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Dear Grahame Gould

NSIP Reference: Fosse Green Energy Project
Consultation: Examining Authorities First Written Questions

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Please find Natural England's responses to the Examining Authorities first written questions at **Annex A** below.

For any further advice on this consultation please contact consultations@naturalengland.org.uk.

Yours sincerely

Sustainable Development Team
East Midlands Area Delivery
Natural England

Annex A

Question Reference	Question	Natural England Response
DCO.1.03	<p>Article 2 - interpretation</p> <p>Article 2 of the dDCO [APP-016] includes provisions for “permitted preliminary works”. Section 5.7.21 of Advice Note 15 “Drafting Development Consent Orders” advises that such provisions have been removed by the Secretary of State (SoS) in some decisions, particularly where such advance works were themselves likely to have significant environmental effects, for example, in terms archaeological remains.</p> <p>a) For the applicant - comment on the nature and scope of the identified permitted preliminary works in the context of section 5.7.21 of Advice Note 15.</p> <p>b) Given that the permitted preliminary works could take place with just the framework plans in place, views are sought on whether the level of detail in these documents would secure adequate control and manage the likely effects arising from the preliminary works?</p>	<p>Without further information regarding what the ‘permitted preliminary works’ may include, NE are unable to provide substantive comment. Nonetheless, it is relevant to state that in other cases our advice has been that certain works, for example establishing construction compounds or welfare cabin installation, which require soil stripping and storage, should not be included in any pre-commencement works, as there is a risk of soil damage without being in accordance with a finalised Soil Management Plan.</p> <p>Some minor preliminary works may be suitable, but these should be defined to avoid accidental damage.</p> <p>Framework plans are not designed to be relied upon to avoid impacts & detailed plans should always be established prior to works that may be damaging in the absence of mitigation. Where measures set out within a framework plan are required to avoid impacts, NE would advise that these works should not be considered as ‘permitted preliminary works’, and the final plan must be completed and agreed prior to works starting.</p>
ENC.1.08	<p>Mitigation commitments</p> <p>Table 8-13 in ES Chapter 8: Ecology and Nature Conservation [APP-033] sets out the proposed development’s mitigation commitments. Comment on the extent of mitigation measures proposed and whether they would be sufficient to achieve their objectives?</p>	<p>Natural England consider the mitigation measures proposed to avoid impacts to nationally & internationally designated sites, namely Swanholme lakes SSSI, are sufficient.</p> <p>Natural England have not reviewed in detail all of the avoidance and mitigation measures proposed to avoid impacts to protected species. The applicant is responsible for identifying any impacts which may require a protected species licence; NE would provide advice on the mitigation approach as part of the licence application. As it stands, the Applicant does not anticipate that any protected species licences will be required, due to the avoidance and mitigation</p>

		<p>measures embedded in the Proposed Development design.</p> <p>Natural England have not reviewed in detail the mitigation measures proposed for other receptors & would defer to the relevant local authorities and statutory consultees, as appropriate.</p>
ENC.1.26	<p>BNG Report [APP-194] – strategic significance</p> <p>Paragraph 2.6.2 of the BNG Report sets out that NKDC has yet to produce a Local Nature Recovery Strategy and because of that strategic significance has been assigned to habitats using the alternative methodology in line with guidance set out in the Statutory Biodiversity Metric User Guide.</p> <p>LCC, in its relevant representation [RR-157], considers that significance has not been applied in accordance with the Statutory Biodiversity Metric User Guide, as NKDC has identified criteria for assessing strategic significance (Central Lincolnshire Biodiversity Opportunity Mapping). NKDC, in its relevant representation [RR-210] also refers to a failure to apply locally adopted strategic significance criteria.</p> <ul style="list-style-type: none"> a) Comment on what would be the most appropriate approach for assigning strategic significance within the context of the advice stated in the Statutory Biodiversity Metric User Guide. b) NKDC - provide an update on when the council's Local Nature Recovery Strategy is expected to be published. 	<p>The Biodiversity net gain for nationally significant infrastructure projects consultation, which ran from 28th May to 24th July 2026, states that LNRS should be used to define strategic significance. However, footnote 22 specifically addresses the scenario prior to publication of an LNRS:</p> <p><i>'Before an LNRS is published, applicants should refer to the alternative document for assigning strategic significance, which the local planning authority must specify. This document could be one of a list of examples included in the biodiversity metric user guide'</i></p> <p>As such, in this scenario it appears the Local Planning Authority have specified that the Central Lincolnshire Biodiversity Opportunity Mapping should be used to define strategic significance.</p>
ENC.1.27	<p>BNG Report [APP-194] – trading rules</p> <p>Paragraphs 3.3.2 to 3.3.6 in the BNG Report explain the trading rules. Paragraph 3.3.2 confirms that for area habitats, the trading rules within the Statutory Biodiversity Metric currently would not be satisfied for each distinctiveness level. That would be because of the loss of "Lakes – Reservoirs",</p>	<p>Natural England always advise that implementation of BNG in accordance with the rules intended to be mandated in May 2026 is best practise. However, it is noted that in the current absence of mandatory Biodiversity Net Gain for NSIPs, satisfying the trading rules is not yet a mandatory requirement.</p>

	<p>“Heathland and shrub – Mixed scrub” and “Cropland – Arable field margins” habitats, which would not be directly mitigated for by the proposed development.</p> <p>a) For the applicant - paragraphs 3.3.3 and 3.3.4 in the BNG Report provide more detail with respect to Lakes – Reservoirs’ and Cropland – Arable field margins. Clarify why a similar explanation is not provided for Heathland and shrub – Mixed scrub.</p> <p>b) Comment on the approach to the trading rules.</p>	
<p>FS.1.03</p>	<p>Agricultural land classification survey</p> <p>Paragraph 12.4.16 in ES Chapter 12: Socio-Economics and Land Use [AS-016] advises that the soil survey for the cable corridor would be undertaken post consent, with that to be secured in the final approved CEMP. That is described in SOC-C3 in the FCEMP.</p> <p>Table 12-15 in [AS-016] describes the agricultural land classification within the principal site. This identifies that 18.4ha (1.8%) was not surveyed or was inaccessible.</p> <p>a) Has the partial surveying of the Order Limits prevented a comprehensive assessment of the effects of the proposed development on agricultural land?</p> <p>b) Would the measures in the FCEMP [APP-189] be sufficient to secure the required surveys? If not, what additional measures would be required? For example, should there be a specific provision in the dDCO to secure the survey work?</p>	<p>The applicant has made comment on this item in their Response to relevant representations (REP1-047), at page 54.</p> <p>SOC-C3 in the fCEMP (REP1-032) states:</p> <p><i>‘The soil survey of a defined cable route is to be undertaken post-consent. The soil resource will be restored to pre-construction condition.’</i></p> <p>Further detail is secured in the fSMP (REP1-038) at paragraph 7.2.2:</p> <p><i>‘The investigations will comprise the following as a minimum... Agricultural Land Classification (ALC) surveys – soil surveys across remaining areas of the site red line boundary: including the cable corridor, previously inaccessible areas and compound locations etc. Sample density must be in accordance with relevant ALC guidance, i.e. one sample per 100m of linear route or 1 per hectare of site area and undertaken by suitably qualified soil surveys in accordance with the BSSS guidance...’</i></p> <p>NE consider the required additional ALC survey to be suitably secured by these two management plans, which are secured by DCO requirements 12 (CEMP) and 15 (SMP) (REP1-0008). NE have also been included as a consultee on the</p>

		SMP, which is welcomed.
FS.1.11	<p>Framework Soil Management Plan</p> <p>Within the Framework Soil Management Plan [AS-100] mention is made of a number of documents that would need to be referred to for the management of soils, for example, the soil resource survey, DEFRA’s Construction Code of Practice for the Sustainable Use of Soils on Construction Sites document, as well as the SMP.</p> <p>a) Applicant - for each element of the proposed development, explain the approach to managing soils during construction, operation and decommissioning. This should include the methods for stripping, storing and replacing soils, including during wet weather, and activities during the aftercare period.</p> <p>b) Comment on other matters which you consider should be included in a final soil management plan to ensure that it provides an appropriate basis for the preparation of a detailed plan for the management of soils during construction, operation and decommissioning.</p>	<p>The items requested in part ‘a)’ of this question are considered the primary matters that must be included in the final SMP, as set out in the DEFRA Construction Code of Practise for the Sustainable Use of Soils on construction Sites.</p> <p>It is also important that the SMP includes:</p> <ul style="list-style-type: none"> - Details of the soils on the site (following the final pre-construction ALC survey), which will inform the relevant management practises. <p>NE have few additional comments to make; advise that the final SMP is written in accordance with this guidance. We also note that NE have been added as a consultee on the final SMP, so will have the opportunity to review and comment on the content at a later stage.</p>
FS.1.12	<p>Framework Soil Management Plan – topsoil</p> <p>Paragraph 5.4.1 of the Framework Soil Management Plan (FSMP) [AS-100] refers to any significant vehicular movement over topsoil being restricted.</p> <p>a) Applicant - explain how “significant” would be defined, for example, by type of vehicle, by number.</p> <p>b) Should this requirement be more definitive, for example, it should not happen except for the purposes of stripping operations?</p>	<p>All vehicle movement on topsoil, and subsoil, should be avoided where possible.</p> <p>The DEFRA Construction Code of Practise for the Sustainable Use of Soils on construction Sites states that a detailed stripping plan should show soil units to be stripped, haul routes and the phasing of vehicle movements. This applies to both top soil and subsoil stripping and is intended to avoid vehicle movements and subsequent compaction.</p> <p>This stripping plan should provide the necessary detail to avoid vehicle movements and compaction during soil handling works.</p>

		Where avoidance of vehicular movements on topsoil and subsoil is not possible, appropriate mitigation should be implemented, such as track-mats, with reinstatement and/or aftercare including relief of compaction where required.
FS.1.14	<p>Framework Soil Management Plan – restoration</p> <p>Restoration to previous quality appears to be one of the reasons for a finding of minor adverse effect for the land temporarily affected (paragraph 12.7.42 in ES Chapter 12: Socio-Economics and Land Use [AS-016]). It is also referenced in SOC-C3 in the FCEMP [APP-189].</p> <p>Given this context, should there be a stronger commitment in the FSMP to restoring to the pre-development grade of agricultural land? If not, explain why that is considered to be the case?</p>	<p>fSMP (REP1-038) paragraph 7.1.4 is clear that the cable corridor will be reinstated to the current ALC grade, which is welcomed.</p> <p>fSMP (REP1-038) paragraph 7.1.1 has been updated following NE's relevant representations to make the commitment to reinstatement of the full DCO site to the current ALC grade more clear:</p> <p><i>'The detailed SMP will set out in full the methods for reinstatement (as relevant to ensure the soil resource is managed effectively according to its ALC, and that BMV resource is retained (as relevant) across the DCO Site.'</i></p> <p>It is acknowledged that the wording is not as explicit as that at 7.1.4, but NE are satisfied that it secures the requirement for reinstatement to the same ALC grade nonetheless. NE also note that we have been added as a consultee on the final SMP, so will have the opportunity to review and comment on the final version at a later stage and ensure this commitment is carried through.</p>
FS.1.15	<p>Framework Soil Management Plan – aftercare</p> <p>Paragraph 7.2.3 in the FSMP identifies that the period for aftercare would be determined during the preparation of the Soil Management Plan, the period of aftercare would be agreed with landowner and it would be the responsibility of the appointed person to determine when the reinstatement standard had been met.</p> <p>a) Applicant – what is the reasoning behind not establishing a more clearly defined aftercare period at</p>	<p>Natural England have produced Planning and aftercare advice for reclaiming land to agricultural use, however this is primarily intended for reinstatement of agricultural use from minerals or landfill uses. Generally, a 5 year period is recommended in these circumstances, but it is acknowledged that soil disruption is likely to be significantly less from this proposal, than from a mineral site restoration.</p> <p>Flexibility regarding aftercare is considered reasonable; must be based on professional judgement, i.e. informed by a suitably qualified soil scientist.</p>

	<p>this stage?</p> <p>b) Is there a need for a clearer definition of when land would be put into aftercare, for example, following the completion of topsoil replacement?</p>	<p>The Aftercare period should begin as soon as the physical restoration of the land is completed.</p>
FS.1.16	<p>Framework Soil Management Plan – aftercare</p> <p>Section 9 of the Framework Soil Management Plan [AS-100] addresses soil maintenance (aftercare requirements). It refers to green spaces and input from a landscape specialist.</p> <p>a) Applicant – would the aftercare requirements also apply to areas that would be returned to an agricultural use such as in the cable corridor?</p> <p>b) If so, should the specialist soils consultant referred to in paragraph 4.5.1 of the FSMP [AS-100] be identified as having a role in aftercare, as indicated in that paragraph?</p>	<p>NE advise that aftercare must also apply to areas that would be returned to an agricultural use following construction, such as in the cable corridor, as well as those being returned to agricultural use following decommissioning.</p> <p>As noted in our response to Question FS.1.15 above, NE consider the professional judgement of a specialist soils consultant to be essential.</p>
WE.1.02	<p>Drilling fluids</p> <p>The FCEMP [APP-189] under WAT-C6 identifies mitigation measures for managing drilling muds and wastewater.</p> <p>a) Has sufficient detail been provided in the FCEMP [APP-189] to understand what action would be taken in the event of there being a drilling fluid leak? If not, what additional details should be submitted by the applicant?</p> <p>b) Notwithstanding the identified mitigation measures, would it be possible that in the event of a substantial breakout, for some drilling fluid not be contained? In such a scenario, what would be the residual impact for the environment?</p>	<p>The proposed mitigation measures for HDD and in particular ‘frac-out’ events set out in the fCEMP are welcomed.</p> <p>A key element of this is the ‘site specific hydraulic fracture risk assessment’, which will enable the precise conditions at the crossing points to be adapted for. As it stands, little detail is provided regarding actions to be taken should ‘frac-out’ occur, however, it would be expected that this would be detailed within the proposed ‘site specific hydraulic fracture risk assessment’. It may be appropriate to specify this within the fCEMP.</p> <p>Drilling fluid, such as Bentonite, is a fine clay substance which, in the event of ‘frac-out’, presents impacts to the receiving environment primarily via siltation; smothering aquatic habitats.</p> <p>It has been specified that PFA free drilling fluids would be used, which is welcomed.</p>

		<p>The River Witham and Brant both eventually discharge to the Wash, which is designated as an SPA, SAC, Ramsar site and SSSI. As set out in our relevant representations, Natural England consider that likely significant effects upon these designations are unlikely. Our relevant representation noted the use of HDD as embedded mitigation, in the context of avoiding open cut crossings. NE continue to advise that likely significant effects to these designations from the HDD itself, including any 'frac-out' are unlikely; deposit of any released bentonite is likely to occur prior to the rivers discharging to the Wash.</p> <p>Nonetheless, our advice does not preclude an effect on the local undesignated environment or watercourses, such as the River Witham & Brant. NE would defer to the EA for advice on impacts to WFD watercourses.</p>
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