

South Humber Bank Energy Centre Project

Planning Inspectorate Reference: EN010107

South Marsh Road, Stallingborough, DN41 8BZ

The South Humber Bank Energy Centre Order

**Document Reference: 8.9 Applicant's Response to the First Written Questions
Responses**



Applicant: EP Waste Management Ltd
Date: January 2021

DOCUMENT HISTORY

Document Ref	8.9 Applicant's Response to the First Written Questions Responses		
Revision	1.0		
Author	DWD, AECOM, Pinsent Masons, Fitchner		
Signed	JM	Date	20.01.21
Approved By	CT		
Signed	CT	Date	20.01.21
Document Owner	DWD		

GLOSSARY

Abbreviation	Description
ACC	Air-cooled condenser.
AW	Anglican Water
CCGT	Combined Cycle Gas Turbine.
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order: provides a consent for building and operating an NSIP.
EA	Environment Agency
EfW	Energy from Waste: the combustion of waste material to provide electricity and/or heat.
EIA	Environmental Impact Assessment.
EPUKI	EP UK Investments Ltd.
EPWM	EP Waste Management Limited ('The Applicant')
ES	Environmental Statement.
ExA	Examining Authority: An inspector or panel of inspectors appointed to examine the application.
mAOD	Metres Above Ordnance Datum.
MW	Megawatt: the measure of power produced.
NE	Natural England
NELC	North East Lincolnshire Council.
NOx	Nitrogen oxides
NSIP	Nationally Significant Infrastructure Project: for which a DCO is required.
PA 2008	Planning Act 2008.
PINS	Planning Inspectorate.
POPs	Persistent Organic Pollutants
PPWs	Permitted Preliminary Works
RDF	Refuse derived fuel.
SHBEC	South Humber Bank Energy Centre.
SHBPS	South Humber Bank Power Station.
SNCR	Selective Non Catalytic Reduction

SoS	Secretary of State.
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest

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**Appendix 3: Response to Environment Agency First Written Questions
Responses**

1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This 'Applicant's Response to the First Written Questions Responses' document (Document Ref. 8.9) has been prepared on behalf of EP Waste Management Limited ('EPWM' or the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of 'The Planning Act 2008' (the 'PA 2008').
- 1.1.2 EPWM is seeking development consent for the construction, operation and maintenance of an energy from waste ('EfW') power station with a gross electrical output of up to 95 megawatts (MW) including an electrical connection, a new site access, and other associated development (together 'the Proposed Development') on land at South Humber Bank Power Station ('SHBPS'), South Marsh Road, near Stallingborough in North East Lincolnshire ('the Site').
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under sections 14 and 15(2) of the PA 2008.
- 1.1.4 The DCO, if made by the SoS, would be known as the 'South Humber Bank Energy Centre Order' ('the Order').
- 1.1.5 Full planning permission ('the Planning Permission') was granted by North East Lincolnshire Council ('NELC') for an EfW power station with a gross electrical output of up to 49.9 MW and associated development ('the Consented Development') on land at SHBPS ('the Consented Development Site') under the Town and Country Planning Act 1990 on 12 April 2019. Since the Planning Permission was granted, the Applicant has assessed potential opportunities to improve the efficiency of the EfW power station, notably in relation to its electrical output. As a consequence, the Proposed Development would have a higher electrical output (up to 95 MW) than the Consented Development, although it would have the same maximum building dimensions and fuel throughput (up to 753,500 tonnes per annum (tpa)).

1.2 The Applicant

- 1.2.1 The Applicant is a subsidiary of EP UK Investments Limited ('EPUKI'). EPUKI owns and operates a number of other power stations in the UK and is a subsidiary of Energetický A Průmyslový Holding ('EPH'). EPH owns and operates energy generation assets in the Czech Republic, Slovak Republic, Germany, Italy, Hungary, Poland, Ireland, and the United Kingdom.

1.3 The Proposed Development Site

- 1.3.1 The Proposed Development Site (the 'Site' or the 'Order limits') is located within the boundary of the SHBPS site, east of the existing SHBPS, along with part of the carriageway within South Marsh Road. The principal access to the site is off South Marsh Road.

- 1.3.2 The Site is located on the South Humber Bank between the towns of Immingham and Grimsby; both over 3 km from the Site.
- 1.3.3 The Site lies within the administrative area of NELC, a unitary authority. The Site is owned by EP SHB Limited, a subsidiary of EPUKI, and is therefore under the control of the Applicant, with the exception of the highway land on South Marsh Road required for the new Site access.
- 1.3.4 The existing SHBPS was constructed in two phases between 1997 and 1999 and consists of two Combined Cycle Gas Turbine (CCGT) units fired by natural gas, with a combined gross electrical capacity of approximately 1,400 MW. It is operated by EP SHB Limited.
- 1.3.5 The Site is around 23 hectares ('ha') in area and is generally flat, and typically stands at around 2.0 m Above Ordnance Datum (mAOD).
- 1.3.6 A more detailed description of the Site is provided at Chapter 3: Description of the Proposed Development Site in the Environmental Statement ('ES') Volume I (Document Ref. 6.2 / APP-034 to APP-055).

1.4 The Proposed Development

- 1.4.1 The main components of the Proposed Development are summarised below:
- Work No. 1— an electricity generating station located on land at SHBPS, fuelled by refuse derived fuel ('RDF') with a gross electrical output of up to 95 MW at ISO conditions;
 - Work No. 1A— two emissions stacks and associated emissions monitoring systems;
 - Work No. 1B— administration block, including control room, workshops, stores and welfare facilities;
 - Work No. 2— comprising electrical, gas, water, telecommunication, steam and other utility connections for the generating station (Work No. 1);
 - Work No. 3— landscaping and biodiversity works;
 - Work No. 4— a new site access on to South Marsh Road and works to an existing access on to South Marsh Road; and
 - Work No. 5— temporary construction and laydown areas.
- 1.4.2 Various types of ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 of the DCO.
- 1.4.3 The Proposed Development comprises the works contained in the Consented Development, along with additional works not forming part of the Consented Development ('the Additional Works'). The Additional Works are summarised below:
- a larger air-cooled condenser (ACC), with an additional row of fans and heat exchangers;
 - a greater installed cooling capacity for the generator;
 - an increased transformer capacity; and

- ancillary works.

1.4.4 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the draft DCO and Chapter 4: The Proposed Development in the ES Volume I (Document Ref. 6.2 / APP-034 to APP-055) and the areas within which each of the main components of the Proposed Development are to be built is shown by the coloured and hatched areas on the Works Plans (Document Ref. 4.3 / APP-010). Three representative construction scenarios (timescales) are described within Chapter 5: Construction Programme and Management in the ES Volume I (Document Ref. 6.2 / APP-034 to APP-055) and assessed in the Environmental Impact Assessment ('EIA').

1.5 Purpose of this Document

1.5.1 This document sets out the Applicant's responses to the responses made by North East Lincolnshire Council (NELC), Natural England (NE), Anglian Water (AW) and the Environment Agency (EA) to the Examining Authority's (ExA's) first set of written questions in advance of Deadline 2.

2.0 APPLICANT'S RESPONSE TO RESPONSES TO EXAMINING AUTHORITY'S FIRST WRITTEN QUESTIONS

2.1.1 The Applicant's response to the responses made to the ExA's first written questions are summarised in the sub-headings within the following paragraphs of this document section.

2.1.2 The relevant responses are from:

- NELC (Examination Library Ref. REP2-018);
- NE (Examination Library Ref. REP2-020);
- AW (Examination Library Ref. REP2-026); and
- EA (Examination Library Ref. REP2-023).

2.2 North East Lincolnshire Council

2.2.1 The Applicant has no comments of significant note on the responses from NELC. Comments on each response are provided within the table in **Appendix 1**, this comprises agreement with various comments and notes of a technical matter.

2.2.2 Most relevant is that various changes to Requirements included within the Draft DCO as part of Deadline 3. Some of these changes are linked to comments provided by NELC at Deadline 2.

2.3 Natural England

2.3.1 The Applicant has no comments of significant note on the response from NE. In general the response from NE is in agreement with the responses provided by the Applicant at Deadline 2.

2.3.2 Some further clarification has been provided by the Applicant in respect of piling in relation to Q6.0.5. This and all comments on each NE response are provided within the table in **Appendix 2**.

2.4 Anglian Water

2.4.1 Anglian Water's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q8.0.5 at Deadline 2.

2.5 Environment Agency

2.5.1 The Applicant has no comments of significant note on the response from the EA. In general the responses from the EA are in agreement with the responses provided by the Applicant at Deadline 2.

2.5.2 Comments on each response are provided within the table in **Appendix 3**.

APPENDIX 1: RESPONSE TO NELC FIRST WRITTEN QUESTIONS RESPONSES

APPENDIX 2: RESPONSE TO NATURAL ENGLAND FIRST WRITTEN QUESTIONS RESPONSES

APPENDIX 3: RESPONSE TO ENVIRONMENT AGENCY FIRST WRITTEN QUESTIONS RESPONSES

ExQ1	Question	NELC Response	Applicant's Response
Q1.0.1	Reference to the Planning Permission granted by North East Lincolnshire Council (NELC) under their reference DM/1070/18/FUL, dated 12 April 2019, is made throughout the submitted documentation. Please enter a copy of: any supplementary reports provided by Officers of the Council's Planning Committee of the 12 April 2019 that relate to the Council's consideration of the Planning Application (DM/1070/18/FUL) and the minutes of that planning committee meeting relevant to the decision made on the planning application. Alternatively, please direct the Examining Authority (ExA) to where these documents have been provided in the documentation submitted as part of the Development Consent Order (DCO) application.	<p>Planning application ref. DM/1070/18/FUL was determined under delegated powers by North East Lincolnshire Council and was not determined by the planning committee.</p> <p>The officers report and delegated decision can be viewed within the applicant's Planning Statement (examination library reference APP-024) and a copy of the s106 legal agreement in appendix 2 of the development consent obligation (APP-032). These are however appended to this response at appendix A and B respectively.</p> <p>NELC by the nature the area, particularly along the Humber bank determines a relatively large number of major industrial and commercial applications which is also mirrored within the allocations for employment land within the NELLP. The application accorded with the employment allocation of the Local Plan and did not receive any substantive objection to the scheme and as such did not warrant presentation to the planning committee.</p>	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q1.0.1 at Deadline 2.
Q1.0.2	<p>The Environmental Statement (ES) at Appendix 1A [APP-104] refers to the Applicant being likely to progress the Planning Permission (DC/1070/18/FUL) in accordance with the extant consent. Additionally, the ES at Chapter 4 (The Proposed Development) [APP-038] sets out a number of scenarios in regard to the construction programme of the proposed development. The first scenario, if implemented, indicates construction work would commence in the second quarter of 2020. However, during the Examining Authorities (ExA's) unaccompanied site inspection of the 24 August 2020 there was no obvious evidence of commencement of works granted by the Planning Permission referred to above. Please explain the current progress made with regard to the implementation of the Planning Permission, including the number of precommencement conditions that needed to be discharged prior to commencement, where the Applicant has reached in the discharge of those pre-commencement conditions and whether a lawful commencement of the Planning Permission is considered to have occurred.</p> <p>Additionally, in the light of the above, please explain the relationship of the Planning Permission and the DCO Application, as set out, in the ES and the conditions and requirements relied upon to inform the assessment that the development is extant.</p>	<p>The applicant has sought to undertake discharge several pre commencement conditions with respect to the NELC planning approval, but <u>no</u> commencement of the development has occurred on site.</p> <p>The conditions discharged are as follows:</p> <p><u>DM/0486/19/CND discharge of Part (1) of Condition 13: - a survey of the extent, scale and nature of contamination – Partial Discharge (Part 1 only) 12 June 2019. (Appendix C)</u></p> <p><u>DM/0626/20/CND Details in discharge of Part 2 (i – iv) of condition 13: including a survey of the extent, scale and nature of contamination, assessment of potential risks, an appraisal of the need for remediation and if required detail of the remediation scheme. - Discharged (part 2 part i – iv) - 17th September 2020 (Appendix D).</u></p> <p><u>DM/0713/19/CND - Details in discharge of condition 10: construction management plan – Condition partially discharged (phase 1 only – initial construction works) 19th September 2019 (Appendix E)</u></p> <p><u>DM/1117/19/CND – Details in discharge of condition 18: (delivery and servicing) - Condition discharged 31st January 2019 (Appendix F)</u></p> <p>By the nature of wording of conditions: 12, 14 and 15 these also remain extant due to the potential for unexpected contamination to be found during construction and the need to deal with any found, but nonetheless, the details discharged within condition 13 indicate contamination is not anticipated and conditions are discharged to a suitable level and will not prohibit commencement of development. Should contamination be</p>	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q1.0.2 at Deadline 2.

ExQ1	Question	NELC Response	Applicant's Response
		<p>unexpectedly found they will again come into force.</p> <p>Whilst the development has not begun on site the timescales for commencement remain in accordance with condition 1 of the planning permission DM/1078/20/FUL which allows for work to commence until the 12th April 2024.</p>	
Q1.0.5	<p>Please confirm which planning conditions imposed under NELC Planning Permission reference number DM/1070/18/FUL, dated 12 April 2019, are considered to be precommencement planning conditions. In responding please provide the condition number, a title for the condition (i.e. Ecology; Archaeology; Etc.), a brief synopsis of the purpose of the condition and its current status (i.e. whether it: has be discharged; remains outstanding; Etc.). Finally, if they remain outstanding, please confirm what is being done to enable the pre-commencement condition(s) to be discharged and how long it is anticipated the discharge of the relevant pre-commencement condition(s) will take?</p>	<p><u>DM/1070/18/FUL: Pre-commencement conditions and progress:</u></p> <p><u>Outstanding pre commencement conditions</u></p> <p>Condition 4 - Details of the final position of any buildings, finished floor levels, elevations and floor plans – details still to be provided and relate to the main construction elements rather than preliminary works.</p> <p>Condition 5 - Details of all external materials to be used in construction of the buildings – details still to be provided and relate to the main construction elements rather than preliminary works.</p> <p>Condition 7 - Details and position of boundary treatments, circulation areas, hardstanding's and all other hard landscaping – details still to be provided rather than preliminary works</p> <p>Condition 9 – Scheme for disposal of surface and foul water drainage including a future maintenance plan – details still to be provided rather than preliminary works</p> <p>Condition 10 - Construction Management Plan – <u>Phase 1– initial works discharged DM/0713/19/CND (Appendix E)</u> – Phase 2 (main build phase) – details still to be provided but this would not limit the commencement of preliminary works.</p> <p>Condition 11 - Specifications of the type of piling to be used to support the building/structures (Including mitigation of effects of the piling with regard to noise to ecological receptors and mitigate the effects of the piling with regard to groundwater resources – details still to be provided and would prevent preliminary works albeit see Q5.0.1 below.</p> <p>Condition 12 – Implementation of condition 13 – (Remediation of contamination) and actions if unexpected contamination is found – <u>details in relation to implementation of condition 13 has been discharged (DM/0486/19/CND – Appendix C & DM/0626/20/CND – Appendix D)</u> so this will not hamper commencement but nonetheless remains extant if triggered by the need to deal with unexpected contamination, but this is not pre commencement.</p> <p>Condition 14 – Remediation Scheme Implementation – Reports indicate within condition 13 that remediation is not required and therefore the</p>	<p>NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q1.0.5 at Deadline 2, however the Applicant's response also referred to Condition 13 which has already been discharged (which is confirmed within NELC's response to Q1.0.2).</p>

ExQ1	Question	NELC Response	Applicant's Response
		<p>condition would not prohibit commencement.</p> <p>Condition 21 – Details of new entrance to the site – details still to be provided but this would not limit the commencement of preliminary works.</p> <p>Condition 22 – Condition survey of the adopted section of the local access road South Marsh Road – details still to be provided but this would not limit the commencement of preliminary works.</p> <p>Condition 23 – Details to provided to UK DVOF & Powerlines at the Defence Geographic Centre – details still to be provided but this would not limit the commencement of preliminary works.</p>	
Q5.0.1	Bearing in mind ExA question Q1.0.6 above, can the Applicant confirm if mitigation requirements are necessary to control impacts associated with the pre-commencement activities identified in the DCO? Additionally, what requirements are in place to ensure that such mitigation is delivered prior to these activities taking place?	<p>Are mitigation requirements are necessary to control impacts associated with the pre-commencement activities identified in the DCO?</p> <p>NELC notes this is a question for the applicant to respond to the Examiner but it has been asked for its views as to whether piling can be removed from the Permitted Preliminary Works (PPWs) within the DCO. This is due to the lack of need to undertake any piling within the PPW's removing the risks. NELC has discussed this with its Environmental Protection Team and no objection to this has been raised and as such subject to the wording of requirements 1 and 17 be acceptably amended NELC has no objection in principle to the proposed removal of piling from PPW's.</p>	<p>The Applicant notes the comments made by NELC.</p> <p>As part of the Applicant's submitted response to Q5.0.1 at Deadline 2, commentary was made on the Applicant's intent to remove piling from the PPWs and the draft DCO submitted at Deadline 2 reflects this (Examination Library Ref: REP2-014).</p>
Q5.0.17	Would placing a copy of the notice served under Art 5(2)(a) on the planning register be sufficient to inform any party affected that any development undertaken in accordance with the SHBEC Planning Permission will be in breach of the DCO from the date the notice is served? Please give a full explanation of your response, including any justification/ evidence which supports your reply.	<p>Notice served under Art 5(2)(a) on the planning register be sufficient to show that the planning permission and conditions have been superseded by the DCO.</p> <p>At most and dependent on the type of land charge search undertaken, it is considered that a search would reveal only the details of applications submitted, whether they were approved/refused, condition discharge applications including approval/or refusals. Legal searches would also outline any enforcement action undertaken. This would be the same for the DCO and the notice served under Art5(2)(a). It would be for the inquirer to then make further investigations as to relevance of a planning permission/ DCO and whether it was extant or not and the nature of any outstanding matters and the implications of such.</p> <p>Such a stance would not be unlike a section 73 (T&CP Act 1990) planning approval whereby an element(s) of an approved scheme was amended and approved and it would then be for the inquirer to undertake further investigations as to which scheme was being implemented and any conditions to which it referred.</p>	<p>NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q5.0.17 at Deadline 2.</p> <p>The main purpose of an Article 5(1) notice is to provide a transparent and discernible point at which the development is no longer regulated by the SHBEC planning permission and is then regulated by the DCO. This is considered to be achieved.</p>
Q5.0.18	dDCO Art 5(2)(b)(i) and (ii) provide that from the date of the notice the conditions of the planning permission will cease to have effect and the Requirements of the DCO will apply to development that has or is to take place within the Order limits which is part of the authorised development. This	<p>dDCO Art 5(2)(b)(i) and (ii) - DCO Requirements v DM/1070/20/FUL Conditions</p> <p>NELC is content with the requirements outlined within the DCO and their relationship to those imposed upon the original planning permission.</p>	<p>NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q5.0.18 at Deadline 2.</p>

ExQ1	Question	NELC Response	Applicant's Response
	<p>would mean that once the notice is served any development undertaken in compliance with the planning permission will be regulated by the Requirements in the DCO and not the conditions of the planning permission from that date. Please confirm whether you are satisfied that all the conditions which apply to the existing planning permission are replicated satisfactorily in the DCO.</p> <ul style="list-style-type: none"> • Art 5(5) of the DCO clarifies that where details/ plans have been approved or agreed by the LPA pursuant to a condition in column 1 of schedule 3 the corresponding requirement in column 2 of schedule 3 will be deemed to be discharged. As such the ExA will need to be satisfied that the discharge of the condition corresponding to each Requirement is sufficient to discharge the Requirement, even though the condition will not relate to the additional works included in the DCO. For example, in terms of the landscaping condition the ExA will need to be satisfied that the details submitted to discharge the landscaping condition within the planning permission were acceptable to deem discharge the corresponding Requirement in the DCO. As such please confirm whether NELC, acting as the LPA, are content with the acceptability of this Art in principle and in practice, providing justification for your response. 	<p>Details of slight drafting details or timing are being discussed with the applicant, but should not be considered as principal objections to the requirements.</p> <p>dDCO Art 5(5) - DCO Requirements v DM/1070/20/FUL Conditions</p> <p>The following are NELC's comments on the proposed requirements:</p> <p>Requirements 5 Detailed design and Floor levels – Condition 4</p> <p>The additional elements of the DCO proposal would need to be provided and as such would be covered by this proposal. The main external change would be the air-cooled condensers. Should the condition be discharged before the DCO then dDCO Art 5(6) would be utilised and the applicant would have to apply for discharge of the requirement.</p> <p>Requirement 6 Detailed design (appearance) – Condition 5</p> <p>The additional elements of the DCO proposal would need to be provided and as such would be covered by this proposal. Should the condition be discharged before the DCO then dDCO Art 5(6) would be utilised and the applicant would have to apply for discharge of the requirement.</p> <p>Requirement 7 Retained trees – Condition 6</p> <p>The treed areas to be retained are outside of the main construction area and would be enhanced by the surrounding ecology works proposed. As such these areas are unlikely to be impacted upon negatively and so there would be no additional impact to deal with. Similarly, there includes a clause within the requirement to replace lost trees if required.</p> <p>Requirement 8 Means of enclosure and hard surfacing – Condition 7</p> <p>The DCO development includes some additional plant and equipment but would not alter those aspects which would be approved under condition 7 and the applicant has confirmed that the areas of hard surfacing would stay the same. This includes the 2.5m high fencing which would be erected within preliminary stage of the construction to protect the overwintering birds to the adjoining field.</p> <p>Requirement 9 - Lighting – Condition 7</p> <p>NELC is content in principle with condition but considers the imposition of 8(2) 'to accord with indicative lighting strategy' is to be to be overly constrained without full details provided – recommend therefore that based on indicative lighting strategy. It is understood the applicant is considering alternative wording on this matter.</p>	<p>The Applicant has been in discussions with NELC and has agreed modified Requirement wording at Officer level, as recorded in the SoCG submitted at Deadline 3.</p> <p>A number of Requirement amendments are included within the amended DCO submitted at Deadline 3. Notable amendments, relating to the comments raised within the NELC response to Q5.0.18, are:</p> <p>Requirement 9 – In order to avoid overly constrained wording the proposed new text is <i>"The scheme submitted and approved under sub-paragraph (1) must be in accordance with the <u>principles in the indicative lighting strategy</u> and include measures to minimise and otherwise mitigate any artificial light emissions during the operation of the authorised development."</i></p> <p>Requirement 11 – Amongst other minor changes, the trigger has been adjusted to 18 months (previously 24) to provide NELC with earlier update on the implementation of the measures. The full amended text is <i>"No later than <u>18 months from the commencement of the authorised development</u> a report by a qualified ecologist verifying the implementation of the <u>relevant parts of the biodiversity protection plan and setting out implementation measures for the remaining parts of the biodiversity protection plan</u> must be submitted to the relevant planning authority <u>for approval</u>, unless otherwise agreed by the relevant planning authority."</i></p>

ExQ1	Question	NELC Response	Applicant's Response
		<p>However, the area to be lit by the DCO scheme is materially the same, particularly in terms of hard surfaced areas, entrances, roads, parking areas etc. The details are also required prior to operation making submission prior to the DCO switch less likely.</p> <p>Requirement 10 – Soft landscaping – Condition 7</p> <p>The landscape scheme requirements are the same. Given the area of the Additional Works (i.e. air cooled condensers and transformers) this would not change in a material manner any proposed landscaping. The Council is therefore content that should condition 7 be discharged it would be sufficient to transfer this to the DCO requirement without concern.</p> <p>Requirement 11 – Biodiversity protection – Condition 8</p> <p>Both the requirement and condition require development to accord with the biodiversity protection measures. The protection measures required by the DCO mirror that within condition but with specifics re timing to bring the proposal up to date. Again, the area of Additional Works that would not alter the areas of protection or methodology. Changes as a result of the DCO are therefore minimal.</p> <p>Timing of verification reports, given anticipated construction timescales is more specific but not substantially different from condition requirements.</p> <p>Requirement 12 – Biodiversity mitigation and enhancement – Condition 8</p> <p>The requirement and condition both require mitigation and enhancement, the Additional Works do not alter these areas of mitigation and enhancement. The DCO requirement goes beyond that of the condition, re mitigation and enhancement but given the timing of submission through both condition and requirement it would be unlikely that the condition would have been discharged before the change from planning permission to DCO. The requirement would nevertheless need to be discharged if the condition had already been discharged as it goes beyond that required by the condition.</p> <p>Requirement 13 – Surface water drainage – Condition 9</p> <p>It is understood that the area, underneath the Additional Works (air-cooled condensers) would be typically permeable so that the impact on surface water drainage would be minimal. The condition discharge would not therefore be affected. The DCO outline drainage strategy accords with that submitted with the planning application. Timing wise implementation would be the same as the condition.</p>	<p>Requirement 29 – Addition of “(6) <i>The scheme of improvement approved under sub-paragraph (5) must be implemented by the undertaker as approved.</i>”</p> <p>A number of other amendments are proposed, however these are not linked to comments made by NELC within the response to Q5.0.18. All amendments are presented within Schedule 2 to the revised Draft DCO (Document Ref. 2.1 v3) submitted at Deadline 3.</p>

ExQ1	Question	NELC Response	Applicant's Response
		<p>Requirement 14 – Foul Drainage – Condition 9</p> <p>The disaggregation of the surface and foul drainage is not an issue and the Additional Works as NELC understands would not impact upon foul drainage. Timing wise implementation would be the same as the condition.</p> <p>Requirement 15 - Construction environmental management plan – Condition 10</p> <p>It is accepted that requirement mirrors that of the condition, apart from the disaggregation of the construction traffic and travel planning. It is also understood that construction methods and mitigation would not alter as a result of the Additional Works. Construction traffic is also not anticipated to rise as a result of the Additional Works within the DCO. As such the requirement appears acceptable and would not lead to concerns if the condition was discharged, prior to DCO.</p> <p>Requirement 16 - Construction traffic management and travel planning' – Condition 10</p> <p>Again, the requirement closely follows the condition. Routing and traffic levels which will not change as a result of the Additional Works. The reference to Network Rail assets is noted but this was also included within an informative 5 of the planning approval (Appendix A). The LPA is therefore content that the requirement adequately covers this issue even if the condition is discharged prior to the DCO.</p> <p>Requirement 17 Piling detail - Condition 11 Piling and 13 Contamination</p> <p>The requirement for the piling specification mirrors that of the original condition and covers the areas of specific concern – ecology and contamination. The area of development would not materially alter but piling need to change subsection (3) of requirement 17 ensures these details will need to be agreed with the LPA first. As such approval under the condition would not raise concerns to the NELC.</p> <p>Requirement 18 Unexpected Contamination -Condition 12</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern.</p> <p>Requirement 19 Contamination (investigations and remediation) – Condition 13</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern. Given the Additional</p>	

ExQ1	Question	NELC Response	Applicant's Response
		<p>Works would be within the same area of the main construction site approved by the planning approval, these would not have any impact on the contamination and remediation of the area.</p> <p>Requirement 20 – Implementation of remediation scheme – condition 14</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern. Given the Additional Works would be within the same area of the main construction area approved by the planning approval, these would not have any impact on the contamination and remediation of the area.</p> <p>Requirement 21 – Unexpected Contamination Actions – Condition 15</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern. The imposition of the time scale is deemed acceptable and, in any case, works within the area of contamination agreed with the LPS would be halted limiting risks.</p> <p>Requirement 22 – Flood Mitigation – Condition 16</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern. The use of phrase 'commission' indicates that the design is fixed at that stage so would have the same effect as condition requirements. The slight alteration in position of critical assets is noted and will need to be factored into any condition submission but can be done without harm.</p> <p>Requirement 23 – Flood warning and evacuation plan – Condition 17</p> <p>The requirement for the actions/ works required mirrors that of the original condition and covers the areas of specific concern.</p> <p>Requirement 24 – Delivery and servicing – Condition 18</p> <p>Given the DCO operational HGV movements accord with those proposed within the planning approval and routing accords with the details agreed through condition discharge application <u>DM/1117/19/CND</u>, Appendix D, it is considered that the required actions and implementation mirrors that of condition 18 and covers the areas of specific concern.</p> <p>Requirement 25 – Operational travel plan – Condition 19</p> <p>Notwithstanding the slight changes proposed it is considered that the required actions and implementation mirrors that of condition 19 and</p>	

ExQ1	Question	NELC Response	Applicant's Response
		<p>covers the areas of specific concern. Similarly, the additional works would not require additional staff so that a scheme agreed through the planning approval conditions could be safely transferred to the requirement.</p> <p>Requirement 26 – Visibility splays – Condition 20</p> <p>It is considered that the required actions and implementation mirrors that of condition 20 and covers the areas of specific concern. In any event, as works are required within the highway these details will be agreed with the highway authority through the conditions and a s278. These will be designed to accord with the DCO scheme. In addition, no changes are required to accommodate the Additional Works.</p> <p>Requirement 27 – New Highway Access – Condition 21</p> <p>It is considered that the required actions and implementation mirrors that of condition 21 and covers the areas of specific concern. In any event, as works are required within the highway these details will be agreed with the highway authority through the conditions and a s278, which will take account of the DCO. No changes are required because of the Additional Works.</p> <p>Requirement 28 – Parking – Condition 21</p> <p>Despite being disaggregated and the submission trigger being slightly altered the results are the same in terms of overall implementation particularly as parking will not alter because of the Additional Works.</p> <p>Requirement 29 – Road Condition Survey – Condition 22</p> <p>The requirement is deemed a suitable replacement of condition 22 and clarification of HGV tonnages does not alter the approach required along with timings. Given HGV traffic within the operational phase are deemed to accord with those proposed within the planning approval, the principle of the requirement is therefore acceptable although it is questioned whether (5) sufficiently requires implementation in accordance with the agreed scheme and timescales as had been captured through the s278 agreement within the condition.</p> <p>Requirement 30 – Air safety – Condition 23</p> <p>It is considered that the required actions and implementation mirrors that of condition 23 and covers the areas of specific concern.</p> <ul style="list-style-type: none"> Requirement 31 – Refuse derived fuel – Condition 24 <p>It is considered that the agreed fuel types and limitations of gas and fuel oil</p>	

ExQ1	Question	NELC Response	Applicant's Response
		<p>for start-up mirror that of the condition.</p> <p>Requirement 32 – Fuel Storage – Condition 25</p> <p>It is considered that the agreed storage of fuel oil and fuel stock for the facility mirror that of the condition.</p> <ul style="list-style-type: none"> Requirement 33 – Decommissioning – Condition 26 <p>It is considered that the requirement mirrors that of condition 26 and covers the areas of specific concern <u>but</u> the Requirement scheme should also require implementation.</p>	
Q.5.0.19	<p>As noted at Q5.0.7 above, the redline boundary of the planning permission is not entirely subsumed within the DCO. For example, the land which is within the planning permission boundary but outside of the red line boundary (see comparison plan 4.12 and EM [APP-006] Paragraph 3.4.1) will in effect be land which benefits from the existing planning permission but which is not subject to the Requirements in the DCO.</p> <p>Once the conditions “cease to have effect” this land will have the benefit of the planning permission with no conditions. Bearing the above in mind, what would the consequences be as a result of the provisions in Art 5(2) generally and specifically in regard to the National Grid Gas above ground installation and the National Grid Electricity Substation?</p>	<p>dDCO Art 5(6) requires the undertaker to issue a requirements discharge schedule (defined in Art 2). The LPA must state within 3 weeks whether the details in this are agreed or, if not, what parts it considers are incorrect. What happens in the event that the LPA does not agree with the applicant's schedule?</p> <p>Once the notice has been submitted the LPA will be able to go back to the applicant, and if appropriate notify them that they do not consider conditions or requirements to be discharged and if development continued then the LPA would look to enforcement.</p>	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q5.0.19 at Deadline 2.
Q5.0.32	<p>dDCO Art 27 – Art 27(2) contains a deemed approval procedure for applications other than those made under the Requirements. Please advise which provisions in the DCO this applies to and whether the consenting authorities are happy with this provision.</p> <p>Additionally, bearing Art 27 in mind, the ExA would seek the views of NELC, acting as the relevant LPA and Highway Authority, and any other street authority as is relevant to this DCO application, on the acceptability of this provision and the timescales provided?</p>	<p>dDCO Art 27 – Art 27(2) Please advise which provisions in the DCO this applies to and whether the consenting authorities are happy with this provision.</p> <p>Additionally, bearing Art 27 in mind, the ExA would seek the views of NELC, acting as the relevant LPA and Highway Authority, and any other street authority as is relevant to this DCO application, on the acceptability of this provision and the timescales provided?</p> <p>10 (2), 11(2), 16(5) apply but there is an argument perhaps to say it applies to 12(1) and (2) Art 27 mentions consent, agreement or approval, which are required or contemplated by any provisions of the Order.</p> <p>12(1), 12(2) says the work should be done to the reasonable satisfaction of the highway authority. It does not actually mention consent agreement or approval or an application being submitted, so Art 27 does not apply.</p> <p>It appears that Article 27(2) applies to 10(2), 11(2) and 16(5).</p>	<p>Please see the Applicant's response to Q5.0.32 for the full response. That confirms that other than to exclude the requirements, which are to be dealt with as if they were conditions attached to a planning permission, Article 27 does not specify which provisions it applies to. This is deliberate, as it is intended to apply broadly.</p> <p>The Applicant discussed the Draft DCO with NELC prior to submitting the DCO Application. NELC, in reviewing the various procedural aspects of the Draft DCOdco (including Article 27), commented that there was potential for there to be confusion if a matter was being</p>

ExQ1	Question	NELC Response	Applicant's Response
		10 (2) and 11 (2) are catch all provisions in case more works are needed than those in 10(1) and 11(2). In the event that such works are needed it is thought that 8 weeks for the street/highway authority to respond is reasonable. In the same way 16(5) is in relation to trial holes in streets again it is thought that 8 weeks is sufficient.	submitted pursuant to Requirement 36, and asked that any such submission should be clear on its face. The Applicant included Requirement 36(2) in the Draft Order in response. The Applicant notes NELC's comments on Article 27 and that it is content that the 8 week period provided for is sufficient.
Q6.0.14	The ES Ecology Chapter [APP-044] and the Biodiversity Strategy [APP-030] indicate that the proposed area of species-rich grassland to be created to the west of the SHBPS will be monitored once every other year during the establishment period for five years, (commencing one year after planting) to determine whether any management intervention is required (para 10.7.13). Can NELC confirm that they are satisfied with this level of monitoring?	Monitoring of the proposed area of species-rich grassland to be created to the west of the SHBPS will be monitored once every other year during the establishment period for five years. Is this sufficient? This is deemed acceptable by NELC ecologist who states: we are happy with this level of monitoring; monitoring will need to take place at the end of year one, end of year 3, and end of year 5, which is 'every other year', and management intervention applied if deemed necessary. Monitoring in year one is necessary to manage the establishment period when ruderals and more competitive species can become dominant and more management in the way of a cutting regime is needed. Year two, after appropriate management in year one, should see both annual and perennial species establishing and in year three is when any dominant species will be evident and appropriate management applied. After five years the establishment and correct balance of species should have been achieved. Any fine tuning can be carried out at this stage which will leave the sward in the desirable state. Ongoing management after this should maintain the required standard. Monitoring results and any proposed management should be submitted to the Ecology Manager via Planning.	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q6.0.14 at Deadline 2. This is secured by Requirement 12 of the Draft DCO.
Q9.0.3	Bearing in mind the risks to controlled waters are considered to be moderate to high (See Q9.0.1 above), please confirm whether the ES Chapter 12 (Geology, Hydrology and Land Contamination) [APP-046] and Appendix 12A: Phase 1 Geo-Environmental and Geotechnical Desk Study Report [APP-129] satisfactorily deals with the potential risks to controlled waters and whether imposing Requirements within the DCO would be adequate to control/ deal with this concern?	Given risks to controlled waters are considered to be moderate to high are ES Chapter 12 and Appendix 12A satisfactorily deal with the potential risks to controlled waters and whether imposing Requirements within the DCO would be adequate to control/ deal with this concern? These will be matters lead on by the Environment Agency and NELC would respond in accordance with their advice and specialisms.	The Applicant notes the comments made by NELC and that NELC defers to the EA in relation to Q9.0.3. The Applicant directs the ExA to the Applicant's response to the EA's response to the ExA's WQ's which includes Q9.0.3 (see Appendix 3 of Document Ref. 8.9). In summary the EA confirm it is satisfied that the matters noted in Q9.0.3 can be appropriately dealt with by the DCO Requirements. The

ExQ1	Question	NELC Response	Applicant's Response
			<p>EA stated in its response</p> <p><i>"Requirement 19 (Investigation and remediation of contamination) provides an appropriate strategy to ensure that the risks to controlled waters are appropriately assessed and can be addressed through appropriate measures".</i></p> <p>The Applicant also directs the ExA to the signed SoCG which demonstrates agreement between the Applicant and the EA on all matters. This is also confirmed within the EA's Written Representation submitted at Deadline 2.</p>
Q9.0.7	<p>Bearing in mind Questions Q9.0.4 to Q9.0.6 above, please confirm whether the ES Chapter 12 (Geology, Hydrology and Land Contamination) [APP-046] and Appendix 12A: Phase 1 Geo-Environmental and Geotechnical Desk Study Report [APP-129] satisfactorily deals with the potential risks to controlled waters arising from potential aggressive ground conditions and whether imposing Requirements within the DCO</p> <p>would be adequate to control/ deal with this concern?</p>	<p>Please confirm whether ES Chapter 12 and Appendix 12A satisfactorily deal with the potential risks to controlled waters re aggressive ground conditions and whether imposing Requirements within the DCO would be adequate to control/ deal with this concern?</p> <p>These will be matters lead on by the Environment Agency and NELC would respond in accordance with their advice and specialisms.</p>	<p>The Applicant notes the comments made by NELC and that NELC defers to the EA in relation to Q9.0.7. The Applicant directs the ExA to the Applicant's response to the EA's response to the ExA's WQ's which includes Q9.0.7 (see Appendix 3 of Document Ref. 8.9).</p> <p>In summary the EA confirm it is satisfied that the matters noted in Q9.0.7 can be appropriately dealt with by the DCO Requirements. The EA stated in its response</p> <p><i>"We are satisfied that the risks to controlled waters can be appropriately managed with under the measures included in Schedule 2, Requirements 18-21.</i></p> <p>The Applicant also directs the ExA to the signed SoCG which demonstrates agreement between the Applicant and the EA on all matters. This is also confirmed within</p>

ExQ1	Question	NELC Response	Applicant's Response
			the EA's Written Representation submitted at Deadline 2.
Q10.0.13	Reference is made to the SHG strategic mitigation scheme. Please provide substantive information, in relation to the SHG strategic mitigation scheme, the background to the strategy, it's purpose/ current status or how the conclusions within it have been derived. Details submitted into evidence pursuant to this request should include any advice provided by Natural England.	<p>SHG strategic mitigation scheme – Background and justification</p> <p>Summary: This is a long-term strategic strategy which has been agreed between North East Lincolnshire Council, North East Lincolnshire Council, Natural England, RSPB, Environment Agency, Lincolnshire Wildlife Trust and the RSPB. The background for the strategy is the need to balance the need for growth in economic activity and jobs on the South Humber Bank and the protection and enhancement of one of the country's most important sites for over wintering birds in the UK and one of the top ten in Europe. Over a number of years it had become increasingly difficult to mitigate the impact of new development on the overwintering birds on a case by case basis within this part of North and North East Lincolnshire.</p> <p>The South Humber Gateway project therefore provided a strategic approach whereby the appropriate mitigation was effectively provided up front by the partnership (including mitigation land assembly, habitat creation and monitoring) with developers paying an appropriate contribution based on land area to recover the cost of this work pro rata. The approach works on the basis of a balance, whereby an appropriate scale of mitigation land has been delivered to allow development to take place without delay. This innovative approach to meeting the requirements of the Habitat Regs and enabling economic development was recognised by the RTPI when it won the Excellence award for Planning and the Natural Environment</p> <p>Currently the 48ha Cress Marsh site has been established and attracts large numbers of birds. Within NE Lincolnshire there is presently more than sufficient mitigation land than is required through current consents/ submission to adequately mitigate the impact on over wintering birds. Nevertheless the partnership are now actively acquiring the additional sites to continue to provide an adequate level of up front mitigation going forward to allow growth to occur without constraint on this issue.</p> <p>Attached are the following documents for consideration: Memorandum of Understanding (Appendix G) RTPI Excellence Award SHG Submission and Certificate (Appendix H)</p>	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q10.0.13 at Deadline 2.
Q10.0.14	It is noted that the draft Planning Obligation [APP-032] would, if the DCO is made, secure a financial contribution towards strategic mitigation in accordance with Policy 9 of the North East Lincolnshire Local Plan (NELLP) and the North East Lincolnshire SHG Ecological Mitigation Delivery	<p>SHG strategic mitigation scheme – written justifications as to the need for this financial contribution including a copy of the Delivery Plan for this scheme.</p> <p>Linked to Q10.013 the strategic mitigation scheme has been adopted</p>	NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q10.0.14 at Deadline 2.

ExQ1	Question	NELC Response	Applicant's Response
	<p>Plan (Delivery Plan) . This financial contribution is to be used to mitigate against the impact of the development on the Humber Estuary SPA/Ramsar. Please enter into evidence a copy of the written justifications as to the need for this financial contribution, including a copy of the Delivery Plan and any other relevant documents that explain the background to the Delivery Plan and its purpose /</p> <p>current status and/ or how the conclusions within it have been derived. Alternatively, please direct the ExA to where a copy of the Delivery Plan, together with any of the other relevant documents that explain the background to the Delivery Plan and its</p> <p>purpose / current status and/ or how the conclusions within it have been derived, are located within the examination documentation.</p> <p>Please enter into evidence Policy 9 of the NELLP and any relevant pre/ post amble relevant to this policy and/ or make specific reference to where the policies together with the relevant pre and post amble to the relevant policies are located within the examination documentation.</p>	<p>within the NELLP following public hearing through policy 9. The delivery plan was a key background document to the Local Plan examined within the Local Plan hearings. The process of financial contribution is worked out on a 1:1 basis as identified within the following documents.</p> <p>South Humber Gateway Ecological Mitigation North East Lincolnshire Delivery Plan (Appendix I)</p> <p>In addition to this, policy 9 of the Local Plan and supporting paragraphs are included. These can be found at appendix (Appendix J).</p>	
Q15.0.5	<p>In the light of the RR made on behalf of Network Rail [RR-001] and Appendix 2 (Consented Development Officers Report) to the Planning, Design and Access Statement [APP-024], please enter into evidence a copy of any representation made by, or on behalf of Network Rail, in relation to the Planning Permission granted under Planning Reference DM/1070/18/FUL.</p>	<p>Network Rail Responses to DM1078/18/FUL</p> <p>The following documents were submitted in relation to the above application. In addition, the response to the planning application condition discharge application: DM/1117/19/CND (delivery and servicing) are also included.</p> <p>Network Rail consultation response to DM/1070/18/FUL (Appendix K)</p> <p>Network Rail consultation response to DM/1117/19/CND (Appendix L)</p>	<p>NELC's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q15.0.5 at Deadline 2.</p>

ExQ1	Question	NE Response	Applicant's Response
Q6.0.5	<p>NE [RR-008] note that the Applicant has used significance criteria for disturbance to birds based on bird behaviour and noise monitoring studies undertaken by Xodus Group during construction piling for the Grimsby River Terminal. That assessment classifies the peak noise levels of 75dB LAmax as having a minor adverse impact and concludes no LSE. However, NE considers that this increase in noise levels could disturb bird species using the Pyewipe mudflats and require additional information to demonstrate that a LSE can be ruled out. Can NE clarify what additional information they require and can the Applicant comment on this.</p>	<p>In response to Q6.0.5, the Applicant provided further information to Natural England in response to its Relevant Representation. A copy of this information was submitted to the ExA at Deadline 1 as part of the Applicant's Comments on Relevant Representations (Document Ref. 8.1).</p> <p>As noted in the revised SoCG between the Applicant and Natural England submitted at Deadline 2 (Document Ref. 7.4), Natural England has confirmed it has no outstanding queries and all relevant matters have been agreed.</p> <p>Natural England has clarified with the Applicant that in line with the mitigation hierarchy that noisy works should be avoided during sensitive time periods for overwintering SPA/Ramsar bird species, where possible. Natural England understands that the applicant wishes to provide the contractors with as much flexibility as possible to work during the winter and therefore has assessed the potential impacts of noise disturbance on SPA/Ramsar bird populations. The applicant has proposed two options for mitigation. Natural England is of the opinion that the use of the CFA piling is the more effective mitigation measure, as it does not produce impulsive, discontinuous noise, which is more disturbing to bird species.</p> <p>The alternative mitigation option is the avoidance of impact piling two hours either side of high tide during the wintering period (September to March inclusive). On the understanding that the works would take place "over a relatively short period of time (i.e. weeks rather than months)", we assume that this means less than a month, as stated in a number of documents including at 7.2.8 of the HRA signposting document. Natural England advises that we concur that any residual short-term disturbance impacts on overwintering birds would not result in adverse effects on the integrity of the Humber Estuary SPA/Ramsar. Providing that the piling works do not take longer than one month to complete, as suggested, and the mitigation measures are appropriately secured in any permissions given.</p>	<p>NE's response to the ExA's WQ is in agreement with the response provided by the Applicant to Q6.0.5 at Deadline 2 (REP2-020).</p> <p>The Applicant notes NE's comments in relation to the timing of and methods used for in relation to piling, and confirms that drop hammer piling will not be required for more than four weeks.</p> <p>Piling mitigation is secured by Requirement 17 in the draft DCO. The wording was also refined in the draft DCO submitted at Deadline 2 (REP2-014) to ensure the mitigation measures were appropriately secured (not in response to Natural England).</p>
Q6.0.9	<p>An Indicative Lighting Strategy is provided [APP-031], and lighting impacts are considered in the HRA Signposting Document [APP-027] (HRAR). NE suggests [RR-008] that the arrangement of temporary construction lighting to minimise glare outside the construction site should be secured in the CEMP, and that mitigation measures for operational lighting impacts should be minimised as far as possible and secured through a detailed lighting strategy.</p> <p>Can NE clarify whether the Indicative Lighting Strategy and the relevant information in the HRAR address their concerns over lighting?</p> <p>Can the Applicant comment on NE's suggestion with respect to these mitigation measures and state</p>	<p>In response to Q6.0.9, Natural England confirms that the information provided in the Indicative Lighting Strategy (Document Ref. 5.12) and HRA Signposting Report (Document Ref. 5.8) provide sufficient information regarding lighting impacts and the control of light, and that control of lighting is appropriately secured by Requirements 15 (Construction environmental management plan) and 9 (Lighting scheme) of the draft DCO (Document Ref. 2.1).</p>	<p>NE's response is in agreement with the response provided by the Applicant to Q6.0.9 at Deadline 2.</p> <p>All matters are agreed with NE as recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003).</p>

ExQ1	Question	NE Response	Applicant's Response
	whether they are intending to prepare a detailed lighting strategy and if so how this would be secured in the DCO?		
Q6.0.10	<p>NE is not satisfied that the proposal is unlikely to damage features of interest of the Humber Estuary Site of Special Scientific Interest (SSSI) [RR-008]. Many of the species included in the Humber Estuary Special Protection Area (SPA)/ Ramsar water bird assemblage are also part of the Humber Estuary SSSI citation, and so the above impacts also have the potential to impact upon the notified features of the Humber Estuary SSSI. NE advises that, if approved, the project must be subject to all necessary and appropriate requirements, which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated (para 3.2.11).</p> <p>Can NE clarify what appropriate requirements would be necessary, such as mitigation measures, that the Applicant has not already proposed for the DCO, to satisfy NE that no unacceptable environmental effects would occur at the Humber Estuary SSSI designated site?</p>	<p>Natural England is satisfied that the potential features of interest of the Humber Estuary SSSI that could be impacted by the proposed works are also part of the citations for the Humber Estuary European sites.</p> <p>As noted in the revised SoCG between the Applicant and Natural England submitted at Deadline 2 (Document Ref. 7.4), Natural England has confirmed it has no outstanding queries and all relevant matters have been agreed.</p>	<p>NE's response is in agreement with the response provided by the Applicant to Q6.0.10 at Deadline 2.</p> <p>All matters are agreed with NE as recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003).</p>
Q10.0.1	NE state in their RR [RR-008] that further information is required to assess the potential for the Proposed Development's impact on the European sites. NE is not satisfied that it can be excluded beyond reasonable scientific doubt that the Proposed Development would not have an adverse effect on the integrity of the Humber Estuary SPA or Ramsar site. Could the Applicant and NE provide an update with regard to what is being done to overcome the concerns of NE in this regard?	<p>In response to Q10.0.1, the Applicant provided further information to Natural England in response to its Relevant Representation. A copy of this information was submitted to the ExA at Deadline 1 as part of the Applicant's Comments on Relevant Representations (Document Ref. 8.1).</p> <p>Natural England has clarified the matters not agreed in the SOCG submitted at Deadline 1 with the Applicant. Further comment has been provided at Q6.0.5 on proposed mitigation for piling noise effects on waterbirds using Pyewipe mudflats and functionally linked fields to the north and south of the Site.</p> <p>Regarding the assessment of cumulative (in-combination) NOx and acid deposition effects on Humber Estuary SAC/ SPA/ Ramsar site/ SSSI. Natural England provided the following clarification.</p> <p>In-combination assessment - NOx The HRA signposting document concludes that the Applicant is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question due to proposed NOx contributions in combination with other plans or projects. Having considered the assessment, Natural England advises that 17.8.9 of Chapter 17 Cumulative and Combined Effects could be explained in further detail.</p> <p>Regarding the predicted Process Contributions at saltmarsh habitat receptor E3_1, 17.8.9 states "as the baseline levels of NOx at this receptor are already exceeding the Critical Level (baseline level is 44.7µg/m3), this small additional contribution is not reasonably considered to result in any adverse effects on the designated site, in combination with the other</p>	<p>NE's response is in agreement with the response provided by the Applicant to Q10.0.1 at Deadline 2.</p> <p>All matters are agreed with NE as recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003), which includes (at paragraph 4.3.14) <i>"It is agreed that impacts on European designated sites (including the Humber Estuary SAC/ SPA/ Ramsar/ SSSI) as a result of emissions to air from the Proposed Development in combination with other known plans/ projects, have been adequately addressed in the ES and the effects on all ecological receptors are also not significant"</i></p>

ExQ1	Question	NE Response	Applicant's Response
		<p>developments that have been assessed.”</p> <p>Natural England refers to the Air Pollution Information System description of Nitrogen Oxides, which highlights that “it is likely that the strongest effect of emissions of nitrogen oxides across the UK is through their contribution to total nitrogen deposition”. Natural England notes that additional ecological reasoning has been provided for nutrient Nitrogen deposition at 17.8.12 of Chapter 17. Based on this information, Natural England concurs with the assessment conclusions.</p> <p>In-combination assessment – Acid Deposition The HRA signposting document concludes that the Applicant is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question due to proposed acid deposition contributions in-combination with other plans or projects. Having considered the assessment, Natural England advises that 17.8.13 of Chapter 17 Cumulative and Combined Effects could be explained in further detail.</p> <p>Regarding the predicted Process Contributions at sand dune habitat receptor E4_1, E4_2, E4_3, E4_4, E4_5 and E4_6) 17.8.13 states “the cumulative process contribution would slightly exceed the 1% insignificance screening threshold for potential adverse effects on sensitive habitat types within the Humber Estuary SAC/ SPA/ Ramsar/ SSSI (predicted to be between 1.1 and 1.2%). However, given the very small process contribution resulting from these developments, it is assessed that there would be no significant effects on the Humber Estuary designated site as a result of acid deposition in combination with the other developments as outlined in Table 17.5.”</p> <p>Given that the sand dunes are likely to be calcareous, based on the soil type and the plant communities in the area, Natural England refers to the Air Pollution Information System description of acid deposition. This highlights that “soil acidification as a result of acid deposition has relatively little impact in UK dunes because sand dune soils are generally well-buffered, with the exception of the few acidic dune systems (UKREATE, 2000)”. Based on this information, Natural England concurs with the assessment conclusions.</p> <p>As noted in the revised SoCG between the Applicant and Natural England submitted at Deadline 2 (Document Ref. 7.4), Natural England has confirmed it has no outstanding queries and all relevant matters have been agreed.</p>	
Q10.0.8	The ES Chapter 10, [APP-044] Table 10.4, states that NE were consulted in relation to the information needed to support a HRA for the Proposed Development. Table 10.5 summarises NE's Section 42 consultation comments, made in December 2019, which include points relating to the	In response to Q10.0.1, the Applicant provided further information to Natural England in response to its Relevant Representation. A copy of this information was submitted to the ExA at Deadline 1 as part of the Applicant's Comments on Relevant Representations (Document Ref. 8.1).	<p>NE's response is in agreement with the response provided by the Applicant to Q10.0.8 at Deadline 2.</p> <p>All matters are agreed with NE as</p>

ExQ1	Question	NE Response	Applicant's Response
	European sites. However, NE in its RR [RR-008] consider that additional information is required to assess the potential for the Proposed Development to impact on SAC habitats as well as the passage/ wintering bird assemblage of the Humber Estuary SPA and Ramsar site. Can the Applicant and NE clarify what progress has been made to agree what additional information is needed to predict the likely effects?	As noted in the revised SoCG between the Applicant and Natural England submitted at Deadline 2 (Document Ref. 7.4), Natural England has confirmed it has no outstanding queries and all relevant matters have been agreed.	recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003).
Q10.0.26	Noise Disturbance to Arable Field (Field 37) to the South is identified as a temporary likely significant adverse effect on the protected bird species using this habitat, and it is explained that the noise mitigation measures would be determined by the contractor using the best available technique for noise abatement during the piling works, which will be agreed with NELC (para 7.2.13). Do NE or other IPs have any comments on the mitigation proposed?	<p>In response to Q10.0.26, Natural England confirms it has been consulted on the proposed piling mitigation in relation to both the Consented Development and the Proposed Development.</p> <p>The proposed mitigation comprises the use of CFA piling and/ or seasonal restrictions on the use of drop hammer piling (two hours either side of high tide in the period September to March inclusive). Natural England confirms the proposed mitigation has been agreed and any residual short-term disturbance impacts on overwintering birds would not result in adverse effects on the integrity of the Humber Estuary SPA/Ramsar.</p> <p>Further comments have also been provided at Q6.0.5.</p>	<p>NE's response is in agreement with the response provided by the Applicant to Q10.0.26 at Deadline 2.</p> <p>The Applicant notes NE's comments in relation to the timing of and methods used for in relation to piling, and confirms that drop hammer piling will not be required for more than four weeks.</p> <p>Piling mitigation is secured by Requirement 17 in the draft DCO.</p> <p>All matters are agreed with NE as recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003).</p>
Q10.0.27	<p>Section 8 of the HRAR [APP-027], concludes that the Proposed Development would not give rise to an adverse effect on the integrity of the Humber Estuary SAC/ SPA/ Ramsar sites. However, potential LSEs were identified at the HRA screening stage with the two other developments proposed in the area (Stallingborough Link Road and Sustainable Transport Fuels Facility) of the Proposed Development result in the loss of functionally linked habitat. These other developments are committed to the delivery of habitat mitigation through the SHG strategic mitigation proposal, so it is concluded that there would be no adverse effects on the Humber Estuary SPA/ Ramsar in-combination with the Proposed Development as a result of the losses of functionally linked habitat (para 8.1.3).</p> <p>NE [RR-008] is not satisfied that it can be excluded beyond reasonable scientific doubt that the Proposed Development would not have an adverse effect on the integrity of the Humber Estuary SPA or Ramsar site. NE advises that, if approved, the Proposed Development must be subject to all necessary and appropriate requirements, which ensure that unacceptable environmental impacts either do not occur or</p>	<p>In response to Q10.0.27, the Applicant provided further information to Natural England in response to its Relevant Representation. A copy of this information was submitted to the ExA at Deadline 1 as part of the Applicant's Comments on Relevant Representations (Document Ref. 8.1).</p> <p>As noted in the revised SoCG between the Applicant and Natural England submitted at Deadline 2 (Document Ref. 7.4), Natural England has confirmed it has no outstanding queries and all relevant matters have been agreed.</p>	<p>NE's response is in agreement with the response provided by the Applicant to Q10.0.27 at Deadline 2.</p> <p>All matters are agreed with NE as recorded in the SoCG submitted at Deadline 2 (Document Ref. 7.4) (REP2-003).</p>

ExQ1	Question	NE Response	Applicant's Response
	are sufficiently mitigated. Can the Applicant and NE clarify what progress has been made to agree what additional information is needed to predict the likely effects?		

ExQ1	Question	EA Response	Applicant's Response
Q1.0.7	The Environmental Permit, and matters stipulated within it, is referred to a number of times throughout the documentation submitted with the application. Please provide a draft copy of the Environmental Permit or point the ExA to where this has been provided in the submitted documentation? If the document is only in draft at the present time please provide the most up to date draft of the Environmental Permit.	An environmental permit has been granted by the EA for the Consented Development as part of the South Humber Bank Power Station permit (see permit EPR/MP3235LY attached as Appendix 1) and the approach to varying that permit to increase the electrical output for the Proposed Development and transfer the Proposed Development into a new separate permit has been agreed between the Applicant and the EA. The new permit cannot be released until it has been determined by the EA.	<p>The EA's response is in agreement with the response provided by the Applicant to Q1.0.7 at Deadline 2.</p> <p>All matters are agreed with the EA as recorded in the signed SoCG between EA and the Applicant (Document Ref. 7.3) (REP1-001) which notes there are no outstanding matters to be agreed between the parties.</p> <p>A copy of the Environmental Permit for the Consented Development was provided by the Applicant to the ExA at Deadline 2 and the Permit application for the Proposed Development was Duly Made by the EA on 23rd December 2020.</p> <p>The Applicant has also updated the Other Consents and Licences Document (Document Ref. 5.4) and submitted this at Deadline 3</p>
Q1.0.8	Please advise if the Environmental Permit is a template permit or bespoke?	This will be a bespoke permit due to the size and complexity of the application.	The EA's response is in agreement with the response provided by the Applicant to Q1.0.8 at Deadline 2.
Q1.0.11	The Statutory Nuisance Statement [APP-028] Paragraph 4.3.11 - It is noted that the resulting combustion flue gas will be cleaned in a Flue Gas Treatment (FGT) plant and that each fuel combustion line will be fitted with: Selective Non Catalytic Reduction (SNCR) for the abatement of emissions of nitrogen oxides (NOx) (if required); lime (or equivalent reagent) injection for the abatement of acid gases including hydrogen chloride and sulphur dioxide; activated carbon injection for the abatement of Persistent Organic Pollutants (POPs), dioxins and furans and heavy metals; and fabric bag filters for the abatement of particulate emissions, including the injected reagent and activated carbon. Will these measures be covered in the Environmental Permit or will it need to be a Requirement in the DCO?	These substances will be included within the environmental permit and the operator will be required to meet emission limits for all of these substances.	The EA's response is in agreement with the response provided by the Applicant to Q1.0.11 at Deadline 2.
Q2.0.2	Will the stacks heights and need to ensure the flue gas is emitted with a velocity of at least 15 m/s be specified in the Environmental Permit or will these need to be a Requirement specified in the Development Consent Order? (See Statutory Nuisance Statement [APP-028] Paragraph	The stack height is determined by the modelling of air emissions and forms part of the permit determination process. Emissions limits will be included in the Environmental Permit.	The EA's response is in agreement with the response provided by the Applicant to Q2.0.2 at Deadline 2.

	4.3.12)		
Q4.0.5	Will the temperatures within the combustion system and in particular to the main flue gas temperature being at least 850°C for a minimum of two seconds, Etc., be covered in the Environmental Permit or will it need to be a Requirement in the Development Consent Order?	Under the Environmental Permitting regulations it is a requirement that municipal waste incinerators are designed in such a way that the 2 second 850°C is met and this is confirmed with computational fluid dynamics software simulation. This does not need to be a Requirement in the Development Consent Order.	The EA's response is in agreement with the response provided by the Applicant to Q4.0.5 at Deadline 2.
Q4.0.6	In terms of emissions, please explain what is the impact of this plant in-combination with other plant already in situ and whether this is considered as part of the Environmental Permitting regime?	Air emissions modelling is a requirement of the permit application and determination process to ensure all emission are controlled to comply with all air quality requirements. In combination impacts will be considered as part of the Environmental Permit determination.	The EA's response is in agreement with the response provided by the Applicant to Q4.0.6 at Deadline 2.
Q9.0.3	Bearing in mind the risks to controlled waters are considered to be moderate to high (See Q9.0.1 above), please confirm whether the ES Chapter 12 (Geology, Hydrology and Land Contamination) [APP046] and Appendix 12A: Phase 1 Geo Environmental and Geotechnical Desk Study Report [APP-129] satisfactorily deals with the potential risks to controlled waters and whether imposing Requirements within the DCO would be adequate to control/ deal with this concern?	When dealing with land affected by contamination, the EA recommends that the risk management framework provided in Land Contamination: Risk Management should be followed. We consider that the Phase 1 Geo-Environmental and Geotechnical Desk Study Report satisfies the initial risk assessment stage of the phased approach of managing the risk to controlled waters. Schedule 2, Requirement 19 (Investigation and remediation of contamination) provides an appropriate strategy to ensure that the risks to controlled waters are appropriately assessed and can be addressed through appropriate measures.	The EA's response is in agreement with the response provided by the Applicant to Q9.0.3 at Deadline 2.
Q9.0.7	Bearing in mind Questions Q9.0.4 to Q9.0.6 above, please confirm whether the ES Chapter 12 (Geology, Hydrology and Land Contamination) [APP-046] and Appendix 12A: Phase 1 Geo-Environmental and Geotechnical Desk Study Report [APP-129] satisfactorily deals with the potential risks to controlled waters arising from potential aggressive ground conditions and whether imposing Requirements within the DCO would be adequate to control/ deal with this concern?	The risks posed by 'aggressive ground conditions' as detailed in the Phase 1 Geo-Environmental and Geotechnical Desk Study Report refer to geotechnical considerations. In so far as it relates to contamination, the EA's remit only includes issues relating to the protection of controlled waters. We are satisfied that the risks to controlled waters can be appropriately managed with under the measures included in Schedule 2, Requirements 18-21.	The EA's response is in agreement with the response provided by the Applicant to Q9.0.7 at Deadline 2.