

# Written Submission to the Examining Authority

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## Written Submission to the Examining Authority

### Keadby Next Generation Power Station Project (EN0110001)

#### Highway Status, Design Change, and Absence of Statutory Authority

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## 1. Introduction and scope

I make this submission in relation to **The Keadby Next Generation Power Station Project (EN0110001)**.

I do not seek a determination of land ownership, nor do I invite the Examining Authority to revisit conclusions already reached regarding statutory land-use powers. My submission addresses a **separate and material issue**, namely the **status of an existing highway and the lawfulness of its alteration, diversion, and effective stopping-up**.

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## 2. Statutory construction and long-established highway use

The road was constructed by the **Central Electricity Generating Authority (CEGA)** under statutory powers as part of nationally significant electricity infrastructure.

In **1947**, the route was **altered and realigned** and became the **sole heavy vehicular access and egress** to the site. From that time until **1992**, it remained the **only practicable route for heavy goods vehicles**, because the bridges over the **Stainforth and Keadby Canal** were limited to **5 tonnes** and could not carry heavy traffic.

For decades, therefore, the route functioned as an **essential part of the highway network**, not as a private or permissive route.

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## 3. Relationship with the Unclassified Keadby to Amcotts Road

While the **Unclassified Keadby to Amcotts Road** existed within the local network, it did **not provide a viable alternative** for heavy traffic during the period of canal weight restrictions.

Accordingly, all heavy vehicles necessarily used the CEGA route. This reinforces its role as the **only functional heavy access route**, and supports the conclusion that it operated as a **public highway of necessity**.

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## 4. 1950 railway diversion and level crossing

In **1950**, the **Isle of Axholme Council** granted planning permission for:

- a railway connection from the mainline,
- the diversion of the road, and
- a **highway level crossing operated from a signal box**

This is significant. A signal-controlled level crossing is a feature designed for **active highway use**. It demonstrates that the route was formally recognised as a **functioning public highway**, and that its continuity was preserved through lawful diversion.

The 1950 consent did **not extinguish the highway**; it confirmed and maintained it.

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## 5. Legal position on highway status

In my submission, a road which:

- is constructed under statutory authority,
- is altered and maintained within a statutory infrastructure framework, and
- is used continuously for necessary traffic

is a **public highway in law**.

That status:

- does not depend on ownership,
- does not depend on adoption for maintenance, and
- cannot be removed by administrative action or agreement

Highway rights created in this way **continue unless and until lawfully extinguished by a statutory stopping-up or diversion order**.

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## 6. Highway records and evidential position

I recognise that **North Lincolnshire Council, as highway authority, holds highway records**, including records of adoptions, diversions, and stopping-up.

However, I submit that:

- the content of current records is **not determinative of highway status**
- historic highway evidence is often held across **multiple sources**, including archives and national records
- and such records are known to be **incomplete or to contain omissions**, particularly for mid-20th century infrastructure

Accordingly, highway status must be assessed on the **totality of evidence**, including statutory construction, long-term use, and formal planning recognition.

In this case, that evidence is clear.

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## 7. Keadby Wind Farm – what was presented to the public

In the **Keadby Wind Farm application**, the scheme presented to the public was based on:

- **bridging the existing roadway**, and
- **fencing off the ash tips**

This design preserved:

- the physical highway, and
- public rights of passage

I understand that this proposal was **publicly exhibited in Ealand and Crowle**, and it formed the basis of consultation.

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## 8. Subsequent change – bridge replaced by ramp

Following consultation, that arrangement was **materially altered**:

- the bridge was **not constructed**,
- a **ramp was introduced**, and

- the road was **diverted around the ramp**

In practical terms, this resulted in the **stopping-up of the original tarmac highway**.

This was not a minor technical refinement. It was a **fundamental change** from:

- preserving the highway → to **removing it**
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## 9. No further public consultation

I submit that:

- the bridge solution and ash-tip fencing approach were the **only arrangements presented for public consultation**
- the subsequent replacement with a **ramp and diversion** was **not re-exhibited**
- and no further consultation was undertaken despite the **material change in highway impact**

This alteration was made at **officer level**, without a renewed public process.

This is important because the public were consulted on a scheme that **preserved the highway**, not one that **obstructed it**.

## 10. Absence of statutory authority and DfT permission

The critical legal point is this:

- there is **no evidence of any stopping-up or diversion order** under sections 247 or 248 of the Town and Country Planning Act 1990
- the change was implemented **without permission from the Department for Transport**, as confirmed by the authority

In the absence of such statutory authority, the highway rights were **never lawfully extinguished**.

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## 11. Relevance to this Examination

From the above, I submit that:

- the route is a **public highway of statutory origin**
- it functioned as the **only heavy access for decades**
- it was formally recognised in planning decisions and infrastructure works
- the scheme presented to the public preserved it
- the scheme implemented removed it
- and that change occurred **without statutory authority and without public consultation**

The suggestion that the route can be treated as a “private highway” or that its status is determined solely by current records does **not reflect the legal position**.

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## 12. Conclusion

I therefore conclude that:

- the road constructed and altered by CEGA remains a **public highway in law**
- its status was reinforced by long-term use and by the **1950 railway diversion and level crossing**
- the approved bridge and ash-tip fencing solution would have preserved it
- the subsequent ramp and diversion **effectively stopped it up**
- that change was made **without statutory authority, without DfT permission, and without public consultation**

- and in law, the **highway rights continue to subsist**

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# ANNEX A – ARCHIVAL EVIDENCE

## Keadby Generating Station and Associated Infrastructure

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### A1. Overview

This Annex identifies primary documentary sources relied upon in this submission, drawn from **National Archives and deposited plan records**, relating to the statutory development of the Keadby generating station, associated railway infrastructure, and highway arrangements.

These records demonstrate that the infrastructure, including the interaction between the railway and road network, was subject to **formal statutory approval and central government control**.

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### A2. National Archives Records

#### A2.1 Ministry of Power records

- **Reference:** POWE/14/214
- **Series:** Ministry of Power – Electrical Division registered files
- **Subject:** Keadby generating station and associated works

This series forms part of the official records relating to the **siting and development of new power stations**, including associated infrastructure such as rail access and supporting works. [[discovery...ves.gov.uk](#)]

These records demonstrate that the project formed part of a **nationally coordinated electricity infrastructure programme**, subject to ministerial oversight.

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#### A2.2 Ministry of Transport records

- **Reference** [REDACTED]
- **Series:** Ministry of Transport – railway and transport-related correspondence and approvals

The **MT series** contains records created by the Ministry of Transport and its successors relating to transport infrastructure, including **railways, highways, and associated works**. [[discovery... ves.gov.uk](#)]

This material evidences the role of the Ministry of Transport in the **approval and regulation of transport infrastructure**, including railway orders and works affecting highways.

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### A3. Deposited Plans and Light Railway Order

#### A3.1 Deposited Plans North Lincolnshire Council. ROW

- **Reference:** LDP/1/340 [REDACTED]
- **Held by:** Lincolnshire Archives
- **Description:** Keadby Light Railway Order (1955 deposited plans)

This record consists of **deposited plans associated with the Keadby Light Railway Order**, forming part of the statutory documentation required for railway authorisation. [[discovery....ves.gov.uk](#)]

Deposited plans were a **mandatory component of statutory approval processes** for railway schemes, showing the alignment of works, affected land, and associated infrastructure, including highways.

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#### A4. Statutory Light Railway Order

The above records relate to the:

- Planning approved by Isle of Axholme RDC 1950
- **Keadby Light Railway Order 1956 (SI 749)** [REDACTED]

Light Railway Orders were **statutory instruments required to authorise railway construction**, issued under national legislation rather than local or private arrangements. [REDACTED]

Such Orders typically formed part of a **formal approval framework**, including:

- submission of deposited plans,
  - ministerial consideration,
  - and statutory authorisation of works affecting land, transport, and infrastructure.
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#### A5. Evidential significance

Taken together, these records demonstrate that:

- the railway and associated road arrangements were **not informal or private**,
- they were subject to **formal statutory authorisation**,
- they involved **central government departments**, including:
  - the Ministry of Power
  - the Ministry of Transport

and were implemented through **legally structured processes**, including deposited plans and statutory instruments.

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#### A6. Relevance to highway status

The inclusion of highways within this statutory framework is material. It shows that:

- [REDACTED]
- the road and its interaction with the railway formed part of a **regulated infrastructure scheme**, and
  - any alteration to highway rights would require **equivalent statutory authority**

No evidence has been identified of any **stopping-up or diversion order** extinguishing the highway/

## 4. Appendix A Supporting Evidence

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

# Why planning permission doesn't authorise obstruction

Planning permission and highway law are **separate legal regimes**:

- **Planning permission** allows development in planning terms
- **Highway law** protects the public's right to pass along highways

Even if a development is approved:

- It **does not override the public's rights on a highway**.
- Obstructing a highway without proper authority can still be an offence under the Highways Act 1980.

## 4. APPENDIX A – SUPPORTING EVIDENCE

### Representation – Keadby Next Generation: Land between North Piffrey and Chapel Lane

To: keadbynextgeneration@planninginspectorate.gov.uk

Dear Sir / Madam,

Please find attached my representation in relation to the above application.

I support the proposed development in principle. However, I object to the proposal in its current form because it does not adequately address material planning considerations.

The site consists of former warped agricultural land next to a coal ash tip, resulting in artificially altered ground conditions. Instead of resolving these constraints through suitable engineering design, the proposal relies on restricting movement along the existing route between North Piffrey and Chapel Lane.

The submitted evidence shows that this route has long been recognised and accommodated within infrastructure, planning, and land record systems.

The development could be made acceptable by providing an appropriate engineering solution, such as a bridge over the existing route, together with properly controlled boundary treatment.

Accordingly, the proposal should not be approved in its current form, but it could be made acceptable subject to appropriate conditions.

Yours faithfully  
John Carney

#### Sections:

1. Executive Summary
2. Main Issues
3. Site Conditions
4. Effect on the Existing Route
5. Historic Infrastructure and Evidence
6. Historic Planning Recognition
7. Land Record Evidence
8. Failure of the Proposal
9. Operator Experience
10. Engineering Solution
11. Boundary Treatment
12. Conclusion
13. Planning Conditions
14. Supporting Evidence List

## 4. APPENDIX A – SUPPORTING EVIDENCE

### **A APPENDIX A.1**

#### **Appendix Cover Page**

**Appendix A1** DOC/HS/07 Isle of Axholme Planning

[Correspondance moved from The Gables Epworth to Lincolnshire to East Ridding Archives .docx](#)

Planning record 1945- 1950

#### **APPENDIX A.2** – DOC/HS/08 Railway Order / crossing evidence

[document 1 - 1950 British Rail planning application to isle of Axholme RDC .docx](#)

Planning Rail for Junction, Signal Box, road diversion and level Crossing

"In particular, the absence or non-consideration of historical planning records undermines the reliability of the council's position. Historical documentation is essential in determining the established use and legal status of the land, and it should not be disregarded without clear justification."

#### **APPENDIX A.3** DOC/HS/09 Archivist email Archivist email

[email rail crossing gates .odt](#)

photo of level for vehicles and pedestrian gate

"I am concerned that the council has not properly considered the available historical records when assessing this matter. These records are highly relevant as they provide evidence of the established status and use of the route/land over time. A failure to take this evidence into account risks leading to an inaccurate or incomplete conclusion. I request that a full review is undertaken with proper regard to the historical documentation."

#### **APPENDIX A.4** – DOC/HS/10. Finance Act docs

[Finance Act 1919 Map and Field books 69 and 123 .docx](#)

Plots 69 and 123 freehold no manorial rights

"Despite the availability of official historical records, including the Finance Map which evidences the long-established route between Crowle and Keadby, North Lincolnshire Council has failed to take this material information into account in its traffic management plan. This omission has allowed SSE PLC to close an established route without proper evidential assessment. The failure to consider relevant historical documentation calls into question the robustness and lawfulness of the decision-making process. I therefore request an immediate review of the plan, taking full account of the historical record."

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**Appendix A.5** DOC/ Conveyance Jacques to Trent Water Board

Land on plots 69 and 123 conveyed as former Copyhold in 1924

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**APPENDIX A.6** DOC/HS/ Land Reg including plans

[Land Registry title number HS211933. 11 August 2019.docx](#)  
[Land registry title HS357811.docx](#)  
[land registry title HS212115.odt](#)

Land registry Titles claim the land was copyhold in 1938 is impossible.

.....

\*“I note that the Environment Agency, sold to SSE PLC as successor to the Trent River Board, claims ownership of a strip of land from North Pilferry Ferry to Chapel Lane, Keadby. However, this claim must be considered alongside the available historical records, including mapping and finance records which indicate the longstanding existence and use of the route between Crowle and Keadby.

At present, it appears that these historical records have not been properly taken into account in the council’s assessment or in the preparation of the traffic management plan. As a result, a potentially established route has been treated as capable of closure without full evidential consideration of its status.

I request that the ownership claim and the status of the route are fully reviewed, with proper regard to all historical documentation before any restriction or closure is permitted.”\*

Ownership of land does not negate the existence of public highway rights, where such rights are evidenced by historical use and documentation.”

SSE PLC had the approval to build the Bridge and properly fence and gate the entrance along their red line boundary on their tile Plan previous planning. They choose not to,

**I request the inspector makes it a condition of the new planning granted**

John Carney [REDACTED]

John Carney [REDACTED]

## List of Documents Links

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]