flood levels. The model indicates that in a 1 in 100 year flood event, with a 20% allowance for climate change, there would be a less than 7mm increase in water levels in the River Cam, leading to a negligible change in the potential area of inundation across the floodplain. The magnitude of impact to fluvial flood risk due stormwater</p>

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		<p>discharges from the proposed WWTP is considered negligible. The effect on potential receptors, which could include properties, dwellings and infrastructure of high sensitivity, is assessed as slight adverse and not significant.</p> <p>For further information see ES Chapter 20: Water Resources (doc ref 5.2.20) [AS-040].</p>
3.3	<p>In regards to the local plan: Ms Amrani stated that the development is in the wrong place and has not been future-proofed given the level of proposed development. As well as that the development is not in accordance with the local plan regarding carbon accounting and greenbelt policy.</p>	<p>Site location and sustainability</p> <p>The North East Cambridge Area Action Plan (NECAAP) is being brought forward under Policy 15 of the adopted Cambridge Local Plan 2018. The NECAAP identifies that the creation of this new district will deliver 8,350 homes (40% affordable), 15,000 new jobs and a wide range of community, cultural and open space facilities (including a community garden and food growing spaces, indoor and outdoor sports facilities) on a brownfield site within the urban area of Cambridge which is recognised as <i>“the most sustainable location for strategic scale development available within Greater Cambridge”</i> (as stated in the relevant representations of both South Cambridgeshire District Council and Cambridge City Council – RR-004 and RR-002).</p> <p>The Proposed Development will deliver a 42 hectares brownfield site for redevelopment (and release a further 35 hectares of land) which is currently constrained to general industrial and office use on an area of land forming the gateway between Cambridge North station and the Cambridge Science Park. This specific site is identified in the Regulation 19 version of the North East Cambridge Area Action Plan (NECAAP) as having the potential to provide:</p> <ul style="list-style-type: none"> • 5,500 new homes • 23,500 m² new business space • 13,600 m² new shops local services, community, indoor sports and cultural facilities

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		<ul style="list-style-type: none"> primary schools and early years centres and land safeguarded for 1 additional primary school if needed (and space set aside for a secondary school if needed) <p>Decommissioning and release of the existing WWTP site supported by the HIF funding will enable this regeneration which could not otherwise be delivered if the existing WWTP remains. The most significant benefit from this is the homes and associated community facilities, which will assist in meeting pressing housing need and support job creation and continued economic growth in the surrounding and wider Greater Cambridge area.</p> <p>Green Belt The Applicant has set out in Section 6.2 of the Planning Statement (Doc ref 7.5) [AS-166] the Very Special Circumstances case of the proposed development within the green belt, plus how the proposed development complies with local planning policies on development within the green belt. Paragraph 4.8.34 sets out those elements of the proposed development which fall within the exceptions at paragraph 150 of the NPPF. Paragraphs 6.2.6 to 6.2.12 detail the assessment of sites, the suitability of the chosen site, and outlines the lack of alternative sites available. The site selection and consideration of alternatives is also summarised in the ES Chapter 3 Site Selection and Alternatives (doc ref 5.2.3) [AS-018].</p> <p>Carbon The Applicant requests to clarify which section of which local plan has been referred to. It is the Applicant's position that the Proposed Development is in accordance with the local plan.</p> <p>An Operational Carbon Management Plan must be agreed with the local planning authority before the most carbon intensive element of the project's operation (the gas recovery plant) comes into operation. Furthermore, the Applicant will monitor</p>

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		and report the annual emissions associated with the Proposed Development through the 'UK Water Industry Research' Carbon Account Workbook.
4	Ian Ralls, Cambridge Friends of the Earth	
4.5	Mr Ralls objected to the development with the primary concern being the impact on the greenbelt, specifically regarding urban sprawl.	<p>The Applicant has set out in Section 6.2 of the Planning Statement (doc ref 7.5) [AS-166] the Very Special Circumstances case of the proposed development within the green belt, plus how the proposed development complies with national and local planning policies on development within the green belt. Paragraph 4.8.34 sets out those elements of the proposed development which fall within the exceptions at paragraph 150 of the NPPF. Paragraphs 6.2.6 to 6.2.12 detail the assessment of sites, the suitability of the chosen site, and outlines the lack of alternative sites available. The site selection and consideration of alternatives is also summarised ES Chapter 3 Site Selection and Alternatives (doc ref 5.2.3) [AS-018].</p> <p>As described in the Design and Access Statement (DAS) (doc ref 7.6) [AS-168] under the heading 'Optimising Land Take' (paragraph 6.3.1), the masterplan has sought to minimise the total land take for the development. This includes minimising land required for development through efficient planning, and optimising the area around it to integrate the development into the countryside and best mitigate its impact on the landscape and Green Belt. The consideration given in the design process to siting, plant footprint, layout options, the selection of the rotunda solution, how the length of the access road has been minimised and sympathetic treatment of taller structures having regard to Green Belt and landscape setting are described in sections 6.3 - 6.12 and 7.1 - 7.7 of the DAS. The proposed green infrastructure, including the earth bank planting, woodland blocks, hedgerows and hedgerow trees, are essential components of the visual mitigation strategy. The significant area of green infrastructure would provide screening and help to reduce the visual impact of the Proposed Development and, because this area surrounds the proposed WWTP, it would serve to retain</p>

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		<p>openness and contribute to reducing the effect on the openness of the Green Belt. Chapter 5 of the Green Belt Assessment [App Doc Ref 7.5.30 [APP-207] describes the mitigation measures incorporated in the design of the Proposed Development to reduce harm to the Cambridge Green Belt.</p>
4.6	<p>Mr Ralls raised concern regarding the supply of water to the NEC housing development and other future developments.</p>	<p>Cambridge Water’s draft Water Resource Management Plan and Anglian Water’s draft WRMP, which set out how water companies will manage the water supplies in their region to meet current and future needs (looking ahead 25 years or more), have now been published and shared with the Environment Agency and Ofwat.</p> <p>Measures to resolve the issue of water supply (including through the delivery of new reservoirs and other measures proposed in the draft WRMPs) have been identified which will enable the supply of water to the strategic sites, including NEC.</p> <p>This position is supported by the statement in the Development Strategy Update (Regulation 18 Preferred Options) report approved on 6 February 2023 that the Councils “can be confident there will be capacity in terms of water supply and housing delivery to see at least some additional development coming forward within the plan period to 2041” and that this provides the basis therefore for beneficially confirming a clear position on three key strategic sites including NEC.</p> <p>The solutions to resolve the water resources issues in Cambridge and timing by which the Applicant anticipates them being in place is as follows:</p> <ul style="list-style-type: none"> • Short-term: demand management (which also needs to continue into the long-term) • Medium-term: supply from Grafham Water which is dependent on a new pipeline and Affinity reducing their supply from Grafham (expected 2032) • Long-term: Fens Reservoir (expected 2036); other sources may be required for the higher Gove numbers

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		<p>In respect of the Water Supply issue, and for the avoidance of doubt, the Environment Agency has not raised the issue of water supply in relation to the DCO and in its relevant representation (RR-013) it states: “The proposed new facility is replacing the existing works so no additional demand to the water supply will be made.”</p>
4.7	Mr Ralls questioned how long the project would take to offset the carbon created by its construction.	The mitigation in place for construction is the Applicant’s commitment to 70% construction capital carbon reduction. More details regarding this can be found within ES Chapter 10: Carbon (Doc ref: 5.2.10) [APP-042] and the Outline Carbon Management Plan (doc ref: 5.4.10.2) [AS-076].
4.8	Mr Ralls questioned how many of the homes would be for genuine social rent?	This question is for the housing developers of the NEC site and is not relevant for this DCO Application.
4.9	Mr Ralls questioned whether Anglian Water’s profits from the development would be invested into infrastructure.	Anglian Water would negotiate the best price for the land that will be sold and 50% of this profit from this will go back to Anglian Water customers. Under Licence K as a water and sewerage undertaker under the Water Act 1989, the money received will go back into the company to enable lower bills for customers.
5	Prof Tony Booth, Friends of the River Cam	
5.1	Prof Booth stated that the relocation of the treatment plant is inseparable from the houses that will be constructed on the vacated site and the application should be treated as such. The motivation of the relocation is to realise the profits of the housing development.	<p>The Applicant’s position is that the purpose of the application is to enable the relocation of the existing plant, the redevelopment of the brownfield site and the development of provision of wastewater services for Proposed Development at Waterbeach New Town.</p> <p>Whilst the relocation of the WWTP will enable development on the NEC site, it is the Applicants position that the actual delivery of housing and associated infrastructure is, and should be, a separate application.</p>
5.2	Prof Booth stated that the area has one of the highest rates of building homes in the country but the housing shortage list has increased.	The Applicant notes this.
5.3	Prof Booth raised concern on the total carbon footprint of the development, including the	ES Chapter 10 (doc ref 5.2.10) [APP-042] provides calculations and an impact assessment of the carbon emissions for the construction of the Proposed

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	<p>construction of the new houses on the vacated site. The projects could not go ahead in accordance to the 2030 and 2050 carbon budgets.</p>	<p>Development (including embedded carbon in materials), land use changes (the net impact of land permanently required for the Proposed Development) and the operation of the Proposed Development. Two different options have been assessed for operation, the preferred Option where biogas generated by the Proposed Development is exported to the UK gas grid and the alternative option where biogas generated by the Proposed Development is used in efficient combined heat and power engines.</p> <p>Under the Preferred Option scenario, the assessment lifetime impact has been calculated as net negative carbon emissions (-35,380 tCO₂e) based on the anticipated export of gas to grid during operation.</p> <p>The alternative Proposed Development scenario of using biogas in CHP is estimated to have overall net carbon emissions over the assessment life of 68,430 tCO₂e. The net operational carbon emissions under this scenario would be offset through a Carbon Management Plan (Requirement 22 in Schedule 2 of the Development Consent Order, App Doc Ref 2.1 [AS-139]), to ensure that Anglian Water's commitment to an operationally net zero project would be met under all circumstances.</p> <p>Good practice construction measures to reduce GHG emissions have been recommended in the CoCP Part A and CoCP Part B (Appendix 2.1 and 2.2, App Doc Ref 5.4.2.1 [APP-068] & 5.4.2.2 [AS-161]). Reductions in construction emissions of just under 50% have been made between the assessment of the baseline design when compared to the Proposed Development. Further design optimisation opportunities are being</p> <p>The Carbon emissions associated with the housing development in the NEC will be assessed as part of a separate application.</p>
5.4	<p>Prof Booth stated that there is insufficient water supply for this project and that the proposed reservoir in Fens would impact BMV farming land</p>	<p>See response 4.6 in regards to water supply.</p>

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5.5	Increased house building would put further strain on the sewage system.	<p>The proposed development is capable of accommodating the capacity of all the identified strategic sites within the Cambridge Catchment.</p> <p>The Proposed Development DCO design capacity will have a waste water treatment population equivalent of 300,000 and sludge treatment population equivalent capacity of 548,000. This capacity will be sufficient to serve all identified and committed residential and commercial development within the Cambridge catchment as a minimum to 2041 (being the end of the next Local Plan period) based on emerging needs and allocations identified in the First Proposals for the new local plan. The infrastructure provided as part of the main works will have a design life to at least 2080, and the supporting infrastructure (i.e. the transfer tunnel, pipelines and outfall) will have a designed capacity sufficient to meet population growth projections plus an allowance for climate change to at least 2080. Furthermore, there is capability for expansion in space that has been provided within the earth bank and by modification, enhancement and optimisation of the design to accommodate anticipated flows into the early 2100s.</p> <p>For further information see ES Chapter 2 Project Description (Doc ref: 5.2.2) [APP-034].</p>
5.6	Proof Booth stated that Anglian Water deliberately factors 'sewage dumping' into the business plans	The Applicant rejects this assertion.
5.7	Prof Booth stated that £227m of public funding should not be going to the Applicant due to 'sewage dumping'.	The £227m of HIF funding is to be used to relocate the existing WWTP and for decommissioning works necessary to take the existing plant out of operational use and to surrender its current operational permits, addressing the major market failure to unlock development and allowing, through Cambridge's strong property market and underlying land values, conventional developer funding and planning to deliver the physical, environmental and social infrastructure that will underpin the housing delivery. Without this full HIF funding, the infrastructure scheme will not be delivered and the delivery of 8,350 homes, together with associated mixed uses and infrastructure cannot be realised.

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6	Margaret Starkie, Save Honey Hill Group	
6.1	Ms Starkie stated that the NECCAP should not wait until the determination of the DCO.	This is a matter for the Cambridgeshire and Peterborough Combined Authority.
6.2	Ms Starkie stated the existing site, that was future-proofed in 2015, should be upgraded and expanded rather than relocated.	The relocation of the WWTP is not due to an operational need or requirement for greater capacity. See the response to 2.3 for the information regarding the necessity of the relocation.
6.3	Ms Starkie stated the development is inappropriate due to impact on green belt.	<p>The Applicant has set out in Section 6.2 of application document 7.5 Planning Statement [AS-166] the Very Special Circumstances case of the proposed development within the green belt, plus how the proposed development complies with national and local planning policies on development within the green belt. Paragraph 4.8.34 sets out those elements of the proposed development which fall within the exceptions at paragraph 150 of the NPPF. Paragraphs 6.2.6 to 6.2.12 detail the assessment of sites, the suitability of the chosen site, and outlines the lack of alternative sites available. The site selection and consideration of alternatives is also summarised in application document 5.2.3 ES Chapter 3 Site Selection and Alternatives [AS-018].</p> <p>As described in the Design and Access Statement (DAS) (doc ref 7.6) [AS-168] under the heading 'Optimising Land Take' (paragraph 6.3.1), the masterplan has sought to minimise the total land take for the development. This includes minimising land required for development through efficient planning, and optimising the area around it to integrate the development into the countryside and best mitigate its impact on the landscape and Green Belt. The consideration given in the design process to siting, plant footprint, layout options, the selection of the rotunda solution, how the length of the access road has been minimised and sympathetic treatment of taller structures having regard to Green Belt and landscape setting are described in sections 6.3 - 6.12 and 7.1 - 7.7 of the DAS. The proposed green infrastructure, including the earth bank planting, woodland blocks, hedgerows and hedgerow trees, are essential components of the visual mitigation strategy. The significant area of green infrastructure would provide screening and help to reduce the visual impact of the Proposed Development and, because this area surrounds</p>

I.D.	Stakeholder comment	Applicants Submission
		<p>the proposed WWTP, it would serve to retain openness and contribute to reducing the effect on the openness of the Green Belt. Chapter 5 of the Green Belt Assessment [App Doc Ref 7.5.3 - APP-207] describes the mitigation measures incorporated in the design of the Proposed Development to reduce harm to the Cambridge Green Belt.</p>
6.4	<p>Ms Starkie stated the development is inappropriate due to impact on access and roads.</p>	<p>The Applicant acknowledges the concerns regarding increased traffic and wishes to provide assurances that the impacts on access and roads have been carefully considered within the design and traffic management measures for the Proposed Development.</p> <p><u>Construction Traffic</u></p> <p>Appendix 19.7 Construction Traffic Management Plan(CTMP) (Doc 5.4.19.7)[AS-109] has been prepared to outline the traffic management measures to be implemented across the Proposed Development during the construction phase. Measures to reduce the impact of construction on the A14 and surrounding roads include:</p> <ul style="list-style-type: none"> • Specified arrival and departure routes for construction traffic as set out in Section 4.1, Table 4-1 of the CTMP which avoid routing through local roads where possible. • All deliveries to be planned outside of peak hours (8am-9am, 3-4pm and 5-6pm Monday to Friday), unless it is determined to be essential that the delivery is to be completed during these hours (Section 4.2, Paragraph 4.2.5 and Section 6.4 of the CTMP). • Commitment and compliance with safety measures and requirements for the Fleet Operator Recognition Scheme (FORS) and Construction Logistics & Community Safety (CLOCS) (Section 6.2 of the CTMP). • Temporary speed restrictions to Horningsea Road will be put in place in accordance with the Temporary Traffic Regulation Order set out in Article 16 of the DCO (Doc 2.1) for the duration of the works (Section 6.9, Paragraph 6.9.3 of the CTMP).

I.D.	Stakeholder comment	Applicants Submission
		<p>The CTMP is an outline plan which will be developed further in collaboration with stakeholders to ensure it continues to reflect any concerns raised on the mitigation strategies.</p> <p><u>Permanent Site Access</u> Design Plans – Highways and Site Access (Doc 4.11) [APP-025] illustrates the proposed junction layout which once constructed will be used by construction and operational traffic to access the proposed Waste Water Treatment Plant (WWTP). The design of the permanent site access incorporates a traffic island to prevent ‘right turns’ onto Horningsea and the configuration of the existing signalised junction to take vehicles directly into the proposed WWTP from the A14 limiting vehicle movements on the local road network.</p> <p>The design of the permanent site layout and the highway improvements proposed to the immediate vicinity of the permanent site access have been informed through consultation with stakeholders and the community.</p> <p><u>Operational Traffic</u> The Operational Workers Travel Plan (Doc 5.4.19.8) [APP-149] sets out measures to encourage sustainable travel and reduce single occupancy private vehicle use associated with all operation and maintenance activities with the overall aim of reducing vehicle trip and encouraging active travel.</p>
6.5	Ms Starkie stated there is no need to move office spaces from Huntingdon to the proposed site.	The operational workforce would be similar to the existing Cambridge WWTP, section 5 of the ES Chapter 2 [APP-034] sets out the proposed staffing level at full capacity. In addition to operational staff there may be occasions when the staff and visitor numbers increase the persons on site requiring office space.
6.6	Ms Starkie commented that there is insufficient information regarding the biogas facilities and infrastructure for a grid connection.	The Applicant has used an industry recognised carbon model that aligns with PAS2080 and has assured itself that the carbon calculations used in its ES assessment are robust and appropriate as described in the ES Chapter 10 (App Doc Ref 5.2.10) [APP-042].

I.D.	Stakeholder comment	Applicants Submission
		<p>The Applicant has engaged with Cadent and confirmed with them that the local medium pressure gas network can receive the enhanced biomethane proposed to be produced on the proposed WWTP. It is quite common that a small amount of propane is indeed blended with the biomethane before injection.</p>
6.7	<p>Ms Starkie requested a proper baseline assessment on operational carbon emissions from the existing works.</p>	<p>The approach to the baseline in ES Chapter 10: Carbon (App Doc Ref 5.2.10) [APP-042] was based on IEMA’s ‘Assessing Greenhouse Gas Emissions and Evaluating their Significance’ guidance issued in February 2022. Page 7 of the IEMA 2022 guidance states that the baseline can be in the form of either “a) GHG emissions within the agreed physical and temporal boundary of a project but without the proposed project or b) GHG emissions arising from an alternative project design and assumptions”. The Applicant selected b) as their baseline because it enables identification of key hotspots through their Risk Opportunities Value (ROV) design process that takes actions to improve the design to reduce emissions.</p> <p>The assessment of operational phase emissions is explained in section 4.4 of the ES Chapter 10: Carbon (App Doc Ref 5.2.10) [APP-042]. Paragraph 4.4.1 sets out that the utilisation of biogas in CHP engines is the same approach taken for the operational emissions of the baseline. The Applicant confirms that The ES Chapter 10 [APP-042] will be amended in this section to clarify this approach.</p>
6.8	<p>Ms Starkie stated that the responsibility of carbon involved in the demolition and remediation of existing site should not be for the future developers.</p>	<p>Paragraph 2.9.8 of ES Chapter 10: Carbon (App Doc Ref 5.2.10) [APP-042] states that decommissioning and demolition of the Proposed Development has not been quantified. This is because future forecasts of emissions are subject to broad assumptions and a high degree of uncertainty. There are no proposals to decommission the Proposed Development before 2050. It is anticipated that a future decommissioning exercise would likely take place in a world where low carbon plant and activities are commonplace. Decommissioning would be likely to follow similar process to the activities considered in decommissioning of the existing site, which have been estimated as having minimal carbon emissions, not significantly changing the estimated carbon footprint of the assessment.</p>

I.D.	Stakeholder comment	Applicants Submission
6.9	Concern about whether the discharge standards set over the long term are adequate.	<p>As outlined in Table 5-2 of ES Chapter 20: Water Resources (App Doc Ref 5.2.20) [AS-040], impacts of final effluent discharge on water quality for the River Cam is managed through</p> <ul style="list-style-type: none"> • design of the process technology and storage so that operation is within emission limits (stricter consented limits for treated effluent and greater storm storage than the existing Cambridge WWTP) to achieve no deterioration within the River Cam • design of the proposed WWTP that allows for future process changes to accommodate future emission limit changes • design of storm storage volumes and flow rates to meet regulatory requirements; • inclusion of capacity within the Proposed Development to adapt to future changes in relation to storm storage provision <p>Operational limits and monitoring obligations will be secured through Environmental Permit. The Environmental Permit will include conditions requiring management systems to cover operational monitoring, emergency responses and pollution prevention.</p>
6.10	Ms Starkie commented on the adequacy of the HIF budget, especially regarding the enabling costs and overall grant.	<p>As stated in paragraph 3.1.9 of the Funding Statement (App Doc Ref 3.2) [AS-013], the Applicant has continued to revise the estimated cost of the Proposed Development to cover market conditions and contingency revisions.</p> <p>In addition, as stated in paragraph 3.1.10 of the Funding Statement (App Doc Ref 3.2) [AS-013], the parties to the HIF Agreement are committed to working together to secure any additional funding required for the Proposed Development.</p> <p>The Project Partners are committed to meet all Cost Overruns up to 5% of the Maximum Sum (clause 6.6.4). For greater cost increases, there is a mechanism for the parties to meet and in good faith agree a strategy for securing the additional funding. Confidential commercial discussions on this, and a range of options</p>

I.D.	Stakeholder comment	Applicants Submission
		<p>(including accelerating delivery) are ongoing and are expected to conclude within the Examination Period.</p> <p>In addition, the parties to the GDA have the option, if required, to utilise, as the development comes forward, any uplift in value due to them (after costs have been deducted) achieved arising from the change of use of the NEC/Hartree to a residential led development. This is set out in the Recycling Strategy included at Part 2 of Schedule 6 of the GDA.</p>
7	Ian Gilder, Save Honey Hill Group	
7.1	Mr Gilder stated that water resources have already started having an impact on planning decisions in Cambridge.	See response 4.6 in regards to water supply.
7.2	Mr Gilder stated that there are alternative housing sites in Cambridge.	<p>The North East Cambridge Area Action Plan (NECAAP) is being brought forward under Policy 15 of the adopted Cambridge Local Plan 2018. The NECAAP identifies that the creation of this new district will deliver 8,350 homes (40% affordable), 15,000 new jobs and a wide range of community, cultural and open space facilities (including a community garden and food growing spaces, indoor and outdoor sports facilities) on a brownfield site within the urban area of Cambridge which is recognised as <i>“the most sustainable location for strategic scale development available within Greater Cambridge”</i> (as stated in the relevant representations of both South Cambridgeshire District Council and Cambridge City Council – RR-004 and RR-002).</p> <p>The Proposed Development will deliver a 42 hectares brownfield site for redevelopment (and release a further 35 hectares of land) which is currently constrained to general industrial and office use on an area of land forming the gateway between Cambridge North station and the Cambridge Science Park. This specific site is identified in the Regulation 19 version of the North East Cambridge Area Action Plan (NECAAP) as having the potential to provide:</p> <ul style="list-style-type: none"> • 5,500 new homes

I.D.	Stakeholder comment	Applicants Submission
		<ul style="list-style-type: none"> • 23,500 m² new business space • 13,600 m² new shops local services, community, indoor sports and cultural facilities • 2 primary schools and early years centres and land safeguarded for 1 additional primary school if needed (and space set aside for a secondary school if needed) <p>Decommissioning and release of the existing WWTP site supported by the HIF funding will enable this regeneration which could not otherwise be delivered if the existing WWTP remains. The most significant benefit from this is the homes and associated community facilities, which will assist in meeting pressing housing need and support job creation and continued economic growth in the surrounding and wider Greater Cambridge area.</p>
8	Philip Goodwin, resident of Poplar Hall	
8.1	Concern was raised of the two ventilation shafts adjacent to the property, one of which will be open.	<p>The Applicant acknowledges that shafts four and five are located in proximity of Poplar Hall.</p> <p>Discussions with the owners of Poplar Hall in January 2022 included their concern about a tunnel vent being located at shaft 4. As a result of these discussions the Applicant designed out the need for a tunnel vent at this location.</p>
8.2	Mr Goodwin raised a concern regarding the permanent access required at Poplar Hall.	<p>During the construction phase, the approximately 40% of the track to Poplar Hall/Poplar Hall Farm will be used for 3 to 6 months to gain access to the area within which Works No 29 (Temporary Access Works to Works 28, 34 & 36 (West of Horningsea Road) see Sheet 2 of the Works Plans (App Doc Ref 4.3) [AS-150]) will be constructed. This will allow the construction of the access from Horningsea Road onto the land to the south of the track leading to Poplar Hall/Poplar Hall Farm. During this time, construction traffic will not be using the remaining 60% of the track, at its western end.</p>

I.D.	Stakeholder comment	Applicants Submission
		<p>The location of the temporary junction onto Horningsea Road will be in Parcels 022e and 028e (see Sheet 2 of the Land Plans (App Doc Ref 4.4) [AS-151]). The track will also be used to gain access to remove Works No 29 (Temporary Access Works to Works 28, 34 & 36 (West of Horningsea Road) see Sheet 2 of the Works Plans (App Doc Ref 4.3) [AS-150])). This will require use of the track for a further 3 to 6 months after the Transfer Tunnel has been constructed (see Sheet 2 of the Works Plans (App Doc Ref 4.3) [AS-150]).</p> <p>The use of the access after the construction phase, and so during the operational phase, will be very limited. The access is likely to be used once a year, by means of a light van driving down the track to access the outfall (Work No. 32 on Sheet 2 of the Works Plans (App Doc Ref 4.3) [AS-150]).</p> <p>The Applicant can confirm that, during the construction phase, the Applicant will ensure access to neighbours and services are maintained. During the operational phase, there will not be any effect on access to neighbours or services.</p>
8.3	Mr Goodwin Stated that the outfall located next to the house will impact them.	The Applicant believes the outfall location will not impact the residents of Poplar Hall as it is a significant distance from the property.
8.4	Concern regarding light pollution at night due to lighting at the treatment plant.	The Applicant has confirmed that the height of the lights inside the earth bank will be no greater than 5m. This lighting will also be directed downwards and generally only when carrying out tasks. Lighting outside of the earth bank will be discrete and kept to a minimum for safety reasons. Artificial lights will also be active for use, not activated all through nighttime hours, limiting light pollution at night. A Lighting Assessment has been carried out and plans for lighting are set out in ES Chapter 2 Project Description (doc ref 5.2.2) [APP-034].
9	Liz Cotton, local resident	
9.1	<p>Ms Cotton raised a series of comments in regards to the Strategic Carbon Assessment (Doc Ref 7.5.2). These included:</p> <ul style="list-style-type: none"> a) That there is no reference within this document to demolition. b) The assessment has errors within it. 	The Applicant is aware that ExA has asked for the concerns raised regarding the Strategic Carbon Assessment (Doc Ref 7.5.2)[APP-206] to be set out within a written representation. The Applicant will respond directly to the written representation at Deadline 2.

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	<p>c) Only two different housing rollout speeds are assessed in the report. The stated third 'realistic' option, which is somewhere in between, has not been assessed.</p> <p>d) There is no data for upgrading the existing sewage plant to the highest standards.</p> <p>e) Issue with how figures are presented: all figures are discussed as percentage increases, except one which is comparing the carbon emissions for upgrading the current plant as opposed to rebuilding it on Honey Hill, this is described as 74% less. This is the equivalent of a 394% increase.</p>	
9.2	<p>Ms Cotton stated that she believes the figures are wrong as the report says there it will be 13,000 for the operational cost until 2080, but the Mott MacDonald report of 19/06/2020 says it will be 21,382 over 18 years. If the 19/06/2020 report is correct the carbon for relocation is a 600% increase</p>	Please see the Applicants submission in 9.1 above.
9.3	<p>Ms Cotton stated that is wrong the asses offsetting of carbon until 2080 as the climate crisis is current, and carbon figures should be present in the immediate decades.</p> <p>Ms Cotton states that the period that should be assessed is 2026 to 2042.</p>	Please see the Applicants submission in 9.1 above.
9.4	<p>Ms Cotton stated that the transport figures on page 17 are incorrect. The counterfactual presents the total car and buses as 2 million tCO2e and for the proposed is 1.2 million tCO2e. But on the same page</p>	Please see the Applicants submission in 9.1 above.

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	<p>the respective figures are presented as the totals are 1 tCO2e million and 0.6 million tCO2e.</p> <p>Ms Cotton stated that the same error is repeated on page 23, the total for the counterfactual cars and buses is 2.6 tCO2e million and 1.6 million tCO2e for the proposed. When the figures are added up on the same page the respective figures equal 1.2 tCO2e million and 0.8 million tCO2e.</p>	
9.5	<p>Ms Cotton stated the Applicant has failed to prove it is the most sustainable option and so it has failed to prove that the housing must be located on the vacated site and thus does not demonstrate a need to relocate the wastewater treatment plan.</p>	<p>The purpose of the project is to allow the relocation of the North East Cambridge (NEC) site. 2.2.5. Evidence supporting the emerging Greater Cambridge Local Plan (GCLP) is clear that the NEC site is the most sustainable location for strategic scale development available within Greater Cambridge. A critical finding in the climate change evidence that assessed spatial options for the GCLP, which is of key importance in determining the proposed development strategy, is that location is the biggest factor in impacts on carbon emissions, including the quality of access to public, active and low carbon travel modes, plus the need to travel regularly (GCLP Strategic Spatial Options Assessment: Carbon Emissions Supplement, November 2020[1] page 12).</p>
10	Jane Williams, as a resident, and for Waterbeach Parish Council	
10.1	<p>Ms Williams reported that it has yet to be determined where the new Waterbeach rail station will be.</p>	<p>The Applicant acknowledges this representation.</p>
10.2	<p>Ms Williams raised concern regarding cumulative effect of increased population in north east Cambridge.</p>	<p>The Applicant notes this representation.</p>

Table 1-2: ISH1 Post Hearing Submission

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
1 – Welcome, introductions and purpose of hearing	1.1	The Examining Authority opened the hearing, introduced themselves, invited those parties present to introduce themselves and explained the purpose of the Hearing.	1.1.1	<p>On behalf of the Applicant, Anglian Water Services Limited</p> <ul style="list-style-type: none"> • Mr Paul Maile, Partner, Eversheds Sutherland LLP • Mrs Laura-Beth Hutton, Partner, Eversheds Sutherland LLP • Ms Kathryn Taylor, Solicitor, Anglian Water Services Limited • Mr Andrew Prior, Director, Aeos Infrastructure Planning • Ms Sophie Stephenson, DCO Manager, Anglian Water Services Limited
2A – Articles and Schedules (including Requirements) of the draft DCO	2A.1	The Applicant was asked to provide a very brief overview of each part of the draft DCO	2A.1.1	The Applicant provided an overview of each part of the draft DCO as requested. It explained that the approach to the drafting of the DCO has been, as is generally the case with all DCOs, to use the Model Provisions Order as a starting point and to adapt the provisions where necessary and relevant so that they relate to the proposed development.
			2A.1.2	Some elements of drafting approach have also followed other made DCO such as the Thames Tideway Tunnel Order 2014 (the only made order in the field of waste water to date), the Silvertown Tunnel Order 2018 (relevant as it was subject to a Section 35 direction made by the Secretary of State) and several others, which are referenced in the Explanatory Memorandum (Document 2.2, APP-010) where relevant.
			2A.1.3	<p>The structure and content of the DCO is detailed in the Explanatory Memorandum, but in very brief summary:</p> <ul style="list-style-type: none"> • PART 1 sets out preliminary matters including making provision for the Order to come into force and matters of interpretation including the defined terms used throughout the Order (save for

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<p>Schedule 2 which also sets out additional defined terms specific to the requirements).</p> <ul style="list-style-type: none"> <p>PART 2 of the Order contains the principal powers. This part contains the Articles dealing with the granting of development consent for the authorised development (which is set out in Schedule 1 with reference to the works plans), the use and maintenance of the development, limits within which the development must be undertaken. These limits of deviation are set out in Article 6 and refer to particular plans and sections submitted as part of the application. This Part also deals with the entity having the benefit of the Order and makes provision for transfer of that benefit, as do most DCO. The statutory defence to nuisance is also included at Article 9, as permitted by s158 of the Planning Act 2008.</p> <p>PART 3 deals with Street Powers and covers the various temporary diversions, provision of accesses and street powers required for the development including traffic regulation. The powers in the Articles generally then relate to further detail which is set out in Schedules 3 – 9 of the Order, with reference to the relevant highway, access and rights of way plans.</p> <p>PART 4 contains Supplemental Powers and covers the discharge of water, measures relating to protective works to buildings and structures and the ability to survey and investigate land. It also deals with the removal of human remains and provides powers to fell and lop trees, shrubs and hedgerows. These provisions all make use of the ‘one stop shop’ under the DCO.</p>

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<ul style="list-style-type: none"> <p>PART 5 contains the powers sought in relation to compulsory acquisition of land and rights and temporary possession. The Explanatory Memorandum briefly explains the general provisions of these powers and the Statement of Reasons (Document 3.1, APP-012) contains the Applicant’s justification for the powers sought. The Applicant noted that in the Rule 6 letter it was stated that this particular ISH is not intended to deal with the detail of compulsory acquisition.</p> <p>PART 6 of the Order contains Miscellaneous and General provisions. This Part covers a general provision in relation to Rights on the River Cam, the precise drafting of which is being discussed with the Cam Conservancy along with the relevant protective provisions. This Part also includes the commonly found DCO provisions dealing with the application of landlord and tenant law, operational land, crown land and the application, disapplication and modification of legislative provisions. It also gives effect to the various protective provisions contained in Schedule 15 and includes provision relating to the discharge of requirements and other approvals. Finally, it deals with the certification of plans and documents under the Order and sets out the required procedures relating to the service of notices under the Order and provides that dispute under the Order, unless otherwise specified, are to be dealt with by Arbitration.</p> <p>SCHEDULE 1 – sets out the authorised development. The approach to the drafting of this Schedule follows the Silvertown Tunnel Order (which was also the subject of a Section 35</p>

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<p>Direction). It sets out the works to be undertaken in the work areas shown on the works plans (document series 4.3).</p> <p>Schedule 1 also contains a list of “Further Works”, all of which must be necessary for the authorised development and within the scope of the work assessed in the Environmental Statement. These works are listed in this way as they may be undertaken in any part of the Order limits rather than precise work areas, (subject to the limitation of the references to the work areas in the relevant paragraphs).</p> <ul style="list-style-type: none"> • SCHEDULE 2 – Part 1 of this Schedule contains the relevant defined terms used in the Schedule and then provides requirements with which the undertaker must comply in the construction, operation, use and maintenance of the authorised development. The requirements cover a number of matters which the Applicant understands will be the subject of discussion in this hearing. These relate to phasing, management plans, design detail, construction arrangements and other detailed matters. Part 2 of the Schedule follows Planning Inspectorate Advice Note 15 and governs the procedure relating to the discharge of the requirements including appeals. • SCHEDULE 3 sets out the streets within the Order limits which are to be subject to the Street Work powers. • SCHEDULE 4 lists those streets which are to be subject to alteration of layout (Article 11).

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<ul style="list-style-type: none"> • SCHEDULE 5 lists streets which are to be temporarily closed during the carrying out of the development (Article 12). • SCHEDULE 6 lists the public rights of way and is split into parts – Part 1 dealing with those to be temporarily closed where a substitute is to be provided and Part 2 dealing with the new right of way to be created (Article 13). • SCHEDULE 7 deals with the new accesses to be created and sets out what those accesses are to be used for (construction/operation/maintenance) (Article 14). • SCHEDULE 8 deals with speed limits (Part 1 imposes some temporary speed limits whilst Part 2 creates a new permanent speed limit) (Article 16). • SCHEDULE 9 sets out the detail of the traffic regulation matters required. Part 1 contains temporary regulation powers and Part 2 sets out the new proposed prohibited movements (Article 17). • SCHEDULES 10 – 13 relate to the compulsory acquisition powers: <p style="margin-left: 40px;">Schedule 10 sets out the land in which only new rights may be created contains the detailed purpose for which those rights may be acquired and restrictive covenants imposed. The rights relate to those plots specified in the table in Schedule 10 which are shown on the Land Plans (document series 4.4).</p>

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<p>Schedule 11 lists the relevant land which is only to be subject to acquisition of subsoil more than 7 metres beneath the surface with rights and/or restrictive covenants.</p> <p>Schedule 12 sets out those parcels of land which are only to be subject to temporary possession and explains the purposes for which that temporary possession may be taken.</p> <p>Schedule 13 deals with the standard modification of relevant compulsory purchase enactments.</p> <ul style="list-style-type: none"> • SCHEDULE 14 contains certain parameters within which the development must be undertaken, as referred to in Requirement 4. • SCHEDULE 15 contains provisions for the benefit of various third parties to govern interaction between assets owned by those parties and the authorised development, further detail is anticipated to be discussed later in today’s hearing. • SCHEDULE 16 lists hedgerows and important hedgerows to be removed by reference to the relevant plans pursuant to Article 23. • SCHEDULE 17 details the legislative provisions modified and disapplied pursuant to Article 49. • SCHEDULE 18 lists the various plans and documents to be certified including their references and revision numbers. This will be

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
				<p>updated should further versions be submitted during the Examination.</p> <ul style="list-style-type: none"> • SCHEDULE 19 includes the Arbitration Rules applicable to any arbitration process under the Order.
	2A.2	The Applicant was asked to briefly highlight changes which have been made to the draft DCO since the original submission version, including the addition of Requirements 22 and 23	2A.2.1	The Applicant explained that changes were made to the draft DCO and submitted on the Procedural Deadline of 29 September as requested by the ExA. These are reflected in the draft DCO reference 2.1 Rev 03 (AS-010 (clean) and AS-011 (tracked)). The Applicant's explanation of the changes made, and its responses to those items raised by the Examining Authority where changes have not been made, are set out in the DCO Changes Tracker, document 2.4 (AS-012).
			2A.2.2	The Applicant stated that it was happy to take the DCO Changes Tracker as read but was equally happy to address the changes in the hearing if preferred. The Examining Authority explained that it was looking for a brief explanation as to the addition of requirements 22 and 23.
			2A.2.3	<p><u>Requirement 22</u></p> <p>The Applicant explained that this formed the addition of an operational water quality management plan and that this was effectively an omission when looking at mitigation that should have been secured by the requirements. The outline plan has not been submitted, although it has been added to Schedule 18 (Certification of plans and documents) in anticipation of it being prepared.</p>

Agenda Item	Paragraph No.	Matter	Paragraph No.	Applicants Submission
			2A.2.4	<p><u>Requirement 23</u></p> <p>This relates to the operation of the Discovery Centre which is in the Gateway Building and regulates the operation by requiring certain matters such as attendance to be by appointment only, education programmes and scheduled opportunities for local schools and groups. It is limiting the facility to how it is intended to work in accordance with the project description chapter in the Environmental Statement.</p>
	2A.3	The Applicant was asked to briefly explain how the draft DCO secures mitigation	2A.3.1	The Applicant explained that there are a number of ways the draft DCO secures mitigation. These range from the parameters of design to the commitment to undertake the works in a certain way and to embedded mitigation which effectively mitigation in the design of the project. Embedded mitigation is secured through the works plans. The work areas are subject to the limits of deviation specified in Article 6.
			2A.3.2	It is intended that Schedule 1 and the works plans limit the works that are to be undertaken within particular areas – that is to say, the works described in Schedule 1 under a particular work area are only to be carried out within that work area as identified on the Works Plans.
			2A.3.3	Requirement 4 then secures compliance with the maximum parameters detailed in Schedule 14.
			2A.3.4	The remaining requirements secure the provision of and compliance with the various management plans.

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			2A.3.5	For ease of reference, the Mitigation Tracker (Document 5.4.2.6, AS-055 clean and AS-056 tracked) sets out the mitigation commitments in the Application and refers to where within the DCO those commitments are secured.
			2A.3.6	<p>The Application also explained that there is a further layer of mitigation via the operation of the environmental permits. The Applicant has had regard to paragraph 3.7 of the National Policy Statement on Waste Water and paragraph 3.7.3 in particular, set out below for ease, and has therefore not sought to ‘double regulate’ matters covered by the permits through the draft DCO:</p> <p><i>In considering an application for development consent, the examining authority and the decision maker should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. The examining authority and the decision maker should work on the assumption that the relevant pollution control regime will be properly applied and enforced. It should act to complement but not seek to duplicate it</i></p>
2B - The Examining Authority then asked questions in respect of Articles, Schedules and Requirements	2B.1	Clarification of ‘commence’ in Article 2	2B.1.1	The Examining Authority noted that that “commence” means to carry out a material operation (as defined in section 155 (when development begins) of the Planning Act 2008) as part of the authorised development and “commencement” shall be construed accordingly. The Examining Authority pointed out that s155 excludes any prescribed activities and that there are no prescribed activities in the definition of ‘commence’ in the draft DCO.

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<p>of the draft DCO, seeking responses where appropriate from the Applicant and Interested Parties (IPs). In this respect, the Ex asked the following:</p>				
			2B.1.2	<p>The Applicant explained that the definition of commence does not carve out any activities and simply relates back to the definition of material operation in s155 of the Planning Act 2008. In relation to the Requirements, these are drafted so as to enable them to be discharged on a phase by phase basis and the intention is for the Applicant to submit a phasing plan which details the various works which are to be contained within each phase. The exception to that is the enabling phase which does not need to be identified pursuant to Requirement 3.</p>
			2B.1.3	<p>The Applicant explained that the enabling phase is the only pre-defined phase and is only relevant to the requirements in that it allows some works to be carried out without having certain details approved but this does not delay when the development has 'commenced' for the purposes of Article 2 which is to be determined separately i.e. when a material operation has been carried out.</p>

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			2B.1.4	<p>There were several clarificatory questions from the Examining Authority on how the enabling phase sits alongside the definition of commence. The Applicant explained that this the enabling phase is a pre-defined phase and therefore does not need approval as part of Requirement 3 (phasing), however, the enabling phase is not carved out from the definition of commence. The Applicant clarified this further with reference to the relevant parts of Requirement 9 as an example as follows:</p> <p><i>Construction environmental management plans</i></p> <p><i>9.—a) No phase of the authorised development is to commence until a construction environmental management plan for that phase has been submitted to and approved by the relevant planning authority.</i></p> <p><i>Any construction environmental management plan submitted for approval must incorporate the measures specified in the code of construction practice as being contained within a construction environmental management plan in so far as they are relevant to the works proposed within the phase to which the submitted construction environmental management plan relates, and—</i></p> <p><i>where the construction environmental management plan relates to the enabling phase, include or be accompanied by the following management plans relating to the enabling works—</i></p> <ul style="list-style-type: none"> <i>a. a detailed community liaison plan which must accord with the measures set out in the community liaison plan;</i> <i>b. an emergency preparedness plan;</i> <i>c. a pollution incident control plan;</i>

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				<p>and so on. The Applicant explained that the enabling phase is still a 'phase' and no phase is to commence until the construction environmental management plan for that phase has been submitted and approved. For the avoidance of doubt, this means that works such as vegetation clearance and excavation work cannot take place until the relevant part of Requirement 9 has been discharged. However, the Applicant confirmed that it would consider this further and if incorrect, it would set this out in future written submissions and if necessary, amend the definition of commence.</p>
	2B.2	Articles 10, 11, 13, 14 and 15 and matters raised by Cambridgeshire County Council	2B.2.1	<p>The Applicant explained that it is in ongoing discussions with Cambridgeshire County Council in its capacity as local highway authority. In relation to the Articles in the draft DCO, the Applicant explained as follows:</p> <p><u>Article 10</u></p> <p>The intention is to create statutory authority for the undertaker to undertake the works described in Article 10. It avoids the need for a street works licence under section 50 of the New Roads and Street Works Act 1991 each time. It does not disengage the rest of the notification, coordination obligations on so under that Act.</p> <p>The Applicant confirmed it would look at the overall way in which street works are regulated and that it may come forward with changes to the Articles or the protective provisions. The Applicant confirmed it is seeking to retain the protective provisions with the draft DCO as opposed to using separate agreements under the section 278 of the Highways Act 1980 each time highway works are carried out. However, the Applicant is currently reviewing the protective</p>

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				provisions with a view to revising them to reflect the County's s278 wording where possible.
	2B.3	Save Honey Hill questioned whether Low Fen Drove Way would be permanently closed.	2B.3.1	The Applicant confirmed it was not proposing a permanent closure to Low Fen Drove Way as it will only be used for a short period at the start of the development to allow access and therefore the status of that highway is not related to the permanent operation of the development. The Applicant further confirmed that it has had discussions with the local authorities on the status of the highway but all felt that there was not an appropriate linkage to the project to support the closure of the highway. However, this may be appropriate for the Section 106 agreement which is a matter to be dealt with separately.
	2B.4	Save Honey Hill and Fen Ditton Parish Council raised concerns about the potential for impacts to Low Fen Drove Way. In particular, the Parish Council stated that Low Fen Drove Way is an important environmental site with some rare and endangered species found in the ditches. The concern is that would provide a shortcut for anybody approaching the development from the east wanting to get there without having to go to Milton and come back again	2B.4.1	<p>The Applicant stated that the project has a bespoke access so there will not be any opportunity for the public to approach the development other than through the bespoke access.</p> <p>The Examining Authority pointed out that there will be restrictions on people using the proposed access being provided along Horningsea Road and therefore could that present a temptation for other people to use the shortcut that is of concern to Fen Ditton Parish Council? The Applicant stated that this would seem to cover a scenario where someone is travelling westwards along High Ditch Road, turning right, following Low Fen Drove Way all the way round and then turning left and coming down to access the site from Horningsea Road. The Applicant confirmed its view that it does not think that would occur under the current proposed traffic regulation orders but would come</p>

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				<p>back to that via a written response. This response is appended as Appendix A.</p> <p>When questioned, the County Council confirmed it had not identified the shortcut as being any issue and that Low Fen Drove Way does not promote vehicles wishing to go down that way but that it would continue to work with the Applicant on that.</p> <p>With regards to rat running along Horningsea Road, the Applicant stated that this will not change as a result of the project and that the traffic conditions described by Save Honey Hill already exist along the A14. The Examining Authority explained that the concern it would like the Applicant to come back on is whether it is creating a new destination for traffic.</p>
	2B.5	Save Honey Hill asked whether Low Fen Drove Way could be brought up to the standard of an adoptable highway. The Examining Authority questioned whether that would promote usage of the road. Save Honey Hill stated that it was not promoting its use but that it remains a possibility that the County Council in pursuit of its powers and responsibilities as a highway authority will be persuaded to surface it in a manner which would allow it much greater public use.	2B.5.1	It was confirmed that Save Honey Hill would put this in written representations in order for a response to be provided by the Applicant as necessary.

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	2B.6	Clarification of scope of powers sought under Article 30 (Acquisition of land limited to subsoil lying more than 7 metres beneath surface)	2B.6.1	The Applicant confirmed that this Article provides for the acquisition of the sub-strata of land that is at a depth of more than 7 metres beneath the surface of the land. Anything which is less than 7 metres deep is not covered by this Article.
			2B.6.2	It applies to land which is required for the Waste Water Transfer Tunnel (Work Number 27- Transfer Tunnel). The relevant land is shown coloured pink on the Land Plans (see Plot 012a, Land Plans Sheet 1 as an example) because it is a sub-terranean freehold interest in the land which is proposed to be acquired. The relevant land is specified in Schedule 11 to the Draft DCO.
			2B.6.3	<p>The Applicant explained that some surface activities may however still be carried out, as expressly permitted by Article 30(2), namely:</p> <ul style="list-style-type: none"> (a) any protective works required to buildings and structures (Article 20); (b) entering the land to carry out surveys (Article 21); and (c) taking temporary possession of the land for the carrying out of works (Article 35) or maintaining the authorised development
			2B.6.4	Whilst the permanent freehold acquisition of the surface or sub-surface land shallower than 7 metres is not permitted, Article 30(3) expressly permits the acquisition of new rights and the imposition of restrictive covenants over the land for the purposes specified in column (3) of Schedule 11. The purposes of the new rights and restrictive covenants in column (3) of Schedule 11 refer to the packages of rights and restrictive covenants which are more fully described in Schedule 10.

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	2B.7	Scope of powers sought under Article 35(9) (Temporary use of land for carrying out the authorised development)	2B.7.1	<p>The Applicant explained that Article 35(1) permits the temporary use of land for the carrying out of the authorised development:</p> <ul style="list-style-type: none"> - Article 35(1)(a)(i) – in relation to the land shown coloured green on the Land Plans and listed in Schedule 12 (land of which temporary possession may be taken) to the Draft DCO, which is not subject to permanent compulsory acquisition powers; and - Article 35(1)(a)(ii) – in relation to any of the other Order Land, being land shown coloured pink, blue or brown on the Land Plans, except that this power cannot be used in relation to land for which compulsory acquisition powers have already been exercised to permanently acquire freehold land (other than subsoil only land).
			2B.7.2	<p>The Applicant explained that the first two limbs of Article 35(9), which preserve the ability to acquire rights over the green temporary possession only land, and the ability to acquire the subsoil to such land, are not required because no such permanent acquisition powers are sought by the Applicant. The Applicant has since made this change and it is shown in Document 2.1 Draft Development Consent Order (Rev 5) (Clean) and 2.1 Draft Development Consent Order (Rev 5) (Tracked) submitted at Deadline 1.</p>
			2B.7.3	<p>The change is also noted in Document 2.4 DCO Changes Tracker (Rev 3) (Clean) and 2.4 DCO Changes Tracker (Rev 3) (Tracked).</p>

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	2B.8	Scope of powers sought under Article 44	2B.8.1	The Applicant explained that Work No. 32 is the outfall structure and the Applicant is seeking powers to build a structure within the river Cam within the parameters defined in Schedule 14. Once constructed, navigation over that part of the river Cam will not be possible and therefore the purpose is permanent extinguishment in relation to rights on any part of the River Cam permanently acquired in connection with Work No. 32 only. The Applicant clarified that there is an outfall currently but that it is in a different area.
	2B.9	The Examining Authority questioned whether the full extent of powers sought in the River Cam was necessary	2B.9.1	The Applicant confirmed that it would take this point away and respond in writing. This response is now appended as Appendix A .
	2B.10	Helen Cleary for the Conservators of the River Cam stated that its biggest concern was navigational rights as it is its statutory responsibility to maintain that navigation.	2B.10.1	No response – Examining Authority confirmed it would add an action point for the Conservators and the Applicant to liaise. The Applicant confirms it is continuing its engagement with the Conservancy.
	2B.11	Schedule 2 Part 1 ‘enabling works’ and reference to the ES	2B.11.1	The Applicant acknowledged a typographical error in the definition of “enabling works” in that it currently refers to 3.1.6 of the Chapter 2. This error was corrected in the draft DCO submitted with the change request on 16 October 2023 (Doc 2.1, AS-139).
	2B.12	The Examining Authority questioned the Applicant on why the definition did not include the works in paragraph 3.1.7 of the ES (enabling phase 2).	2B.12.1	The Applicant explained that only Phase 1 of the enabling phase is intended to be separated out and that Phase 2 will be picked up as part of the general phasing. This has been clarified further in the Explanatory Memorandum submitted with deadline 1 (Doc 2.2, Rev 3).

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			2B.12.2	As to the approach of including an enabling phase, the Applicant explained number of the requirements in Schedule 2 Part 1 are drafted so as to allow the relevant details to be approved on a phase by phase basis. The extent of each phase will be defined through approved of a written phasing scheme under requirement 3. The exception to this approach is that an “enabling phase” has been pre-defined in order to allow a prompt start to construction following consent prior to discharge of requirement 3.
	2B.13	<p>Save Honey Hill questioned the Applicant on the reasoning for the enabling works (j) which states as follows:</p> <p><i>within the boundary of Work Nos. 33 and 34, the installation of up to 50 metres of the Waterbeach pipeline under and extending from both sides of the Cambridge to King’s Lynn railway line and construction compound</i></p>	2B.13.1	The Applicant explained that this was to enable works to be undertaken in conjunction with the construction of the proposed new Waterbeach railway station so that effectively the station isn't constructed and they then has to be dug up later to enable the construction of the Waterbeach pipeline. In effect, it's simply to enable the more effective coordination of works. In any event, the works could not happen without approval under Requirement 9.
	2B.14	Relationship between Requirements 8 (CoCP) and 9 (CEMP)	2B.14.1	The Applicant confirmed that the Examining Authority was correct to characterise the CoCP as, effectively, an outline CEMP. The decision was taken not to produce an outline CEMP in response to the Procedural Decision (AS-008) as it would have been largely a copy and paste from parts of the CoCP. The CoCP is intended to be a fixed and final document with no further updates beyond the end of the examination and the CEMP is then formed from that.
			2B.14.2	The CoCP comprises 2 parts, Part A: General requirements and Part B site-specific measures.

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			2B.14.3	Part A of the CoCP sets out overarching and general principles. Part B of the CoCP sets out site specific measures that supplement and refine the general requirements in Part A
			2B.14.4	CEMPs are to be developed on a per phase basis. It is not intended that a detailed CEMP be prepared at this stage nor referred to in the draft DCO
	2B.15	The Applicant was questioned on the consultation requirements in Requirements 10 (Outfall) and 11 (LERMP)	2B.15.1	The Applicant confirmed that as a matter of principle it has no objection to the relevant planning authority consulting with both the Environment Agency and Natural England on Requirements 10 and 11. This could be done in one of two ways, either there is an express requirement on the planning authority to consult or it is kept out of the DCO as it is up to the local authority as to who it consults with.
			2B.15.2	The County Council confirmed it would come back on the point as to who it normally consults with. The County Council has since confirmed to the Applicant that it consults on a case by case basis.
	2B.16	The Examining Authority questioned the differences between Requirements 10 and 11, specifically why Requirement 10 provides that variations to the approved plan must be consulted on.	2B.16.1	The Applicant explained the difference between the current drafting of Requirement 10 (which does require some consultation) and Requirement 11 (which does not require consultation), is that Requirement 10 anticipates potential changes arising from other consents and licences which might be obtained outside of the DCO.

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	2B.17	The County Council pointed out that reference to the district planning authority should include the County Council, as that is the minerals and waste authority	2B.17.1	No response as the Examining Authority confirmed that this point would be discussed later
	2B.18	Scope of Requirement 16 (Contamination risk) - The Examining Authority referred to the relevant representation of Natural England which suggested provision for the reporting, investigation and remediation of possible water contamination.	2B.18.1	The Applicant explained that the purpose of Requirement 22 was to address the issue of water contamination.
			2B.18.2	The Applicant explained that it is currently engaging in discussions on a draft monitoring plan with the Environment Agency, which it is hoped will be submitted at Deadline 1, and that would also be discussed with Natural England once the Environment Agency is happy
	2B.19	Scope of Requirement 17	2B.19.1	The Applicant explained that the proposed development is a long term development, intended to operate indefinitely. If it is decommissioned in the future, it will be dealt with by environmental permits. It is for these reasons that there is no decommissioning plan proposed.
	2B.20	Schedule 2 Part 2 - approvals process clarification	2B.20.1	The Applicant explained that this uses the model wording from Appendix 1 of PINS Advice Note 15. However, in this case, there are

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				<p>three planning authorities involved as the proposed development borders two district authorities but as a waste application, would be under the jurisdiction of Cambridgeshire County Council as the relevant waste authority. The Applicant confirmed it would take forward with the local authorities the best way to discharge the requirements. This could involve applications going to the relevant authority for the area or one authority taking the lead.</p>
	2B.21	<p>Clarification of some Schedule 14 parameters</p> <p>The Examining Authority specifically questioned that throughout Schedule 14 it's specified that finished ground levels will be plus or minus either side of the maximum parameter, which for example would be nine and a half meters above ordnance datum for the terminal pumping station and therefore on this basis, it would be saying that a maximum parameter for the terminal pumping station would then be 10 meters above ordnance datum. Is that correct? And if so, would it provide greater clarity to, to present the information in this way?</p>	2B.21.1	<p>In response to questioning by the ExA, it was also confirmed that the assessments in the Environmental Statement take into account the plus and minus figures in the parameters.</p>
			2B.21.2	<p>Save Honey Hill raised several issues in relation to the limits of deviation and in response, the Applicant confirmed it would review the limits of deviation against the extent of development assessed in</p>

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				the Environmental Statement and the interaction with Schedule 14 and would amend the drafting as needed
	2B.22	Clarification of Schedule 17 3 (Building Act 1984)	2B.22.1	The Applicant confirmed that it intended to revisit Schedule 17 and to provide further justification as part of its response to Deadline 1.
			2B.22.2	In response to the inclusion of the Building Act 1984 which states as follows: <i>3. Nothing in Part 1 of the Building Act 1984 with respect to using building regulations, and nothing in any building regulations, shall apply in relation to a building used, or intended for use, by the undertaker for the purposes of the authorised development before completion of construction</i>
			2B.22.3	The Applicant confirmed that the exclusion applies to building intended for use before completion of construction and therefore would include temporary buildings.
			2B.22.4	NB: As explained in the response to 10.34 to the First Written Questions (Doc 8.3, submitted at Deadline 1), the Applicant has now removed this wording from the DCO and no longer seeks to disapply the Building Act 1984
	2B.23	Clarification of Schedule 17(5) (s208 Planning Act 2008)	2B.23.1	This questioned concerned the reference in Schedule 17 to the Planning Act 2008 – Application of the 2010 Regulations (Community infrastructure Levy). The drafting currently provides as follows:

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				<p><i>5. Notwithstanding the provisions of the section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(a) any building comprised in the authorised development shall be deemed to be— (a) a building into which people do not normally go; or (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.</i></p>
			2B.23.2	<p>The Applicant explained that it had reconsidered this drafting and proposed that a simpler approach would be to disapply CIL, as that is ultimately the intended effect of the above wording. The Applicant proposes that CIL is disappplied, as is the approach in many DCO, to ensure there are no unforeseen liabilities on the undertaker arising from any CIL. It is common for CIL to be dis-applied in DCOs and it is reasonable and justifiable for the Applicant to ensure that it is aware of its financial commitments under the DCO. The Applicant confirmed it would provide further justification in relation to this.</p>
			2B.23.3	<p>The local authorities were asked whether they were content with the disapplication of CIL but confirmed that they would need instructions on this point. It was confirmed that there is no CIL charging schedule in Cambridge, although there is a Section 106 tariff. In light of this, the disapplication of CIL would apply should a schedule be adopted in the future.</p>
			2B.23.4	<p>The Applicant confirmed that similar provisions are included in strategic railway freight interchange DCOs.</p>

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	2B.24	Environmental Management System – clarification of content and where it is secured	2B.24.1	The Applicant explained that the Environmental Management System (“EMS”) is a vehicle for delivering mitigation. When an application for a permit is made, the Applicant must set out the proposed measures to be incorporated within the management system and then the management system is secured by means of a standard condition on the permit. to be covered by the permit and conditioned.
			2B.24.2	For completeness, the Applicant notes that the EMS is explained in the PD at 5.1.23. It is part of the Environment Agency permit process which is not covered by the DCO
	2B.25	Consistency of management plan naming in ES and in draft DCO	2B.25.1	The Examining Authority asked the Applicant to ensure that there is consistency with the naming of the management plans within the Environmental Statement chapters and the draft DCO. The Applicant confirmed that it will carry out a review.
			2B.25.2	As to identifying any changes, the Examining Authority confirmed the approach of submitting an errata sheet, which details all of those changes such that they might exist and clarifying what actually the correct references should be in each case. The errata sheet is submitted at Deadline 1 (Doc 8.4).
2C - Miscellaneous issues/drafting points raised by interested parties	2C.1	Article 23	2C.1.1	The operation of Article 23 did not feature on the agenda but was raised at the hearing by Save Honey Hill, particularly with regards to the part of the Article which allows the removal of trees where ‘reasonable’.

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			2C.1.2	The Applicant explained that Article 23 is, is, is a fairly standard provision in most made DCOs in the terms in which it is stated and the important point about the Articles is that they're designed in order to give sufficient powers to an undertaker in order to implement the scheme for which, consent is granted. The Applicant stated that in its view, it is not correct to impose limitations on the generality of the of the powers through detailed drafting in the DCO itself. However, where particular consideration needs to be given to mitigation measures around the operation of the Article, that could be considered.
			2C.1.3	The Applicant confirmed it would provide examples of other DCOs which include this wording. The Applicant can now confirm that similar wording is used in Article 17 of The South Humber Bank Energy Centre Order 2021 (SI 1259), Article 41 of The National Grid (Hinkley Point C Connection Project) Order 2016 (SI 49) and Article 31 of The Eggborough Gas Fired Generating Station Order 2018 (SI 1020).
	2C.2	Article 35	2C.2.1	Save Honey Hill proposed that 14 days' notice for temporary possession, as required by Article 35, is often impracticable for people who are using and occupying land. The Applicant responded to say that in terms of the points being raised by Save Honey Hill, it would be helpful to have them in writing so that could properly consider and respond to each of them in turn. Save Honey Hill confirmed it was prepared to send a detail note of matters it would like to see amended in the draft DCO to the Applicant.
	2C.3	Requirements	2C.3.1	The Environment Agency confirmed that it may want a requirement with respect to flooding but that this depended upon the outcome of its assessments and modelling. The Applicant reiterated that the

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				need for an updated flood risk assessment was discussed in the Preliminary Meeting on 17 October 2023 and acknowledged that there might be steps to take after that.
	2C.4	Schedule 9	2C.4.1	Fen Ditton Parish Council raised that it had previously suggested a dedicated site access off the A14. However, that has not appeared in the draft DCO and therefore it proposed that it would be useful to have a no right turn symbol for motor vehicles entering the site so that northbound traffic coming up to the site would not be able to turn right but instead would have to go to Milton Interchange.
			2C.4.2	The Applicant asked that the Parish Council's written representation deal with this issue so that it can consider further. It also stated that it would be helpful if the Parish Council could point to any part of the transport assessment or related Environmental Statement chapters that it thinks the Applicant needs to focus on.
3 – Schedule 15 – Protective Provisions	3.1	To obtain an update on progress between parties regarding protective provisions and an explanation of any important differences of view and a timescale for resolution.	3.1.1	The Applicant explained that it has included draft protective provisions in the draft DCO (Schedule 15) for the benefit of various third parties. The intention of the provisions is to govern the arrangements between the parties as to how those parts of the authorised development which will interact with third party assets or infrastructure will be constructed and maintained.
			3.1.2	The Applicant explained that the protective provisions in the submission draft DCO are largely unchanged since consultation, save for Cambridge Water. The Applicant confirmed that it could update the drafting in the next draft DCO so that it reflects where negotiations are at that stage.

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				<p>PART 1: These are generic provisions for the benefit of Electricity and Gas undertakers, other than those which are specifically carved out since they have the benefit of separate specific parts (such as Cadent and Eastern Power Networks). These generic provisions are standard provisions included in many DCO and it is thought helpful to include them to ensure that other undertakers are covered in the event that becomes necessary, either through discovery of assets during construction or as a result of installation of infrastructure between now and construction.</p> <p>PART 2: Contains provisions specifically for Eastern Power Networks. The Applicant is pleased to confirm that updated provisions are agreed with only one remaining point between the parties which relates to the powers to compulsorily create a right of way. Terms have recently been agreed relating to the required land arrangements and once the agreements dealing with those terms have been finalised the Applicant will be in a position to update the drafting, and then understands that the provisions will be fully agreed. The updated provisions will be included in the draft DCO at that stage.</p> <p>PART 3: Includes provisions for the benefit of Cadent Gas Limited. There remain a few outstanding points between the parties which the Applicant is seeking to progress. This includes the provision of security.</p> <p>PART 4: Sets out draft provisions for the benefit of Network Rail. Discussions are ongoing with Network Rail with regard to the content of these provisions as well as the various necessary asset protection agreements. The provisions are not yet agreed but the Applicant is continuing its positive engagement and based on its experience in</p>

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				<p>coming to agreements with NR on other sites, the Applicant confirmed it was confident the parties can resolve the outstanding points during the course of the Examination.</p> <p>PART 5: These are provisions for the benefit of National Highways. The provisions included in the draft DCO at the time of submission had been the subject of discussion with National Highways over many months. The approach to the drafting was to cover the works on the highway including traffic regulation, and separately to govern the protection of NH infrastructure (the A14) during the installation and maintenance of the transfer tunnel and Waterbeach pipeline. At the time of submission, the provisions had almost been agreed, with only a few outstanding points between the parties, however, the Applicant now understands that National Highways has revised its approach to protective provisions and is seeking its new standard version to be included in the DCO. The Applicant continues to engage with NH to come to agreement but at this stage confirmed that it wants to retain matters which were previously agreed with National Highways.</p> <p>The Applicant note that representative for National Highways confirmed it too was hopeful that it could reach agreement.</p> <p>PART 6: The provisions included in the draft DCO for the local highway authority (Cambridgeshire County Council) were the same as those included in the Applicant’s draft DCO issued as part of its statutory consultation (which was undertaken between February and April 2022). The County Council provided commentary on the DCO drafting including protective provisions as part of its RR response (RR-002) which the Applicant noted made mention of a s278 Agreement. The Applicant explained that the latest position is that it has agreed to</p>

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				<p>undertake an exercise to put the County's s278 wording into the format of protective provisions.</p> <p>The County Council confirmed it was fairly adamant that it wanted a separate s278 agreement.</p> <p>The Applicant confirmed that it would provide an update at Deadline 1 and if possible, the draft revised protective provisions will be included in the draft DCO at that stage.</p> <p>PART 7: This Part includes proposed provisions to govern the arrangements between the Applicant and the Cam Conservancy as the relevant navigation authority. The provisions are to govern the arrangements for the carrying out of those works which would need to interfere with river traffic (works 31 and 31). The Applicant explained that it has had detailed engagement with the Conservancy which includes commentary on the drafting of Article 44 and the protective provisions. The Applicant awaits a response from the Conservancy on some proposed amendments to that drafting in order to progress and hopefully finalise the drafting of the provisions.</p> <p>PART 8: Contains standard generic provisions included in many DCO for the benefit of Operators of the Electronic Communications Code Network. The Applicant confirmed that there has been no detailed engagement on these provisions with such operators, nor any commentary from such parties thereon, but they are standard provisions and the Applicant does not envisage any concerns in that regard.</p>

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				<p>PART 9: Includes provisions for the benefit of Cambridge Water. The version included in the draft DCO submitted at the Procedural Deadline on 29 September (document 2.1 Rev 03, AS-010 clean and AS-011 tracked) includes updated provisions which are now agreed between the parties.</p> <p>The Examining Authority asked for evidence of agreement and the Applicant confirmed it would be documented in the Statement of Common Ground.</p> <p>PART 10: This Part includes provisions for the benefit of the Lead Local Flood Authority. The Applicant confirmed it had received some proposed revisions to these provisions from the Lead Local Flood Authority in the week preceding the hearings and is in the process of reviewing them.</p>
4 – Consents, licenses and other agreements	4.1	The Applicant was asked to provide a brief update of progress and timescales for completion. The Examining Authority will then ask questions, including around legal agreements.	4.1.1	The Applicant explained that the document is intended to outline the various consents, licences and permits that will be sought outside of the DCO. The status of each of those consents (i.e. the estimated timing of their proposed submission) is set out in the Register
			4.1.2	In terms of the two <u>Crown Land</u> interests noted (Secretary of State for Transport and Secretary of State for Defence) in the Register, the Applicant stated that it is in active communication with both government departments and is seeking the necessary consent under Section 135 of the Planning Act 2008.
			4.1.3	The Applicant explained that in the Register there are number of Permits noted, in respect of which the Applicant has been liaising with

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				<p>the Environment Agency. For some of these, it is not yet known whether a Permit will be required – this is because the need for them is triggered by certain thresholds. However, with a view to starting the process as early as possible, to assist both the Applicant and the Environment Agency, the Applicant confirmed that it has agreed with the Environment Agency to submit some early applications which will contain estimates in respect of the detail, for example, the exact timings and amounts of water for Water Abstraction Licences. These are referenced in the Statement of Common Ground and any updates to the progress of them will be reflected in the updated Statement of Common Ground.</p>
			4.1.4	<p>The Applicant then turned to the <u>Construction Water Discharge Activity Permit</u> which it explained it is discussing with the Environment Agency and will be submitting an application for this – this is an early submission at the request of the Environment Agency and the application will include estimates for volumes and timings at this point.</p>
			4.1.5	<p>The Applicant explained that the <u>ghost European protected Species Mitigation licence</u> applications relating to <u>Water Voles and Bats</u> have both been submitted to Natural England and Letters of No Impediment have been received in respect of both of these. These Letters of No Impediment will be appended to the Statement of Common Ground with Natural England.</p>
			4.1.6	<p>The <u>ghost European protected Species Mitigation licence</u> application relating to <u>Badgers</u> has been submitted to Natural England and the Applicant has submitted all requested information to NE. The application has been reviewed and a Letter of No Impediment is</p>

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				<p>expected. When this is received, this will also be annexed to the Statement of Common Ground.</p>
			4.1.7	<p>As for the <u>Industrial Emissions Directive Permit</u> application, the Applicant stated that this was submitted in March 2023 following intensive engagement with the Environment Agency because this is a new permitting requirement. The Applicant has been liaising with the Environment Agency with regard its first draft of this application and the Environment Agency have requested further information having reviewed it. The Applicant confirmed it is now in Enhanced Pre-Application discussions so that the necessary detail and information can be provided and the application can progress. Following the detailed engagement with the Environment Agency, the Applicant explained that it is now clear that IED Permit application will include the Medium Combustion Permit and it is not envisaged that this will be separate as previously noted in the Consents and Permits Register</p>
			4.1.8	<p>Following questioning from the ExA, the Applicant confirmed that:</p> <p>The Applicant explained that it has had detailed engagement with the Internal Drainage Boards (Swaffham and Waterbeach) and is awaiting a Letter of No Impediment in respect of the <u>land drainage consents</u> following agreement in respect of the crossing points and depths of the Waterbeach pipeline.</p> <p>The Applicant confirmed that it is in discussion with the Environment Agency with regard to the various <u>Minerals and Waste</u> permits noted in the Consents and Permits Register. Again, this will be reflected in the Statement of Common Ground throughout the Examination.</p>

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				<p>As for the <u>flood risk and flood defence consent</u>, the Applicant explained that as discussed earlier that day, the Applicant is in a position to undertake further modelling due to the Environment Agency's newly released date.</p> <p>On the <u>Water Discharge application for the final effluent</u>, the Applicant confirmed that this was submitted to the Environment Agency in September 2022 and the Applicant awaits a response from the Environment Agency on the determination of this application.</p>
			4.1.9	<p>The Examining Authority then questioned the inclusion of the statutory defence under <u>Section 61 Control of Pollution Act</u> in the DCO, even though the Applicant is not seeking to disapply the need to obtain a consent under this Act. The Applicant explained that the intention is still to seek the necessary noise consent and that it is in discussion with the local authority in respect of those arrangements relating to construction which will be covered through the CEMP to be submitted post consent, pursuant to Requirement 9 of the DCO.</p>
			4.1.10	<p>The Applicant explained that the intention of Article 9 is simply to provide a statutory defence should there be a complaint relating to noise. It is not disapplying the need for a consent, it is just providing the defence.</p>
			4.1.11	<p>The Applicant confirmed that the <u>water abstraction licences</u> will be listed and explained in the Statement of Common Ground with the Environment Agency as part of its detailed discussions with the Environment Agency on all permits. It is intended to submit applications for these shortly (together with the other early</p>

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				submissions discussed) and again, these will be early submissions at the request of the Environment Agency.
			4.1.12	With regards to the <u>construction water discharge activity permit</u> , the Applicant explained that it is one of the early applications which is going in very soon.
	4.2	Fen Ditton Parish Council raised some questions on the Consents and Permits Register. It stated that as it understood matters, the ground levels inside the bund area would be below ground level and it was therefore presumed that the overflows or drainage into the outside water features would be pumped.	4.2.1	The Applicant responded to explain that the sustainable drainage scheme outside the bunded area is separate from the engineered technical drainage scheme inside, which is subject to regulation under the environmental permits, therefore the two are not linked. However, the Applicant confirmed that it would respond formally on this point. Please see the Deadline 1 Submission – Covering Letter for the Applicants response.
	4.3	Fen Ditton Parish Council also queried whether the presence of the Waterbeach pipeline introduces the possibility of a new discharge coming through the Milton Works and the quantum of that or the capacity of that effluent and whether or not the works has treatment capacity to treat it. The Parish Council questioned the impact on the Cam and stated it had hoped it would become clearer through the DCO process.	4.3.1	The Applicant explained that there are two applications submitted to the Environment Agency, one is for the final effluent for the new works and there is also an interim permit for any increased flow that would go to Milton (not related to the DCO Application). This means that there are to separate applications in relation to final effluent that would deal with increased capacity at Milton. The Parish Council stated that it would like to see these documents. The Applicant and the Environment Agency confirmed it would look into how it would share these documents.

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			4.3.2	<p>The Applicant has now discussed providing details of the Environmental Permits submitted to the Environment Agency to Fen Ditton Parish Council. At present the Applications have not been deemed to be "duly made" so are not yet validated. Once the Environment Agency has completed the validation process, the applications will be made public and a two month consultation period will begin before the Applications are then further determined. The release of unvalidated permits at this stage would be premature and potentially trigger the consultation phase on documents that have not yet been initially assessed by Environment Agency.</p>
	4.4	<p>Save Honey Hill raised that there were implications which are not before this examination. It stated that there was not an up-to-date water quality assessment that relates to the modelled flows that are being put through the interim permit or the full permit. It stated that it was unsatisfactory for the understanding of the environmental impacts which relate to the discharge. The Examining Authority stated that for its reassurance, it had included written questions around the permitting and hopefully that would address some concerns</p>	4.4.1	<p>The Applicant stated that the Environment Statement is complete and has a complete water quality chapter which can be relied upon. It stated that there are protected area implications arising from water quality which are fully covered in the documentation. It then directed to the National Policy Statement at 3.7 which states that you need to be consent that other regulatory bodies are doing their jobs properly. The division between the DCO and those environmental permits on water quality is clear in statute and discussions would need to be directed to the relevant environment agencies. The Applicant stated that it trusts in the Environment Agency to do the job it is mandated to do.</p>

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	4.5	Save Honey Hill responded to say that the assessment which has been carried out does not resolve the question of the potential concentrations of a number of matters, citing biological oxygen and oxygen demand	4.5.1	The Applicant asked for these concerns in writing so that it could respond at the appropriate Deadline.
5 – Statement of Common Ground	5.1	The Examining Authority will ask the Applicant to provide a brief update on Statements of Common Ground relevant to the draft DCO.	5.1.1	The Applicant was asked to focus on areas of dispute in the summary on the Statements of Common Ground.
			5.1.2	The Applicant confirmed that it continues its engagement with the various third parties to agree Statements of Common Ground for submission at the various Examination timetable deadlines. Due to time, the Applicant confirmed that it would confine its update to those that do not have the benefit of protective provisions as the position with those was discussed earlier
			5.1.3	The Applicant confirmed that the latest position as at the date of the Hearing on these Statements of Common Ground was as follows:

				Body	Status
				Cadent	<p>The parties are in discussion as to the format of the Statement of Common Ground, once that is agreed, the protective provisions will be appended and any outstanding matters will be outlined in the Statement of Common Ground.</p> <p>Matters not agreed relate mainly to security.</p>
				Cambridge City Council and South Cambridgeshire District Council	<p>A working draft is currently with Greater Cambridgeshire Shared Planning Authority. This covers South Cambridgeshire also.</p> <p>The Applicant sent an updated format to Greater Cambridgeshire Shared Planning on 29 September 2023.</p> <p>The Applicant stated that points of discussion are still in relation to on biodiversity and landscape and visual.</p>
				Cambridgeshire CC	<p>A working draft is with Cambridgeshire County Council. AW sent an updated format to Cambridgeshire County Council on 29 September 2023.</p> <p>The points of difference concern traffic and access and the format of the protective provisions.</p> <p>It was confirmed by the County Council that there is a relationship with Cambridgeshire County Council and National Highways due to the bridge over the A14. The County Council confirmed that it would continue to work with National Highways.</p>

				Emergency services (combined)	<p>These are in progress following a set of combined technical working group of all emergency services.</p> <p>The Applicant confirmed it is preparing a draft Statement of Common Ground to reflect the discussions at that meeting and this is to be shared in advance of the next working group meeting on 27 October 2023.</p>
				Historic England	<p>This is under discussion. The latest draft was sent to Historic England for review on 10 October 2023.</p> <p>The Applicant stated that it understood that HE will be considering the draft when preparing its Written Representations.</p>
				Natural England	<p>A draft has been sent and Natural England have advised they will respond in due course.</p>
				SLC Rail and Waterbeach Development Company	<p>A first draft was prepared dealing with these parties on a joined up basis. However, as part of the consultation responses to the recent Order Limits Change Request, both parties have confirmed their preference for separate Statement of Common Ground.</p> <p>The Applicant confirmed it is updating the Statement of Common Ground to accommodate this and also address the comments made in respect of overlapping construction arrangements. These draft Statements of Common Ground will be issued before the Applicant's next meeting with the parties on 23 October.</p>

				Save Honey Hill	The Applicant confirmed that it has been in touch with Save Honey Hill to agree points of contact and has agreed to provide a first draft next week for their review.
				The Environment Agency	Version 5 is with the Environment Agency for further comment. This latest version was issued by the Applicant on 13 October.
				Swaffam Internal Drainage Board and Waterbeach Internal Drainage Board	It is proposed to have one SOCG for both. A working draft has been sent and was last updated on 26 September 2023 to reflect agreed crossing depths. It is envisaged this Statement of Common Ground will be finalised and agreed by Deadline 1, subject to availability of authorised signatories.
				National Trust	This was updated following the National Trust's relevant representation. The last draft was issued to the National Trust on 3 October 2023.
				Wildlife Trust	The proposed final draft is with the Wildlife Trust. The Applicant confirmed it has sought its agreement to enter into the SOCG but at this stage the Wildlife Trust as indicated that it does not wish to engage in the DCO process any further. The Applicant has explained that the Examining Authority has requested a Statement of Common Ground between the parties and awaits a response.

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6 – Any other matters	6.1	The Examining Authority asked for a summary of why the section 106 agreements had been provided and whether they involve financial obligations.	6.1.1	The Applicant confirmed that there are there are two draft s106 agreements, initially prepared separately on the basis that it was considered that different land may have been bound. The Applicant advised that if this position changes and the same land is bound, they will most likely be combined.
			6.1.2	It was confirmed that one s106 agreement deals with nuisance parking and the other with antisocial behaviour. Should certain matters arise, the mitigation proposed to be secured through those agreements is the potential for traffic regulation orders to be created and imposed by the County Council. The Applicant simply provides a financial contribution to the County Council to undertake such orders.
			6.1.3	It was explained that the current proposal is that the land bound by the agreements is the existing waste water treatment works as that is land under the control of the Applicant.

Table 1-3: ISH2 Post Hearing Submission

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1 – Welcome, introductions and purpose of hearing	1.1	The Examining Authority opened the hearing, introduced themselves, invited those parties present to introduce themselves and explained the purpose of the Hearing.	1.1.1	On behalf of the Applicant, Anglian Water Services Limited <ul style="list-style-type: none"> • Morag Ellis KC, Francis Taylor Building • John Bowles, Town Planner and Director, Savills • John Cormie, Anglian Water Services Limited • Andrew Prior, Director, Aeos Infrastructure • Karen Barclay, Anglian Water Services Limited
2 – The principle of the Proposed Development	2.1	The Applicant was asked whether the Proposed Development is a nationally significant infrastructure project (“NSIP”) under the Planning Act 2008	2.1.1	The Applicant explained that the Proposed Development is not an NSIP. This is set out in the Applicant’s Legal Submission on the Applicability of Section 104 and Section 105 of the Planning Act 2008.
			2.1.2	The Applicant stated that there is a clear enunciation in <i>EFW Group Ltd v Secretary of State for Business, Energy And Industrial Strategy</i> [2021] EWHC 2697 (Admin) (the “Energy from Waste case”) at paragraph 60 of the judgment. This has the effect of making the development subject to the decision making framework in the Planning Act 2008. The Secretary of State has a discretionary power under Section 35 to treat a development as a development for which development consent is required. It is a power to direct the project in. That can be contrasted with Section 14 which defines NSIPs.
	2.2	The Examining Authority pointed out that Planning Statement refers to NSIP on a number of occasions	2.2.1	The Applicant explained that the Proposed Development is being dealt with under the Planning Act 2008 and so this may be an error. An amended version of the Planning Statement was submitted but the Applicant confirmed it

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				would re-look at this in order to confirm that all incorrect mentions of NSIP had been removed.
	2.3	<p>The Applicant was asked to explain the main differences between the consideration of an NSIP. Save Honey Hill began by stating it is welcomed that the Applicant has confirmed it doesn't consider the Proposed Development to be an NSIP but that this was not clear from the legal submissions. Save Honey Hill agreed with the Applicant that a Section 35 Direction is not capable of turning a project which does not fall within the definition of NSIP into an NSIP.</p> <p>Save Honey Hill stated that the development did not exceed the threshold in Section 29. Save Honey Hill stated that it would say it is necessary for the purposes of determining whether Section 104 or 105 of the Planning Act apply to determine whether that threshold is met</p>	2.3.1	<p>The Applicant referred to its Legal Submission on the Applicability of Section 104 and Section 105 of the Planning Act 2008. This states that, and without prejudice to being able to pursue the point in further cases, the Applicant does not seek to take the point that the project meets the threshold in Section 29 and that it is not necessary to do so.</p> <p>Save Honey Hill confirmed that its question on this point had been answered.</p>
	2.4	<p>The Applicant was asked to explain the main differences between the consideration of an NSIP and a project of national significant for which development consent is required.</p> <p>On this point, Save Honey Hill stated that its position is that the difference affects whether section 104 or section 105 of the Planning Act 208 applies and that it does not come down to</p>	2.4.1	<p>The Applicant stated that it would come down to what the Secretary of State says in the direction. When considering Section 35 and granting the Section 35 request, the Secretary of State can think about procedural matters and decide whether there should be any differences from standard processes and give directions accordingly.</p> <p>In this case, all the Secretary of State did was to direct the project in to be dealt with as a project under the Planning</p>

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		<p>what the Secretary of State says in his direction. It is Save Honey Hill's position that the application should be dealt with under section 105.</p>		<p>Act 2008 and then to direct that the one stop consenting provisions of Section 33 of that Act would apply. He did not make any procedural directions saying that it should be dealt with differently.</p>
	2.5	<p>The Applicant was asked to clarify the national significance of the project</p>	2.5.1	<p>The Applicant confirmed that the physical business of the project is the new waste water treatment works and not the housing and life sciences which are in contemplation. In the direction, the Secretary of State says that the Proposed Development by itself is nationally significant. The reasons for concluding so are set out in the Annex. This includes: to enable the relocation of the existing plant, the redevelopment of the brownfield site and the development of provision of wastewater services for Proposed Development at Waterbeach New Town. The Applicant explained that significance doesn't only come from the physical material of what is done but what the effects of what those physical changes are.</p>
	2.6	<p>The Applicant was asked if the new wastewater treatment works were by themselves nationally significant</p>	2.6.1	<p>The Applicant confirmed it was as one must think about the project as a whole. It is an enabling project because it enables a clear site in a nationally important location. The Applicant pointed out that one can see that the Secretary of State had regard to the Homes England funding agreement. Cambridge was highlighted in Michael Gove's statement of July 2023 and government ministers have appointed a water resources task force to get to grips with some of the delivery issues. Cambridge has a unique blend of academic excellence on the international stage and the economic</p>

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				implications of that for research and development and life sciences are certainly of national international significance.
	2.7	The Applicant was asked whether the fact that Cambridge City Council and South Cambridge District Council are producing a local plan changes the complexity of matters	2.7.1	The Applicant responded to say that no, it did not consider that this changed the complexity. The Applicant pointed out that there are many other forms of consent which would be required if one was doing this project outside of the Planning Act 2008, navigation rights is just one example.
	2.8	Save Honey Hill questioned the inclusion of the Gateway Building, Discovery Centre, office and parking in the application as these are not mentioned in the Section 35 Direction	2.8.1	The Applicant referred to the Section 35 Direction which directs the project in the Planning Act 2008 and allows for the inclusion of any matters that may be properly included in a DCO within the meaning of Section 120 of that Act, including ancillary matters and associated development. There is also guidance issued by the Department for Communities and Local Government (as it then was) under the Act.
			2.8.2	In response to the Examining Authority asking how the elements raised by Save Honey Hill meet the criteria of supporting the construction or operation of the development or help address its impacts, the Applicant referred to the Project Description (document reference 5.2.2, APP-034) which addresses these parts of the project. As to the Discovery Centre, the Applicant explained that it is part of composite building doing a number of different things but the Discovery Centre would have an educational function. As part of its statutory duties, the Applicant has general environmental and sustainable duties. Greater Cambridge has a problem with water resources and to

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				reduce consumption, it is necessary to get the cooperation of the public. Education is a core part of the Applicant's overall duties and it has a direct relationship with the project as they need the cooperation of the public
			2.8.3	Turning to the office, the Applicant confirmed that some staff are performing administrative functions to do with the wastewater treatment works and others are performing wider functions. Some of the staff are performing functions relating to the sludge recovery process which is to be part of the project but not only vis a vis Cambridge but also Waterbeach and other parts of the area. It was confirmed that there is no intention to move people from outside of Milton to the new site
	2.9	The Applicant was questioned on why, if it was always the intention to relocate all of the existing office staff, that there was uncertainty about the numbers of office staff	2.9.1	The Applicant confirmed that it would check this and come back in written responses but it revolved around the sensitivities of relocating people and the human resources implications as the staff had not been consulted
	2.10	The Applicant was questioned on whether the Secretary of State was made aware that the new site would occupy green belt. Save Honey Hill stated that there are no references to the green belt in the application for the Section 35 direction.	2.10.1	The Applicant confirmed that it believed the Secretary of State was aware as it presented the final stage site selection which was explicit about the site being in the green belt. The submission had a map showing the local of all three sites that were in the final stage. However, in light of Save Honey Hill's comments, the Applicant was asked to clarify this point in written submissions. Please see Deadline 1 Submission – Covering Letter for the Applicants response.

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	2.11	Save Honey Hill stated that there is a building adjacent to the car park at the existing site which manages sludge treatment, including the sale and disposal of solids which is a management and marketing function and not directly related to the operation of the works. It asked what proportion of the staff are managing the corporate sludge business	2.11.1	No response as the Examining Authority confirmed it had a written question on this point
	2.12	The Applicant was asked to explain whether the application falls to be determined under Section 104 or 105 of the Planning Act 2008 and whether the National Policy Statement (“NPS”) for Waste Water has effect	2.12.1	The Applicant stated that the NPS does have effect and that it would ask the Examining Authority to look at the Applicant’s Legal Submission on the Applicability of Sections 104 and 105 of the Planning Act 2008 (document reference 7.15, AS-126).
			2.12.2	The Applicant explained that the NPS states it will be used as the primary basis for developments that fall within an NSIP but that it doesn’t mean that it can’t be used in other ways as well. At section 1.2, it states that the 2008 Act sets out the thresholds and then we have footnote 6. This states that the Secretary of State may also direct that an application is treated as an application for an order granting development consent under Section 35. The Applicant pointed out that we have been directed to 1.2 for scope and 1.2 includes footnote 6. Footnote 6 specifically sets out that there is the power under Section 35. If it was not intended to bring this within the scope, it is the Applicant’s submission that it would be positively misleading putting in that part of the footnote because if Section 35 projects are

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				totally out of scope, then what business does the NPS have in referring to them at all?
			2.12.3	Returning to the <i>Energy from Waste</i> case, the Applicant pointed out that as to whether or not the NPS has effect, one has to construe the actual NPS itself. It would be setting people off on a false trail if footnote 6 is not intended to be relevant.
	2.13	<p>Save Honey Hill stated that its case is that the NPS does not have effect. Firstly, this is because the Energy from Waste case makes clear that a Section 35 direction cannot have the effect of bringing a development which is not an NSIP into the decision making framework pursuant to Section 104. Save Honey Hill stated that the case is not authority for a general proposition that its possible for national policy to determine whether Section 104 or 105 applies. The better view is that Section 104 should only apply to projects which Parliament has determined as nationally significant through the Planning Act 2008.</p> <p>The second submission is that there is nothing in the NPS to indicate that it does have effect for development which is below the threshold for an NSIP and subject to a Section 35 Direction.</p>	2.13.1	The Applicant stated that it would ask that the Examining Authority report on the basis of Section 104 and Section 105 in its report to the Secretary of State. This is because the Secretary of State will ultimately need to take a view on this matter and it will assist to have a comprehensive report which looks at the issue under both avenues, but there should be a positive recommendation under either avenue

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		<p>Save Honey Hill referred to the NPS which states that the decision maker should start with a presumption in favour of granting consent to applications for 'wastewater NSIPs' and therefore it clearly refers to NSIPs.</p> <p>Save Honey Hill then stated that the main negative effects of the NPS are related to noise, landscape, townscape and visual effects and archaeology, and cultural heritage. These reflect the fact that the population equivalent threshold in the Planning Act 2008 is likely to limit the geographical location of potential project to very large areas. Save Honey Hill stated that this is a reference again, referring to the threshold in the Planning Act and not to Section 35 directions. The only reference to Section 35 in the NPS is in the footnote</p>		
			2.13.2	As to the ratio of the <i>Energy from Waste</i> case, the Applicant stated that Mr Justice Dove tells us that the answer about whether or not an NPS has effect in a particular case depends upon constructing, interpreting and understanding the actual NPS. The fact that the case is dealing with a different NPS doesn't alter that principle. The Judge laid down a principle about how to resolve these questions
			2.13.3	The Applicant stated that as a matter of general administrative law all material considerations must be taken into account, weighed up and considered in the final

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				balance but the difference is that section 104 requires a decision in accordance with the NPS unless one of the exempting circumstances applies, and it is the Applicant's case that they do not. Under Section 105, the Secretary of State must still take into account anything material and relevant and that will include the NPS
	2.14	In response to the Applicant's submission to b), Save Honey Hill stated that the primary consideration for the decision maker is the local plan and development plan.	2.14.1	The Applicant responded to state that it does not agree that the primary consideration is the development plan. It does not accept that that is what the NPS or the Planning Act 2008 states. Section 38(6) of the Town and Country Planning Act 1990 is not imported into the 2008 Act
	2.15	The Applicant was asked to explain the relevant development plan policies for the project.	2.15.1	The Applicant explained that there are no specific policies in the adopted development plan or the emerging plan which require the relocation. The relevant policy in the current development plan is Policy 15 which identifies the area around the existing plant as an area of major change and points to the production of an area action plan. The policy as it stands is to leave the detail as to relocation or reconfiguration and to look at the opportunities as part of the AAP process. At this point, the issue was referred to Caroline Hunt of Greater Cambridge Shared Planning Services to respond
	2.16	The Applicant was asked in terms of the emerging development plan policy and associated documents, what kind of weight should be afforded to those at this point in time, in the view of the Applicant?	2.16.1	The Applicant stated there are some notable changes in circumstance since the local plan was adopted, specifically the award of HIF funding which effectively provides a solution to the long term obstruction to the realisation of

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				plans for Northeast Cambridge and the Area Action Plan that has been progressed
			2.16.2	The Applicant stated that weight should also be given to the emerging Greater Cambridge Local Plan, specifically the development plan strategy update which identifies Northeast Cambridge as one of the three building blocks to the future strategy
			2.16.3	The Applicant confirmed it was aware that these plans are not adopted and therefore NPPF paragraph 48, needs to be applied which, in effect, says the weight to be given is determined by the progress of the plan. However, in the context of them not being adopted development plans, the Applicant stated that whether this application is determined with the NPS having effect or not is an important and relevant matter which bears weight in the decision
			2.16.4	The Applicant stated its view that significant weight should be attached and the significant weight is supported by the more recent announcements made by the Prime Minister and the Secretary of State to the future ambitions for Cambridge. Whilst we do not have full details of that, the Applicant notes that the importance of Cambridge to the national economy and the encouragement to the future expansion of Cambridge, which, if the existing site is vacated, would significantly contribution towards, is a matter of substantial weight

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	2.17	The Applicant was asked how the Examining Authority could avoid prejudging the process regarding the AAP when considering the weight to attach to it for the DCO application	2.17.1	The Applicant confirmed that this is something it would like to consider fully in writing. However, it added that it's not a completely unfamiliar problem that decision makers under the Town and Country Planning Act 1990 need to face and the legal way of dealing with it is in the attribution of weight. The Examining Authority would take account of the fact that there are objections to the APP but bear in mind, as Caroline Hunt explained, what might be called the pedigree of this plan and the fact that it is mandated by an adopted development plan, which went through examination. The Applicant submitted that the Examining Authority give less weight to the objections of principle about it than it might otherwise do, if it were a plan springing from the political aspirations of the promoting authorities
	2.18	The Examining Authority confirmed it would add an action point relating to weight and the application of paragraph 49	2.18.1	This was acknowledged by the Applicant
	2.19	Save Honey Hill raised a point on the requirement to produce the AAP and how this may affect any objections of principle. It noted that the requirement to produce the AAP did not state that the AAP must be predicated on relocation, therefore objections of principle should be still given weight where they relate to relocating as opposed to consolidating on site	2.19.1	The Applicant explained that when considering weight, it's not just a paper exercise. One has to consider the paper in the context of the surrounding evidence and there are questions to be addressed later on regarding the the linkage with the development proposals for the housing. However, when considering the weight to give to objections of principle, it is correct to say that the AAP doesn't dictate either a total move or a consolidation and Caroline Hunt was very clear about that. The Applicant also noted that the Examining Authority must consider the feasibilities of what might or might not actually be reasonable alternatives

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
	2.20	The Applicant was questioned on whether there is a demonstrable need for the Proposed Development. The Examining Authority acknowledged that the Applicant had stated that there's not a presumption for the Proposed Development and further that need should be demonstrated for projects not named in the National Policy Statement	2.20.1	The Applicant stated that the first point was correct – there is not a presumption for the Proposed Development. As for demonstrating need for projects not named in the National Policy Statement, this depends upon the circumstances but in this case, where the Green Belt is proposed as the location, then yes need does need to be demonstrated
			2.20.2	The Applicant was asked to confirm whether the relocation would be happening, unless there were the wider benefits as reported
			2.20.3	<p>The Applicant confirmed it would not. The Applicant also confirmed that answer to the following bullet points in the Agenda are no:</p> <ul style="list-style-type: none"> - Whether the Environment Agency intends to include the Proposed Development within any future NEP (although the Applicant acknowledged this was strictly a question for the Environment Agency but that it would not be requesting this from the Environment Agency); - Whether NPSWW makes provision for waste water development to satisfy an alternative need / desire, such as housing delivery. However, the Applicant drew the Examining Authority's attention to 4.15 of the NPS and particularly the first paragraph which

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
				<p>states the construction, operation and decommissioning of wastewater infrastructure may have socioeconomic impacts at local and regional levels. The Applicant stated that it would say yes, that is exemplified by this case but it would take it further, as it has impacts nationally too and on a more direct basis as the transfer of the existing WWTW would create construction jobs which have socioeconomic impacts.</p> <ul style="list-style-type: none"> - The Applicant continued on 4.15 and noted that applicants should describe existing conditions and one could also refer to how the socioeconomic impacts correlate with the local planning policies. The Applicant confirmed that would be addressed in written submissions
			2.20.4	<p>The Applicant then referred to the part of the scheme to provide additional capacity to meet the needs of development in Waterbeach Newtown. The solution to the provision of that additional capacity is to connect the new development into either the new works or the existing works at Milton</p>
			2.20.5	<p>The Applicant explained further that the need otherwise is one which is best described as a need to deliver a vacant site for wider planning purposes. There is nothing in the NPS which says need can only be served by inclusion in the NEP. There is a requirement to demonstrate need and there is wording in the NPS which says need will have been demonstrated in that circumstance but this does not rule</p>

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
				out the possibility that need may be demonstrated in other ways. The Applicant referred to section 6 and 11 of the NPS in support, noting that the advice in section 6 and 11 of the NPS which talks about the effective use of land for wider planning purposes and benefits, and that effectively goes to the point about a need to vacate the existing site for wider planning purposes.
			2.20.6	The Applicant confirmed that there's nothing in the NPS, which prevents a demonstration of need on a different basis to the need effectively specified by inclusion in the NEP.
	2.21	The Applicant was asked if there is anything in the NPS which supports specifically enabling development	2.21.1	The Applicant confirmed that there is nothing in there but that its point is one about the exclusion of anything specifically which says it, therefore it opens up the possibility.
	2.22	The Applicant was asked if still holds good in the context that NPSS were drafted with infrastructure in mind, not necessarily to facilitate other developments by the relocation of infrastructure, for example?	2.22.1	The Applicant stated that the purpose of infrastructure is to serve activity and development which effectively takes its benefit and that includes things like wastewater treatment plants, roads and other things where they are effectively supporting economic growth and housing
	2.23	The Applicant was asked if it is aware of any other DCO applications which are reliant on, for example, housing delivery or urban regeneration to justify relocation of infrastructure?	2.23.1	The Applicant confirmed it was not

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
	2.24	The Applicant was asked in terms of the section 35 direction itself, how that should be considered in principle, a need context in your view?	2.24.1	The Applicant asked that Examining Authority to refer to its earlier submissions and stated that its position is that the section 35 direction should be considered in this regard because the Secretary of State recognised the national and regional significance of this and the importance of using the Planning Act 2008 to facilitate it
	2.25	Friends of the River Cam stated that it considered the issue of 'need' very differently and that the Proposed Development was to serve the needs not of the people of Cambridge, but of a small group. It asked that the think about the meaning of need to the variety of interest groups whose needs should be reflected in whether the Proposed Development goes ahead and to determine according to need in that way. The Applicant was asked if it would like to respond	2.25.1	The Applicant asked the Examining Authority to refer to the quotation from the HIF bid that was put in by Cambridge City Council. It is a letter dated 17 December 2020, responding to a request by the Secretary of State for further information when pondering the Section 35 application. It is Appendix 2 to the Planning Statement (Document reference 7.5, AS-166), specifically pages 134 to 135 talking about the need for affordable housing to support the unique economic centres of excellence within Cambridge for sustainable growth to reinforce Cambridge's position as a global centre of excellence research development and business success. The Applicant asked that this is kept in mind when the points raised by the River Cam are considered
			2.25.2	The Applicant pointed out that the sustainability appraisal has not been subject to examination. It's clearly been subject to two realms of consultation in the development, of the development plan itself to this point
	2.26	The Examining Authority then raised several questions of Homes England, including on the	2.26.1	In response, the Applicant stated that the HIF agreement was entered into by the Applicant, Homes England and Cambridge City Council. The Applicant was asked to

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
		contractual arrangements between it and the Applicant		prepare a joint submission between it, Homes England and Cambridge City Council on the HIF agreement. The Applicant confirmed it could so but noted that it is commercially sensitive and therefore some would need to be redacted
	2.27	The Applicant was asked to explain the degree of certainty on the redevelopment of the existing wastewater treatment works. In doing so, it was also asked to explain to whom the obligation to start on the site by 31 March 2028 was owed to (as set out in the letter from Alex Plant of the Applicant dated 18 December 2020 – Appendix 2 to the Planning Statement (Document reference 7.5, AS-166) and what would happen if this date was missed	2.27.1	The Applicant explained that the date was part of the contract which contains an enabling phase and a delivery phase. The Applicant is still in the enabling phase which will be completed should the DCO be made. To move to the delivery phase, the Applicant needs to fulfil some conditions. The definitive timetable is still to be developed. Whilst the Applicant has milestones within the enabling phase, the milestones are indicative at this stage and need to be firmed up
			2.27.2	The Applicant explained that City Council are landowners and are also a part to the HIF agreement
			2.27.3	As to certainty for delivery of the housing, the Applicant stated that that was done through the Master Development Agreement that it has in place with Land Securities. Land Securities is obliged to get planning consent and then put in the infrastructure on a phased basis and those plots will be sold to individual plot developers in accordance with the design guide. The Applicant confirmed securing planning consent is not a precondition to the Applicant receiving the funding under the HIF agreement

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
	2.28	The Applicant was asked if it could be the case that Homes England pays the HIF funding, the wastewater treatment plant is relocated but planning permission is refused for the housing	2.28.1	The Applicant confirmed that this was a potential outcome but it considered it unlikely. However, it noted that it is not part of the DCO to determine a future planning application
	2.29	The Applicant was asked if the Master Development Agreement could be made available in a redacted form	2.29.1	The Applicant confirmed it could, in a redacted form.
	2.30	The Applicant was asked to provide more detail on its working timetable and to provide more detail on why the Applicant considers it to be achievable	2.30.1	The Applicant confirmed it would do so. This is provided in Appendix C to this document.
			2.30.2	The Applicant added that in the event planning permission is refused, there would be the option to appeal under Section 78 of the Town and Country Planning Act 1990 and/or conversely, if contrary to all these contractual requirements, somebody attempted to get planning permission for something which wasn't of the sort of vision under the HIF agreement, the Secretary of State has call-in powers under Section 77)
	2.31	The Examining Authority asked whether the North East Cambridge Area Action Plan ("NECAAP") requires any amendments and, the extent that the relevant authorities could meet any housing targets without relocation of the existing wastewater treatment plan	2.31.1	The Applicant did not respond on this as it was directed to the Council

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
	2.32	The Applicant was asked about contingencies for the Waterbeach pipeline and whether it's a separate and divisible element from the DCO scheme. The Examining Authority asked that if the DCO was not consented, whether there still be a need for the Waterbeach Pipeline? And, if so, through what consenting process would it be delivered?	2.32.1	The Applicant confirmed that if the DCO application were not to be successful, there would be a need for the Waterbeach Pipeline to deliver the housing growth. Waterbeach is a committed development and that would be pursued through either permitted development rights or a planning application
			2.32.2	The Applicant explained that timescales for the Pipeline are currently uncertain given the status of the housing market and the growth trajectory for Waterbeach, which is why there are a number of contingencies and different options for the pipeline including options within the DCO to either take the wastewater directly to Milton and then to the plant or a spur off to the plant, depending on the time of the delivery of the DCO against the time of the delivery of the Waterbeach housing
	2.33	The Applicant was asked that if the DCO was consented and the Waterbeach Pipeline commenced, whether that would mean that the DCO would be 'commenced' so it could be developed at any point in the future	2.33.1	The Applicant explained that the way the DCO is currently drafted, there is an obligation to commence within five years. The Applicant stated that the issue needs to be considered in the light of the contractual arrangements discussed earlier in Issue Specific Hearing 2 in relation to the delivery phase earlier and secondly, and purely DCO terms, there is an obligation that's related to the exercise of any compulsory acquisition powers in the DCO which also expire after five years

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
			2.33.2	The Applicant stated that the contractual arrangements between the Applicant and Homes England are relevant with regards to the certainty of delivery of the housing. Further, the contractual arrangement relate to the delivery of wastewater treatment works in order to facilitate the release of the existing site
	2.34	The Applicant was asked if a situation could arise whereby, for example, the development is commenced pursuant to the DCO, the Waterbeach Pipeline is constructed, compulsory acquisition is exercised but then the development of the wastewater treatment plant does not go ahead	2.34.1	The Applicant confirmed that it would respond to this point in writing
	2.35.1	The Applicant was asked for comments on the 'Bridge to Nowhere' case (<i>R (Ashchurch Rural Parish Council) v Tewkesbury Borough Council</i> [2023] EWCA 101)	2.35.1	The Applicant explained that this was a case of a judicial review of a decision to grant planning permission. It also related back to the screening for EIA purposes. In this case, the local authority had directed themselves not to take any account of the environmental effects of the development which the bridge would eventually serve if all went ahead with the wider development.
			2.35.2	The Applicant stated that the case is distinguishable on its facts from the DCO because in the preparation of the DCO and particularly the environmental impact assessment of it, some assessment has been made. The Applicant referred to the cumulative chapter of the Environmental Statement (Chapter 22), noting that the relevant pages are 52 to 53, amongst others.

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
			2.35.3	The Applicant pointed to the heading 'Demolition of the Existing Works' and explained that there will be a need to demolish the existing wastewater treatment works. However, there is currently no indicative timeframe as this would be the responsibility of the developer. There is some consideration of the degree of overlap, if any, between the project and between the work with the conclusion that any such overlap would be minimal.
			2.35.4	The level of assessment which has been undertaken accords with and is informed by the Planning Inspectorate Advice Note Number 17 because these elements fall into tier three. Within that note, the advice given is that in those circumstances, being tier three types of activity, only very high level or qualitative assessment is likely to be appropriate.
			2.35.5	The Applicant summarised its answer by stating that the short answer on the case is that the case is distinguishable because it was a very stark case of a deliberate putting out of the mind of those other matters. That is not what has happened here, as evidenced by the Environmental Statement (Volume 5 of this DCO Application)
	2.36	Save Honey Hill stated that it considers that demolition, site clearance and remediation and redevelopment of the existing site should have been assessed in the Environmental Statement and not just in the Cumulative Chapter.	2.36.1	The Applicant stated in the response that the level of assessment that has been done is appropriate because it's not the project itself. Further, the Planning Inspectorate has looked at the Environmental Statement in deciding to accept the application and has not raised this point.

Agenda Item	Paragraph no.	Matter	Paragraph no.	Applicants Submission
		<p>Save Honey Hill stated that it does rely on paragraph 88 of the Bridge to Nowhere case, but that the case refers to development clearly forming an integral part of an envisaged wider future development, without which the original development would never take place forming part of the same project and therefore, Save Honey Hill stated they should be considered together in the Environment Statement as a whole.</p> <p>The Examining Authority pointed out that these matters do not form part of the DCO and therefore does the Environmental Statement not relate to what is actually proposed as part of a DCO application?</p> <p>Save Honey Hill confirmed it would have written submissions on that point</p>		<p>However, it asked that if the Examining Authority requires more on this point that it can be put in writing</p>

Appendix A - The provisions in the draft DCO dealing with the River Cam.

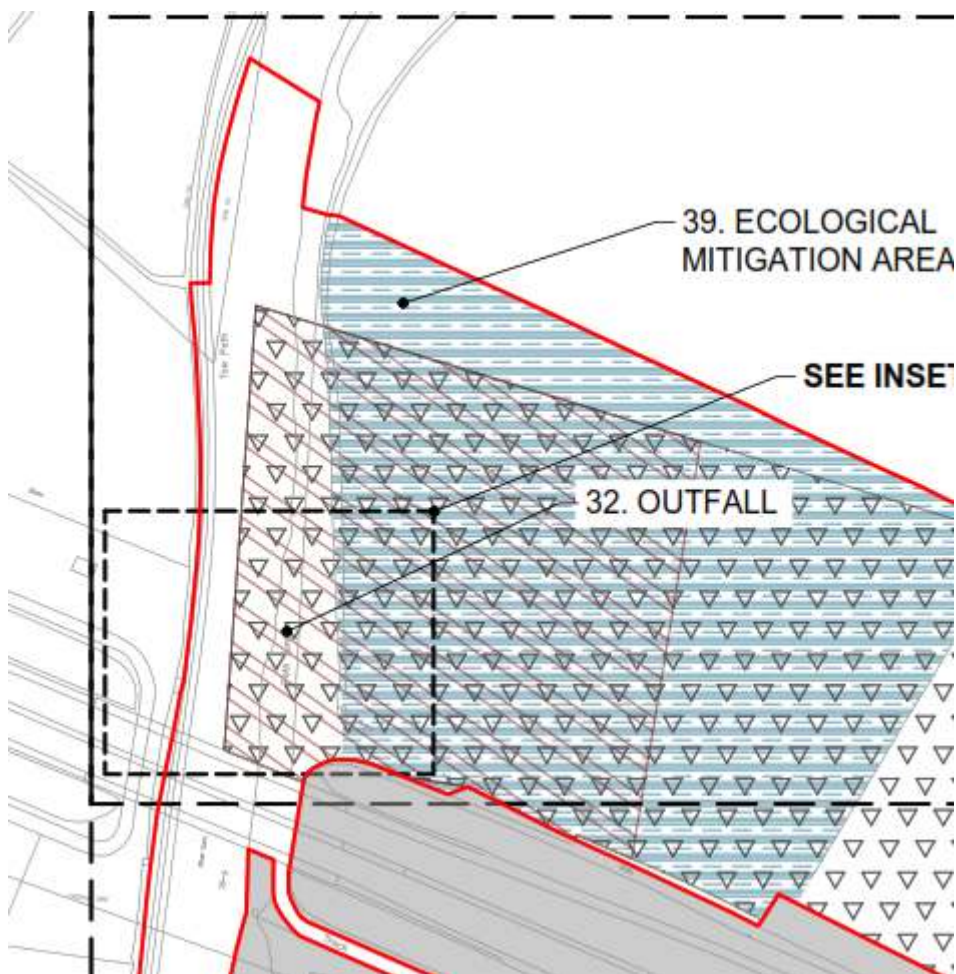
Appendix A

1. Introduction

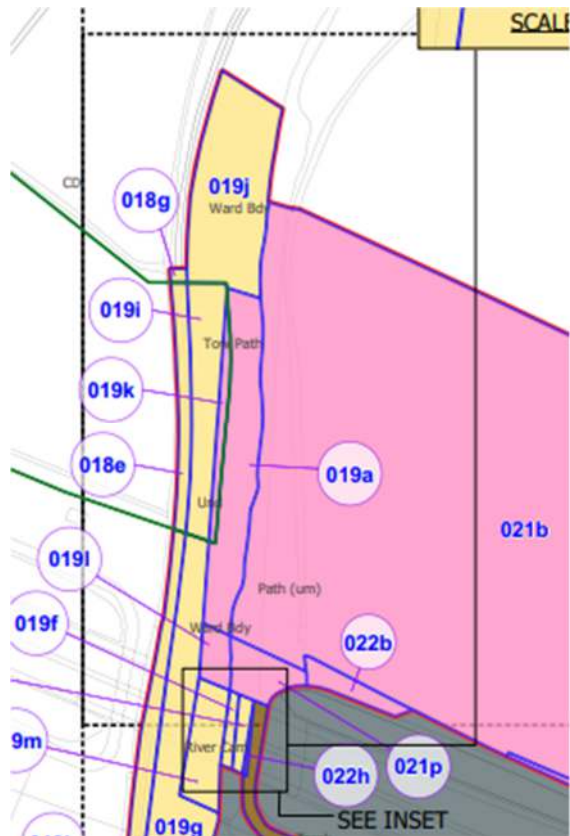
- 1.1 This note has been prepared by the Applicant, Anglian Water Services Limited, to address the matters raised in Issue Specific Hearing 1 in relation to the provisions in the draft DCO dealing with the river Cam.
- 1.2 At the hearing, the Applicant confirmed that it would consider the extent of interference with those rights and respond in writing (paragraph 2B.9.1 of the Post-Hearing Submission (App Doc Ref 8.3)). This note now forms that response.

2. Original drafting

- 2.1 Work No. 32 as shown on Sheet 3 of the Works Plans (App Doc Ref 4.3.2, [APP-017]), extracted below shows the location of the outfall into the river Cam.



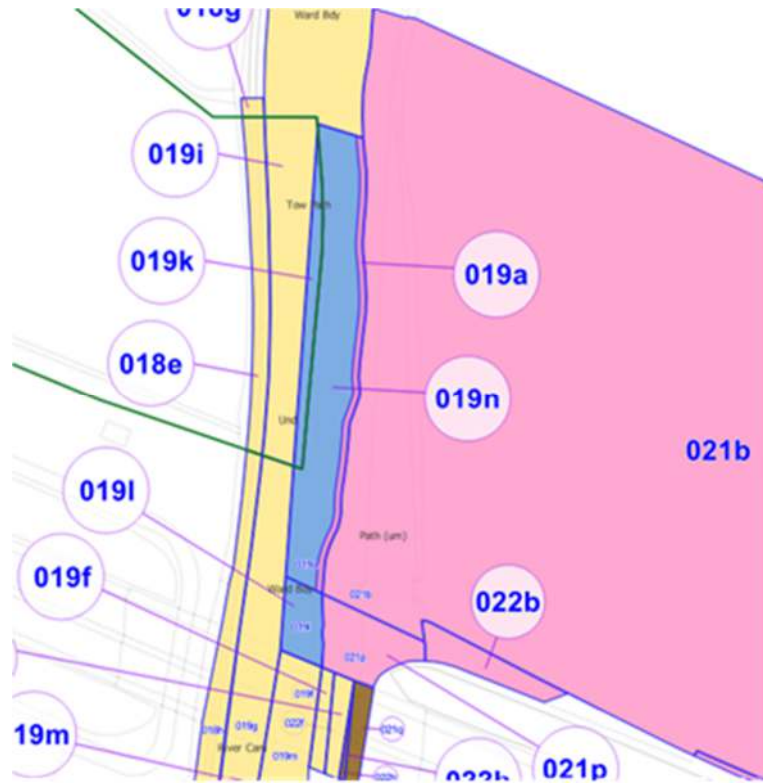
- 2.2 The original Sheet 2 of the land plans (App Doc Ref 4.4.2, [APP-018]) identified parcels of permanent acquisition of the freehold of the part of the river Cam shown shaded pink and labelled '019a', '019l' and '019k', required in order to construct, operate and maintain Work No. 32. The parcels were based on the entire Work area. An extract from the original land plan Sheet 2 is below:



- 2.3 The Land Plans were prepared in order to reflect the works comprising the authorised development, as detailed in Schedule 1 of the draft Development Consent Order (“DCO”). For this reason, the location of the outfall was shown shaded pink, as the Applicant could, in theory, acquire freehold ownership of any of the land within those plots.
- 2.4 The other parts of the river Cam were shaded yellow on Sheet 2 of the Land Plans, on the basis that the DCO represents an interference with private rights only, being the rights of navigation or any other rights.
- 2.5 The interference with the river Cam was followed through into the drafting of the draft DCO at Article 44 (rights of navigation) which provided that the Applicant may for the purposes of the construction, operation, use and maintenance of the authorised development:
 - 2.5.1 temporarily suspend any rights of navigation or any other rights over the parts of the river Cam identified with blue hatching on sheet 2 of the rights of way plans (App Doc Ref 4.6.2, [APP-020]);
 - 2.5.2 permanently extinguish any rights of navigation or other rights on any part of the river Cam permanently acquired by the undertaker in connection with Work No. 32 (which is the pink land as shown on the land plan sheet 2, App Doc Ref 4.4.2, [APP-108]). This extinguishment would be limited to the extent of land that was ultimately permanently acquired.

3. **New drafting**

- 3.1 In light of discussions at Issue Specific Hearing 1, and as has always been the position of the Applicant, full and permanent extinguishment of that extent would not be necessary, but the Applicant acknowledges that the plan and powers would in principle have authorised such a position and therefore the Applicant has re-considered the extent of freehold acquisition. As a result, the Applicant has refined the proposal so that the proposed extent of the freehold acquisition is significantly reduced. The Applicant proposes to amend part of Sheet 2 as set out below:



3.2 The Applicant now proposes:

- 3.2.1 freehold acquisition of the thin sliver of land labelled '019a'. This is the maximum area of land which may be compulsorily acquired and the width of the area has been significantly reduced to 2 metres. In this location, the river Cam is approximately 24 metres wide. In reality, the Applicant may require less, but the length of this strip is required for flexibility and in line with the parameters to ensure that the outfall works can be delivered;
- 3.2.2 changing '019k' and '019l' to blue, which represents the compulsory acquisition of 'permanent new rights/imposition of restrictive covenants'; and
- 3.2.3 creating '019n' which is also blue, as above.

3.3 The permanent rights are to authorise the acquisition of new rights for the Applicant over the river for the construction of the works, the retention and protection of the scour-protection measures, and rights of access for maintenance of the permanent works. The restrictive covenant protects the outfall from damage or interference.

3.4 Pursuant to Article 28(2) (Compulsory acquisition of rights and imposition of restrictive covenants) of the draft DCO, the land specified in column (1) of Schedule 10 is subject to the Applicant's powers of compulsory acquisition. These powers are not powers of freehold acquisition but are limited to the acquisition of such new rights and the imposition of such restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

3.5 Two new entries have been added to Schedule 10 to address 019k, 019l and 019n as follows:

019k, 019l, 019n	river Cam Rights All rights necessary for the purposes of or incidental to the construction, installation, operation, protection, repair and
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	<p>maintenance of that part of the authorised development comprised within Work No. 32 (Outfall) including to:</p> <ul style="list-style-type: none"> a) install, connect, retain, use, maintain, inspect, alter, adjust, remove, refurbish, repair, reconstruct, replace, improve, test, commission, cleanse, inspect, maintain, protect, manage, remove or render unusable underground outfall pipelines, outfall structure, temporary cofferdam, temporary and permanent piling, river bed and embankment reinforcement works, dredging, scour protection measures, and other associated infrastructure including but not limited to Accessories as defined in section 219 of the Water Industry Act 1991, access chambers, pipework fittings and fixtures, air valves, manholes, marker posts, monitoring apparatus, and any other works as necessary; b) enter, and be on the land (which for the avoidance of doubt includes the riverbed and the surface water), and pass and re-pass and remain on the land with or without plant, vehicles (including boats), machinery, apparatus and equipment for all purposes in connection with the authorised development; c) break up the riverbed, make all necessary excavations, install and retain piling, and to carry out reinstatement works; d) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation, environmental or ecological mitigation works, including temporary works; e) install, execute, implement, retain, repair, improve, renew, remove, relocate, fell, trim, lop or plant trees, bushes, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such tree, shrubs and landscaping; f) carry out such works or ancillary works required by a planning permission and/or consent now or to be granted over the land, or in accordance with any necessary licences, including but not limited to water abstraction, water discharge, protected species and/or wildlife; and g) clear the land from obstructions which may interfere with the waterflow and/or damage or displace the scour protection measures; and h) carry out any Further Works as defined in Schedule 1 to the Order.
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<p>019k, 019l, 019n</p>	<p>river Cam Restrictive Covenant</p> <p>All restrictions necessary over the land to prevent activities which are likely to cause damage or injury to that part of the authorised development comprised within Work No. 32 (referred to as the "Outfall"), or to obstruct, interrupt or interfere with the free flow and passage of final effluent, stormwater and other material through the Final Effluent and Storm Pipeline and its discharge from it into the river Cam; or render access to it more difficult or expensive, including—</p> <ul style="list-style-type: none"> (a) the building, construction, erection or installation of any permanent or temporary building or structure or any work of any kind; (b) the laying in the land of any pipes, wires, cables or conduits;
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	<p>(c) the undertaking of piling or percussive works, or works of excavation or mining,</p> <p>without the prior consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed activities, building, erection, construction or works would not cause damage to the relevant part of the authorised development).</p>
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- 3.6 This new rights and restrictive covenants packages limit the rights acquired to those necessary for the specified purposes and which fall within Work No. 32 and are included in the updated draft DCO submitted at Deadline 1 (App Doc Ref 2.1 Rev 05).
- 3.7 The Applicant previously proposed some amended drafting of Article 44 to the Conservancy in order to meet the request of the Conservancy that the power to temporarily suspend rights and the power to permanently extinguish rights are separated into separate paragraphs. This was sent to the Conservancy via its lawyers on 18 September 2023 along with amendments to the drafting of the protective provisions which were also intended to accommodate comments received from the Conservancy. A copy of that proposed amended drafting is appended at **Annex A**.
- 3.8 However, in light of the reduction of the pink land following ISH1, the Applicant has refined this drafting further to give clarity around the maximum area in which the Applicant may permanently extinguish rights. The additional refined drafting is shown in red text below:

Rights on the river Cam

44.—(1) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922, the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development temporarily suspend any rights of navigation or any other rights over the parts of the river Cam identified with blue hatching on sheet 2 of the rights of way plans (Document 4.6.2).

(2) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922, the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development permanently extinguish any rights of navigation or other rights on any part of the river Cam **identified with the label 19a on sheet 2 of the land plans (Document 4.4.2)** permanently acquired by the undertaker in connection with Work no. 32.

- 3.9 For the avoidance of doubt, the temporary suspension of any rights of navigation of any other parts of the river Cam which are not shown hatched blue on the rights of way plans will require the consent of Conservancy, as per Article 44 and the protective provisions.
- 3.10 This additional drafting, together with the amendments shown in Annex A (including a drafting error in the proposed new article 44(4)(b) which has been addressed) are included in the Applicant’s updated draft DCO submitted at Deadline 1 (App Doc Ref 2.1 Rev 05).

ANNEX 1

**Amended Article 44 and Protective Provisions Provided to the Cam Conservancy on 18
September 2023**

Rights on the river Cam

44.—(1) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development ~~—(a) temporarily suspend any rights of navigation or any other rights over the parts of the river Cam identified with blue hatching on sheet 2 of the rights of way plans (Document 4.6.2); and~~

~~(b) permanently extinguish any rights of navigation or other rights on any part of the river Cam permanently acquired by the undertaker in connection with Work no. 32.~~

(2) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development ~~(b) permanently extinguish any rights of navigation or other rights on any part of the river Cam permanently acquired by the undertaker in connection with Work no. 32.~~

~~(23)~~ Any rights of navigation over any other parts of the river Cam may be temporarily suspended with the written consent of the relevant navigation authority as provided in paragraph 4 of Part 8 of Schedule 15 (protective provisions).

~~(34)~~ The undertaker must not exercise the powers in paragraph (1) or (2) unless it has:

(a) given not less than 28 days' notice in writing of its intention to do so to the relevant navigation authority; and

(b) advertised its intention by way of:

a. a notice erected in reasonable proximity to the river Cam on land on which the authorised; and

a.b.a notice in a locally circulated newspaper for two successive weeks prior to the exercise of the powers. -

~~(45)~~ The River Cam Navigation Act 1851(b), the River Cam Conservancy Act 1922(c) and the Cambridge City Council Act 1985(d) are disapplied in so far as their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.

~~(56)~~ The Conservators of the River Cam Byelaws 1996 are disapplied in so far as their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.

FOR THE PROTECTION OF THE RELEVANT NAVIGATION AUTHORITY

1. For the protection of the relevant navigation authority the following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and the relevant navigation authority, have effect.

2. In this Part of this Schedule—

“river work” means ~~any works forming part of the construction or maintenance of those parts of~~ the authorised development which are in or over the river Cam or which require interference with the movement of river traffic on the river Cam;

“temporary river work” means those river works which ~~do not form part of the permanent works are~~ temporary in nature and which do not form part of the permanent works in or over the river Cam required for the operation and maintenance of the authorised development.

3.—(1) Save in an emergency, the undertaker will not commence any river work until—

(a) it has supplied to the relevant navigation authority plans of that river work showing the detailed design, work programme, any temporary river works and any associated temporary or permanent interference with rights of navigation pursuant to article 44(1) (rights on the river Cam); and

(b) it has provided 28 days' written notice of the intention to commence such river work.

(2) A river work must not be constructed except in accordance with such plans as have been provided to the relevant navigation authority.

(3) The undertaker must carry out all river work so that the movement of river traffic on the river Cam is not restricted more than is reasonably practicable in order to carry out the relevant river work.

(4) Upon completion of any river work, the undertaker must—

(a) remove as soon as is reasonably practicable any temporary river work and associated materials; and

~~(b) as soon as reasonably practicable following the removal of any temporary river work pursuant to paragraph 3(4)(a), to~~ make good the site of any temporary river work so as not to cause any interference with the movement of river traffic.

(5) In carrying out any river work, the undertaker must not—

(a) deposit in or allow to fall or be washed into the river Cam any gravel, soil or other material except to the extent permitted by this Order; and

(b) discharge or allow to escape either directly or indirectly into the river Cam any offensive or injurious matter.

4.—(1) The undertaker must provide for the approval of the relevant navigation authority together with the plans provided pursuant to paragraph 3(1)(a) details of the extent of any temporary suspension of rights of navigation required pursuant to article 44(2) in order to carry out the relevant river work and the undertaker must not interfere with any rights of navigation pursuant to article 44(2) except in accordance with this paragraph.

(2) The relevant navigation authority must respond in writing within 28 days of the request for consent under sub-paragraph (1) to either give consent to the details as submitted or suggest amendments to the details provided, but any such amendment must not materially affect or delay the efficient delivery of the relevant river work.

(3) If the relevant navigation authority provides pursuant to sub-paragraph (2) any suggested amendments to the details provided, the undertaker must within 14 days confirm whether those amendments are accepted and in the event the undertaker agrees to the amendments, the undertaker must carry out the relevant river work in accordance with those amendments. In the event the undertaker does not agree to the amendment, the relevant river work is to be undertaken in accordance with the originally submitted details.


(4) If the relevant navigation authority fails to respond to the undertaker's request for consent pursuant to this paragraph (4) within 28 days, consent is deemed to have been given.


5. The undertaker will provide to the relevant navigation authority at least 42 days' written notice of the intention to commence Work No. 31 and Work No. 32.


56. Any difference arising between the undertaker and the relevant navigation authority under this Part of this Schedule (other than a difference as to the meaning or construction of this Part of this Schedule) must be referred to and settled by arbitration in accordance with article 52 (arbitration).

Appendix B – Detailed response to traffic related issues on Low Fen Drove Way

Point raised in Open Floor Hearing	Specific question to be responded to	Our response
<p>Consider a potential “shortcut” along Low Fen Drove Way and whether this is likely or practical, and whether creating a new workplace and recreation destination could cause a traffic issue, taking account of existing traffic on the A14 and Horningsea Road and mitigation proposed by the Applicant such as restrictions on peak hour traffic to and from the proposed Waste Water Treatment Plant. Also consider whether resurfacing of the highway is necessary or justified in relation to this application?</p>	<p>Review of the traffic assessment regarding traffic figures along LFDW is there any evidence within the Traffic Assessment that vehicles would use LFDW as a short cut to from High Ditch Road to Horningsea Road or vice versa? or that the Proposed Development would lead to increasing in queing that would give road users the incentive to use LFDW as a short cut to avoid these queues?</p> <p>Based on the above provide an evidence based description as to why, based on the data and the traffic assessment, the construction and operation of the Proposed Development is unlikely to add to driver delay on either Horningsea Rd or High Ditch Road which would lead to the viability of LFDW as a short cut.</p> <p>Include within description that the restriction on peak hours and design of the permanent site access restricts the ability for construction and operationally traffic to turn right and that the left hand turn from Horningsea would only be possible for light vehicles due to the design is suitable enough mitigation?</p>	<p>The traffic assessment shows that, with the mitigation in place for construction and operational traffic, there is not a significant change to peak or off peak, delay and queuing at the Horningsea Road junction. Therefore, there is no reason to expect traffic to be use LFDW as a diversion route.</p> <p>In addition, see photos further down, for examples of condition of LFDW. This currently is not suitable for vehicle usage, other than for access to the residential property, the Gatehouse, and for farm vehicles for field access.</p> <p>For the construction phase (2026), the peak traffic hour in the morning and evening, 08:00 – 09:00 and 17:00 – 18:00, has been tested (Table 9-5 in the Transport Assessment (App Doc Ref 5.4.19.3) [AS-108]). This indicates that the junction is likely to operate above its theoretical capacity should the peak construction occur at this time. This has led to the proposed measures in the ES Appendix 19.7 Construction Traffic Management Plan (App Doc Ref 5.4.19.7) [AS-109] to restrict peak construction traffic at 08:00 – 09:00 and 17:00 – 18:00. The peak traffic flow when applied to the off-peak hour of 07:00 – 08:00 and 16:00 – 17:00 demonstrates that the junction would operate within its theoretical capacity. The results are shown in Table 9-7 in the Transport Assessment (App Doc Ref 5.4.19.3) [AS-108].</p> <p>For the operation phase (2038), the same set of tests are undertaken. Table 9-14 in the Transport Assessment (App Doc Ref 5.4.19.3) [AS-108] illustrates that the junction may be operating above its theoretical operational capacity in the typical peak times (08:00 – 09:00 and 17:00 – 18:00) due to general growth in traffic. Therefore, the ES Appendix 19.10 Operational Traffic Logistics Plan (App Doc Ref 5.4.19.10) [AS-111] are proposed to act as mitigation to further impacts on the junction operation by controlling the peak hour HGV traffic should background traffic growth be as forecasted.</p> <p>Design of the access junction restricts turning movements to minimise any HGVs from turning left from Horningsea Road into site and any HGVs right out of the site on to Horningsea Road. This minimises the opportunity for HGVs to use LFDW as a route.</p> <p>Local road users would not see the LFDW route as a short cut. For users of the Proposed WWTP, the design of the new access is such that it promotes access / egress on to and from the A14, making the use of LDFW very unlikely by operation and visitors to the Proposed WWTP. In addition, the capacity tests, outlined previously, show that the operation of the road network is not significantly affected by construction or operational traffic with the management plans in place.</p> <p>For leisure users, the additional walking routes provided by the Proposed Development would benefit local users. They do not create significant short cuts to destinations, Stow-Cum-Quy, Horningsea or Fen Ditton that would encourage people from further away to drive to LFDW to walk around the area.</p>

Point raised in Open Floor Hearing	Specific question to be responded to	Our response
	<p>Is there justification for the resurfacing of LFDW based on our construction and operational traffic assessments?</p>	<p>No, there is no reason to resurface LFDW. If this was resurfaced it may encourage people to drive along it and create an inappropriate route for traffic to travel between High Ditch Road and Horningsea Road for local road users.</p> <p>Its purpose is to provide access for the farmers to their fields and to the residents of the Gatehouse as access to their property.</p> <p>An example photo of its current condition is shown following from a site survey– facing from Horningsea Road.</p>  <p>Further photos of its condition were taken during a site visit in February 2022, and are set out below:</p>

Point raised in Open Floor Hearing	Specific question to be responded to	Our response
		

Point raised in Open Floor Hearing	Specific question to be responded to	Our response
		

Appendix C - Working Timetable

			2023			2024					2025					2026					2027					2028					2029	2030	2031	2032	2033	2034	2035	2036																									
			O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D										
	Start	End																																																													
DCO																																																															
Examination	17-10-2023	17-04-2023																																																													
ExA Recommendation	07-04-2024	17-07-2024																																																													
SofS Decision	17-07-2024	17-10-2024																																																													
JR	17-10-2024	01-12-2024																																																													
Discharge of Consents	01-10-2024	31-01-2025																																																													
Phase 1 Construction (for 275000 PE)																																																															
Phase 1 Enabling	01-10-2024	01-02-2025																																																													
Phase 2 Enabling	01-02-2025	30-04-2025																																																													
Construction: WWTP, STC	01-05-2025	31-12-2027																																																													
Construction WB (year 1 option)	01-10-2024	31-12-2025																																																													
Construction WB (year 3 option)	01-03-2027	31-05-2028																																																													
Commissioning	01-09-2027	28-02-2028																																																													
Decommissioning	01-11-2027	31-05-2028																																																													
Operation	01-03-2028	01-07-2028																																																													
Hartree Housing Delivery																																																															
Planning	01-10-2024	28-02-2026																																																													
Remediation of site	01-06-2026	01-07-2027																																																													
Housing delivery	01-07-2027	01-01-2044																																																													
CW WRMP 2025 - 2050																																																															
EA Rec. to Defra																																																															
SofS Decision																																																															
Public Enquiry?																																																															
Demand & Leakage Measures																																																															
Grafham Transfer	Est. from	01-01-2032																																																													
Fens Reservoir	Est. from	01-01-2036																																																													
Cambs Reuse	Est. from	01-01-1941																																																													

Appendix D - Note on Commencement

Note on Implementation Questions from the Examining Authority

1. Discussion at Issue Specific Hearing 2

- 1.1 This note has been prepared as part of the Applicant's Issue Specific Hearing 2 ("ISH2") Post-Hearing Submissions to respond to specific questions from the ExA as indicated at the hearing.
- 1.2 At IHS2, the Applicant was asked the following:
- 1.2.1 How 'commence' is defined within the draft development consent order ("DCO") and if the Waterbeach Pipeline was constructed, whether that would mean that the DCO would be 'commenced' so it could be developed further at any point in time in the future;
- 1.2.2 whether a situation could arise whereby, for example, the development is commenced pursuant to the DCO, the Waterbeach Pipeline is constructed, compulsory acquisition is exercised but then the development of the new waste water treatment plant does not go ahead.
- 1.3 Whilst the first point was responded to orally at ISH2 (see paragraph [] of the Applicant's Post-Hearing Submissions (App Doc Ref [])), the Applicant confirmed that it would respond on the latter point in writing. The Applicant has now prepared this note and in doing so, has added to the oral submissions given in relation to point 1 for the sake of clarity and completeness.

2. Waterbeach pipeline

- 2.1 Details of the waterbeach pipeline (a twin track pipeline from Waterbeach to the proposed new waste water treatment works) is set out in section 2.8 of Planning Statement (App. Doc Ref 5.2.2, [APP-034]). The Waterbeach pipeline (Waterbeach North and Waterbeach South) comprises Work Nos. 33 – 37 inclusive in the DCO (App Doc Ref 2.1A Rev 04, [AS-140]) and is therefore part of the "authorised development" described in Schedule 1 of the DCO. The Waterbeach pipeline is, as discussed at ISH2, required whether or not the DCO is made and should the DCO be refused, the Applicant would look to consent this in other ways (noting that it is the Applicant's view that it could develop the pipeline using permitted development rights, and, if required, exercise powers under the Water Industry Act 1991 to acquire the necessary land rights to undertake the works). The Applicant understands that this is the reason why it was specifically questioned on the Waterbeach pipeline being constructed in isolation in the context of 'commencement'.
- 2.2 The Applicant cannot simply proceed with the Waterbeach pipeline if the DCO is made. In order to carry out the works required for the Waterbeach pipeline in accordance with the draft DCO as it currently stands, the Applicant will need to have discharged all relevant requirements and undertake the works in accordance with details approved through and parameters set by the DCO.

3. 'Commence' in the draft DCO

- 3.1 Requirement 2 in Part 1, Schedule 2 of the draft DCO provides the time limit for commencement of the authorised development:

The authorised development must not commence after the expiry of five years from the date on which this Order comes into force.

- 3.2 Article 1 of the draft DCO defines 'commence' as follows:

"commence" means to carry out a material operation (as defined in section 155 (when development begins) of the 2008 Act) as part of the authorised development and "commencement" shall be construed accordingly;

3.3 Section 155 of the Planning Act ("2008 Act") states as follows:

(1) For the purposes of this Act (except Part 11)¹ development is taken to begin on the earliest date on which any material operation comprised in, or carried out for the purposes of, the development begins to be carried out.

(2) "*Material operation*" means any operation except an operation of a prescribed description.

3.4 Regulation 7 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 ("the 2015 Regulations") sets out a single operation of a prescribed description:

The measuring or marking out of a proposed road shall not be included within the meaning of "material operation" for the purposes of section 155 (when development begins) of the Act.

3.5 The draft DCO does not carve out activities or works from the definition of 'commence'. Taking all of the above together, this means that for the purposes of the DCO, the authorised development is commenced when a material operation, being any operation other than the marking out of a proposed road, is carried out as part of the authorised development. This includes any and all elements of the authorised development described in the DCO. The carrying out of said operation must occur within five years from the date on which the DCO comes into force.

4. **Consequences of not 'commencing' within five years**

4.1 Pursuant to section 154 of the 2008 Act, development for which development consent is granted must be begun before the end of—

(a) the prescribed period, or

(b) such other period (whether longer or shorter than that prescribed) as is specified in the order granting the consent.

4.2 Regulation 6 of the 2015 Regulations prescribes a period of five years. The five year period has been expressly incorporated into the draft DCO as per paragraph 1 of Part 1 of Schedule 2.

4.3 If the authorised development is not commenced during the five year period beginning with the date on which the DCO comes into force, section 155(2) provides that "the order granting development consent ceases to have effect at the end of that period." The stark consequences of not commencing within the five year period were made clear in *Tidal Lagoon (Swansea Bay) Plc v Secretary of State for Business, Energy and Industrial Strategy* [2022] EWCA Civ 1579) where the Court of Appeal held that the relevant development consent order had lapsed. The Applicant has not sought to modify sections 154 or 155 of the 2008 Act within the DCO in order that the time limit for commencement is clear.

5. **Impact on powers of compulsory acquisition**

5.1 Section 154(3) provides that where an order granting development consent authorises the compulsory acquisition of land, steps of a prescribed description must be taken in relation to the compulsory acquisition before the end of—

¹ Part 11 concerns the Community Infrastructure Levy and is not relevant here

- (a) the prescribed period, or
- (b) such other period (whether longer or shorter than that prescribed) as is specified in the order.

5.2 The draft DCO does set out 'such other period' as per Article 27:

(1) After the end of the period of 5 years beginning with the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

(b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 35 (application of the 1981 Act).

(2) The authority conferred by article 35 (temporary use of land for carrying out the authorised development) ceases either at the end of the period referred to in paragraph (1) or at the end of the period as stated in article 35(4), whichever is the longer, save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

5.3 Returning to section 154, if such notice to treat is not served before the end of the prescribed five year period, the authority to serve a notice to treat or a general vesting declaration ceases to have effect. This does not mean however that all outstanding land interests must have actually been acquired by the Applicant before the end of the five year period. Whilst the Applicant does not expect to rely on this approach given its target programme for relocating the existing WWTP by March 2028 which would require compulsory acquisition powers to have been exercised before the expiry of the 5 year period, the Applicant would note that the legal mechanisms for exercising compulsory acquisition powers do allow for entry onto land and/or land acquisition to take place within a period up to 3 years from the service of a notice to treat or the execution of a GVD as the case may be.

6. **Could the authorised development be commenced by the carrying out of a 'material operation' within five years in order that the DCO does not fall foul of Section 155(2) Planning Act 2008 and cease to have effect?**

6.1 The answer to question 6 above is, yes. The Applicant could carry out a 'material operation', say, using the Examining Authority's example, the installation of up to 50 metres of the Waterbeach pipeline,² within five years of the DCO having effect and then not proceed any further with the authorised development. This would apply to any element of the authorised development as defined in the DCO. There is no obligation on the Applicant, in its capacity as the undertaker, to complete the authorised development.

6.2 The absence of an obligation to complete a development is the usual position in development consent orders and planning permissions. The Applicant has been unable to find an example of any DCO which requires completion nor any guidance from the Planning Inspectorate in relation to this point. However, in relation to planning conditions, the Applicant notes the following from Planning Practice Guidance on planning conditions which it submits is relevant here:

Conditions requiring the development to be carried out in its entirety:

Conditions requiring a development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce

² As defined in 'enabling works' in paragraph 1 of Schedule 2, Part 1

*due to the range of external factors that can influence a decision whether or not to carry out and complete a development.*³

- 6.3 The National Policy Statement for Waste Water is also clear that this guidance on imposing requirements should be taken into account⁴:

The decision maker 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. Guidance in Circular 11/9552, as revised, on "The Use of Conditions in Planning Permissions" or any successor to it should be taken into account.

- 6.4 Under the Town and Country Planning Act 1990, a local authority has one power specific to enforcing completion and that is the service of a completion notice under section 94. There is no such power replicated in Part 8 (Enforcement) of the Planning Act 2008.

7. **Implications of commencing but not completing the authorised development**

- 7.1 Although the DCO does not, in terms of its drafting, prevent the Applicant from carrying out the construction of the Waterbeach pipeline and then not proceeding any further with the authorised development, there are a number of implications and other considerations should the Applicant do so, not least that the Applicant has committed considerable resources to securing the DCO in order to deliver the authorised development, as defined therein.

- 7.2 In light of the five year time limit for exercising powers of compulsory acquisition, and given the significant and complex nature of the authorised development, the Applicant could not, realistically, commence development and then 'rest on its laurels' as after five years from the date the Order is made, the power to exercise compulsory acquisition powers expires.

- 7.3 Before proceeding to exercise compulsory acquisition powers, the Applicant would need to have concluded that it remains appropriate to do so having regard to the prevailing circumstances at the time. The Applicant's decision to exercise compulsory acquisition powers is an administrative act which is, potentially, capable of challenge by way of judicial review. The Applicant, as a regulated body has a duty to its customers, and, as a body exercising statutory powers of compulsory purchase, has a duty to act reasonably. Whilst possible in principle, in a highly unlikely scenario whereby the housing-led regeneration scheme was known to have been cancelled, the prospects of the Applicant still exercising its powers of acquisition to acquire land and the relocation of the existing WWTP not then taking place are very limited.

7.4 **Contractual implications**

- 7.5 As the Examining Authority is aware, CWRP Relocation Limited⁵ has entered into a grant funding agreement, known as a homes infrastructure fund agreement ("HIF agreement") with Homes England and Cambridge City Council. The City Council are the recipient of the funding and are contractually required to forward it to CWRP Relocation Limited. The agreement is confidential and commercially sensitive, however, the Applicant has provided some detail in order to support this written submission.

- 7.6 The HIF agreement sits outside of the DCO and there is no obligation to comply with said agreement in the DCO nor would the Secretary of State or local authorities have powers to enforce its terms through the DCO. However, it is relevant to the issue of certainty of

³ [Use of planning conditions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

⁴ Paragraph 3.1.6 NPS for Waste Water

⁵ CWRP is an Anglian Water company established for the purposes of entering into the Agreement and delivering the new waste water treatment works at the relocation site.

delivery of the housing and therefore in turn, is relevant to the practical implications of the Applicant commencing but not proceeding with the authorised development.

- 7.7 The HIF agreement makes provision for of a maximum sum of £227 million pounds to the City Council as grant recipient, such monies to be utilised towards agreed costs for the relocation of the existing waste water treatment works, so that the site currently occupied by that works and the adjacent land can be developed as serviced development plots for residential development within agreed timescales.
- 7.8 As was discussed at ISH2, the grant funding indirectly assists the delivery of the housing. The funding is for the delivery of the infrastructure works, that being the authorised development under the DCO, in order that this frees the existing land for housing. It was further discussed at ISH2 that there are two stages to the funding agreement: the Enabling Stage (which includes a strategy detailing how the DCO will be secured) and the Delivery Stage (which consists of the delivery of the relocation site and is subject to the DCO being made).
- 7.9 The obligation on Homes England to make the funding available depends upon the fulfilment of various conditions precedent. Claims can be made at the defined Delivery Stage and then at subsequent phases of delivery as and when funding is required, up to the maximum sum. In order to make subsequent claims for funding, the Applicant must continue to proceed with the Authorised Development.
- 7.10 The HIF agreement provides that, in certain circumstances, funding already advanced must be returned to Homes England. The HIF agreement is clear that the funding can only be used for the purposes of the relocation.

7.11 **Implications for land compulsorily acquired**

- 7.12 Where land has been acquired by compulsion but it becomes 'surplus' because it is no longer required for the Proposed Development, the Applicant will adhere to the Crichel Down Rules . The Rules do not automatically apply to the compulsory acquisition of land by statutory undertakers such as the Applicant, but the Rules recommend that they are followed by such bodies and they expressly explain that the government would like there to be a high level of compliance. The Rules are a set of non-statutory arrangements which require land to be offered back to former owners, their successors or sitting tenants (where relevant). Note that this also applies to land sold voluntarily if it was done so under the threat of compulsion i.e. if a power to acquire the land compulsorily existing at the time the land was offered for sale.
- 7.13 There are various exceptions to the Rules which the Applicant has not detailed here but the general premise applies in that if land is acquired, the Applicant would be required to offer qualifying land back to the owner, subject to the applicability of any exemptions to the Rules.

8. **Conclusion**

- 8.1 The Applicant could commence any part of the authorised development, for example by constructing the Waterbeach Pipeline or any other works authorised by the DCO, and then not continue with the remainder of the development. The absence of an obligation to complete a development is the usual approach in development consent orders and the Applicant is not aware of any precedent for a contrary position, nor would it be reasonable to do so.
- 8.2 However, the possibility of the Applicant delivering the Waterbeach Pipeline and then not proceeding with the development any further is not a likely scenario. This is because there is no incentive on the Applicant to use the DCO consenting process to only deliver the Waterbeach Pipeline when it could be delivered through other consenting processes, such as by reliance on permitted development rights and powers under the Water Industry Act 1991. Further, the Applicant has contractual obligations via the HIF agreement to vacate

the existing site of the waste water treatment works. That can only be achieved once a new waste water treatment works is commissioned.

Get in touch

You can contact us by:



Emailing at info@cwwtpr.com



Calling our Freephone information line on **0808 196 1661**



Writing to us at **Freepost: CWWTPR**



Visiting our website at www.cwwtpr.com

You can view all our DCO application documents and updates on the application on The Planning Inspectorate website:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/cambri-dge-waste-water-treatment-plant-relocation/>