

Response of the environmental NGOs (eNGOs) to the Secretary of State letter (23 October 2019)

Wylfa Newydd Nuclear Power Station Development Consent Order (EN010007)

North Wales Wildlife Trust - 20011639

National Trust - 20010995

Royal Society for Protection of Birds - 20011586

Introductory Notes

- The following response is a joint representation, unless otherwise stated, from the eNGOs (North Wales Wildlife Trust – NWWT, National Trust – NT and the Royal Society for the Protection of Birds – RSPB).
- Elements of this response have been informed by a draft of the Applicant's response to the Secretary of State letter of 23 October 2019, which was shared with the eNGOs in advance of a meeting between ourselves and Horizon on 5 December 2019. This information is referred to below as 'HNP draft SoS response' and is the eNGOs' understanding of the Applicant's position to date (16.12.2019).
- The eNGOs attended a conference call with Horizon on the 5 December 2019 but, save for the following, they have had no other discussions with the project promoter between the close of the Examination and this conference call: -
 - Discussions between the promoter's solicitors and NT's solicitors concerning the agreement referred to below in the answer to question 34.
 - The eNGOs attended the "Wylfa Newydd Update" meeting on the 4th June 2019 - which mainly focused on estate management.
 - The RSPB attended a site visit on Wylfa Head to review habitat management with Andy Kehoe (Horizon subcontractor) and Stephen Roberts (Horizon) on the 11th September 2019.
- This response represents initial comments by the eNGOs and is provided without prejudice to any further comments we may submit following the publication of formal submissions from the Applicant and other parties (including NRW and IACC) for the 31 December 2019 deadline.
- Document references are as on the Planning Portal website in the Examination Library published 23 July 2019.

eNGO responses to Secretary of State questions

Question 4. Representations of the Government of the Republic of Ireland under the Espoo Convention

On 15 February 2019 the Government of the Republic of Ireland responded to notification of the proposed development under the Espoo Convention (Examination Library reference AS-0153). The Secretary of State notes that this response was received during the examination and that many of the matters raised in it have been examined. However, the Secretary of State requests comments on the response from the Applicant and all interested parties, particularly NRW and the Welsh Government.

eNGO comments on Question 4

The eNGOs note the content of the submission (AS-0153) from the Government of the Republic of Ireland and in particular its commentary on the Habitats Directive Obligation (AS-0153): -

“• Habitats Directive Obligations

The applicant focuses on obligations arising from Eu Habitats Directive Article 6 but fails to adequately address the obligations of Article 12, 15 & 16 of the EU Habitats directive

and does not meet the requirement of Article 16 derogation licences. It is not credible for the Secretary of State to conclude with the requisite degree of certainty for the purposes of an Article 6 (3) assessment, that adverse impacts on the integrity of Natura 2000 sites will not arise..... Finally, in the context of the issues raised about the inadequacy of the transboundary risks assessments, and the lack of clarity and issues surrounding the regulatory regime, raised within this submission, it is not credible for the SoS to conclude with the requisite degree of certainty for the purposes of an Article 6(3) assessment, that adverse impacts on the integrity of Natura 2000 sites will not arise.”

The eNGO made representations to the Examination (REP2-348 ≈ 3.225 and Appendix 4), which discusses tern metapopulation dynamics and the interaction of the breeding tern populations at Cemlyn Nature Reserve (part of the Anglesey Terns SPA) with other Irish Sea SPA sites (in both Northern Ireland, the UK mainland and the Republic of Ireland). The eNGOs conclude that there is a credible functional linkage between the Anglesey Terns SPA and other Natura 2000 sites within the Irish Sea and that the breeding terns at Cemlyn Nature Reserve should be considered part of an Irish Sea Metapopulation.

The eNGOs view the research in REP2-348 within the context of how this functional linkage should be utilised to inform the development of the tern compensatory measures. Our comments on this matter are discussed below in answer to Secretary of State Question 6.

Question 6. Imperative Reasons of Overriding Public Interest

The parties put provisional submissions to the Examination in relation to grounds for a derogation under Article 6(4) of the Habitats Directive in relation to possible disturbance impacts on the tern qualifying features of the Anglesey tern Special Protection Area (“SPA”) from the Development. The Applicant, in consultation with NRW and other Interested Parties as necessary, is invited to provide evidence as to:

- whether there are any feasible alternative solutions for delivery of the overall objective of the plan which will be less damaging to the integrity of the site;
- any imperative reasons of overriding public interest for the plan or project to proceed;
- the compensatory measures proposed to ensure that the overall coherence of the network of Natura 2000 sites is protected and how these will be secured.

eNGO comments on Question 6

As far as the eNGOs are aware from the meeting on the 5 December 2019 and HNP draft SoS response, there has been no movement in the positions between the other key parties (Horizon and NRW) since the close of the Examination. It is understood that no further work or adjustments have been made to the tern compensatory package that was submitted by Horizon at the Issue Specific Hearing [REP9-028].

Alternative Solutions

- The sHRA (shadow Habitats Regulation Assessment [APP-050] and [APP-051] parts 1 and 2) considered a number of project-level alternatives, which were all dismissed as not being compatible with achieving project delivery. It is noted that NRW consider [REP8-080], “*the only alternative solution that NRW as the [Advisory Nature Conservation Body] ANCB considers would potentially not have an adverse effect on the integrity of Anglesey terns SPA would be solution no 19 (Avoid blasting and construction during the tern breeding seasons).*”
- NRW also made it clear that as an Advisory Nature Conservation Body (ANCB) they could not comment on other project-level alternatives (eg project viability, financial or technical design).
- The eNGOs are essentially of the same view of not being able to respond or suggest project-level financial or technical design alternatives, as much of this would be outside the organisations’ remits.

- However, the Secretary of State must satisfy him/herself that there is sufficient information in order to determine that **no less damaging solutions exist to meet the UK's low carbon energy targets**, and this consideration should not be restricted to a project or regional level.
- We reserve our position on this wider question of alternative solutions (i.e. beyond project-level options) pending Horizon's formal response to the Secretary of State's letter, and reserve the right to comment on any further submission they may make on this matter.

Compensation to protect the coherence of the Natura 2000 Network

The eNGOs made two representations to the Examination commenting on the submissions by Horizon concerning potential compensatory measures for breeding terns (NB the eNGOs' comments were made without prejudice to the ability or otherwise of the application to meet the derogation tests under Regulation 68 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations)(implementing Article 6(4) of the Habitats Directive). These were: -

- [REP7-015] in 'Post Hearing Note - Joint statement of the eNGOs on the Anglesey Terns SPA', and;
- [REP10-040] in 'Response of the environmental NGOs to Horizon's Deadline 9 Tern Compensation Package [REP9-028]'

Essentially, there has been little movement from Horizon on this matter during the Examination, and as confirmed in the HNP draft SoS response discussed with the eNGOs on 5 December 2019.

The eNGOs still consider there is "*significant uncertainty in the likely effectiveness of the proposed compensation.*" ([REP7-010] 'eNGO agreed statement on Horizon's [REP5-046] Position Paper on Compensation Measures'). There are still a number of outstanding problems with the proposed package which we have summarised below for the benefit of the Secretary of State: -

Number of sites to be established prior to construction commencing

The eNGOs consider that, in order to reduce the inherent risks in the success of the tern compensatory package, all 4 compensation sites should be established [REP10-040] \approx 1.10 – 1.14 of 'Response of eNGOs'). Particular concern has been raised about the WN[x] Clause (2) of Horizon's reworded Requirement should 4 sites be required. This clause relates to the Applicant being able to secure legal control of the compensation sites.

Timing of the preparation and establishment of compensation sites (including legally securing the compensation sites)

As it currently stands the draft Requirement (WN[x]) states that Horizon will "*aim*" to deliver at least one site, and the second "*if possible*", a full breeding season before works start. The eNGOs consider that this allows too much flexibility and a high level of uncertainty as to whether any sites will be available prior to the works ([REP10-040] \approx 1.15 – 1.21 of 'Response of the eNGOs').

The eNGOs have further stated the view that Horizon should be required to demonstrate to the Secretary of State that they have legally secured control of each of the compensation sites being brought forward, in compliance with Regulation 68 of the Habitats Regulations ([REP7-015], 'ISH Post Hearing Note – Joint statement of eNGOs' and [REP10-040]). Otherwise, the Secretary of State cannot be satisfied the Regulation 68 derogation test to "secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected" has been met.

Site "demobilisation"

The eNGOs' position as of the end of the Examination still stands: -

"The eNGOs have indicated that the provision of the compensation sites should extend beyond Wylfa Newydd construction ([REP7-015] \approx 'eNGO Joint Position Statement') to address the uncertainties of cumulative impacts occurring during the operational phase. We further support NRW's view that any of the compensation sites that are utilised by the SPA terns should be secured long term (including via an extension to the SPA), regardless of the continued presence or otherwise of breeding terns at Cemlyn Nature Reserve."

A full explanation of the eNGOs' position is provided within [REP10-040] \approx 1.22 – 1.31.

Irish Sea Metapopulation

The eNGOs' view regarding the functional linkage between the Cemlyn Bay tern colony and other tern breeding sites around the Irish Sea is set out in their written representation (REP2-348 \approx 3.225 and Appendix 4).

The eNGOs have consistently advocated a three-staged approach to the compensation issue within the Habitats Regulations Assessment (HRA) Stage 4. This includes consideration of additional opportunities for compensatory measures within other existing tern breeding colonies within the Irish Sea metapopulation, where terns are most likely to attempt to relocate if they are forced to abandon the Cemlyn Nature Reserve colony ([REP7-015] 'Joint statement of the eNGOs'). This is fully explained within the eNGOs' original representation, which also deals with the demonstration of additionality, should such an approach be adopted ([REP2-348] \approx 3.235).

Work regarding the understanding and importance of metapopulations in terns, and other bird species, is continuing within the scientific community. This includes the introduction of ringing the juveniles at Cemlyn Nature Reserve in 2019.

Tern breeding period

Definitions within the controlled documents Codes of Construction Practice ([REP10-020] main CoCP and [REP10-022] Marine sub-CoCP) of the dates of both the "tern breeding period" and the "establishment period" are unacceptable. The implementation of effective and agreed dates for the tern breeding season are critical to the likely success of any of the proposals for the SPA and the compensation sites. The eNGOs consider that these dates should include the period of return for the sympatric black-headed gulls and should encompass March – August [REP10-040 \approx 1.19 of 'Response of eNGOs']. The eNGOs presented a clear collated evidential basis of tern establishment data for over 20 years, which emphasises the need for extended dates for both establishment and tern breeding periods ([REP2-348] \approx Fig 1).

There should be no differentiation between an arbitrary establishment period (4 weeks) and the remainder of the tern breeding period. The eNGOs advise that definitions of the proposed requirement WN[x] should also reflect this.

Conservation objectives - including monitoring and review

The eNGOs' concerns regarding the lack of defined conservation objectives for the compensation proposals including a robust monitoring and review protocol ([REP10-040] \approx 1.32 – 1.36) have not been addressed to date and, in our view, remains a substantive omission from the proposed tern compensation package. We consider that, without this information, the Secretary of State will be unable to draw a conclusion regarding the proposed compensation scheme's ability to discharge the derogation under the Habitats Regulations.

Imperative Reasons of Overriding Public Interest

- **There has been no joint eNGO statement on this matter.** However, NWWT as a single organisation did a brief submission on imperative reasons of overriding public interest (IROPI) to the Examination ([REP7-015] in 'Post Hearing Note PHN13').
- NWWT notes that there has been no update of National Planning Policy EN6, and the 'Regulated Asset Base (RAB) Model for new nuclear projects' consultation has only recently closed (14 October 2019). Therefore, the current position is that the planning policy context is still essentially unchanged.

Question 7. Ecological Mitigation Sites

The Secretary of State notes that the Applicant has proposed a number of habitat creation and enhancement works as compensation for any potential effects from the Development. The Secretary of State is aware that concerns were raised by a number of Interested Parties regarding the length of the lease of land for wildlife enhancement and reptile translocation and the management of these mitigation sites beyond 2032 when the Applicant's leases expire. The Secretary of State requests the Applicant to confirm whether any further steps have been taken to secure the rights to these mitigation sites once the lease expires, and what, if any, measures it has taken to ensure benefits beyond the 15-year lease period. The Secretary of State also invites comments from NRW, IACC and the North Wales Wildlife Trust ("NWWT") on this issue.

eNGO comments on Question 7

The Applicant has consistently indicated that the protected species and Section 7 species (Environment (Wales) Act 2016) will naturally recolonise the completed development site after 15 years whatever its condition at that stage.

The Applicant has indicated, within the HNP draft SoS response, that they could extend the lease on the mitigation areas if monitoring indicates it is necessary. HNP suggest that this can be achieved either by the Landlord and Tenant Act (1954) or by the use of compulsory purchase powers.

The passive relocation of species across the wider 200ha landscape and in a fixed timeframe, in our view, represents a lack of understanding of ecological principles and is unlikely to be successful.

The submitted draft requirement WN11 does not include any triggers or targets of what might/might not be considered successful relocation or recolonisation of the requisite species.

The eNGOs have been advised that the statutory Compulsory Acquisition Powers are time limited and would have expired before the 15 year period/construction period has been completed. Therefore, if powers are to be exercised it is essential that they are exercised within the time limits set out in the dDCO; otherwise there is unlikely to be a viable alternative to extend appropriate wildlife habitat management if it is deemed necessary.

Similarly, it is unclear how the use of powers under the Landlord and Tenant Act 1954 can be relied upon to provide a securing mechanism, unless it is directly referred to within the DCO as a Requirement or within one of the controlled documents.

The eNGOs would therefore welcome clarity from the Applicant on how it intends to incorporate this approach within the DCO, as it has been proposed within the HNP SoS draft response.

It is also the eNGOs' view that these additional sites could be seen as some benefit of the wider scheme, which should be retained in their own right in positive habitat management for wildlife. This would be in-line with the principles of Biodiversity Net Gain.

Mitigation of Onshore Construction on Sandwich Tern

Question 8. Noise

The Secretary of State notes that at the end of the examination, NRW's concerns regarding the practicality of measuring and enforcing noise levels on the construction site and concerns on how wind and weather conditions would be taken into account to implement noise controls had not been addressed. The Secretary of State requests the Applicant and NRW to confirm whether agreement has been reached following the close of the examination. If agreement has not been reached, the Secretary of State requests that the Applicant, with agreement from NRW, provides a plan to measure and control construction noise levels,

(taking into account all atmospheric conditions) or explain why this is not appropriate or cannot be agreed.

eNGO comments on Question 8

It is of note that the HNP SoS draft response appears to make no reference to wind or weather condition thresholds or triggers to alter construction activities. The draft Horizon response talks more generally about the noise controls that they propose to adopt.

The eNGOs are aware that the Secretary of State directs this question to the Applicant and NRW. However, the eNGOs responded at various stages to the proposed noise measuring and enforcement controls for the construction site: -

- REP4-040 Oral case agenda item 3b i
- REP4-040 ExA3 Post-hearing update
- REP5-075 Response to ExA2 question 2.5.5

The eNGO view at the end of the Examination remains the same as that expressed earlier in the Examination: -

“The D3 [and that presented at Deadline 10] approach does not represent effective risk management and is not proportionate to the level of risk. Elements of the methodology are not (Best Available technology/technique) BAT and many aspects of it are novel and untested in the industry. All elements are contrary to EU guidance on the Precautionary Principle and the eNGOs still believe that the proposed mitigation is inoperable.”

None of the subsequent responses from the Applicant during the Examination have altered the eNGOs' view. The Applicant's Codes of Construction Practice ([REP10-020] main CoCP and [REP10-022] Marine sub-CoCP) are still considered not fit for purpose.

In summary the following matters of concern to the eNGOs remain unresolved: -

Tern breeding period

See response to Question 6 above.

Noise thresholds

The eNGOs outstanding concerns relate to the responsiveness of identification of construction activity which breaches the threshold and resulting actions ([REP4-044] 'ExA 3'). The Applicant has indicated ([REP10-020] and [REP10-022]) this would be as long as 40 minutes during which time the disturbing activity would still continue.

There was much discussion during the Examination about how the approach to noise disturbance would work. The ExA tried to clarify this via further written questions [ExA Q2.5.13] asking the Applicant to *“.... advise of other cases where a similar approach to the reactive noise monitoring proposed for WDNA has been used to mitigate effects on a breeding seabird colony?”* (emphasis added).

The examples provided by the Applicant [REP5-002 Q2.5.13], including that for the Olympic Park development, do not deal with breeding seabird colonies. The examples provided by the Applicant are associated with humans, marine mammals, wintering wildfowl and sea birds in moult in open seas. It is the eNGOs' view that these examples do not provide any extra assurance or comfort that the problems with the noise monitoring protocol can be overcome.

Reactive monitoring of fly-up responses

The eNGOs' concerns with this element of the scheme as expressed at [REP4-044] (both 'Oral case agenda item 3i' and 'ExA 3') still stand. There is extreme difficulty in determining whether fly-ups are ("apparently") associated with Wylfa Newydd activities.

The proposed noise control measures place no recognition on the fact that disturbance impacts on the terns' behaviour act cumulatively/ synergistically over a period of time throughout the season, which could lead to either decline in productivity or colony collapse.

Other normal disturbance factors would also need to be well controlled (i.e. predation and visitors) as the construction noise disturbance will add to these.

Question 9. Visual Disturbance

The Secretary of State is aware that concerns were raised by environmental Non-Governmental Organisations (“eNGOs”) on the lack of mitigation of visual disturbance west of the Afon Cafnan given the scale of the work in the Mound E construction area. To address these concerns, the Secretary of State understands that the Applicant confirmed that it would include a control in its Main Power Station Site Code of Construction Practice (“MPSSCoCP”). The Secretary of State requests the Applicant to confirm whether the MPSSCoCP has been updated, with agreement from NRW and interested eNGOs, to reference the agreed control measure. If agreement has not been reached, the Secretary of State requests that the Applicant, with agreement from NRW and the relevant eNGOs provides an updated MPSSCoCP which includes visual disturbance controls.

eNGO comments on Question Q9 (note that RSPB interests do not extend to landscape matters)

The Applicant has indicated that their position remains the same as that at the end of the Examination (conference call 5 December). This has not addressed the concerns of the eNGOs in respect of the impacts of the works to Mound E in relation to: -

- Visual disturbance on the terns ([REP5-075] ExA2 question Q2.5.8)
- Visual and landscape impacts on the AONB and the visitors to Cemlyn Nature Reserve ([REP2-317] ∞ 3.2)

Whilst some elements of adjustment to the working methods on Mound E have been welcomed by NT, their concluding comment on this matter is a recommended adjustment to the LHMS: -

*“The northern and western faces of Mound E will have regard to the landscape and ecological sensitivity of the adjacent AONB. They will be established in their final form early in the construction period and **will not be reworked**. Early seeding and planting should be delivered with the aim of establishing proposed habitats before the end of the construction period.”*
(emphasis added)

This conclusion was endorsed by NWWT and neither party (NT nor NWWT) accept the justification provided by the Applicant that due to logistics Mound E is the only site within the WNDA which can accommodate materials for later reuse. Given the sensitivity of this construction zone to a multitude of impacts on a variety of receptors (terns, landscape, Cemlyn Lagoon water quality and visitors), the eNGOs contend that alternative solutions should have been considered more fully.

Question 10. Disturbance from Recreational Users

The Secretary of State is aware that during the examination, NRW and eNGOs queried whether there was sufficient detail in the Workforce Management Strategy (“WFMS”) to manage visitor behaviour so as to avoid disturbance to terns, and that NRW and the eNGOs’ concerns had not been addressed by the end of the examination. The Secretary of State requests the Applicant, NRW and eNGOs to confirm whether agreement on this issue has been reached following the close of the examination. If agreement has not been reached, the Secretary of State requests that the Applicant, with agreement from NRW and the relevant eNGOs provides an updated WFMS which manages visitor behaviour so as to avoid disturbance to terns or explain why this is not appropriate or cannot be agreed.

eNGO comments on Question 10

There has not been any post Examination changes or agreement on this matter. The eNGOs’ concerns still stand particularly in relation to the WFMS. The Applicant shared with the eNGOs their draft response on this matter (draft HNP SoS response 5 December) in which it is clear that the

Applicant acknowledges their limited powers to fully control the actions and movements of its workers on public land in their own time.

One of the simplest ways of alleviating the impacts of the Applicant's workforce would be to remove one of the biggest sources of worker recreational impacts via the relocation of the Temporary Workers Accommodation (4,000 person unit), which has been consistently advocated to the ExA by NWWT (and other Interested Parties) ([REP2-349] ~ Chapter 3). The relocation of the TWA would also reduce potential impacts on breeding and foraging chough and on Tre'r Gof SSSI.

Problems are still outstanding in relation to securing the on-site Visitor Centre and/or Temporary Viewing Park ([REP7-015] ~ PHN36 and [REP4-044] ~ ExA 1 and 'Presentation of oral case').

The eNGOs have also raised other concerns in relation to visitor and/or worker management during construction and offered a range of holistic examples of solutions in its written representation ([REP2-348] ~ 3.182 – 3.189).

Question 11. Dee Estuary SPA

The Secretary of State notes that NRW advised that if the Sandwich tern abandoned the colony at Cemlyn Bay, this could impact the passage population of Sandwich tern in the Dee Estuary SPA and therefore lead to an AEOL on the SPA. The Secretary of State requests that the Applicant, in consultation with NRW, addresses NRW's concerns over connectivity between the Cemlyn Bay SPA and the Dee Estuary SPA, or shows how compensatory measures for the Anglesey Terns SPA would impact the Dee Estuary SPA.

eNGO comments on Question 11

The eNGOs note this question but do not have any commentary at this stage. The eNGOs may wish to respond following the submissions of other Interested Parties in January 2020.

Landscape and Habitat Management Strategy

Question Q12. The Secretary of State notes that in response to concerns regarding the provision of habitats creation areas, the Applicant revised the area figures for coarse sward and close-sward grasslands in Table 4.1 on page 61 of the Landscape and Habitat Management Strategy ("LHMS"). However, the Secretary of State notes that the figures in the text of section 6.5 on page 110 of the LHMS have not been updated. To avoid any doubt in the provisions that the Applicant has made for a net gain in habitat, the Secretary of State requests the Applicant to confirm that it has updated the text in section 6.5 with the updated figures in Table 4.1.

eNGO comments on Question 12

The eNGOs understand that adjustments have been made to the LHMS and await its submission at the December 2019 deadline.

The eNGOs have requested that any alterations to the LHMS are presented in track changes or similar for ease of reference.

Sites of Special Scientific Interest ("SSSI") Network

Paragraph 13. Paragraph 5.3.11 of National Policy Statement ("NPS") EN-1 (Overarching National Policy Statement for Energy) states that "(w)here a proposed development on land within or outside an SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), development consent should not normally be granted. Where an adverse effect, after mitigation, on the site's notified special interest features is likely, an exception should only be made where the benefits (including need) of the development at this site, clearly outweigh both the impacts that it is likely to have on the

features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs".

Question 14. The Environmental Statement and the parties' submissions point to potential impacts on three SSSIs. The Secretary of State requests the Applicant and any Interested Party to provide further information on how the potential impacts on the Tre'r Gof, Cae Gwyn and Cemlyn Bay SSSIs would affect the broader national network of SSSIs.

eNGO comments on Question 14

The eNGOs and NRW are both of the view that there is a significant risk to the SPA tern colony at Cemlyn Nature Reserve, which we have submitted threatens to undermine the SPA network for the tern species. Logically, the same impacts also threaten to undermine the national (SSSI) network for these species.

In relation to Tre'r Gof SSSI, NWWT in their written representation examined the earlier and primary paragraph of the National Policy Statement NPS EN-1 (5.3.7), which indicates that the general principle should be consideration of reasonable alternatives that result in avoidance of impacts to SSSIs (and by extension the national network) ([REP2-349] ∞ 3.21). NWWT have consistently advocated that one of the simplest ways of alleviating the impacts on the Tre'r Gof SSSI would be to relocate the Temporary Workers Accommodation (4,000 person unit), which has been consistently advocated to the ExA by NWWT (and other Interested Parties) ([REP2-349] Chapter 3). This measure would also reduce potential impacts on breeding and foraging chough and much of the recreational disturbance impacts (discussed at Q10 above).

Question 34. Outstanding Objections and Agreements

The Secretary of State notes that objections had not been withdrawn or agreements were still outstanding between the Applicant and the National Trust, RE and JA Roberts, G and I Roberts and WM, EW and M Harper at the end of the examination. The Secretary of State requests the Applicant and the landowners listed above for an update on the status of negotiations.

NT comments on Question 34

The promoter and NT have been negotiating an agreement which deals with NT's land concerns. The content of the agreement has been settled and the parties are now arranging for the agreement to be completed. While the NT's land-based objections remains in place until the agreement has been completed, it is hoped that completion will take place shortly. In any event, NT will inform the Secretary of State when the agreement has been completed.