

APPENDIX A:

ABBREVIATIONS LIST

Abbreviations	
	<i>Keep Blank</i>
AEol	adverse effect on integrity
ALC	Agricultural Land Classification (in England and Wales)
AP	Affected Person
AQO	Air Quality Objectives
ATC	Air traffic control
BDC	Bassetlaw District Council
BLP	Bassetlaw Local Plan 2020-2038
CA	Compulsory Acquisition
CAH	Compulsory acquisition hearing
CNP	Critical National Priority
CEA	Cumulative Effects Assessment
CSM	Conceptual Site Model
BMA	biodiversity mitigation area
BESS	Battery Energy Storage System
BMV	best and most versatile land
BNG	Biodiversity Net Gain
DfT	Department for Transport
DAD	Design Approach Document
DAS	Design and Access Statement
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs
DL	Deadline
DHA	designated heritage asset
EA	The Environment Agency
ECHR	European Court of Human Rights
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (EIA) Regulations 2017
EMFs	electric, magnetic and electromagnetic fields
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010
EPS	Exolum Pipeline System Ltd
ES	Environmental Statement
EL	Examination Library
ExA	Examining Authority
ExQ1	ExA's first written questions
ExQ2	ExA's second written questions
FfF	Fields for Farming
FRA	flood risk assessment
FP	footpath
GCN	great crested newt
GHG	Greenhouse gas
GLVIA	Guidelines for Landscape and Visual Assessment
GVA	gross value added
GWDTE	Groundwater Dependent Terrestrial Ecosystems
HA	heritage asset
HE	Historic England
HIA	Health Impact Assessment
HRA	Habitats Regulations Assessment
The Habitats Regulations	The Conservation of Habitats and Species Regulations 2017

APPENDIX A: ABBREVIATIONS

STEEPLE RENEWABLES PROJECT (EN010163)

REPORT TO SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO: 10 JULY 2026

(A:II)

ICNIRP	International Commission on Non-Ionizing Radiation Protection
IEMA	Institute of Environmental Management and Assessment
IP(s)	interested party(ies)
ISH	issue specific hearing
the Inspectorate	Planning Inspectorate
km	kilometres
LCA	landscape character area
LiDAR	light detection and ranging
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LoNI	Letter of No Impediment
LSE	likely significant effect
LVIA	Landscape and Visual Impact Assessment
LWS	Local wildlife site
m	Metres
NCA	national character area
NH	National Highways
NCC	Nottinghamshire County Council
NDHA	non-designated heritage asset
NE	Natural England
NFR	Nottinghamshire Fire and Rescue
NGET	National Grid Electricity Transmission Plc
NH	National Highways
NIC	National Infrastructure Commission
NLHPC	North Leverton with Hablesthorpe Parish Council
NLWCT	North Leverton Windmill Charitable Trust
NMLP	Nottinghamshire Minerals Local Plan
NNWLP	Nottinghamshire and Nottingham Waste Local Plan
NO ₂	Nitrogen Dioxide
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NR	Network Rail
NSIP	Nationally Significant Infrastructure Project
NSER	No Significant Effects Report
NSWPC	North and South Wheatley Parish Council
oCEMP	Outline Construction Environmental Management Plan
oDP	Outline Decommissioning Plan
oFRMP	Outline Fire Risk Management Plan
oOEMP	Outline Operational Environmental Management Plan
OFH	open floor hearing
oCTMP	Outline Construction Traffic Management Plan
oLEMP	Outline Landscape Ecology Management Plan
oOEMP	Outline Operational Environmental Management Plan
oSCESP	Outline Supply Chain, Employment and Skills Plan
oSMP	Outline Soil Management Plan
PA2008	the Planning Act 2008
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
POC	Point of Connection
PM	Preliminary Meeting
PM _{2.5}	Particulate matter which is 2.5 micrometres or less in diameter

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STEEPLE RENEWABLES PROJECT (EN010163)

REPORT TO SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO: 10 JULY 2026

(A:III)

PM ₁₀	Particulate matter which is 10 micrometres or less in diameter
PP	protective provisions
PRoW	public rights of way
PV	photovoltaic
rDCO	The ExA's recommended draft Development Consent Order
RIES	Report on the Implications for European Sites
RR	Relevant representation
Rule 6	The Rule 6 Letter of the Infrastructure Planning (Examination Procedure) Rules 2010
Rule 8	The Rule 8 Letter of the Infrastructure Planning (Examination Procedure) Rules 2010
RVAA	residential visual amenity assessment
RVAT	residential visual amenity threshold
s	Section of the Planning Act 2008
SAC	Special Areas of Conservation
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SM	schedule monument
SPA	Special Protection Areas
SSPC	Sturton le Steeple Parish Council
SSSI	Site of Special Scientific Interest
STEP	Spherical Tokamak for Energy Production
SU	Statutory Undertakers
SuDS	Sustainable Drainage Systems
SWDS	Surface Water Drainage Strategy
SWNP	Sturton Ward Neighbourhood Plan
SZTV	screened zone of theoretical visibility
TB	bovine tuberculosis
TP	Temporary Possession
tCO _{2e}	tonnes of carbon dioxide equivalent
TA	Transport Assessment
TVIDB	Trent Valley Internal Drainage Board
UKAEA	UK Atomic Energy Authority
UKFE	UK Fusion Energy Ltd
USI	Unaccompanied site inspection
WFD	Water Framework Directive Assessment
VP	viewpoint
WFD	Water Framework Directive
WSI	Written scheme of investigation
µg/m ³	micrograms per metres cubed

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STEEPLE RENEWABLES PROJECT (EN010163)

REPORT TO SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO: 10 JULY 2026

(A:IV)

APPENDIX B:

RELEVANT LEGISLATION AND POLICY

Legislation

Climate Change Act 2008 (as amended) (CCA2008)

The CCA2008 as amended by the CCA2008 (2050 Target Amendment) Order 2019 establishes the legally binding framework to tackle climate change. It sets statutory climate change projections and carbon budgets. A key provision is the setting of legally binding targets greenhouse gas emission reductions in the UK of at least 100% by 2050.

Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitats Regulations)

The Habitats Regulations give effect to the Habitats Directive (92/43/EEC) and Wild Birds Directive (2009/147/EC). Following the UK's departure from the EU, these were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 in order to ensure they continue to operate effectively.

Control of Pollution Act 1974 (CoPA)

Section 60 and s61 of the CoPA provide the main legislation regarding demolition and construction site noise and vibration.

Countryside and Rights of Way Act 2000 (CRoW Act)

The CRoW Act includes provisions regarding public rights of way (PRoW) and access to land.

Environment Act 2021

This Act provides targets, plans and policies for improving the natural environment. Schedule 15 makes provision for biodiversity net gain (BNG) in Nationally Significant Infrastructure Projects (NSIP). Whilst not yet in force, it contains a future target for 10% BNG.

Environmental Protection Act 1990

This identifies a number of matters which are considered to be statutory nuisance.

Equality Act 2010

This establishes a duty (the Public Sector Equality Duty) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.

Human Rights Act 1998

This places the European Convention on Human Rights (ECHR) into UK statute. The compulsory acquisition of land can engage various relevant articles under the Act.

Natural Environment and Rural Communities Act 2006

This makes provisions for bodies concerned with the natural environment and rural communities. It includes a duty that public bodies must have regard to the conservation of biodiversity in exercising functions insofar as is consistent with the proper exercising of those functions.

Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (WFD Regulations)

The WFD Regulations give effect to the Water Framework Directive (WFD) which establishes a framework for water policy and water quality. The WFD seeks to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems.

Wildlife and Countryside Act 1981 (as amended)

This is the primary legislation that protects animals, plants and certain habitats. It provides for the notification and confirmation of sites of special scientific interest. The Act provides for and protects wildlife, nature conservation, countryside protection, national parks, and PRow. If a species protected under the Act is likely to be affected by development, a protected species licence will be required from Natural England.

Other relevant legislation

- Acquisition of Land Act 1981
- The Air Quality Directive
- Air Quality (England) Regulations 2000
- Air Quality Standards Regulations 2010
- The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019
- Ancient Monuments and Archaeological Areas Act 1979
- Arbitration Act 1996
- Building Act 1984 and the Building Regulations 2010
- Burial Act 1857
- Carbon Budgets Order 2009 to 2021
- Communications Act 2003
- Community Infrastructure Levy Regulations 2010
- Compulsory Purchase (Vesting Declarations) Act 1981
- Compulsory Purchase Act 1965
- Control of Major Accidents Hazard (COMAH) Regulations 2015
- Electricity Act 1989
- Environment Act 1995
- Environmental Permitting (England and Wales) Regulations 2016
- Environmental Permitting Regulations 2010
- European Union (Withdrawal Agreement) Act 2020
- Forestry Act 1967
- Groundwater (Water Framework Directive) (England) Direction 2016
- Hazardous Waste Regulations (England and Wales) 2005
- Hedgerows Regulations 1997
- Highways Act 1980

- Infrastructure Planning (Decisions) Regulations 2010
- Infrastructure Planning (Examination Procedure) Rules 2010
- Infrastructure Planning (Compulsory Acquisition) Regulations 2010
- Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
- Land Compensation Act 1961
- Land Drainage Act 1991
- Levelling Up and Regeneration Act 2023
- Modern Slavery Act 2015
- Neighbourhood Planning Act 2017
- New Roads and Street Works Act 1991
- Planning Act 2008
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Protection of Badgers Act 1992
- Railways Act 1993
- Road Traffic Regulation Act 1984
- Town and Country Planning (Tree Preservation) (England) Regulations 2012
- Town and Country Planning Act 1990
- Traffic Signs Regulations and General Directions 2016
- Waste from Electrical and Electronic Equipment Regulations 2013
- Water Industry Act 1991
- Water Resources Act 1991
- Wild Mammals (Protection) Act 1996

National policy and guidance

Overarching National Policy Statement for Energy (NPS EN-1) (dated 23 November 2023, designated on 17 January 2024)

This NPS sets out the need for new nationally significant electricity infrastructure and the Critical National Priority for low carbon infrastructure, including solar photovoltaic electricity generating stations. It sets out general principles and generic impacts to be considered in considering applications for energy NSIPs. All other energy NPSs sit under the policy framework that it provides.

National Policy Statement for Renewable Energy (NPS EN-3) (dated 23 November 2023, designated on 17 January 2024)

This NPS details assessment criteria specific to different types of renewable energy infrastructure, including energy from solar photovoltaic electricity generating stations. The assessment criteria for energy from solar photovoltaic generation proposals include impacts relating to site selection and design, climate change, biodiversity, landscape and visual, cultural heritage, traffic, and noise and vibration.

National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (dated 23 November 2023, designated on 17 January 2024)

Amongst other things, this NPS provides policy for underground electricity distribution systems that constitute associated development to a solar photovoltaic NSIP.

Other national policy and guidance

- Air Quality Strategy (2023)
- British Energy Security Strategy (2022)
- Clean Air Strategy (2019)
- Clean Growth Strategy (2018)
- Clean Power 2030 Action Plan (2024)
- Clean Power 2030: Advice on Achieving Clean Power for Great Britain by 2030 (2024)
- Energy White Paper: Powering our Net Zero Future (2020)
- The Glasgow Pact (2021)
- A Green Future: Our 25 Year Plan to Improve the Environment (2018) and Environmental Improvement Plan (2023)
- Industrial Decarbonisation Strategy (2021)
- The Kyoto Protocol (1997)
- National Infrastructure Strategy (2020)
- National Planning Policy Framework (December 2024) and associated Planning Practice Guidance
- Net Zero Strategy: Build Back Greener (2021)
- Net Zero: The UK's Contribution to Stopping Global Warming Emissions (2019)
- Noise Policy Statement for England (2010)
- The Paris Agreement (2015)
- Powering Up Britain (2023)
- Solar roadmap: United Kingdom powered by solar (2025)
- United Nations Environmental Programme Convention on Biological Diversity of 1992
- Written Ministerial Statement (WMS) by the former SoS for Communities and Local Government (March 2015)
- WMS 'Solar and protecting our Food Security and Best and Most Versatile (BMV) Land' (May 2024)
- The Waste Framework Directive 2008

Local policy

Bassetlaw Local Plan (BLP) 2020-2038 (adopted May 2024)

- Policy ST1: Bassetlaw's Spatial Strategy
- Policy ST33: Design Quality
- Policy ST35: Landscape Character
- Policy ST37: Green and Blue Infrastructure
- Policy ST38: Biodiversity and Geodiversity
- Policy ST39: Trees, woodland and hedgerows
- Policy ST40: The Historic Environment

- Policy 41: Designated and Non-Designated Heritage Assets
- Policy ST42: Promoting Healthy, Active Lifestyles
- Policy 46: Protecting Amenity
- Policy 47: Contaminated and Unstable Land
- Policy ST48: Reducing Carbon Emissions, Climate Change Mitigation and Adaptation
- Policy ST49: Renewable Energy Generation
- Policy ST50: Flood Risk and Drainage
- Policy ST51: Protecting Management Water Quality and Management
- Policy ST52: Transport Infrastructure
- Policy ST53: Promoting Sustainable Transport and Active Travel

**Nottinghamshire and Nottingham Waste Local Plan (NNWLP)
(adopted September 2025)**

- SP1: Waste prevention and re-use
- SP8: Safeguarding Waste Management Sites

Nottinghamshire Minerals Local Plan (NMLP) (adopted March 2021)

- S04: Safeguarding of mineral resources, permitted mineral reserves and associated minerals infrastructure
- SP7: Mineral Safeguarding, Consultation Areas and Associated Minerals Infrastructure
- MP2: Sand and Gravel Provision
- MP2c: Sturton-le-Steeple quarry identified as a permitted sand and gravel quarry with existing reserves

Sturton Ward Neighbourhood Plan (SWNP) (2021-2037)

- Policy 1: Sustainable development, infill and the development boundary (part 2)
- Policy 2a: Protecting the landscape character, significant green gaps and key views
- Policy 2b: Enhancing biodiversity
- Policy 4: Reducing the risk of flooding
- Policy 5: Design principles
- Policy 6: Protecting the historic environment

APPENDIX C:

SUMMARY OF EXA'S RECOMMENDED CHANGES TO THE APPLICANT'S FINAL DRAFT DEVELOPMENT CONSENT ORDER

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
Articles			
1	Article 2	Add the following definition: “lead local flood authority” has the same meaning as in section 6 (other definitions) of the Flood and Water Management Act 2010	As a result of the addition to schedule 2, part 1 requirement 16
	Article 6	Remove paragraph (2) and associated footnote	For the reasons stated in paragraph 7.5.8
	Article 9	Substitute existing article with application of the relevant permit scheme.	For the reasons stated in paragraphs 7.5.17 and 7.5.18
	Article 27	Change reference to paragraph 5 in paragraphs (7) and (8) to paragraph (6) .	For the reasons stated in paragraph 7.5.29
Schedule 2, Part 1 Requirements			
	Requirement 3 Detailed design approval	Alter the final part of sub-paragraph (1) as follows: relating to that phase have been submitted to and approved in writing by the local planning authority, in consultation with the highway authority and street authority in relation to sub-paragraph (1)(f) . From sub-paragraph (2) onwards: (2) The details submitted must accord with the— (a) site location plan; (b) works plans; and (c) outline design principles; (d) details under paragraphs 6 (Landscape and ecological management plan), 15 (Fencing and other means of enclosure), 16 (Surface and foul water drainage) and 17 (Archaeology) of this Schedule; and	For the reasons stated in paragraphs 7.5.51 and 7.5.33 to 7.5.36 To include provisions for a further design review process for the detailed design, for the reasons stated in section 3.3 of chapter 3

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		(e) report mentioned in sub-paragraph (3). (3) The report mentioned in sub-paragraph (2)(e), is a report to be prepared by the undertaker of its findings following a review of the detailed design of the battery energy storage system (Work No.2), on-site substation (Work No.3) and landscaping works, the review to be carried out in consultation with the design review panel and the relevant planning authority. (34) The authorised development must be carried out in accordance with the approved details. (5) In this paragraph— (a) “design review panel” means a panel appointed by the Design Council to conduct an independent review of certain elements of the proposed design of the authorised development; and (b) “Design Council” means the UK’s national strategic advisor for design who is a Royal Charter charity (registered charity number 279099).	
	Requirement 7 Construction environmental management plan (CEMP)	Relocate sub-paragraph (3) to below sub-paragraph (4) with change to corresponding numbering	Minor alteration to improve structure
	Requirement 16 Surface and foul water drainage	(1) No phase of the authorised development can commence until written details of the surface and foul water drainage system for that phase have been submitted to and approved by the local planning authority in	For the reasons stated in paragraph 7.5.51

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		consultation with the Environment Agency and lead local flood authority on matters related to its functions.	
Schedule 10, Part 11 - For the protection of railway interests			
	Paragraph 129 (3)	Remove the drafting "extinguished or"	For the reasons stated in appendix D
	Paragraph 130 (3)	Remove the drafting "subject to Network Rail seeking consent from the undertaker (such matters to be in the undertaker's absolute discretion) and"	For the reasons stated in appendix D
	Paragraph 130(5)	Remove the entirety of sub-paragraph 5 which states "The undertaker shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to Network Rail notice as soon as is reasonably practicable, and in addition to that notice shall provide a plan, section and description of those works as soon as reasonably practicable subsequently."	For the reasons stated in appendix D
	Paragraph 131(2)	If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of , the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction but always excluding consequential loss or indirect loss.	For the reasons stated in appendix D
	Paragraph 134(1)	If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of	For the reasons stated in appendix D

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		24 months after the completion of that a specified work in order to ensure the safety of railway property...	
	Paragraph 134(2)	...if the undertaker decides that part of the specified work is to be constructed and provides its consent (such matters to be in the undertaker's absolute discretion) Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 130(3), pay to Network Rail all reasonable and properly incurred expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work provided that at all times Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential or indirect loss.	For the reasons stated in appendix D
	Paragraph 135	The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably and properly incurred by Network Rail—	For the reasons stated in appendix D
	Paragraph 140(1)	(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses (but always excluding any consequential or indirect loss) not otherwise provided for in this Part of this Schedule (subject to article 44 (no double recovery)) which may be occasioned to or reasonably and properly incurred by Network Rail— (1)(c) Remove the drafting “otherwise than by virtue of a public right of way” where it appears at the end of the sub-paragraph	For the reasons stated in appendix D

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		Remove the drafting "and always excluding any consequential loss or indirect loss :" where it appears after sub-paragraph (1)(e)	
Schedule 10, Part 12 - For the protection of the UK Atomic Energy Authority and UK Fusion Energy Ltd			
	Paragraph 148(2)	Change reference to paragraphs 154 and 155 to 153 and 154	For the reasons stated in appendix D
	Paragraph 149	"UKAEA" means the United Kingdom Atomic Energy Authority, or any successor in its functions, and shall include UKFE which may give consent, agreement or approval on behalf of UKAEA for the purposes of paragraphs 154 150 to 160 only shall also include UKFE; "UKFE" means UK Fusion Energy Limited (company number 14620804) whose registered office is at C7 Culham Campus, Abingdon, Oxfordshire, United Kingdom, OX14 3DB or such other company as may be substituted, by written notice from UKAEA to the undertaker, as being the any successor to UKFE's function to deliver the STEP project; and	For the reasons stated in appendix D
	Paragraph 153	(10) ...must comply with subparagraphs (5), (6 7) and (7 8) insofar as is reasonably practicable in the circumstances.	For the reasons stated in appendix D
	Paragraph 160	Notices and approvals 160.—(1) Notwithstanding article 37 (service of notices), any plan or notice which must be submitted to UKAEA by the undertaker pursuant to paragraph 153 and any requests for consent, agreement or approval under this Part must (instead of being submitted to UKAEA) be submitted to UKFE addressed to the company secretary and copied to UKFE the	For the reasons stated in appendix D

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		Land and Estates Team at C7 Culham Campus, Abingdon, Oxfordshire, OX14 3DB, or to such other address as UKAEA may from time to time appoint instead for that purpose and notify to the undertaker in writing. (2) Where any consent, agreement or approval must be given by UKAEA under this Part that consent, agreement or approval may be given by UKAEA or UKFE but the undertaker need not obtain the consent, agreement or approval of both UKAEA or UKFE.	
Schedule 10, Part 13 - For the protection of National Grid Electricity Transmission Plc as electricity undertaker			
	Paragraphs 161 to 176 inclusive	Substitute part 13 of the dDCO [RPe6-004] with the applicant's 'without prejudice' PPs in appendix 3 of [REP6-038] but with the following additions and alterations shown in the rows below.	To incorporate PPs relating to the interaction between the proposed development and the proposed NHHM project, for the reasons stated in paragraphs 7.5.73 to 7.5.80 and appendix D
	Paragraph 162 and under the heading 'STC Claims'	Change 'NGESO' to 'NESO' where it appears	To reflect the change from National Grid Energy System Operator to National Energy System Operator.
	Paragraph 162 – Interpretation	In the definition for "North Humber to High Marnham Site", add the following after paragraph after sub-paragraph (b): Provided always that any land, interests or apparatus to which these protective provisions apply shall be limited to land, interests or	For the reasons stated in appendix D, with the wording at the end of the sentence changed to improve precision.

No.	Article / Schedule / Paragraph in final dDCO [REP6-004]	ExA's Recommended Change	ExA's Response
		apparatus physically within the Order limits of the North Humber to High Marnham development consent order that is submitted to the Secretary of State for confirmation and which is contained within the delineated shaded area for that purpose on the plan attached hereto, as agreed between the undertaker and National Grid Electricity Transmission Plc	
	Paragraph 163 – Interaction with the North Humber to High Marnham Project	Change reference to National Grid Electricity Transmission Plc connection works' in sub-paragraphs (a) and (b) the 'authorised development'. Add the following two sub-paragraphs after sub-paragraph (d): (e) the undertaker having exclusive access to the North Humber to High Marnham land that it reasonably requires to carry out its development during the period of construction of the authorised development; and (f) the undertaker being able during that exclusive access period to carry out all or any part its development that does not conflict with North Humber to High Marnham Project including but not limited to underground cables, access tracks and fencing.	For the reasons stated in appendix D, incorporating the ExA's changes to the end of sub-paragraph (e) to improve precision.

APPENDIX D:

EXA'S CONCLUSIONS ON PROTECTIVE PROVISIONS AREAS OF DISAGREEMENT

Paragraph Reference	Wording Sought by the Applicant with difference underlined	The Applicant's Position	Wording Sought by the SUs	The SU's Position	ExA Conclusions
Schedule 2 Part 11 - For the protection of railway interests					
129(3)	(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 29 (statutory undertakers), article 24 (power to override easements and other rights) or article 21 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be <u>extinguished or</u> diverted with the consent of Network Rail.	The Applicant seeks a minor, clarificatory amendment to provide explicit reference to the right of the undertaker to divert and 'extinguish' any right of access of Network Rail to the railway property where Network Rail's consent is first obtained. This wording is consistent with precedent and the wording of the statute that Network Rail's standard wording cites whilst ensuring that Network Rail retain discretion as to whether such consent is to be given.	(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 29 (statutory undertakers), article 24 (power to override easements and other rights) or article 21 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.	The insertion of the word extinguished cannot be agreed. Network Rail (NR) cannot have their rights extinguished as this creates a situation where NR are not in control of their land. This creates a situation where NR would not be able to satisfy their requirements as statutory undertaker and at the same time comply with their licence obligations to the ORR.	The ExA agrees with NR. It is unclear to the ExA why extinguishing the right of Network Rail to access its apparatus is either required or necessary. Only one case of precedence (HyNet Carbon Dioxide Pipeline Order) has been cited without clear evidence why it was necessary or justified in that case, particularly noting that similar PPs for railway interests attached to the nearby West Burton, Cottam, Gate Burton and Tillbridge made DCO's do not include the addition suggested by the applicant. The ExA considers the amendment goes further than a 'minor, clarificatory amendment' and has not been adequately justified.
130(3)	(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, <u>subject to Network Rail seeking consent from the undertaker (such matters to be in the undertaker's absolute discretion) and</u> if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.	The Applicant has sought an obligation for Network Rail to seek consent from the undertaker prior to carrying out those specified works. This is a reasonable addition to Network Rail's standard provisions as it should be the undertaker who (1) is able to determine whether or not to permit any such request from Network Rail or (2) to vary the design to avoid such a requirement. The Applicant's proposed amends are consistent with restrictions placed on the exercising of the powers contained within the DCO (Article 5) and wider precedent.	(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.	Network Rail cannot have this subject to the undertaker's absolute discretion. Should NR need to step in for matters that affect railway safety, then they must be able to do so with unfettered discretion. Network Rail have a duty to provide a safe and efficient railway, and accordingly the requirement to seek consent from the undertaker in respect of matters pertaining to railway safety can not be accepted as to do so would jeopardise NR's ability to fulfil their on-going duties.	The ExA considers the applicant's drafting could unreasonably undermine NR's ability to provide a safe and efficient railway. It is not clear to the ExA how the undertaker's proposed consent would operate and the ExA has concerns regarding the process and timescales to resolve any dispute if consent was not forthcoming from the undertaker. Whilst the ExA notes the reference to provisions within the Hynet DCO, the aforementioned nearby DCOs to the proposed development do not contain such provision. Overall, the ExA is not persuaded that the applicant's drafting has been sufficiently justified.
130(5)	<u>(5) The undertaker shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to Network Rail notice as soon as is reasonably practicable, and in addition to that notice shall provide a plan, section and description of those works as soon as reasonably practicable subsequently.</u>	The Applicant's proposed wording is a reasonable and proportionate drafting measure that is consistent with precedent. The Applicant understands that the safety of the railway is paramount and considers its proposed wording to be consistent with the safeguarding of the railway by providing a means of enabling some level of operation as may be urgently required to make the Project or Network Rail's assets safe; pending a full engineering solution. Without this wording the Applicant is concerned that a gap may arise	N/A.	Network Rail cannot accept this. The inclusion of this paragraph is not acceptable to NR. If the Applicant bypasses the process in (1) in cases of emergency it could give rise to circumstances where risk to public safety on the railway is compromised. This paragraph has not need to be included on any other DCO so far as NR is aware.	The ExA is not persuaded that this provision is necessary. The requirement of sub-paragraph (1) requires the undertaker to submit plans of work before commencing construction. If construction operations have yet to commence, it is unclear to the ExA what type of emergency situation could arise that would affect the proper and safe implementation of the project, such that it would justify the inclusion of this provision.

		where the undertaker is prevented from taking any precautionary or preventative action as may be required to avoid wider harm.		In the case of emergency, NR would work collaboratively with the Applicant to assist but this cannot enable the Applicant to circumvent the process for NR to approve its "plans" (package of works documents) before carrying out specified works as this is in place to safeguard railway land. If the Applicant needs to expedite the process in reaction to an emergency then this would need to be dealt with in liaison with NR on an ad-hoc basis, not circumvent the process altogether. Such plans are required by NR to assess detriment to the rail network and ensure that the works are safe to be carried out.	Overall, the ExA is not persuaded that the applicant's drafting has been sufficiently justified.
131(2)	(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of , the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction <u>but always excluding any consequential loss or indirect loss.</u>	The Applicant does not contest the case for the inclusion of this indemnity, but has sought amendments (consistent with precedent) to clarify the scope of such an indemnity arising from those works such that the undertaker is rightly not held to be liable for any costs that are not reasonably foreseeable.	(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of, the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.	Network Rail can not agree to this removal. Network Rail property, if damaged or interfered with, as a consequence of the works under the order, then the Applicant should rectify the issue. NR as statutory undertaker has an obligation to account for its use of public funds, and using said funds for rectification works borne from the Order works is not in the public interest. Network Rail can not agree to the addition that excludes consequential loss, for the reasons set out above. In addition, case law provides that consequential and indirect loss can be catered for where disruption has been caused to train operating companies because of a result in damage to the railway. These Train Operator liabilities arise out of Train Operator Agreements, and this paragraph should replicate the scope of that indemnity and therefore needs to be accounted for under these protective provisions.	The ExA considers it necessary that the undertaker is liable for any damage to railway assets that may be as a consequence of specified works, particularly if that arises after the carrying out of construction. The ExA has concerns that excluding consequential loss or indirect loss could result in the applicant not being liable for costs to Network Rail that may have arisen as a consequence of the proposed development. The ExA is not persuaded that the applicant's preferred drafting has been sufficiently justified.
134(1)	(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction <u>of a specified work</u> , or <u>during a period of 24 months after the</u> completion of that specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56	Network Rail are seeking a position whereby should they wish to alter their railway property as a consequence of the Project, at any point in time, then the undertaker must pay to Network Rail the reasonable cost of those alterations. The Applicant does not consider this to be proportionate and has provided wording that is proportionate. The Applicant's wording provides Network rail with considerable period of two years following the completion of any specified work to	(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of that specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice	Not accepted. NR must retain the ability to undertake such alterations and should not be limited by time to do so – being limited by time prevents Network Rail from effectively carrying out their obligations as statutory undertaker and hinders their overarching obligation to provide a safe and efficient railway.	The ExA has concerns that inserting a maximum time period as suggested by the applicant could cause serious detriment to the ability of NR to provide a safe and efficient railway. The construction or completion of specified work could, for example, give rise to land stability issues that may occur after a 24-month period which could affect the operation of the railway, which the undertaker should be liable for.

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	days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.	identify works required following construction. The Applicant considers this to be a reasonable compromise between the parties without placing any disproportionate burden and unknown financial liability upon the undertaker.	(or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.		The ExA therefore considers the insertion of the applicant's preferred wording is removed.
134(2)	(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed <u>and provides its consent (such matters to be in the undertaker's absolute discretion)</u>, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 130(3), pay to Network Rail all reasonable <u>and properly incurred</u> expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work <u>provided that at all times Network Rail will be under an obligation to take reasonably steps to mitigate its loss and always excluding any consequential or indirect loss.</u>	The Applicant's proposed wording is consistent with precedent and provides reasonable clarification of the extent of Network Rail's means of exercising the powers under the DCO, such limitations, which are also acknowledged by Network Rail in this row. The Applicant has also sought clarificatory amendments to ensure that Network Rail should not be permitted to benefit, at the expense of the undertaker, where such costs are claimed, whilst also requiring Network Rail to take reasonable steps to mitigate its losses; such steps being consistent with precedent and Network Rail's existing statutory functions.	(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.	NR Must retain the ability to step in unconditionally for reasons of operational rail safety. NR would only be seeking to carry out the specified works necessary to address stability/safe operation of the railway and would not be seeking to construct the undertaker's infrastructure which it would not have the capacity or desire to do. In addition, as a public body, NR have a duty to recover any and all expenses incurred as a result of third party schemes. The insertion of "proper" seeks to narrow the scope of fees recoverable by NR. NR should not be subject to terms which allow the undertaker to challenge incurred fees which it may not consider 'proper' but which NR was required to incur. The fees are already required to be reasonable which is considered sufficient. Further; as a public body, NR has a duty to recover any and all expenses incurred as a result of third party schemes. The exclusion of "consequential or indirect loss" seeks to narrow the scope of fees recoverable by NR. NR should not be subject to terms which allow the undertaker to exclude costs reasonably incurred by NR. The fees are already required to be reasonable which is considered sufficient	For similar reasons provided for paragraph 130(3) above, the ExA has some concerns how the consenting process would operate in practice and the timescale for resolving any disputes. Ultimately, the ExA agrees that NR must retain the ability to step in unconditionally for reasons of operational rail safety and the applicant's drafting has the potential to undermine this ability. The ExA considers the insertion of 'properly incurred' could give rise to dubiety regarding agreement of expenses and has concerns regarding the precision of the terminology. Use of the word 'reasonably' is considered sufficient to ensure that only those expenses that are reasonable would be incurred and the undertaker would be able to raise any concerns on those expenses that it does not consider reasonable. The ExA considers it reasonable for that a clause should be added requiring NR to be under an obligation to take steps to mitigate any loss. That is to ensure that the costs of any works are minimised. The ExA recommends however that 'reasonably' is change to 'reasonable' in its rDCO. For similar reasons for that stated for paragraph 131(2) above, the ExA does not consider that reference to excluding consequential or indirect loss should be included

134(2), 135 and 140(1)	The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably <u>and properly</u> incurred by Network Rail—	As above, the Applicant has sought clarificatory amendments to ensure that Network Rail should not be permitted to benefit at the expense of the undertaker where costs are claimed. The Applicant also seeks that Network Rail take reasonable steps to mitigate its losses; such steps which the Applicant understands to be consistent with precedent and Network Rail's existing statutory functions.	The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—	Not agreed. As a public body, NR have a duty to recover any and all expenses incurred as a result of third party schemes. The insertion of "proper" seeks to narrow the scope of fees recoverable by NR. NR should not be subject to terms which allow the undertaker to challenge incurred fees which it may not consider 'proper' but which NR was required to incur. The fees are already required to be reasonable which is considered sufficient.	For similar reasons as explained in the row above for paragraph 134(2), the ExA does not consider it necessary to include reference to 'and properly' in the referred to paragraphs.
140(1) and 140(1)(c)	(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses <u>(but always excluding any consequential or indirect loss)</u> not otherwise provided for in this Part of this Schedule (subject to article 44 (no double recovery)) which may be occasioned to or reasonably <u>and properly</u> incurred by Network Rail— (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work; (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others acting on behalf of or authorised by the undertaker whilst accessing to or egressing from the authorised development <u>otherwise than by virtue of a public right of way;</u> (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;	The Applicant does not contest the principal of the indemnity in question and is content to provide it, however, the Applicant seeks a clarificatory amendment to make clear that this indemnity does not include an obligation for the undertaker to indemnify Network Rail where it takes its access by virtue of a public right. The DCO does not alter this existing public right of which the Applicant, its agents and persons in its employ enjoy despite the proposed development or any DCO. There is no justification for Network Rail seeking to impose an additional indemnity relating to the use of this bridleway. Further, and as above, the Applicant has also sought clarificatory amendments to ensure that Network Rail should not be permitted to benefit at the expense of the undertaker where costs are claimed, whilst also requiring Network Rail to take reasonable steps to mitigate its losses; such steps being consistent with precedent and Network Rail's existing statutory functions.	(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 44 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail— (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work; (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others acting on behalf of or authorised by the undertaker whilst accessing to or egressing from the authorised development; (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;	As previously mentioned, as a public body, NR has a duty to recover any and all expenses incurred as a result of third party schemes. The exclusion of "consequential or indirect loss" seeks to narrow the scope of fees recoverable by NR. NR should not be subject to terms which allow the undertaker to exclude costs reasonably incurred by NR. The fees are already required to be reasonable which is considered sufficient, and should also not be narrowed further. In addition, NR can not accept the Applicants addition to restrict the indemnity, should public right of way access be used. This clause applies to the undertaker and any persons in its employment, as well as its contractors or other authorised individuals. These persons, were it not for the undertaker's scheme, would not be present with items, tools, equipment, HGVs, or similar, nor would they be accessing or egressing from the authorised development. Irrespective of whether such access or egress occurs via a public right of way, any damage caused that is connected to the authorised development should and must be catered for. Any damage caused by using a public right of way would give rise to damages by trespass and so should rightly be covered by this indemnity. NR cannot further accept the exclusion on consequential loss. A Train Operating Company's liability as described under 164(6) would also be	The ExA does not support the inclusion of the applicant's preferred wording in paragraphs 140(1) and criterion (e) for reasons already stated above. With regard to adding indemnity not extending to public rights of way, the ExA does not support the addition of this clause. The ExA notes that the applicant states as part of its justification in the Section 127/138 Report [REP6-038] that there is a level crossing which is subject to an existing bridleway. However, during the ExA's site inspection along Footpath 19 [EV9-001], it was observed that the footpath across the railway line was not level. Given that solar equipment is proposed either side of the railway in this location [AS-009], there is the potential for the undertaker, or any person in its employ, to use this footpath with associated equipment to access between the two areas. The ExA therefore considers it necessary for indemnity to extent to public rights of way and therefore considers the applicants preferred wording removing this indemnity be removed.

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	and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission, <u>provided Network Rail will be under an obligation to take reasonable steps to mitigate its loss and always excluding any consequential loss or indirect loss</u> ; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.		and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.	indirect and consequential and therefore ought to be included.	
145	The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 5 (consent to transfer of benefit of the Order) of this Order and any such notice must be given no later than 728 days before any such application is made and must describe or give (as appropriate)—	The Applicant seeks a reduction from 28 days to 7 days so as to more closely align with the notice period outlined in Article 5(6) of the DCO and the wording of precedent protective provisions for the benefit of Network Rail.	The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 5 (consent to transfer of benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—	No explanation provided.	The ExA has no reason to dispute the applicant's request. That is because it does not appear to the ExA that Network Rail would have any input into the process of transferring the benefit of the Order and does not consider that the change in period could cause a serious detriment to NR's undertaking.
Schedule 2 Part 12 - For the protection of the UK Atomic Energy Authority and UK Fusion Energy Ltd					
148	(2) Unless otherwise agreed in writing between the undertaker and UKAEA paragraphs 154 and 155 will only apply for the protection of UKAEA and UKFE from the point that UKAEA is the owner of the UKAEA land.	N/A	(2) Unless otherwise agreed in writing between the undertaker and UKAEA paragraphs 141 and 142 [sic] will apply for the protection of UKAEA and UKFE from the point that UKAEA is the owner of the UKAEA land.	There is a cross reference error in the applicant's comparison and UKFE's	UKFE's comments are in respect of the provisions relating to 'Specified Works' and 'Expenses' which are included in paragraphs 153 and 154 of the dDCO [REP6-004]. The ExA notes that paragraph 148(2) of the dDCO incorrectly refers to paragraph 155 and should include reference to paragraph 153. The ExA therefore recommends this change in it rDCO.
	"UKAEA" means the United Kingdom Atomic Energy Authority, or any successor in its functions, and for the purposes of paragraphs 151 to 160 only shall also include UKFE;	N/A	"UKAEA" means the United Kingdom Atomic Energy Authority, or any successor in its functions, and shall include UKFE which may give consent, agreement or approval on behalf of UKAEA for the purposes of paragraphs 138 to 148 [sic] below;	For the reasons stated in respect of paragraph 160 below discounting the applicant's drafting, the applicant's removal of the drafting which provides that UKFE may give consent, agreement or approval on behalf of UKAEA should be reinstated. This would enable UKFE to return provide consent, agreement or approval to the applicant under the PPs where this is agreed by UKAEA.	For the reasons stated below, the ExA agrees with UKFE's suggested change. Therefore the suggested changes to the definition should also be incorporated into the rDCO.

				The definition of UKAEA should be subject to an amendment to refer to the paragraph relating to 'Streets subject to temporary prohibition of use and public rights of way' (paragraph 150). This should also apply to UKFE as it is essential for UKFE to maintain access to the West Burton Site for the delivery of the STEP Project, notwithstanding any temporary prohibition or restriction of use of any streets	
149	"UKFE" means UK Fusion Energy Limited (company number 14620804) whose registered office is at <u>C7 Culham Science Centre</u> Campus, Abingdon, Oxfordshire, United Kingdom, OX14 3DB or <u>any successor in its functions such other company as may be substituted, by written notice from UKAEA to the undertaker, as being the successor to UKFE's functions to deliver the STEP project;</u>	The amendment to the registered address reflects the record on the gov.uk website. The applicant is concerned that it is not clear from the SU's wording what is meant by "functions" and that it is therefore unclear who may be entitled to protection. The applicant is content to accept the principle that the body who will undertake the STEP Project has the benefit of the protective provisions, but considers that a reference to unspecified non-statutory "functions" to be too amorphous and uncertain. It has therefore suggested some drafting which allows UKAEA to nominate a different company. This drafting provides certainty for the applicant as to who has the "functions" and is therefore entitled to the benefit of the protections.	"UKFE" means UK Fusion Energy Limited (company number 14620804) whose registered office is at Culham Science Centre Campus, Abingdon, Oxfordshire, United Kingdom, OX14 3DB or any successor in its functions to deliver the STEP project; and	The protective provisions provided for the benefit of UKFE's should apply to any successor to its functions relating to the delivery of the STEP Project. UKFE does not consider it necessary for the protective provisions to require UKAEA to substitute a company taking over the functions of UKFE relating to the delivery of the STEP Project. The STEP Project would be delivered by a company appointed by the government, any substitution of UKFE for another company would be appropriately confirmed by the government at the time by way of public announcement. A further step of notifying that applicant is unnecessary, unjustified and administratively burdensome.	The ExA considers that the need for UKFE to provide written notice to the undertaker is unnecessary. In particular, if written notice was provided, it is unclear what powers the undertaker would have to act on that notice. The ExA therefore agrees with UKFE that a written notice would result in an unnecessary process. The ExA therefore agrees with UKFE's preferred drafting.
149	"West Burton Power Station" means land shown <u>edged red</u> on the plan of that named <u>"the West Burton Power Station plan"</u> identified in the table at Schedule 12 (documents to be certified) and which is certified by the Secretary of State as the West Burton Power Station plan for the purposes of this Order.	The Applicant has provided a plan as requested and has included reference to this plan with the protective provisions and as a certified document in Schedule 12 of the DCO. The Applicant has submitted this plan into the examination at Deadline 6.	N/A	The SU asked for a certified plan to be included in the DCO [RR-046]	The ExA is satisfied that the applicant has submitted the plan [REP6-045] requested by UKFE in its RR [RR-046] and has included the plan as a certified document in Schedule 12 of the dDCO [REP6-004]. No changes are therefore recommended in the ExA's rDCO.
153	(3) The undertaker must not commence any works to which sub-paragraph (2) applies until <u>one of the following conditions has been met:</u> (a) UKAEA has given written approval of the plan so submitted; <u>or</u> <u>(b) the plan has been approved by arbitration under paragraph 159.</u>	The Applicant needs PPs which avoid an impasse from arising between the parties. It has therefore included drafting which sets out the differences between the parties and how this would be resolved and an impasse avoided. The drafting includes a clear route for dealing with disputes, or UKFE's failure to respond, by referring the matter to arbitration.	(3) The undertaker must not commence any works to which sub-paragraph (2) applies until UKAEA has given written approval of the plan so submitted (4) Any approval required under sub-paragraph (3)—	The Applicant has proposed amendments to the drafting such that if UKAEA or UKFE fail to respond to a request for the approval of plans within 42 days of receipt these plans may be referred for approval to an arbitrator in accordance with article 38 of the DCO. UKFE does not accept these proposed drafting amendments on the basis that	The ExA considers the applicant's drafting sets out a clear and precise process setting out how the process of arbitration, authorised under paragraph 159, would operate in the event this process was required to deal with the plans the undertaker is required to submit to the UKAEA. In particular, sub-paragraph (6) clarifies the powers of arbitration in dealing with the plans.

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	(4) Any approval of UKAEA required under sub-paragraph (3)— (a) may be given subject to reasonable conditions for any purpose mentioned in (5) or (7); (b) must not be unreasonably withheld; and (c) must <u>in the case of any approval by UKAEA</u> be provided within 42 days of submission of the plan under sub-paragraph (1); (5) In relation to any work to which sub-paragraph (2) applies, UKAEA may within 42 days of submission of the plan under sub-paragraph (1) require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing any apparatus or assets against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to the UKAEA land <u>and where such modifications are required UKAEA must at the same time provide reasons why the modifications are necessary.</u> <u>(6) Where UKAEA fails to either:</u> <u>(a) approve the plan submitted by the undertaker in accordance with the time limit set out in sub-paragraph (4)(c); or</u> <u>(b) provide details of the modifications it requires to the plan under sub-paragraph (5),</u> <u>within 42 days of submission of the plan under sub-paragraph (1) then the undertaker may instead submit the plans for approval by arbitration under paragraph 159 in which case the arbitrator may approve the plans, approve the plans with modifications or refuse to approve the plans, but if they refuse to approve the plans they must give reasons. Then approval shall be deemed to have been given.</u> (7) Works executed under sub-paragraph (2) must be executed in accordance with the plan, submitted under sub paragraph (1) or as relevant approved under sub-paragraph (3), as approved or as amended from time to time by agreement between the undertaker and UKAEA <u>or by arbitration</u> and in accordance with such		(a) may be given subject to reasonable conditions for any purpose mentioned in (5) or (7); (b) must not be unreasonably withheld and (c) must be provided within 42 days of submission of the plan under sub-paragraph (1); (5) In relation to any work to which sub-paragraph (2) applies, UKAEA may within 42 days of submission of the plan under sub-paragraph (1) require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing any apparatus or assets against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to the UKAEA land. (6) Works executed under sub-paragraph (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and UKAEA and in accordance with such reasonable requirements as may be made in accordance with sub- paragraphs (5) or (7) by UKAEA for the alteration or otherwise for the protection of any apparatus or assets, or for securing access to the UKAEA land, and UKAEA will be entitled to watch and inspect the execution of those works.	they are unnecessary and without relevant precedent. The PPs (paragraph 159) already provides for “Any difference or dispute arising” between the parties to be referable to arbitration. No drafting is proposed to expressly carve out the provisions relating to the approval of plans for specified works from this mechanism. UKFE is not aware of drafting similar to that which the applicant has proposed having been included in a development consent order in a comparable situation. The novel drafting changes suggested by the applicant are therefore unnecessary, duplicative, and should not be incorporated.	The ExA therefore agrees with the applicant’s preferred drafting in the interests of precision and clarity. It appears to the ExA that reference to sub-paragraph (6) in sub-paragraph (10) is an error and should refer to sub-paragraph (8). The ExA has therefore recommended this change.
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	reasonable requirements as may be made in accordance with sub- paragraphs (5) or (7) by UKAEA or the arbitrator for the alteration or otherwise for the protection of any apparatus or assets, or for securing access to the UKAEA land, and UKAEA will be entitled to watch and inspect the execution of those works.				
160	Notices <u>and approvals</u> 160.—(1) Notwithstanding article 37 (service of notices), any plans <u>or notice which must be submitted to UKAEA by the undertaker pursuant to paragraph 153 and any requests for consent, agreement or approval under this Part must (instead of being submitted to UKAEA) be submitted to UKAEA/UKFE</u> addressed to the company secretary and copied to <u>UKFE the Land and eEstates tTeam and sent to at Culham Campus, Abingdon, Oxfordshire, OX14 3DB, or to such other address as UKAEA may from time to time appoint instead for that purpose and notify to the undertaker in writing.</u> <u>(2) Where any consent, agreement or approval must be given by UKAEA under this Part that consent, agreement or approval may be given by UKAEA or UKFE but the undertaker need not obtain the consent, agreement or approval of both UKAEA or UKFE.</u>	The applicant is seeking to avoid duplicative approval processes, and the possibility of contradictory conditions being attached to approvals should approval need to be sought from both UKAEA and UKFE. The applicant appreciates the need to engage with the STEP Project, but considers that it should only be required to engage either UKAEA or UKFE, who should liaise and provide one point of contact. The undertaker's amendment to paragraph 160 provides that consent or approval by one of UKAEA or UKFE would be sufficient.	Notices 160. Notwithstanding article 36 [sic] (service of notices), any plans submitted to UKAEA by the undertaker pursuant to paragraph 142 [sic] must be submitted to UKFE addressed to the company secretary and copied to UKFE the Land and Estates Team at C7 Culham Campus, Abingdon, Oxfordshire, OX14 3DB, or to such other address as UKAEA may from time to time appoint instead for that purpose and notify to the undertaker in writing.	The effect of the applicant's proposed change would be to enable the undertaker to seek approval from one body, on behalf of both entities. UKAEA as UKFE's parent organisation would acquire the freehold ownership of the West Burton Site. UKFE would deliver the STEP Project itself. These roles, though related, are distinct. UKAEA and UKFE are separate legal entities. Whilst it is recognised that UKFE is wholly owned by UKAEA, the applicant's Draft PPs would override that separate legal identity and unilaterally impose the ability on each to bind the other. Whilst UKFE recognise that there may be some minor administrative savings in the applicant's proposal, that does not justify overriding the fundamental ability of two separate legal entities to act independently. Obtaining approvals from both UKFE and UKAEA will not be administratively burdensome. UKFE and UKAEA would coordinate their response to requests and provide this to the applicant in accordance with the PPS. The applicant's proposed amendments should be discounted.	In order to respect the different legal entities of the companies, the ExA is satisfied that UKFE's drafting is preferred in this instance to take forward into the rDCO. In coming to this conclusion, the ExA particularly notes UKFE's comments that UKFE and UKAEA would coordinate their responses, which should be sufficient to alleviate the applicant's concerns the possibility of contradictory conditions being attached to approvals.
Schedule 2 Part 13 – For the protection of National Grid Electricity Transmission PLC as electricity undertaker (Note paragraph numbers and wording taken from applicant's 'without prejudice' preferred PPs in appendix 3 of the Section 127/138 Report [REP6-038] with drafting subject to disagreement, or not agreed prior to NGET's submissions at DL6, highlighted in red)					
2	"North Humber to High Marnham Project" means the proposed new high voltage electricity transmission line and associated works between a new substation at Creyke Beck in the East Riding of Yorkshire and a new substation at High Marnham in Nottinghamshire	The Applicant opposes the NGET preferred wording because Paragraph 2 defines: "apparatus" to include any electrical lines, mains, pipes, plant or other apparatus owned or	"North Humber to High Marnham Project" means the proposed new high voltage electricity transmission line and associated works between a new substation at Creyke Beck in the East Riding of Yorkshire and a new substation at High Marnham in	The addition of the following wording would be acceptable to NGET: Provided always that any land, interests or apparatus to which these protective	The ExA notes NGET's confirmation that it is agreeable to the applicant's wording although its text has omitted reference to <u>'and which is contained within the area delineated by shaded for that purpose on the plan attached hereto</u>

	to be undertaken by National Grid Electricity Transmission Plc; " North Humber to High Marnham Site" includes – (a) land on which any North Humber to High Marnham apparatus is situated; and (b) land on which North Humber to High Marnham apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the North Humber to High Marnham Project (in so far as the same has been notified by National Grid Electricity Transmission Plc in writing to the undertaker) <u>Provided always that any land, interests or apparatus to which these protective provisions apply shall be limited to land, interests or apparatus physically within the Order limits of the North Humber to High Marnham development consent order that is submitted to the Secretary of State for confirmation and which is contained within the area delineated by shaded for that purpose on the plan attached hereto reference [xxx];</u>	operated by NGET for the purposes of the construction, operation and maintenance of the NHHM project "North Humber to High Marnham Project" is defined simply as a new high voltage transmission line and associated works between Creyke Beck in Yorkshire and High Marnham in Nottinghamshire. The precise route is not specified or defined in the proposed protective provisions but the NHHM project is defined to include land on which NHHM apparatus is situated and land on which such apparatus is anticipated to be situated for the construction, use or maintenance of the project. The scope of the definition is extremely broad and would encompass any future design changes to the project. In its response to 2WQ 7.2.7 [REP5-057], NGET has rejected the suggestion that the protective provisions should be accompanied by a plan that identifies the NHHM project on the basis that the project route is yet to be fixed. This underlines the uncertainty that NGET's proposed provisions would cause to the Project. Instead, NGET suggests that the precise area should be fixed at the point at which the NHHM DCO is submitted but even that is not secured by NGET's proposed protective provisions. "Specified works" are defined as any of the works authorised by the DCO which will or may be situated over, or within 15 metres of any apparatus [remembering that apparatus includes proposed apparatus associated with the NHHM project] or which may, in any way, adversely affect any apparatus. The Applicant contends in its WP formulation that limiting the effect of the protective provisions to a specified route delineated on a plan reduces the area of uncertainty of design for the undertaker of the proposed development.	Nottinghamshire to be undertaken by National Grid Electricity Transmission Plc; "North Humber to High Marnham Site" includes – (a) land on which any North Humber to High Marnham apparatus is situated; and (b) land on which North Humber to High Marnham apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the North Humber to High Marnham Project (in so far as the same has been notified by National Grid Electricity Transmission Plc in writing to the undertaker)	provisions apply shall be limited to land, interests or apparatus physically within the Order limits of the North Humber to High Marnham development consent order that is submitted to the Secretary of State for confirmation	<u>reference [xxx]</u> in its DL6 submission [REP6-055]. The ExA considers that it is entirely reasonable and sensible that PPs are accompanied by a plan that specifically identifies areas that may be affected. That is because of the size of the Order limits and the ExA does not consider it justified that PPs should apply to the entirety of the Order limits, which would be disproportionate and likely to provide uncertainty to the applicant that could affect their ability to deliver the proposed development. Furthermore, it would provide clarity and precision to all parties which areas of land the PPs relate to.
3	3. —Interaction with the North Humber to High Marnham Project Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the North Humber to High Marnham	The Applicant opposes the NGET preferred wording because paragraph 3 requires the undertaker to use reasonable endeavours to avoid any conflict with the NHHM project. That includes ensuring that the design and programme for connection works do not unreasonably impede or interfere with the NHHM Project and facilitating a coordinated approach to the programme, land assembly and carrying out of the projects. Notably, there is no obligation on NGET to use reasonable endeavours to avoid conflict with the	3. —Interaction with the North Humber to High Marnham Project Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the North Humber to High Marnham Project. For the	(e) NGET does not agree with the wording suggested by the applicant , but proposes the following alternative: <u>the undertaker having exclusive access to the North Humber to High Marnham Site to carry out its development during a period to be agreed between the undertaker and National Grid Electricity Transmission Plc save that during such period National Grid Electricity</u>	The ExA has considered both submissions and, rather than stipulating a date, consider it more appropriate and reasonable to allow the undertaker exclusive access that it reasonably requires to carry out the authorised development during the period of construction. This would provide the undertaker the flexibility it requires and inclusion of the word 'reasonably' to provide NGET with reassurance that any access is for a legitimate purpose.

	Project. For the purposes of this paragraph, "reasonable endeavours" means— (a) undertaking consultation on the detailed design and programming of the National Grid Electricity Transmission Plc connection works and all works associated with or ancillary to the National Grid connection works to ensure that the design and programme for the National Grid Electricity Transmission Plc connection works does not unreasonably impede or interfere with the North Humber to High Marnham Project; (b) having regard to the proposed programme of works for the North Humber to High Marnham Project as may be made available to the undertaker by National Grid Electricity Transmission Plc and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the National Grid Electricity Transmission Plc connection works and the North Humber to High Marnham Project; (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development; and (d) keeping National Grid Electricity Transmission Plc informed on the programme of works for the authorised development; <u>(e) the undertaker having exclusive access to the North Humber to High Marnham land to carry out its development up to and including the date agreed with NESO for energisation of the undertaker's grid connection;</u> <u>(f) the undertaker being able during that exclusive access period to carry out all or any part its development that does not conflict with North Humber to High Marnham Project including but not limited to underground cables, access tracks and fencing;</u>	Project. The obligations all rest on the Applicant to accommodate the NHHM project with no reciprocal protection in favour of the Project. The Applicant's WP wording seeks a protected period within which it can use the land needed by NGET for NHHM to carry out its development outside of that land, necessarily taking access through and across that land in doing so in order that it can meet its grid connection offer date. This is not agreed by NGET and without that wording agreement by NGET of the Applicant's proposed wording at paragraph 3(f) provides no protection on its own as it does not secure an access period for the Undertaker.	purposes of this paragraph, "reasonable endeavours" means— (a) undertaking consultation on the detailed design and programming of the National Grid Electricity Transmission Plc connection works and all works associated with or ancillary to the National Grid connection works to ensure that the design and programme for the National Grid Electricity Transmission Plc connection works does not unreasonably impede or interfere with the North Humber to High Marnham Project; (b) having regard to the proposed programme of works for the North Humber to High Marnham Project as may be made available to the undertaker by National Grid Electricity Transmission Plc and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the National Grid Electricity Transmission Plc connection works and the North Humber to High Marnham Project; (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development; and (d) keeping National Grid Electricity Transmission Plc informed on the programme of works for the authorised development.	<u>Transmission Plc shall be permitted to carry out pre-construction surveys, geotechnical investigations, ecological surveys, topographical surveys, site investigations and other non-construction preparatory activities within the North Humber to High Marnham Site.</u> (f) The addition of this wording would be acceptable to NGET.	The ExA has not included the additional wording suggested by NGET, allowing it access to undertake pre-construction works and investigations, as it has not been explained why the provision is required. Separately, it appears to the ExA that reference to the 'National Grid Electricity Transmission Plc connection works' in sub-paragraphs (a) and (b) is incorrect and should instead refer to the 'authorised development'.
7(2)	(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid acquire any land forming part of the North Humber to High Marnham Project	The Applicant opposes the NGET preferred wording because Paragraph 7(2) prevents the undertaker from acquiring any land forming part of the NHHM project without NGET's consent. The extent of that land is not specified or defined by reference to any plan because NGET does not	(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid Electricity Transmission Plc acquire any land forming part of the North Humber to	The addition of this wording would be acceptable to NGET.	The ExA notes NGET's confirmation that it is agreeable to the applicant's wording in its DL6 submission [REP6-055].

	(such agreement not to be unreasonably withheld or delayed <u>having regard to the undertaker's rights of access to the North Humber to High Marnham land in the definition of "reasonable endeavours" in paragraph 3 hereof</u>)	yet know how much land it will require and is yet to undertake its detailed design. The Applicant's WP formulation offers protection to NHHM against land acquisition without NGET consent but preserves within that the Undertaker's ability to take access across the land needed for NHHM to construct and operate the Proposed Development. NGET's agreement to this wording in the Applicant's WP protective provisions is noted but without the extent of the NHHM land being limited and a defined working period provided for this wording does not of itself provide adequate protection to the Undertaker to obtain this access.	High Marnham Site (such agreement not to be unreasonably withheld or delayed)		
10(5)	(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4)— (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and, (b) may be given subject to such reasonable requirements as National Grid may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the North Humber to High Marnham Project (c) and must not be unreasonably withheld.	The Applicant opposes the NGET preferred wording because Paragraph 10 prevents the undertaker from carrying out any specified works – which includes those that may be within 15 m or adversely affect future apparatus associated with the NHHM project, without NGET's written approval. Any approval may itself be subject to conditions imposed by NGET, including conditions to facilitate the construction, commissioning, operation and maintenance of the NHHM project (Paragraph 10(4)(b)). Again, it is not possible for NGET to say at this stage where any relevant apparatus will be located. The Applicant's WP formulation, however, subordinates this protection to the land identified in the protective provisions for the NHHM project and within that limited area of protection there is recognition of the right of the Undertaker to take access to the land needed for the NHHM project for construction and operation of the Proposed Development.	(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4)— (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and, (b) may be given subject to such reasonable requirements as National Grid Electricity Transmission Plc may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the North Humber to High Marnham Project (c) and must not be unreasonably withheld.	NGET preferred protective provisions lists within the issues upon which it can exercise control over consent to works affecting existing NGET assets the protection of the NHHM development.	The ExA notes that the wording sought by NGET has been included in paragraph 5(b) of the applicant's 'without prejudice' PPs. The ExA considers that the area to be affected would be limited to that within the vicinity of the proposed NHHM project and the plan required under the definition of "North Humber to High Marnham Project" would limit the area affected. The ExA has therefore included the wording sought by NGET in sub-paragraph 5(b) in the rDCO.
11	Add after sub-paragraph (5) <u>(6) In consideration of relying upon the benefit of any of these Protective Provisions National Grid Electricity Transmission Plc accepts that it will pay the undertaker compensation for any loss suffered by the undertaker in observing the provisions of paragraph 3 hereof including but not by way of limitation permanent loss in development area as a result of not carrying out surface development within the North Humber to High Marnham land such sum to be subject</u>	The Applicant opposes the NGET D5 preferred wording because it has no mechanism for compensating the Undertaker for losses arising from inhibition of the Proposed Development to support the construction of NHHM. The Applicant's WP formulation offers a right to seek compensation for loss by the Undertaker that NGET will be aware of before invoking the protections it seeks that would cause the loss. The Applicant notes the acceptance by NGET subject to this additional wording. Whilst the Applicant considers the compulsory purchase compensation code may be an appropriate metric	(5) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid Electricity Transmission Plc any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.	<i>The addition of this wording would be acceptable to NGET subject to the following amendment shown in red text:</i> <i>In consideration of relying upon the benefit of any of these Protective Provisions National Grid Electricity Transmission Plc accepts that it will pay the undertaker compensation for any loss suffered by the undertaker in observing the provisions of paragraph 3 hereof including but not by way of limitation permanent loss in development area as a result of not</i>	The ExA is not clear why NGET's suggested wording is limited to the the exercise of powers of compulsory acquisition and has some concerns that this may not extend to compensating the undertaker with the loss of generating development. The ExA therefore prefers the wording sought by the applicant and has added this to the rDCO.

APPENDIX D: EXA'S CONCLUSIONS ON PROTECTIVE PROVISIONS AREAS OF DISAGREEMENT
STEEPLE RENEWABLES PROJECT (EN010163)
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(D:XII)

	<u>to arbitration under paragraph 16 hereof if not agreed.</u>	by which compensation may be assessed it does not accept that the drafting so far proposed by NGET is adequate to secure that outcome. In the absence of agreed wording, subject to the Applicant's stated position on the Without Prejudice status of its drafting, the Applicant maintains its wording proposed for paragraph 11(6)		<i>carrying out surface development within the North Humber to High Marnham land as if such loss had been caused by the exercise of powers of compulsory acquisition by National Grid Electricity Transmission Plc such sum to be subject to arbitration under paragraph 16 hereof if not agreed</i> NGET's suggested amendment makes clear the basis upon which compensation should be assessed.	
15	15. If in consequence of the agreement reached in accordance with paragraph 7(1) or the powers granted under this Order the access to any apparatus or the North Humber to High Marnham Project is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or to the North Humber to High Marnham Project as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.	The Applicant opposes the NGET D5 preferred protective wording because Paragraph 15 requires the undertaker not to impede access to the NHHM project or to provide alternative access, without reference to the effects upon the Proposed Development. The Applicant's WP formulation subordinates the protection of access to the land needed for the NHHM project or the NHHM development itself to the Undertaker's right of access to that land to carry out and operate the Proposed Development.	15. If in consequence of the agreement reached in accordance with paragraph 7(1) or the powers granted under this Order the access to any apparatus or the North Humber to High Marnham Project is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or to the North Humber to High Marnham Project as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.		The ExA considers the reference to 'North Humber to High Marnham Project' provides clarification on the process to follow in the event access is obstructed.

APPENDIX E: THE EXA'S RECOMMENDED DRAFT DEVELOPMENT CONSENT ORDER