Planning Inspectorate

The Planning Act 2008

VIKING CCS CARBON DIOXIDE PIPELINE

Examining Authority's/ Inspector's Report

of Findings and Conclusions

and

Recommendation to the Secretary of State for

Energy Security and Net Zero

Examining Authority

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5 December 2024

The Planning Inspectorate

ERRATA SHEET – Viking CCS Carbon Dioxide Pipeline Project – File Ref: EN070008

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security & Net Zero dated 5 December 2025

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	Paragraph	Error	Correction
10	2.3.1	*"NPS EN-1 (2024)"*	*"NPS EN-4 (2024)"*
52	3.6.36	*"removal and/ or"*	*"removal and / or"*
78	3.10.35	*"small/ insignificant"*	*"small / insignificant"*
113	5.3.1	*"in the capture significant"*	*"in the capture of significant"*

OVERVIEW

File Ref: EN070008

The application, dated 20 October 2023, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on 23 October 2023.

The Applicant is Chrysaor Production (UK) Limited.

The application was accepted for Examination on 17 November 2023.

The Examination of the application began on 26 March 2024 and was completed on 26 September 2024.

The development comprises the construction, operation and maintenance of those parts of a proposed carbon capture and transportation pipeline that would be delivered in the terrestrial environment, from Immingham to mean low water springs at Theddlethorpe. The application does not include works at sea that would be required to transport carbon to its final sequestration location.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

1.1.1. The Application for the Viking Carbon Capture and Storage (CCS) Carbon Dioxide Pipeline (the Proposed Development) was submitted by Chrysaor Production (UK) Limited (the Applicant) on 23 October 2023 under section (s) 31 of the Planning Act 2008 (the PA2008). With Planning Inspectorate reference EN070008, the application was accepted for Examination under s55 of the PA2008 on 17 November 2023 [PD-001]. This report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State (SoS) for the Department of Energy Security and Net Zero (DESNZ).

1.1.2. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the SoS for the Department for Levelling Up, Housing and Communities (DLUHC) in its decision to accept the Application for Examination in accordance with s55 of the PA2008. The length of buried pipeline proposed is approximately 55 kilometres (km) in length and, as such, is considered to be a cross-county pipeline. On this basis the Proposed Development constitutes a NSIP under s14(1)(g) and s21(1)(a) of the PA2008. Therefore, the Proposed Development requires development consent in accordance with s31 of the PA2008.

1.1.3. The Proposed Development comprises the construction of a carbon dioxide (CO_2) intake facility at Immingham, construction and burial of a gas transportation pipeline to transport the CO_2 to Theddlethorpe on the east coast of Lincolnshire, and the construction of a facility at Theddlethorpe to send the CO_2 out to a subsea reservoir.

1.1.4. The Examination Library (EL) provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number e.g. [APP-001]. The reference numbers are used throughout this report and hyperlinks are included to allow the reader to access them directly.

1.1.5. This report does not contain extensive summaries of all documents and representations received, although full regard has been had to them and all important and relevant matters arising. Key written sources are set out further below.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

1.2.1. On 28 November 2023, David Wallis, Alex Jack and Jonathan Gorst were appointed as the Examining Authority (ExA) for the Application under s61 and s65 of the PA2008 [PD-004].

1.3. THE APPLICATION

LOCATION OF THE PROPOSED DEVELOPMENT

1.3.1. The location of the Proposed Development is shown on the Location Plan [APP-013] and the final versions of the Lands Plans [REP5-011]. The site lies within the County of Lincolnshire and is wholly in England. The Proposed Development seeks operational facilities at Immingham in the north and Theddlethorpe to the southeast connected by a gas transportation pipeline, as shown in Figure 1 below, taken from the Applicant's Location Plan [APP-013].

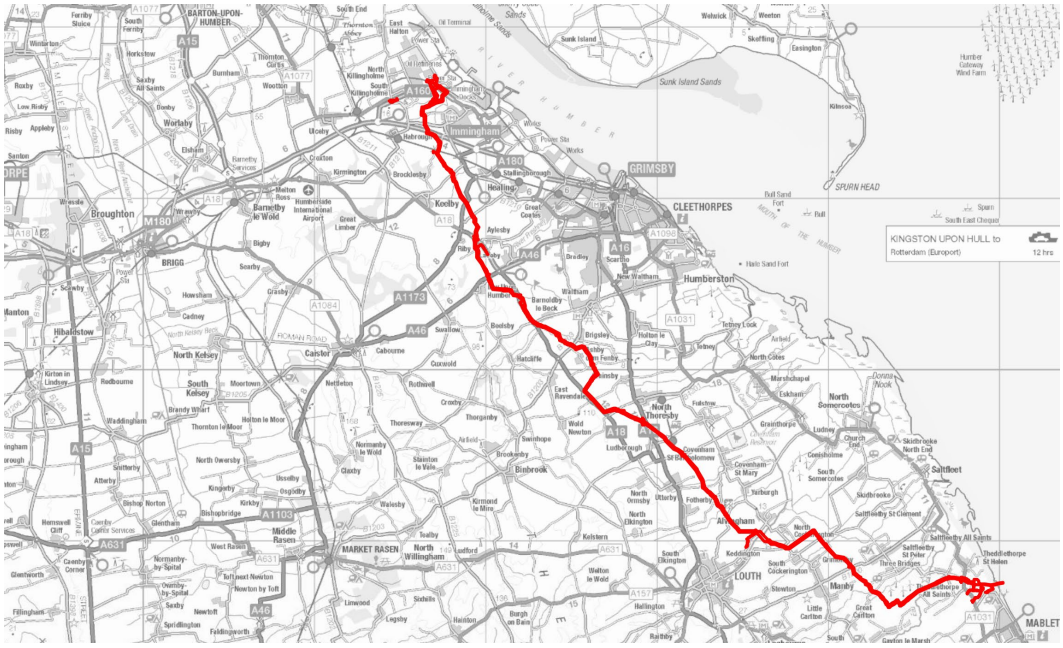


Figure 1: Location Plan [APP-013]

1.3.2. Chapters 3, 4 and 16 of the Environmental Statement (ES) [APP-045] [APP-046] [APP-058] provide detailed descriptions of the surrounding area. In summary, the characteristics of the development site and the surroundings are:

- At Immingham, in the north, there is an industrial setting where many heavy industries and business premises are located. Important and substantial road and rail connections are present, providing connectivity to the ports along the River Humber.
- Between Immingham and the settlement of Louth there is undulating countryside with the Lincolnshire Wolds National Landscape largely to the west of the Order Limits. Small to medium-sized settlements, interspersed in an agricultural landscape, are separated by woodland copse and hedgerows.
- Between Louth and Theddlethorpe the land is predominantly flat and comprises agricultural fields lined with drainage channels and ditches.
- The area around Theddlethorpe and adjacent Mablethorpe consists of both residential and recreational premises alongside the beaches on the east coast of Lincolnshire. The site of the former Theddlethorpe Gas Terminal (TGT) is the principal industrial feature in this locality, at which the development is proposed to terminate.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

1.3.3. The Viking CCS Project, as a whole, constitutes three separate elements, not all of which are provided for in this NSIP application. These include:

- the infrastructure to capture CO_2 at source;
- an onshore gas gathering and transportation pipeline; and
- an offshore transportation pipeline with subsequent subsea storage facilities.

1.3.4. The Viking CCS Pipeline (the Proposed Development) subject of this DCO application is purely for the construction, operation and maintenance of the onshore gas gathering and transportation pipeline. The Order Limits for this NSIP application end at Mean Low Water Springs (MLWS).

1.3.5. Some of the key infrastructure to be delivered in the Proposed Development include:

- Above Ground Installations (AGI) – typically comprising control rooms, electrical cabinets and venting stacks, for the intake of CO_2 and monitoring of the pipeline's performance;
- Block Valve Stations (BVS) – consisting of a short section of above ground pipework contained in a fence compound. They would house a control valve mechanism that can block, restrict or allow the flow of gas in the main pipeline; and
- The Lincolnshire Offshore Gas Gathering System (LOGGS) – which is an existing pipeline that used to enable natural gas to be collected and imported from subsea reserves. It is above ground within the TGT, underground as it leaves the TGT and goes underneath the beach and intertidal zone, then subsea out to the Southern North Sea.

1.3.6. If consented, the Development Consent Order (DCO) [REP6-002] would authorise the following works:

- Work No.1 – construction of an AGI at Immingham for the gathering and compression of CO_2, and for the equipment to allow control of the Proposed Development including a 25 metre (m) high venting stack.
- Works Nos 2 to 41 – construction of a buried 24" pipe for the transportation of gas, including laydown areas, BVS and construction compounds.
- Work Nos. 14, 21 and 31 – construction of three BVS each comprising a fenced compound containing below ground pipework, above ground control boxes and security equipment.
- Work Nos 42 to 47 – construction of an AGI within the grounds of the existing TGT, comprising a 'tie-in' to the existing LOGGS 36" pipeline, a 25m high venting stack and operating equipment. This includes the repurposing of the LOGGS pipeline for the Proposed Development's purposes.
- Work No 48 – improvements to existing roadways and the existing Dune Valve Station at Theddlethorpe that contains an isolation valve for the LOGGS pipeline.
- Infrastructure considered to be Associated Development as per the definition in s115(2) of PA2008, stated to include cathodic protection transformer rectifier cabinets, pipeline marker posts, utility connection infrastructure including power utilities and fibre optic cables, and temporary ancillary works integral to the construction of the CO_2 pipeline, including construction compounds and temporary access tracks.

1.3.7. It is anticipated that construction of the Proposed Development would take 15 months, after which the Proposed Development has a design life of 25 years.

1.3.8. In respect of the other elements of the overall Viking CCS Project, a facility capturing CO_2 at source has been approved by North Lincolnshire Council (NLC) for Phillips 66 Limited under planning permission reference PA/2023/442 (as confirmed in [REP6-063, Q2.1.1]. The Applicant refers to this business as one its "anchor" industries. Another capturing facility for the industry of VPI Immingham LLP was being sought from NLC under planning reference PA/2023/421, which was not decided by the close of the Examination.

1.3.9. In terms of the offshore pipeline, separate consents for the marine elements of the overall project would be sought by the Applicant under the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020. As a whole, the Viking CCS Project aims to

transport and store up to 10 million tonnes (Mt) of CO_2 annually by 2030, rising to 15Mt by 2035.

RELEVANT PLANNING HISTORY

1.3.10. Land at Immingham in the South Humber region is a long-established industrial area and is retained for such use in the North Lincolnshire Local Plan 2022. This industrial land use would be supported through a number of Development Consent Order applications, as detailed in the Applicant's Planning Design and Access Statement [APP-129], including (though not limited to) the following:

- ABLE Marine Energy Park (made 2014)
- VPI Immingham Open Cycle Gas Turbine (made 2020)
- Immingham Eastern Ro-Ro Terminal (made July 2024)
- Immingham Green Energy Terminal (with SoS for decision)
- Humber Low Carbon Pipelines (at Examination stage)

1.3.11. To meet the United Kingdom's (UK) sixth Carbon Budget, the Government outlined its ambition to capture 20-30Mt CO_2 per year by 2033. In support of this the UK Government has identified industrial Carbon Capture Use and Storage (CCUS) clusters.

1.3.12. Those sequenced for deployment by 2030 are 'track 2' clusters. The document 'Cluster Sequencing for Carbon Capture and Storage – Track 2 Guidance' published in March 2023, identified that the Viking CCS Project met the eligibility criteria for Track 2 of the governments Cluster Sequencing programme. The outcome of the Track 2 process was announced on the 31 July 2023 when the UK Government confirmed that the Viking CCS Project remained best placed to deliver the governments objectives for Track 2.

1.3.13. Broadly, the DCO Order Limits are greenfield, and the site and surrounding areas do not have an extensive planning history, as a result. The Local Impact Reports (LIR) submitted to the Examination concurred with the Applicant's assessment of the relevant planning history detailed in the planning statement.

1.3.14. A number of Affected Persons (APs) made representations to the Examination with regards to prospective applications for future agricultural and renewable energy development projects. However, no such applications were registered or recorded whilst the Examination was live and no updates from APs had been received.

1.4. THE EXAMINATION

START OF THE EXAMINATION

1.4.1. The Preliminary Meeting (PM) was held on 26 March 2024 [EV4-001 to EV4-003]. The ExA's Procedural Decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-009] dated 3 April 2024.

1.4.2. The Examination began on 26 March 2024 and concluded on 26 September 2024. The principal components of and events around the Examination can be seen in the Examination timetable and are summarised below.

1.4.3. A total of 121 Relevant Representations (RR) were submitted to the Examination. Come the end of the Examination a number of individuals, principally Affected Persons, had withdrawn their RR, as itemised with the Examination Library.

PROCEDURAL DECISIONS

1.4.4. The Procedural Decisions taken by the ExA are recorded in the Examination Library referenced with the prefix [PD-], including letters issued to the Applicant and Interested Parties. They detail the ExA's decisions relating to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. The ExA's Procedural Decisions did not give rise to controversy and were broadly complied with. For this reason, they are not reported on further.

STATEMENTS OF COMMON GROUND

1.4.5. By the end of the Examination, the following bodies had concluded and signed Statements of Common Ground (SoCG) with the Applicant, as reported in the Statement of Commonality [REP7-013]:

- Anglian Water Services Limited [REP6-021]
- Calor Gas Limited [REP6-033]
- Driver and Vehicle Standards Agency [REP7-011]
- East Lindsey District Council [REP6-017]
- Environment Agency [REP6-023]
- Historic England [REP6-024]
- Lincolnshire County Council [REP6-015]
- Lindsey Marsh Drainage Board [REP6-030]
- Louth Navigation Trust [REP7-009]
- Natural England [REP6-028]
- National Highways [REP6-026]
- North East Lincolnshire Council [REP7-004]
- North Lincolnshire Council [REP6-013]
- Northern Power Grid [REP7-006]
- Phillips 66 Limited [REP6-032]
- UK Health and Security Agency [REP6-034]
- West Lindsey District Council [REP6-019]

1.4.6. The SoCGs with the following bodies remained unsigned and incomplete at the end of the Examination:

- British Pipeline Agency [REP1-037]
- Cadent Gas Limited [REP5-030]
- Centrica PLC [REP5-032]
- National Gas Transmission Plc [REP5-036]
- National Grid Electricity Transmission [REP5-038]
- Network Rail Infrastructure Limited [REP5-042]
- North East Lindsey Drainage Board [REP1-034]
- Uniper UK Limited [REP7-008]

1.4.7. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report. The weight (if any) to be afforded to unsigned SoCGs in particular contexts is considered in the relevant sections of this report.

WRITTEN QUESTIONS

1.4.8. The ExA asked two rounds of written questions:

- The Examining Authority's First Written Questions (ExQ1) [PD-010]
- The Examining Authority's Second Written Questions (ExQ2) [PD-021]

1.4.9. The ExA made the following requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010:

- Regarding Compulsory Acquisition and missing responses to ExQ1 [PD-012]
- Regarding missing statements and the construction programme [PD-015]
- Regarding the Applicant's second change request [PD-018]
- Regarding Protective Provisions, missing responses and the Habitats Regulation Assessment process [PD-023]
- Regarding late requests to join the Examination and Crown Estate matters [PD-026]

SITE INSPECTIONS

1.4.10. The ExA carried out the following Unaccompanied Site Inspections (USIs):

- To locations across the Order Limits [EV1-001]
- To an area west of Stallingborough [EV10-001]

1.4.11. The ExA carried out the following Accompanied Site Inspection (ASI) with notice to, and in the company of, Interested Parties (IP):

- On 26 June 2024 [EV5-001a]

HEARINGS

1.4.12. Issue Specific Hearings (ISH) were held under s91 PA2008, together with Hearings under s92 PA2008 into the Compulsory Acquisition of land and rights (CAHs) and under s93 PA2008 providing for Open Floor Hearings (OFHs).

1.4.13. The following ISHs were held:

- ISH1 [EV3-002] [EV3-004]
- ISH2 [EV8-002] [EV8-004] [EV8-006]
- ISH3 [EV9-002] [EV9-004] [EV9-006] [EV9-008].

1.4.14. The following CAHs were held:

- CAH1 [EV2-002] [EV2-004] [EV2-006]
- CAH2 [EV7-002] [EV7-004] [EV7-006]

1.4.15. The following OFHs were held:

- OFH1 [EV6-002]

1.5. CHANGES TO THE APPLICATION

1.5.1. Changes to the key application documents, including the wording of the draft Development Consent Order (dDCO), were submitted and updated during the Examination. The changes sought to address points raised by IP's and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.

1.5.2. The Applicant's changes to the Application documents, together with any additional information submitted, are detailed in the Application Guide submitted at Deadline (DL) 7 [REP7-015]. This provides a guide to all documents submitted as part of the Application and was updated at each deadline when new or revised documents

were submitted. It provides a full record of all documentation submitted into the Examination.

FIRST CHANGE REQUEST

1.5.3. The Applicant submitted a formal change request on 19 March 2024, prior to the Preliminary Meeting being held. Table A2 in Appendix A of this report sets out the documents comprising the change request.

1.5.4. The formal letter [AS-038] details the two proposed changes, which the Applicant considered not to be material and not to give rise to any new or increased environmental effects, and not including any additional land [AS-053].

1.5.5. The ExA agreed with the Applicant that neither of the proposed changes was so material that it constituted a materially different project. The proposed changes were not considered, individually or cumulatively, to lead to the project being different in nature or substance to that which was originally applied for in October 2023.

1.5.6. The ExA also agreed with the Applicant that no new environmental information was required to revise the Environmental Statement (ES) and that, as there would be no additional land with the Order limits nor changes to the scope of compulsory acquisition powers, the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) were not invoked.

1.5.7. The ExA therefore issued a Procedural Decision within the Rule 8 letter [PD-009] to accept both changes into the Examination.

SECOND CHANGE REQUEST

1.5.8. The Applicant submitted a second formal change request on 19 June 2024. Table A2 in Appendix A of this report sets out the relevant related documents.

1.5.9. The formal letter [AS-063] sets out a total of six proposed changes. The Applicant submitted that none of the changes were material since they largely resulted in a reduction of the Order Limits. One of the changes involved the proposed moving of one BVS from one side of the road to another, without requiring any additional land take, although would necessitate modifying the rights sought over the respective land parcels. The Applicant submitted evidence that the landowner was agreeable to such changes in rights [AS-084]. The Applicant considered such amendments would not give rise to any new or increased environmental effects [AS-080].

1.5.10. The ExA used CAH2 [EV7-002] [EV7-004] [EV7-006] to explore elements of the change request and gauge the views of IP's on pertinent matters. Following this, the ExA agreed with the Applicant that no new environmental information was required to revise the ES and that, as there would be no additional land with the Order Limits and that the landowner implicated by the change to the scope of rights sought on his land had written to confirm consent to the change [AS-084], CA Regulations were not invoked and the terms of s123(3) of PA2008 had been met in relation to this element.

1.5.11. The ExA issued a Procedural Decision on 3 July 2024 [PD-018] to accept all six changes into the Examination. No amendments to the Examination timetable were necessary for the changes to be examined properly.

1.6. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.6.1. At the end of the Examination, no agreements under s106 of the Town and Country Planning Act 1990 (as amended) had been entered into.

1.6.2. Some parties have confirmed that, during the Examination, they have reached private agreements and side agreements with the Applicant regarding protection of their assets and/ or interests. These are referred to, where relevant, in subsequent sections of this report.

1.6.3. These undertakings, obligations and/ or agreements (other than unsigned or incomplete ones) have been taken fully into account by the ExA in all relevant sections of this report.

1.7. OTHER CONSENTS

1.7.1. In addition to the consents required under the PA2008, the Applicant would require other consents to construct, operate and maintain the Proposed Development. This is set out by the Applicant in the final versions of the Consents and Agreements Position Station [REP1-017] and the Viking CCS Bridging Document [APP-128].

1.8. STRUCTURE OF THIS REPORT

1.8.1. The structure of the remainder of this report is as follows:

- **Chapter 2** identifies how the application is to be determined and summaries the key legislation and policy context that applies to the decision.
- **Chapter 3** sets out the findings and conclusions in relation to the individual planning issues that arose from the Application and during the Examination.
- **Chapter 4** summarises considerations arising from Habitats Regulations Assessment (HRA).
- **Chapter 5** sets out the balance of planning considerations arising from Chapters 2, 3 and 4 in the light of important and relevant factual, legal and policy considerations.
- **Chapter 6** sets out the ExA's examination of land rights and related matters.
- **Chapter 7** considers the implications of the matters arising from the preceding chapters for the Development Consent Order.
- **Chapter 8** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.8.2. This report is supported by the following appendices:

- **Appendix A** – Reference Tables.
- **Appendix B** – List of Abbreviations.
- **Appendix C** – Habitats Regulations Assessment.
- **Appendix D** – The Recommended DCO
- **Appendix E** – Applicant's Compulsory Acquisition Tracker
- **Appendix F** – ExA's Land Rights Summary

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

2.1.1. This chapter identifies the key legislation, policy and Local Impact Reports (LIRs) that the Examining Authority's (ExA) recommendations have taken into account.

2.2. LEGISLATION AND POLICY

2.2.1. This section identifies the key legislation and policy that the ExA considers to be important and relevant to its findings and recommendations to the Secretary of State (SoS). More detail is provided in Appendix A to this report.

PLANNING ACT 2008

2.2.2. The Planning Act 2008 (PA2008) provides a different basis for decision-making for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) (s104) has effect from that where no NPS has effect (s105).

2.2.3. The Applicant submitted a case that the application fell for consideration under s105 of PA2008, contained mainly within the planning statement [APP-129]. The ExA raised questions regarding this [PD-010, Q1.1.1, Q1.1.2, Q1.1.4], to which the Applicant responded that certain NPS were important and relevant, but that none directly applied to the operation of Carbon Capture and Storage (CCS) infrastructure [REP1-045].

2.2.4. The ExA acknowledges that CCS infrastructure is identified in the Overarching NPS for Energy (NPS EN-1) (designated in 2011), with paragraph 4.7.1 stating it is an emerging technology that could support energy infrastructure. The NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4, 2011) provides guidance on technology specific considerations for pipelines which include planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual amenity; water quality and resources; and soils and geology. However, neither NPS EN-1 (2011) nor NPS EN-4 (2011) state to be directly in force for carbon dioxide pipelines or deal specifically with that technology.

2.2.5. Having reviewed the Applicant's submissions and having regard to the findings of the local authorities' LIRs, the ExA is content that the Proposed Development falls to be considered under s105 of PA2008.

2.2.6. The ExA has considered the statutory basis for Examination, reporting and decision-making and has concluded that these must proceed under PA2008 s105 (decisions in cases where no NPSs have effect).

2.2.7. Section 105(2) of the PA2008 requires the SoS in deciding the Application to have regard to:

- any duly submitted LIR;
- any matters prescribed in relation to the development; and
- any other matters the SoS thinks are both important and relevant to the decision.

2.2.8. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s105 of the PA2008.

OTHER LEGISLATION

2.2.9. A full list of relevant primary and secondary legislation, including but not limited to duties arising under the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in Table A5 of Appendix A of this report. All applicable legislation has been considered by the ExA as required and the findings and recommendations in this report are framed so as to identify and enable the SoS to discharge all applicable statutory considerations or duties.

2.3. NATIONAL POLICY STATEMENTS

2.3.1. NPSs set out Government policy on different types of national infrastructure development. Having regard to s105(2)(c) of the PA2008 within the context set by this Application, the ExA considers that the following NPSs include policy that is both important and relevant:

- NPS EN-1 (2011);
- NPS EN-4 (2011);
- NPS EN-1 (2024); and
- NPS EN-1 (2024).

2.3.2. These NPS(s) form part of the policy context for this Examination, to be considered alongside other important and relevant matters. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying the approach set out in s105 of the PA2008. The purpose and broad content of these NPS(s) is summarised here. Table A3 of Appendix A provides further detail on the NPSs of relevance to the Proposed Development.

OVERARCHING NATIONAL POLICY STATEMENT FOR ENERGY (NPS EN-1 (2011))

2.3.3. NPS EN-1 (2011) sets out general principles and generic impacts to be taken into account in considering applications for decarbonisation NSIPs. All other energy NPSs sit under the policy framework provided by this NPS. NPS EN-1 (2011) states that the Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change by 2050.

NATIONAL POLICY STATEMENT FOR NATURAL GAS SUPPLY INFRASTRUCTURE AND OIL PIPELINES (NPS EN-4 (2011))

2.3.4. NPS EN-4 (July 2011) sets out the general matters pertaining to buried pipelines and gas specific infrastructure. NPS EN-4 does not specifically deal with CCS infrastructure and related technology but provides considerations on how gas transportation pipelines should be approached.

REVISED NATIONAL POLICY STATEMENTS

2.3.5. In November 2023, the Department for Energy Security and Net Zero (DESNZ) published revised NPSs in relation to energy. The revised NPSs were subsequently designated on 17 January 2024.

2.3.6. Paragraph 1.6.2 of NPS EN-1 (2024) makes clear that *"…for any application accepted for examination before designation of the 2021 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPS."*

2.3.7. The application for the Proposed Development was submitted prior to the designation of the 2021 amendments. However, it is also clear in paragraph 1.6.3 of NPS EN-1 (2024) that the revised NPSs may potentially be important or relevant matters for consideration. The ExA has treated the revised NPS EN-1 (2024) as such.

2.3.8. The revised NPS EN-4 (2024) sets out that natural gas use, as well as decarbonising industry, is consistent with the aims of reaching net zero by 2050.

2.4. OTHER NATIONAL POLICY

2.4.1. During the course of Issue Specific Hearing 3, East Lindsey District Council (ELDC) submitted that footnote 94 within the NPS for Renewable Energy, NPS EN-3 (2011), was important and relevant to the Proposed Development [EV9-006]. This specifically was with regard to archaeological investigation and mitigation.

2.4.2. The relevance of NPS EN-3 (2011) was rebutted by the Applicant [REP4-048] in the strongest terms, detailing that the footnote was linked to renewable energy projects completely distinct from the Proposed Development being sought.

2.4.3. No other Interested Party sought to advance the relevance or otherwise of NPS EN-3 (2011). The ExA, whilst appreciating the context in which that ELDC has presented the case that footnote 94 applies, has found that footnote 94 is directly linked to a type of infrastructure that is not sought in the Proposed Development. As such, the ExA consider NPS EN-3 (2011) is not important and relevant in this instance.

2.4.4. Other important and relevant Government policy has been taken into account by the ExA, including the following:

- The National Planning Policy Framework.
- Net Zero: The UK's Contribution to Stopping Global Warming Emissions.
- Ten Point Plan for a Green Industrial Revolution.
- Energy White Paper: Powering our Net Zero Future.
- Industrial Decarbonisation Strategy (HM Government, 2021).
- Net Zero Strategy: Build Back Greener.
- British Energy Security Strategy (2022).
- Powering up Britain (Department for Energy Security and Net Zero (DESNZ), 2023).
- Carbon capture, usage and storage net zero investment roadmap, 2023.

2.4.5. Table A4 of Appendix A provides further detail on the relevance of each of the above policies to the Proposed Development. These policies are also discussed in more detail in Chapter 3 of this Report.

2.5. LOCAL IMPACT REPORTS

2.5.1. Five LIRs were submitted into the Examination by ELDC [REP1-053], Lincolnshire County Council [REP1-058], North Lincolnshire Council [REP1-062], North East Lincolnshire Council [REP1-064] and West Lindsey District Council [REP1-066].

2.5.2. LIR content has been considered through the Examination and in this report. It must be considered during the decision by the SoS pursuant to PA2008 s105(2)(a).

2.5.3. The LIRs stated that local planning policies support the Proposed Development in principle, raising the following issues as matters for discussion:

- Principle of Development.
- Noise and Vibration.
- Landscape.
- Ecology and Biodiversity.
- Built Heritage.
- Archaeology.
- Highways and Transportation.
- Public Rights of Way.
- Air Quality and Emissions.
- Hydrology and Flood Risk.
- Mineral and Waste Planning.
- Ground Conditions.
- Adequacy of the Development Consent Order (DCO).

2.5.4. The issues raised are considered in further detail in relation to relevant planning issues in Chapter 3 of this report.

2.5.5. Amongst other matters, LIRs identify local policies (including those from the Development Plan) which are capable of being important and relevant considerations under s105(2)(a) of the PA2008. Table A6 of Appendix A lists the individual local policies that are relevant to the Proposed Development.

2.6. ENVIRONMENTAL IMPACT ASSESSMENT

2.6.1. The Applicant provided a notification under Regulation 8(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) of its intention to provide an Environmental Statement (ES). Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the ExA determined that the Proposed Development was EIA development.

2.6.2. On 27 March 2022, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the EIA Regulations in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion) [APP-074].

2.6.3. On 5 May 2022 the Planning Inspectorate provided a Scoping Opinion [APP-075].

2.6.4. Overall, the ExA considers that the ES, as supplemented with additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

2.6.5. The ExA considered that changes to the documentation, comprising the ES during the Examination, together with the change requests (see section 1.5 of this report) did not individually or cumulatively undermine the scope and assessment of the ES. Chapter 3 of this report will summarise the environmental effects under each topic section.

2.7. HABITATS REGULATIONS ASSESSMENT

2.7.1. The SoS is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2.7.2. The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and hence is subject to a Habitats Regulations Assessment (HRA).

2.7.3. As is the convention and to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in Appendix C of this report, a summary of which can be found in Chapter 4 of this Report. A copy of the ExA's Report on the Implication for European Species (RIES) can be found separately at [PD-022].

2.8. TRANSBOUNDARY EFFECTS

2.8.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken on behalf of the SoS on 25 March 2022 following the Applicant's request for an EIA Scoping Opinion [OD-001]. No significant effects were identified on the environment in a European Economic Area (EEA) member state.

2.8.2. A second screening was published on 2 May 2024 [OD-008]. Again, no EEA states were identified as being likely to have significant effects on their environment in terms of extent, magnitude, probability, duration, frequency or reversibility.

The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. The ExA is satisfied that no such changes are required on the basis of the information provided to the Examination up to Deadline 7.

3. THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This chapter sets out the Examining Authority's (ExA) findings and conclusions on the planning issues. The chapter is structured to firstly examine the matters of principle, including need and alternatives, followed by generic topic headings which are arranged in alphabetical order. The order in which all these section headings are presented should not be taken to imply any order of merit.

3.1.2. In each section, the ExA identifies the policy background, followed by a summary of the Application as made, then reports on the main issues for each topic. Findings and conclusions are drawn for each topic. These in turn identify whether the effects carry little weight, moderate weight, great weight, or very great weight for or against the making of the Development Consent Order (DCO).

INITIAL ASSESSMENT OF PRINCIPAL ISSUES (IAPI)

3.1.3. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), the ExA made an Initial Assessment of Principal Issues (IAPI) arising from the Application in advance of the Preliminary Meeting (PM) [PD-007]. This formed an initial assessment of the issues based on the Application documents and submitted Relevant Representations (RR). The list of issues relates to all phases of the Proposed Development. The IAPI was raised at the PM and no other key topics were identified during the Examination.

THE PLANNING ISSUES IN THIS REPORT

3.1.4. The ExA considers that the issues raised by Interested Parties (IP) were broadly in line with the IAPI and were subject to written and oral questioning during the Examination.

3.1.5. To facilitate efficient consideration of the relationships between certain issues and to avoid repetition in analysis, the ExA has varied the order of its consideration of issues arising from the IAPI. It should also be noted that the IAPI is a high-level framework. The ExA has nevertheless had regard to all important relevant matters arising from submissions from IPs and has reported on these, if required, within each chapter below.

3.2. THE PRINCIPLE OF THE DEVELOPMENT

3.2.1. In addition to the issues arising from the Initial Assessment of Principal Issues (IAPI), the Examining Authority (ExA) has also given consideration on an overarching basis to the principle of the development in terms of:

- Need;
- Alternatives;
- Conformity with designated National Policy Statement (NPS) policy;
- Applicability of other NPS policy;
- Applicability of other policy; and
- Applicability of legislation.

3.2.2. Although this Application falls to be determined under section (s) 105 of the Planning Act 2008 (PA2008), for the reasons set out in Chapter 2, the ExA

considers that NPS are important and relevant documents and the ExA has had full regard to these, alongside other policy and legislation for both Wales and England.

3.2.3. The application was accepted for Examination in October 2023, so the policy tests in NPS EN-1 (2011) and NPS EN-4 (2011), as well as those in the revised NPS EN-1 (2024) and revised NPS EN-4 (2024) (which were available as draft policies) are capable of being important and relevant considerations. The ExA has considered the 2024 NPS policies to the extent that they change the position set out in 2011 policies in a relevant manner.

3.2.4. Although none of these NPS policies is a designated policy for this application, the ExA has also applied the principle set out in NPS EN-1 (2024) section 1.6, which provides that the importance and relevance of changes to policy in the 2024 energy NPSs to projects accepted for Examination before those policies were designated by Parliament should be considered on an individual basis, with regard to the specific circumstances of this application.

POLICY BACKGROUND

NEED

3.2.5. NPS EN-1 (2011) makes it clear that applications for development consent for the types of infrastructure covered should be assessed on the presumption that there is a need for those types of infrastructure and that substantial weight should be given to this need (paragraph 3.2.6).

3.2.6. It emphasises the need for new nationally significant infrastructure projects to achieve energy security as well as dramatically reducing greenhouse gas (GHG) emissions in the United Kingdom (UK). It goes on to state that the UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly and the Government would like the industry to bring forward many new low carbon developments to meet the twin challenge of energy security and climate change as we move towards 2050.

3.2.7. Paragraphs 3.6.4 to 3.6.7 of NPS EN-1 (2011) relate specifically to Carbon Capture and Storage (CCS). CCS has the potential to significantly reduce carbon emissions, although the process of capturing, transporting and storing carbon dioxide (CO_2) also means that more fuel is used in producing a given amount of electricity than would be the case without CCS.

3.2.8. Given the level and urgency of the identified need, NPS EN-1 (2011) advises that applications for development consent should start with a presumption in favour of granting consent unless any more specific and relevant policies set out in the NPS clearly indicate that consent should be refused.

3.2.9. Paragraphs 3.5.1 and 3.5.3 of NPS EN-1 (2024) also make clear that new CCS infrastructure will be needed to capture and store CO_2 emissions from industrial processes. It recognises that there is an urgent "*critical*" need for new carbon capture infrastructure to support the transition to a Net Zero economy. NPS EN-1 (2024) confirms at paragraph 3.5.8 that alternatives to new CCS infrastructure for delivering Net Zero by 2050 are "*limited*", with the paragraph also stating that: *"CCS therefore has an essential role to play, either on its own or in combination with measures such as electrification and fuel."*

3.2.10. Paragraph 4.9.20 of NPS EN-1 (2024) acknowledges that *"one method for transporting captured carbon dioxide is through pipelines located both onshore and*

offshore. Onshore pipelines over 16.093 kilometres in length classify as NSIPs and require a Development Consent Order."

3.2.11. Section 4.9 of NPS EN-1 (2024) sets out the principles of capturing and storing CO_2, and the Government's ambitions to use offshore storage to manage the emissions from at least four industrial clusters by 2030.

Climate Change Act 2008

3.2.12. Through the Climate Change Act 2008 (CCA2008), the UK set a legally binding emissions reduction target of 34% of the 1990 levels of GHG emissions by 2020 and at least 80% of the '1990 baseline'.

Climate Change Act 2008 (2050 Target Amendment) Order 2019

3.2.13. The CCA2008 (2050 Target Amendment) Order 2019 introduced a revised target of achieving net zero GHG emissions by 2050. This legislated for a 100% reduction in GHG emissions instead of the 80% reduction that had originally been stated in the CCA2008.

Net Zero: The UK's Contribution to Stopping Global Warming Emissions 2019

3.2.14. In May 2019, the Climate Change Committee (CCC) published a report entitled 'Net Zero: The UK's contribution to stopping global warming' (CCC, 2019).

3.2.15. The executive summary states that industry must be largely decarbonised and where there are remaining emissions *"…these must be fully offset by removing CO_2 from the atmosphere and permanently sequestering it, for example by using sustainable bioenergy in combination with CCS*". It also states that in order to achieve UK Net Zero by 2050, CCS is a necessity not an option.

3.2.16. The report identifies that progress regarding CCS has been slow and while there are 43 large-scale Carbon Capture Usage and Storage (CCUS) projects operating or under development around the world, none are in the UK.

Ten Point Plan for a Green Industrial Revolution 2020

3.2.17. In November 2020, the Government published 'The Ten Point Plan for a Green Industrial Revolution' (HM Government, 2020). The plan seeks to ensure that the UK's recovery from the coronavirus pandemic *"will be green, generate jobs and bolster the economy, whilst continuing to drive down emissions both now and in the future"* (p.30).

3.2.18. The plan highlights the need for CCUS in delivering a green economy, stating the Government's commitment to establishing CCUS at two industrial clusters by the mid-2020s and aims to establish CCUS at four industrial clusters by 2030.

3.2.19. Point 8 of the plan is 'Investing in Carbon Capture, Usage and Storage', stating: *"Our ambition is to capture 10Mt of carbon dioxide a year by 2030, the equivalent of four million cars' worth of annual emissions. We will invest up to £1 billion to support the establishment of CCUS in four industrial clusters, creating 'Super Places' in areas such as the North East, the Humber, North West, Scotland and Wales".*

Energy White Paper: Powering our Net Zero Future 2020

3.2.20. In December 2020, the Government published its 'Energy White Paper: Powering our Net Zero Future' (HM Government, 2020), which builds on the Ten Point Plan

and sets out the Government's policies and commitments which seek to achieve Net Zero and tackle climate change.

3.2.21. The White Paper confirms the Government's support for CCUS and, like the Ten Point Plan, outlines the Government's ambition to capture 10 mega-tonnes (Mt) of CO2 a year by 2030 and invest up to £1 billion to support the establishment of CCUS in four industrial clusters in the UK. In relation to BECCS specifically, it states (p.53) *"BECCS plants could deliver negative emissions, by capturing the carbon released during biomass combustion, gasification and other processes, provided supply chain emissions are sufficiently low".*

Industrial Decarbonisation Strategy 2021

3.2.22. In March 2021, the Government published the Industrial Decarbonisation Strategy which considers how the full range of the UK's industrial sectors can reflect the Net Zero target. The indicative roadmap to Net Zero UK industry includes carbon capture clusters in the next decade.

Net Zero Strategy: Build Back Greener 2021

3.2.23. The Net Zero Strategy expands on key commitments in the energy white paper. The executive summary states the proposals to *"fully decarbonise our power system by 2035"* and deliver *"four carbon capture, usage and storage (CCUS) clusters, capturing 20-30 MtCO2 across the economy, including 6 $MtCO_2$ of industrial emissions, per year by 2030."*

3.2.24. The strategy states (page 184) that greenhouse gas removals (of which Bio-Energy with CCS (BECCS) is identified as an engineering-based approach) are essential to compensate for the residual emissions arising from the most difficult activities to reduce or eliminate from within polluting sectors.

3.2.25. Furthermore, in relation to BECCS, the strategy states (p.189) *"By 2030 we envisage significant deployment of mature BECCS technologies and commercial scale deployment of DACCS. BECCS technologies will include retrofit applications in the power and industry sectors. BECCS applications in the power sector could be deployed by the late 2020s".*

3.2.26. The Net Zero Strategy was found to be unlawful by the High Court in its judgement on the case of case of R. (on the application of Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWHC 1841 (Admin).

3.2.27. Whilst the Net Zero Strategy was not quashed, a report that addresses the concerns identified within the strategy was required to be prepared and submitted, with compliance required by 31 March 2023.

British Energy Security Strategy 2022

3.2.28. In April 2022, the Government published the British Energy Security Strategy (BESS) in response to the rising global energy costs, which has ultimately resulted in an increase in the cost of living in the UK. The policy paper sets out how the UK Government is *"going to bring clean, affordable, secure power to the people for generations to come" and "build a British energy system that is much more self-sufficient."*

3.2.29. It states that the Government will ensure a new lease of life for the North Sea in low carbon technologies including delivering on the £1 billion commitment to four CCUS clusters.

Powering up Britain 2023

3.2.30. In March 2023, the Government published the "Powering Up Britain" policy paper. It sets out the Government's plans to enhance energy security, seize the economic opportunities of the energy transition, and deliver on the Government's Net Zero commitments.

3.2.31. The 'Powering Up Britain – Energy Security Plan' (ESP) sets out the steps by which the Government will enhance the country's energy security following the publication of the BESS in April 2022. The ESP confirms that the use of biomass combined with CCS "*can deliver negative emissions, which is key to delivering net zero*". The ESP acknowledges the role that BECCS can play in contributing to Net Zero goals and confirms the Government's intention of driving the bioenergy agenda and incentivising deployment of power BECCS through development of a bespoke business model.

3.2.32. The Net Zero Growth Plan (NZGP) outlines how the UK will achieve its climate and considers CCUS as an emerging industry that is central to decarbonising the UK's economy. It summarises the Government's policies and incentives that aim to facilitate rapid deployment of CCUS projects across the UK, including different funding mechanisms and business models to drive investment into key Net Zero technologies, including CCUS.

3.2.33. The NZGP confirms that TBS will outline the role that BECCS can play in reducing carbon emissions across the economy and set out how the technology could be deployed.

CCUS Net Zero Investment Roadmap 2023

3.2.34. In April 2023, the Government published the CCUS Net Zero investment roadmap (the Roadmap), which outlines Government and industry commitments to the deployment of CCUS in the UK and sets out the approach to delivering four CCUS low carbon industrial clusters, capturing 20-30 $MtCO_2$ per year across the economy by 2030, to help meet the UK's 2050 Net Zero target. The Track 2 cluster process was launched at the same time.

ALTERNATIVES

3.2.35. NPS EN-1 (2011) does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, applicants are required to include in their Environmental Statement (ES) information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility. This is echoed in paragraph 2.21.3 of NPS EN-4 (2011) and there are also some specific legislative requirements to consider alternatives that should be identified in the ES, notably under the Habitats Directive.

3.2.36. Paragraph 5.7.13 of NPS EN-1 (2011) states that the consideration of alternative sites is relevant to the application of the Sequential Test in relation to flood risk. Consideration of alternatives can also be relevant where development involves land that is subject to nationally designated landscapes (paragraph 5.9.10).

3.2.37. NPS EN-4 (2011) paragraph 2.21.3 reiterates that the ES should include an assessment of the biodiversity and landscape and visual effects of the proposed route and of the main alternative routes considered.

3.2.38. NPS EN-1 (2024) indicates that the consideration of alternatives should be carried out in a proportionate manner, and that the SoS should only consider those alternatives that can meet the objective need for the Proposed Development and have a realistic prospect of delivering the same capacity in the same timescale.

THE APPLICATION

Need

3.2.39. The Applicant has submitted a Need Case for the Scheme [APP-131], setting out its case for the Proposed Development in terms of national, international and local policy as well as the important and relevant legislative framework.

3.2.40. The Applicant sets out that the Humber area emits approximately 20 million tonnes per annum (mtpa) of CO_2 and emits more CO_2 than any other UK region due to the volume and type of industry and energy operations in the area. The Proposed Development is said to have the potential to provide transport for up to 10mtpa of CO_2 by 2030 and 15mtpa by 2035, thus meeting half of the region's decarbonising needs. The Applicant affirms that the project would provide for one third of the UK Government's target to capture and store up to 30 million tonnes of CO_2 a year by 2030. On 31 July 2023, the Viking CCS Project was awarded Track 2 status as part of the UK Government's cluster sequencing process.

3.2.41. Set against a backdrop of the aim for Net Zero by 2050, the Applicant considers there is a clear national policy support for this type of project and a critical national priority given the effects of climate change, noting that the revised NPS EN-1 (2024) confirms that "*the Committee on Climate Change states CCS is a necessity not an option."*

3.2.42. In summary, the Applicant considers that there is a clear national policy support for major reliable CCS infrastructure to help the country reach Net Zero and a critical national priority to manage carbon emissions.

Alternatives

3.2.43. ES Chapter 3 sets out the Applicant's Consideration of Alternatives [APP-044]. It sets out the main reasons for the strategic options assessed for the Proposed Development and the reasons for not opting to select the other alternatives considered, including the 'do nothing' scenario.

3.2.44. In summary, the main objective for the Proposed Development is to connect the main existing CO_2 emitters in the Humber Industrial Area around Immingham to the existing Lincolnshire Offshore Gas Gathering System (LOGGS) Pipeline in Theddlethorpe; this would include allowance for future emitters to connect and have their emissions transported as well. With these defined start and end points, the Applicant considered the prospect of both onshore and offshore routes, deciding that an onshore route was preferable given the extent of Habitats Regulations Assessment (HRA) constraints in the Humber Estuary.

3.2.45. The overall onshore pipeline study area was broken down into sections and a number of alternative onshore pipeline routes were reviewed within each section.

When options were narrowed down, the preferred corridor of the Applicant was further revised following statutory and non-statutory consultation.

3.2.46. For project level alternatives, the original 'as submitted' version of the Development Consent Order (DCO) application proposed optionality at the Immingham end of the Order Limits with two exit points for the Immingham Facility included, one heading south and one heading southeast. A choice would be made as to which alternative would be pursued following negotiations with the relevant landowners. That choice was made prior to the Preliminary Meeting (PM) and a change request [AS-038] was both sought from and allowed by the ExA as covered in Chapter 2 of this Report.

3.2.47. The DCO application also proposed optionality at the Theddlethorpe end of the Order Limits, proposing two possible locations for a gas terminal and a connection to the LOGGS pipeline. The first option was to reuse part of the existing Theddlethorpe Gas Terminal (TGT), which ceased operating to bring natural gas ashore in 2018. However, since the TGT site fell within the ownership of National Gas Transmissions Plc (NGT) and agreement could not be guaranteed, the Applicant considered a further five alternative locations for the above ground infrastructure for the Proposed Development. This study concluded that a field just west of the TGT met their selection requirements and environmental criteria.

3.2.48. The DCO, as submitted, included provisions to strike out one of these works, dependent upon negotiations with NGT. Following negotiations with NGT, in pursuit of an agreement on Heads of Terms, the Applicant submitted to remove the latter alternative from the Order Limits through a second change request [AS-063] as detailed in Chapter 2 of this Report. This was accepted into the Examination by the ExA and, as a result, the only option remaining in the draft Development Consent Order (dDCO) Limits is that of developing upon the TGT. Details on the negotiation are set out further in Chapter 6 of this Report.

3.2.49. A total of 14 alternative locations were considered for hosting construction compounds to service the construction of the Proposed Development. Three locations were taken forward into the DCO application on the basis of their close proximity to the principal works and consequent accessibility from main highways, particularly for deliveries from abnormal indivisible loads.

3.2.50. Through an initial engineering assessment, it was established that block valve stations (BVS) would be required along the route to help optimise the safety of the Proposed Development and ensure that sections of the route could be isolated if required. Having confirmed the need for BVS, the next step was to establish the optimum number of BVS required, based upon spacing requirements, and their approximate position along the proposed pipeline route. This study resulted in the identification of locations at approximately 13 kilometres (km), 24km and 39km along the pipeline route (as measured from the Immingham Facility). Suitable sites were then chosen that provided suitable access from the public highway.

ISSUES CONSIDERED DURING THE EXAMINATION

3.2.51. In respect of need, alternatives and the principle of the Proposed Development, the below paragraphs in this section of the Report set out the matters that were aired consistently throughout the Examination. The main planning issues that were raised in the Examination, and the conclusions relating to them, are set out in sections 3.3 to 3.14 of this Report respectively.

Need

3.2.52. The five Local Impact Reports (LIR) submitted to the Examination accepted that the Applicant had provided an evidenced need case for the Proposed Development, expressing that the principle of development was generally supported [REP1-053] [REP1-058] [REP1-062] [REP1-064] [REP1-066].

3.2.53. A number of submissions were made by Interested Parties (IPs) stating CCS was not a proven or reliable technology for managing CO_2 (for example, [RR-028] [RR-063] [RR-091]) and other methods should be used to clean up emissions from industry rather than allowing the continued use of fossil fuels. Related submissions set out a case that other CCS projects had not been performing as well as first anticipated, resulting in less CO_2 being stored or developments being suspended due to impracticalities [REP1-112].

3.2.54. Whilst acknowledging the strength of feeling and considerable efforts of IPs to gather and submit evidence into the Examination in these regards, the ExA notes the overarching critical national priority for this type of CCS infrastructure set out in paragraph 3.2.38 of this Report. Given the strong policy emphasis for CCS deployment, the ExA did not find it necessary to advance these matters into the Examination and they are therefore not considered further in this report.

3.2.55. A further IP submission suggested that there may not be a need for the Proposed Development of itself, because of the alternative 'Endurance' project occurring in proximity that could be used to transport CO_2 instead [REP3-039]. However, the ExA observes both the CCS track cluster procedures described above as well as the responses from the Applicant to written questions directly about the existence of such other projects and options [REP1-045]. On this basis, the ExA has not considered this point any further. Similarly, the ExA note the Endurance project is outside of the control of the Applicant.

3.2.56. There were no sustained or substantiated rebuttals in respect of the strategic need case for this type of infrastructure, nor the choice to direct the pipeline route on land as opposed to offshore.

The CCS Chain and Offshore Consenting

3.2.57. Submissions were made that the Proposed Development should not be consented without the offshore transportation pipeline and storage reservoir in place, or at least consideration of the environmental effects arising [RR-073]. These concerns arose because only the onshore elements of the Viking CCS Project (known as the Viking CCS Pipeline, the Proposed Development) had been submitted within this DCO application, with the marine elements subject to an offshore consenting regime.

3.2.58. The ExA shared such concerns and asked questions regarding the interaction of the onshore and offshore elements [PD-010, Q1.1.8]. The Applicant confirmed that the application for the offshore carbon dioxide transportation pipeline and subsequent storage had not yet been submitted, with the Environmental Impact Assessment due to be completed in December 2024 [REP1-045]. Chrysaor Production (UK) Limited (the Applicant) would be developing the offshore pipeline and storage in due course, after having sought and obtained the necessary approvals from the North Sea Transition Authority [REP1-017].

3.2.59. Natural England (NE) [REP2-041] re-emphasized the need for the onshore and offshore elements of the Viking CCS Project to be considered holistically, particularly in the context of a Habitats Regulation Assessment (HRA). NE proposed

a Grampian Requirement to be added into the dDCO to prevent the onshore works commencing until the offshore works had been consented. The Applicant, whilst revising the timeline for securing the offshore consents [REP3-031], rebutted this idea as unnecessary since it would not make commercial sense for the onshore works to be started without certainty that the offshore storage of CO_2 was permitted [REP1-045].

3.2.60. The prospect of the Grampian Requirement was debated during Compulsory Acquisition Hearing 2 (CAH2) [EV7-002]. The ExA also consulted on a proposed amendment to the commencement Requirement within the dDCO [PD-020, PC001].

3.2.61. The Applicant's full response rejecting the Requirement can be found at [REP4-032] [REP5-063, Q2.5.15, Q2.7.7] whilst NE's commentary on the wording is at [REP5-083]. In summary, the Applicant submitted that:

- It is not economically realistic that the Applicant would build the proposed Development without certainty that the consents for the offshore scheme will be granted.
- Paragraph 4.1.16 of NPS EN-1 (2024) sets out that the SoS should only impose requirements in relation to a development consent that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. The requirement suggested is unnecessary.
- NPS EN-1 (2024) and previous decisions on similar projects recognise that different links in the CCS chain can be consented separately without such a requirement.
- Other recently granted DCOs did not contain such linking Requirements.

3.2.62. Notwithstanding, the Applicant provided draft text for a new Requirement (R) to the DCO on a without prejudice basis in the event that the ExA and the Secretary of State (SoS) consider differently. The text of this Requirement is considered in more detail in Chapter 7 of this Report, though follows the example of R33 in the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022. This prevented that authorised development commencing, save for permitted preliminary works, until evidence has been submitted to and approved by the relevant planning authority as to certain specified consents, licences, permits and authorisations.

3.2.63. The ExA recognises paragraph 4.8.20 of NPS EN-1 (2024) states that due to the approach of deploying CCS in clusters in the UK with shared transport and storage infrastructure, it is likely that development consent applications for CCS projects may not include an application for consent for the full CCS chain (including the onward transportation and storage of CO_2). Furthermore, paragraphs 4.9.11 to 4.9.22 of NPS EN-1 (2024) allows for scenarios where the full CCS chain is not being applied for in one application, and that the Applicant has provided reasonable details as to the onward transportation and storage of CO_2. Indeed, the ExA notes the Applicant's arguments [REP1-045, Q1.1.18] that other recently made DCOs have followed the same approach in splitting the onshore and offshore elements into their respective regulatory processes.

3.2.64. Nonetheless, the ExA considers that the full benefits of the Viking CCS Project cannot be realised unless and until the full CCS chain has been consented. The Need Case for the Proposed Development [APP-131] makes clear that the need is for the Viking CCS Project as a whole in order to capture and store CO_2. The benefits of storing CO_2 are therefore only realised if the Viking CCS Project is consented as a whole. If the Viking CCS Pipeline was consented in isolation, the

Proposed Development in this application would have no tangible benefits in terms of CO_2 reduction, as confirmed by the Applicant in Compulsory Acquisition Hearing 2 (CAH2) [EV7-002, EV7-003, minutes 33 to 37]. Therefore, the onshore elements are wholly dependent on the offshore elements coming forward in order to be successful.

3.2.65. Whilst the ExA is not aware of any particular impediments to the offshore consenting processes, a precautionary approach must be adopted given that the Applicant has yet to apply for, or obtain, all of the consents required to deliver the offshore part of the overall project. Indeed, the timetable has slipped already, as presented by the Applicant [REP3-031] and the Applicant made confused submissions regarding whether or not marine licences were needed [REP5-016] [REP5-018] as recognised by the Marine Management Organisation (MMO) [REP6-060]. It is this ambiguity that has undermined confidence in the consenting process.

3.2.66. The Applicant [REP5-063, paragraph 2.5.5] quotes paragraph 4.9.18 from NPS-EN-1 (2024) and in the following paragraph states *"the Applicant respectfully submits that this is recognition in national policy that each part can be considered a different project for consenting and EIA purposes."* However, the ExA notes that the Proposed Development falls to be assessed under s105 PA2008 and therefore NPS EN-1 (2024) is not strictly to be treated as 'Policy'.

3.2.67. The Applicant also referred to a number of recent DCO decisions being the Hynet Carbon Dioxide Pipeline, the Net Zero Teesside Project and the Drax Bioenergy with Carbon Capture and Storage Project as precedents. However, it was acknowledged in the case of the Proposed Development that the Applicant is the company which is the owner of both the onshore and offshore parts of the project. This was not the case in any of the three DCOs quoted as precedents where separate entities were delivering different parts of the infrastructure. The ExA highlighted this clear distinction to the Applicant [PD-021, Q2.5.6 to 2.5.8] as this difference had been recognised by the SoS in these recent decisions. It is also noted that R31 of the Net Zero Teesside Project achieves a similar aim as to what the ExA envisage is necessary within this DCO.

3.2.68. The ExA recognise there is a policy position of a critical national priority for this type of infrastructure and a policy acceptance that there are different stages of delivery for a CCS project to be commissioned fully. Nonetheless, for the purposes of examining the need for the Proposed Development, the ExA consider the Grampian Requirement is necessary and ensures that the needed benefits of CO_2 capture and storage are secured. This conclusion has been drawn having regard to the Keadby 3 DCO referenced above. Therefore, the ExA recommends to the SoS to include the new Requirement in the DCO, as set out explicitly in Chapter 7 of this Report.

Suitability of the LOGGS

3.2.69. The LOGGS pipeline was commissioned in 1982 and ceased functioning in 2018. The pipeline remained in situ on and underneath the seabed, with a valve retained on land within the former TGT site. The Proposed Development would connect to this existing pipeline and reuse it to transport CO_2 out to the Viking Fields gas fields for storage.

3.2.70. Degradation of the LOGGS and its interaction with the offshore gas fields were issues raised early in the Examination [REP1-144]. The ExA queried whether the strategic decision to repurpose the LOGGS was well-grounded and whether the LOGGS had the longevity to support the Proposed Development over the course of

its lifetime [PD-010, Q1.1.26, Q1.3.2]. The Applicant responded with a technical note detailing that several assessments had been done to assess the structural integrity and conditions of the LOGGS, with conclusions drawn that there was sufficient life within it to serve the Proposed Development [REP1-050].

3.2.71. The ExA note there were no concerns raised regarding the safety or suitability of the LOGGS pipeline from NGT [AS-055] [REP2-039], nor from any other operator or IP. Whilst the MMO had limited involvement in the Examination, given that there were no marine licensable activities proposed within the dDCO, no concerns were raised with regards to the structural integrity information provided by the Applicant [REP2-042].

Alternatives

3.2.72. The ExA explored strategic alternatives and alternatives within the Proposed Development at several stages in the Examination [EV3-002], [EV3-004], [PD-010, Section 3]. The Applicant's responses at Deadline 1 [REP1-045] provided rationale for the design of the Proposed Development, the routeing choices and the location of key construction and operation infrastructure. No IPs alleged a conflict with the NPSs, nor any deficiencies in the Environmental Statement (ES) with regards to consideration of alternatives. There were no submissions from any party advocating an offshore route or challenging the Applicant's strategic decision to locate the Viking CCS Pipeline wholly onshore down to the LOGGS at Theddlethorpe.

3.2.73. The submission version of the dDCO contained clauses securing options and alternatives at both the north and southern ends of the Proposed Development.

3.2.74. A number of IPs, particularly Phillips 66 Limited, raised objections to the routeing of the pipeline through their land and business operations in proximity to the Immingham Facility at the northern extent of the Proposed Development [REP1-093]. After a series of negotiations, the Applicant removed optionality for pipeline route in the first change request [AS-038], accepted into Examination in March 2024 [PD-009].

3.2.75. A number of IPs raised objection to the optionality at the southern extent of the Proposed Development, specifically in relation to the Theddlethorpe Above Ground Infrastructure (TAGI) being potentially located on greenfield land in an open agricultural setting [REP1-105], [REP1-059] as opposed to being within the TGT.

3.2.76. The ExA also had concerns regarding the strategic choices that underpinned the site selection process for the TAGI. The ExA requested information regarding the siting options for the TAGI if it was be constructed outside of the TGT [PD-010, Q1.3.3], to which the Applicant provided both a plan [REP1-045, Appendix E] as well as a technical note at Deadline 2 [REP2-035] setting out the rationale for the site selection process. The ExA sought further clarification on the technical note given some anomalies in the selection criteria that seemed to suggest alternatives had been discounted after the Order Limits had been drawn [EV9-002]. The Applicant responded that the wording in the technical note was incorrect and proper alternatives assessment had taken place at the pre-application stage [REP4-052].

3.2.77. Following negotiations with NGT, the Applicant committed to delivering the Proposed Development on the land within the TGT. The option to develop the TAGI on the greenfield agricultural land was subsequently removed in the second change request [AS-063], accepted into the Examination in July 2024 [PD-018].

3.2.78. A number of IPs challenged the routeing of the pipeline and raised environmental concerns in relation to the route selected [REP1-137], [REP1-139]. However, these are more appropriately dealt with in the respective planning chapters of this Report since they do not directly relate to the Applicant's presentation of strategic alternatives set out by the Applicant in ES Chapter 2 [APP-044].

3.2.79. The ExA is satisfied that a comprehensive process has been followed in determining the scope and nature of the Proposed Development and that sound reasoning has been presented for the discounting of alternatives where necessary. The ExA has no residual concerns on the matters raised where additional evidence was required.

CONCLUSIONS

3.2.80. The urgent need for decarbonising industry and reducing greenhouse gas emissions is established through both the 2011 and 2024 iterations of NPS EN-1, which both recognise that there is an urgent need for new carbon capture infrastructure to support the transition to a Net Zero economy. Deployment of CCS is central to the decarbonisation of the UK economy and in reaching Net Zero by 2050 and that without it, the legally binding target in the CCA2008 is unlikely to be met.

3.2.81. The Applicant set out a case that there is a Critical National Priority (CNP) for nationally significant low carbon infrastructure (i.e. for the Proposed Development) in light of the revised suite of NPSs. The principle of CNP is that there is now a policy presumption that, subject to any legal requirements, the urgent need for low carbon energy will generally outweigh any other residual impacts not capable of being addressed by the mitigation hierarchy.

3.2.82. However, with the application being determined under s105 of PA2008, the ExA consider the full thrust of the CNP policy presumption is not directly applicable to the Proposed Development. It is nonetheless an important and relevant matter for the SoS to consider when determining the application, since it is an up-to-date expression of Government policy in relation to the provision of carbon-handling technologies.

3.2.83. The ExA concludes that the Proposed Development, as a whole CCS project, would make a meaningful contribution to meeting this need, would help in the transition to a low carbon system and would generally be in accordance with the designated NPSs. The ExA does not consider there is any reason why a decision cannot be taken on the Proposed Development prior to the consent or construction of the pipeline or storage. The ExA does however recommend to the SoS that a Requirement is added to the dDCO to ensure the whole CCS chain to be secured prior to the commencement of the Proposed Development or the exercise of Compulsory Acquisition rights, the benefits of the development would be insufficiently established to allow them to offset the weight of the harms. This is detailed more thoroughly in Chapters 6 and 7 of this Report.

3.2.84. The ExA is satisfied that sufficient details of the alternatives, including the 'do nothing' scenario, the approach to site selection, layout and technologies and how these were considered as part of the overall project design, have been provided to meet the requirements contain within NPS EN-1 (2011), and the Infrastructure Planning (EIA) Regulations 2017 (EIA Regulations).

3.2.85. The ExA concludes, notwithstanding the consideration of project-specific issues, the overarching need argument for the Proposed Development is very strong in terms of meeting the urgent need for low carbon energy and this weighs heavily in favour of making the Order and carries very great weight in the planning balance.

3.3. NOISE AND VIBRATION

INTRODUCTION

3.3.1. This section considers the effects of the Proposed Development in relation to noise and vibration. This was identified as a principal issue by the Examining Authority (ExA) at the start of the Examination [PD-007]. Noise impacts upon wildlife are considered in Chapter 4 and Appendix C of this Report in respect of Habitats Regulations Assessment (HRA).

POLICY BACKGROUND

3.3.2. Section 5.11 of the Overarching National Policy Statement for Energy 2011 (NPS EN-1 (2011)) sets out guidance and policy for undertaking the assessment of noise impacts. Paragraphs of particular note are identified below.

3.3.3. Paragraph 5.11.9 is clear that the Secretary of State (SoS) should not grant development consent unless they are satisfied that the proposals will meet the following aims:

- Avoid significant adverse impacts on health and quality of life.
- Mitigate and minimise other impacts on health and quality of life.
- Where possible, contribute to improvements to health and quality of life through the effective management and control of noise.

3.3.4. Paragraph 5.11.8 states that good acoustic design should be demonstrated through selection of the quietest cost-effective plant available; containment of noise within buildings wherever possible; optimisation of plant layout to minimise noise emissions; and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission.

3.3.5. With regard to mitigation, paragraph 5.11.11 states that consideration should be given to whether measures are needed over and above those that form part of the application. Paragraph 5.11.12 goes on to state that mitigation measures may include those relating to engineering (to reduce or contain noise generated); layout (including distance from sensitive receptors and screening) and administration (restricting activities and specifying acceptable noise limits).

3.3.6. The Local Impact Reports (LIRs) from the local authorities do not contain specific policies in respect of noise and vibration in the context of construction. However, policies are present (for example SP10 of the East Lindsey Local Plan [REP1-053]) that seek to support development where it does not unacceptably harm the living conditions of nearby residents.

THE APPLICATION

3.3.7. The Applicant's assessment of noise and vibration impacts was primarily contained within Environmental Statement (ES) Chapter 13 [APP-055]. The supporting figures and appendices are listed in Table A1 in Appendix A of this report.

Baseline

3.3.8. The Study Area for construction and operational noise effects includes receptors within 500 metres (m) of the proposed Immingham Above Ground Infrastructure (IAGI), Block Valve Stations (BVS), and the Theddlethorpe Above Ground Infrastructure (TAGI), as well as within 300m of the Development Consent Order (DCO) Site Boundary.

3.3.9. The selection of receptors was agreed with local planning authorities through the consultation process, as described in Table 13-6 [APP-055]. Since the consultation process, two new receptors (R45 and R46) have been identified through the evolution of the DCO Site Boundary. After conducting further investigation of the noise and vibration study area an additional twelve receptors (R47, R49, R50, R51, R53, R54, R55, R57 and R58) were introduced in addition to the receptors covered in the Preliminary Environmental Information Report (PEIR).

3.3.10. Unattended measurements were undertaken at six locations representative of key identified receptors within 500m of proposed facilities generating operational noise. Monitoring was carried out for a minimum of six days, to include weekend, weekday and night-time periods. Measurements were undertaken from 19 January to 26 January 2023 and from 26 January to 3 March 2023. Attended daytime measurements were carried out at further locations along the Proposed Development route, where noise from construction works may affect nearby receptors. The locations are shown in Figure 13-1 [APP-055]. Receptors were then 'assigned' to a noise monitoring location (NM) deemed indicative of the background noise conditions for those properties.

3.3.11. The Applicant has applied a conservative approach for defining baseline conditions for those receptors that were identified post-PEIR stage (R47, R49, R50, R51, R53, R54, R55, R57, and R58), assigning them baseline values accredited to NM10, which provided the lowest measured baseline noise level out of all monitoring locations.

Construction Phase

3.3.12. Construction and decommissioning were considered together as it was assumed that noise and vibration sources associated with decommissioning would be equivalent to those assessed for the construction phase.

3.3.13. Construction noise effects are assessed in terms of Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL). Where construction noise levels exceed the LOAEL but are below the SOAEL, all reasonable steps, which are covered by embedded mitigation, should be taken to mitigate and minimise adverse effects. Where an exceedance of the SOAEL is identified, additional mitigation measures would be required. Noise generated by construction works have been predicted following guidance from British Standard (BS) 5228-1 'Code of practice for noise and vibration control on construction and open sites'.

3.3.14. Annex E of BS 5228-1 provides example methods for the assessment of the significance of construction noise effects. With reference to the Noise Policy Statement for England (NPSE), the LOAEL and SOAEL thresholds were set by the Applicant as per the table below:

Table 1: Applicant's noise threshold values [APP-055]

	Threshold Value (LAeq, TdB)	
Time Period	LOAEL	SOAEL
Day (07:00 – 19:00) Saturday (07:00 – 13:00)	65	75
Evening (19.00 – 23.00) Weekends (13.00–23.00 Saturdays and 07.00–23.00 Sundays)	55	65
Night (23.00 – 07.00)	45	55

3.3.15. A number of receptors are reported in the ES to be subject to significant noise and vibration effects pre-mitigation [APP-055, Table 13-35]. However, the Applicant submitted that, subject to mitigation measures being applied including the use of noise barriers and best practice measures secured in the Construction Environmental Management Plan (CEMP) [APP-068], the residual effects would not be significant in any instance.

Operational Phase

3.3.16. Operational noise associated with the Proposed Development infrastructure at the TAGI has been digitally modelled and assessed. Plant at this location would operate continuously so there would not be any noticeable impulsive or intermittent characteristics from plant noise emissions experienced at the surrounding receptors. The IAGI would operate under similar conditions and is set in the context of other noise-generating industrial premises. The Block Valve Stations would not produce any noticeable operational noise effects. The Applicant states that there are no significant residual effects during the operational phase of the Proposed Development and, as such, no additional mitigation is required beyond that set out in the Operational Phase Mitigation Plan [APP-055].

ISSUES CONSIDERED DURING THE EXAMINATION

Noise Methodology and Assessment

3.3.17. East Lindsey District Council (ELDC) raised significant concerns regarding the Applicant's approach to assessing construction noise effects [REP1-057] including, though not limited to:

- Insufficient justification for the adopted LOAEL and SOAEL values for construction noise, based on comparisons with those in the Design Manual for Roads and Bridges (DMRB) and on the guidance within BS 5228-1 Annex E.
- Construction noise levels raising up to 15 decibels (dB) or 25dB above the baseline but not being considered to constitute an observed adverse effect, contrary to Planning Practice Guidance on Noise.
- Failure to consider the duration of the periods of high noise levels in the ES.

- The assessment methodology also does not state whether the identified LOAEL and SOAEL values are in the free-field or include a facade reflection.
- The assessment methodology does not provide predicted construction noise levels at receptors, rather, it identifies the distance at which the adopted LOAEL and SOAEL is predicted to occur. The absence of predictions means that the required attenuation by mitigation is not known.

3.3.18. Such concerns were mirrored, in part, through ExA questioning [PD-010, Section 1.14]. This was particularly in respect of individual receptor properties being closer to the construction corridor than the representative NM location and the lack of noise measurements to ascertain whether mitigation was needed at identified receptors.

3.3.19. In response to the ExA concerns, the Applicant explained that noise monitoring locations were only used to identify existing baseline noise levels at quiet locations rather than what noise levels would be experienced at each receptor, thus providing a conservative approach upon which to assess uplifts in noise levels [REP1-045]. This, it is said, was an approach taken in other pipeline projects. The Applicant also sought to establish that when obtaining noise data for a temporary construction noise assessment, it is a typical approach to take a short measurement that provides a 'snapshot' of ambient noise conditions rather than doing longer term monitoring.

3.3.20. In response to ELDC, the Applicant stated the method advocated in Annex E of BS 5228-1 was just one example for defining and assessing LOAEL and SOAEL [REP2-036], and the Applicant's approach used criteria that had been tested and accepted during other DCO Examinations for comparable schemes (example projects shown in [REP4-038, Table 2]). A detailed, day by day construction methodology is not currently available and would not be prepared until after the scheme was consented and a Principal Contractor appointed. A supplementary noise technical note was appended to the Applicant's rebuttal [REP2-036, Appendix A] setting out SOAEL noise distances levels including façade corrections and concluding that mitigation was both reasonable and secured by the dDCO . Notwithstanding the Applicant's defence, the Applicant updated the draft CEMP at Deadline (DL) 2 to include further details on noise mitigation measures [REP2-012].

3.3.21. ELDC maintained there were some significant flaws in the methodology [REP3-034] particularly in relation to the duration of effects. ELDC refer to the DMRB applying lower and more onerous values for LOAEL and SOAEL that appeared more appropriate for the Proposed Development, and questioned how the Applicant had interpreted the ABC method to conclude that effects are only significant if construction noise levels are 10dB higher than the threshold value. This, ELDC raised, was most important for the rural receptors represented by NM10, where measured daytime baseline noise levels are 25dB below the threshold value. In this respect, ELDC held that the noise technical note [REP2-036, Appendix A] failed to identify what further mitigation could be applied if noise monitoring determined a significant adverse effect was occurring during the course of construction.

3.3.22. Most significantly, ELDC challenged the ES stating that it did not predict or assess the change from baseline noise environment, thus potentially making the ES non-compliant with NPS EN-1 (2011) insofar as requiring "a prediction of how the noise environment will change with the proposed development... in the shorter term, such as during the construction period" [REP3-034].

3.3.23. This matter was explored during Issue Specific Hearing (ISH) 3 [EV9-004] [EV9-005]. In ISH3, the Applicant acknowledged the differences with ELDC and stated that a series of meetings were being planned to explore further areas of uncommon ground, though reiterated that construction noise impacts would be of a short duration in any one location, and any high noise activities would not be continuous for long periods of time, so a significant adverse effect was unlikely to occur. The Applicant verbally maintained that the construction noise assessment was wholly compliant with NPS EN-1 (2011).

3.3.24. ELDC did clarify in ISH3 that they were not requiring the Applicant to use and apply the DMRB to the Proposed Development, but that the DMRB represented a pragmatic approach for which the Applicant had not provided justification for not following. ELDC advocated more conservative thresholds were applied to the construction noise assessment following those in section E.3 of The Code of Practice for Noise and Vibration Control on Construction and Open Sites [AS-088]. ELDC also requested details on the noisiest activities and the length of their duration.

3.3.25. At DL4, following the meeting with ELDC, the Applicant provided three further documents to the Examination being [REP4-038] [REP4-042] and [REP4-047] in respect of justifying the noise assessments undertaken and providing updated modelling results for noise generated by construction traffic. The updated assessment submitted in [REP4-047] provides predicted noise levels from the construction works at the identified receptors. It assesses the potential for significant construction noise effects to occur against the more conservative threshold levels identified in Section E.3 [AS-088].

3.3.26. ELDC reviewed the additional information and at DL6 expressed that [REP6-058]:

- Whilst exceedances of lower thresholds are predicted, they are anticipated to last for a maximum of 14 days and thus are concluded to be not significant, without the need for further mitigation.
- Exceedances of the SOAEL day and nighttime values are predicted to be by 5dB at Receptor 56 and 8dB near Receptor 29. However, mitigation by way of acoustic barriers would avoid construction noise levels from exceeding the identified SOAEL and the residual effects are not significant.
- Concerns raised previously regarding other aspects of the noise and vibration assessment were resolved in other documents submitted by the applicant.

3.3.27. The Statement of Common Ground (SoCG) with ELDC confirms that all noise related matters have been resolved at the close of the Examination [REP6-017].

3.3.28. The ExA considers that sufficient information has been submitted to demonstrate the Applicant's assessments are robust and based on sound reasoning. The assessments lead to a suite of mitigation measures that are set out in the CEMP, including the provision of a noise and vibration management plan, secured under Requirement 5 of the dDCO [REP6-002]. Working hours are set within Requirement 13 of the dDCO, with a defence against statutory noise nuisance proceedings provided in Article 38. The ExA is satisfied that there is a logical and robust pathway from the assessments leading to the mitigation proposed.

Impacts upon receptors and efficacy of mitigation

3.3.29. ELDC considered that the flaws in the Applicant's construction noise methodology rendered it difficult or indeed impossible to accurately predict construction noise effects on individual receptors and, worse, to plan for any mitigation for those

properties that would be effective [REP3-034]. Of particular note, ELDC asserted that the adopted noise level thresholds for the onset of significant effects (the SOAEL) is approximately equivalent to the threshold at which properties would be eligible for noise insulation according to BS 5228-1 [AS-088]. However, ELDC were concerned that it would not be feasible to install noise insulation whilst the works were ongoing.

3.3.30. In a rebuttal technical note [REP4-047] the Applicant provided details of high-noise construction activities in Table 2-2, updated noise calculations taking into account Annex F of BS 5228-1 in Tables 2-3 to 2-12 and a summary of noise exposure durations where LOAEL and SOAEL would be exceeded per receptor in Table 2-13.

3.3.31. The ExA queried two specific noisy construction activities, those being hydrostatic testing of the Proposed Development and the use of Auger Boring trenchless techniques in proximity to residences, particularly receptor 26 (Yew Tree Cottage) [PD-010, Q1.14.8, Q1.14.9]. In respect of mitigation, the Applicant responded that section 2.6 of the technical note [REP4-047] sets out mitigation measures in respect of trenchless crossing techniques and that these would not take place within certain distances of Yew Tree Cottage. In other respects, the Applicant responded that hydrostatic testing locations had not yet been determined but would be likely to be close to a road to facilitate ease of access to the pipeline. The proximity to residential properties will be a determining factor in deciding the final locations [REP1-045].

3.3.32. In answering the ExA's questions [REP5-063], the Applicant provided details of what additional mitigation options would be available to a contractor should these need to be deployed. Such measures were accounted for in the draft CEMP [REP5-067] at measure NV1 onwards. Further, the ExA queried assumptions in relation to effectiveness of fencing in reducing noise, with different levels of noise reduction cited in the submission [PD-021, Q2.14.4]. The Applicant responded to state that that mitigation was achievable and feasible to deliver, with fencing being the primary barrier to noise effects [REP5-063]. ELDC confirmed that the acoustic barrier fencing would achieve the required mitigation to prevent significant adverse effects occurring [REP6-058].

3.3.33. The ExA queried ELDC as to whether there were any specific receptors of concern that required further assessment [EV9-004] to which ELDC replied that, in the absence of data or rationale from the Applicant, it could not identify them. The ExA had already highlighted concerns with several receptors in first written questions [PD-010, Q1.14.3], The question was repeated [PD-021, Q2.14.3] following the receipt of the technical notes at DL4. ELDC responded to state that the Applicant's submission [REP4-047] predicted noise impacts at all potential receptors and, for those subject to exceedances of the SOAEL (Receptors 29 and 56), sufficient mitigation would be provided [REP6-058].

3.3.34. The SoCG submitted at the close of the Examination demonstrated that issues between the parties had been resolved [REP6-017].

3.3.35. The ExA recognises that no Interested Parties (IPs) other than ELDC raised or sustained objections to the Proposed Development on noise grounds. With the resolution of matters with ELDC following the DL4 submissions, the ExA is conscious that no technical reasons exist to dispute the Applicant's conclusions or approach to mitigation. Construction noise would be a negative impact and inevitable consequence of the development, but the production of a noise and vibration management plan as part of a future CEMP is secured under Requirement

5 of the dDCO. Such a plan would draw upon the mitigation measures set out in section N of the CEMP. On this basis the ExA is satisfied that noise impacts on individual receptors have been duly assessed and would be reduced to a non-significant level.

CONCLUSIONS

3.3.36. The ExA is satisfied that the Applicant has done everything reasonably practical to mitigate and minimise adverse construction noise effects through good acoustic design in the layout of the site and primary mitigation measures set out in the ES.

3.3.37. The Applicant's approach to noise and vibration is compliant with NPS EN-1 (2011) in all respects as well as all related noise legislation and guidance. The CEMP secures mitigation to reduce noise impacts to a non-significant level, with further post-consent monitoring and surveying determining the best and most robust approach to mitigation. The ExA is satisfied that the construction noise management plan, to be submitted as part of the CEMP under Requirement 5 of the dDCO, would give the local authorities sufficient opportunity to ensure that a good acoustic design is achieved during detailed design. Through implementation of the CEMP, the ExA considers that the proposal would be compliant with local planning policies insofar as preventing negative effects upon living conditions of nearby residents.

3.3.38. In respect of operational noise effects, the ExA is content with the Applicant's conclusions that there would not be any residual adverse effects during the operational life of the Proposed Development.

3.3.39. The ExA considers that noise and vibration issues have been addressed adequately and meet the requirements specified in section 5.11 of NPS EN-1 (2011), as well as related policies in NPS EN-1 (2024). The ExA considers that noise and vibration effects are neutral and do not weigh for or against the making of the Order.

3.4. MAJOR ACCIDENTS AND HAZARDS

INTRODUCTION

3.4.1. This section considers the likely impacts from major accidents and disasters (MA&D) affecting the Proposed Development, which was identified as a principal issue by the Examining Authority (ExA) [PD-007].

POLICY BACKGROUND

3.4.2. The Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) does not set out any principles for the assessment of MA&D but does include reference to potential generic mitigation measures for environmental impacts for aspects which must be addressed by the Environmental Statement (ES).

3.4.3. Paragraph 4.11.3 of NPS EN-1 (2011) identifies that some energy infrastructure will be subject to the Control of Major Accident Hazards (COMAH) Regulations 2015. These regulations aim to prevent major accidents involving dangerous substances and limit the consequences to people and the environment of any that do occur. Carbon dioxide (CO_2) is not currently classified as a Dangerous Substance under COMAH.

3.4.4. The revised Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) reiterates the responsibility of the Health and Safety Executive (HSE)

for enforcing a range of health and safety legislation some of which is relevant to the construction, operation and decommissioning of infrastructure. Applicants are advised to consult with HSE on matters relating to safety.

3.4.5. The National Policy Statement for Gas Supply Infrastructure and Oil and Gas Pipelines (EN-4) (2011) (NPS EN-4 (2011)) iterates that the HSE would advise the ExA on any risks related to gas supply infrastructure, taking into account the quantities of gas to be stored and the local population. Paragraph 2.5.1 states gas storage and supply infrastructure sites are subject to stringent safety standards under COMAH Regulations, which apply to underground gas storage facilities and gas reception facilities. Again, CO_2 is not currently classified as a dangerous substance under COMAH.

3.4.6. Paragraphs 2.19.4 onward in NPS EN-4 (2011) sets out that the principal legislation governing the safety of pipelines (Pipelines Safety Regulations 1996) requires that pipelines are designed, constructed and operated so that the risks are as low as is reasonably practicable (ALARP). NPS EN-4 (2024) reinforces these principles with paragraph 2.21.13 clarifying that, in the pipeline industry, there are well established standards, covering design, operation and maintenance of major accident hazard pipelines which can be used to demonstrate risks are ALARP.

THE APPLICATION

Baseline

3.4.7. The Applicant's assessment of MA&D is primarily contained within Chapter 19 of the ES [APP-061]. The supporting appendices are listed in Table A1 in Appendix A of this report. It examined the potential for major accidents and/ or disasters to impact population and human health, biodiversity, land, soil, water, air and climate and material assets, cultural heritage and the landscape.

3.4.8. The ES identified that Proposed Development may be vulnerable to incidents during the construction and operational phases including, amongst other things, flooding, landslides, fire and loss of containment of CO_2 leading to gas clouds.

3.4.9. The Applicant provided details of primary mitigation measures for each potential MA&D event identified in the Construction Environmental Management Plan (CEMP) [APP-068]. The Applicant stated that it is committed to constructing and managing the Proposed Development in accordance with the list of legislative controls, standards and systems set out in section 19.8 of ES Chapter 19. The Applicant concluded that there is no likely requirement for secondary mitigation measures; it is deemed that the risks are ALARP.

Construction Phase

3.4.10. The CEMP [APP-068] sets out additional mitigation measures that have been identified in the Applicant's assessment of likely significant effects within Section N of the Mitigation Register. A number of these relate to the potential impacts during the construction phase. No hazards relating to decommissioning have been identified.

Operational Phase

3.4.11. Paragraph 19.8.4 of the Applicant's ES [APP-061] provides detail on mitigation during operation of the Proposed Development. The Operational Phase Mitigation Plan [APP-073] sets out mitigation measures identified during the assessment of

likely significant effects during the operational phase, including those required in an emergency situation.

3.4.12. In respect of both the construction and operation phases, the Applicant stresses it will abide by regulations to prevent major accidents involving dangerous substances in terms of any activity which may present a risk of an accident involving dangerous substances. However, it also notes CO_2 is not currently classified as a dangerous substance under COMAH.

ISSUES CONSIDERED DURING THE EXAMINATION

Public safety

3.4.13. A number of Interested Parties (IPs) raised general concerns at the relevant representation stage about the risks associated with gas pipelines, principally in regard to explosions, gas leaks, pipeline fracturing and residents being exposed to large quantities of CO_2 (for example [RR-057] [RR-039] [RR-076] [RR-110]).

3.4.14. The Applicant responded to these broader concerns by stating that a robust design and route selection process had been followed with the safety of local residents as a key consideration, all the while ensuring compliance with Engineering Standard BSI PD 8010-1:2016, which makes specific provision for CO_2 pipelines and the approach to routing including minimum distances to buildings [REP1-044].

3.4.15. The UK Health and Security Agency (UKHSA) were questioned whether the risks posed to human health could be considered ALARP [PD-010, Q1.1.25], but deferred the response to the HSE. The HSE did not register as an IP to the Examination. In answer to Q1.1.19 [REP1-045], the Applicant reports engaging with the HSE throughout the pre-application stage and no concerns had been raised at any time regarding the approach to pipeline safety or assessment. Furthermore, it was stated that:

"The Applicant has referenced the HSE's Tolerability of Risk framework (which is defined in the 'Reducing Risks, Protecting People' framework document mentioned above) to assess the pipeline risks. This assessment shows that the risk to members of the public living near to the Viking CCS pipeline route is well within the framework's lowest classification of risk. Under the framework, the HSE considers that "risks falling into this region are generally regarded as insignificant and adequately controlled.

The Health and Safety Executive does not usually require further action to reduce risks in this lowest classification unless reasonably practicable measures are available, such as developing comprehensive emergency response plans. The Applicant will work with all relevant local authorities to develop such plans."

3.4.16. The Residents of Corner Farm, in particular, were not content with the response from the Applicant and made a series of specific submissions regarding pipeline safety throughout the Examination [RR-089, REP1-137, REP3-039, REP3-040] with regard to:

- property being within a perceived 90 metre (m) blast zone of the pipeline;
- the depth of the pipeline;
- the Applicant relying on an engineered design for safety rather than good routeing principles; and

- emergency response plans being ineffective when CO_2 would cause rapid asphyxiation if released in large concentrations and there would be no time to respond, particularly when combustion engines would not work.

3.4.17. Although the Residents of Corner Farm were not in attendance at Issue Specific Hearing (ISH) 3, the ExA questioned the Applicant's routeing choices, proximity principles and the safety factors taken into consideration when designing the Proposed Development [EV9-002] [EV9-003].

3.4.18. The Applicant's response at Deadline (DL) 4 [REP4-052] included that:

- Where the pipeline would be buried less than 1.2m from the surface of the ground, the relevant landowners would be informed and subject to covenants restricting certain operations from occurring to protect the pipeline.
- Settlements and built-up areas had been avoided through sensitive routeing design, and individual houses did not constitute a built-up area under the relevant legislation and guidance.
- A rupture is a highly improbable scenario, particularly given the use of thick wall pipe and the equipment used to monitor and maintain the pipeline.
- Where the pipeline is currently situated runs in the broadly acceptable range, which is the lowest ranking of risk under ALARP. There is no lower risk and therefore the HSE do not normally require additional measures to be taken.
- The emergency response plan has been given due consideration and is a matter the Applicant has taken seriously.
- The Applicant is an experienced and responsible operator of high-pressure pipelines and is already responsible for 3,500 kilometres (km) of high-pressure pipelines in the United Kingdom (UK).

3.4.19. In respect of IPs concerns regarding an explosion or blast arising from pipeline fractures, the Applicant's ES (paragraph 19.6.1 [APP-061] makes clear that CO_2 is not flammable and will not support combustion. Consequently, compared with many other materials conveyed via major pipelines in the UK, such as natural gas and ethylene, the risks to human health and the environment from events such as explosion are relatively low.

3.4.20. The ExA takes very seriously the matter of public safety and understands the level of anxiety expressed by IPs regarding future health and wellbeing. Nonetheless, the ExA is not in receipt of any objections from the HSE or the UKHSA, nor substantiated objections from any other statutory consultee or authority responsible for public safety. The ExA also acknowledges the limited risk of a blast occurring due to nature of the gas being transported by the Proposed Development, and that project does not, of itself, engage the COMAH Regulations.

3.4.21. The Applicant has demonstrated to the satisfaction of the ExA that public safety has been taken seriously and, to the extent there have been any discrepancies from relevant standards, there has been over specification. For example, the full length of the pipeline has been designed with a 30 millimetre (mm) thick wall rather than a 12 or 13mm wall that is typical of gas carrying pipelines. This provides reassurance that measures to protect public safety featured early in the project's evolution and are an embedded mitigation that reduces the risk to ALARP.

3.4.22. An emergency response plan, tackling the solutions and remedies in the event of a gas leak or pipeline failure, would be produced as part of the CEMP (for construction) and as part of the operational phase mitigation [REP2-014, measures Op12, Op14 and Op20] both of which are secured by Requirement (R) 5 and R15 in the draft Development Consent Order (dDCO).

Integrity of the Pipeline

3.4.23. The Applicant intends to reuse the existing Lincolnshire Offshore Gas Gathering (LOGGS) pipeline to transport the CO_2 from the onshore facility at Theddlethorpe to the subsea Viking gas fields. Whilst the offshore parts of the LOGGS do not fall within the Order Limits, the ExA nonetheless queried the Applicant as to the condition of the LOGGS, given it was installed in 1988.

3.4.24. The Applicant's response referred to numerous structural, integrity and pressure assessments and surveys that been undertaken prior to making the application for the DCO, all of which had concluded the LOGGS was safe and suitable for reuse [REP1-050]. No comments or criticisms to the contrary were provided by any IP, with the Marine Management Organisation neutral on the point [REP1-074].

3.4.25. Some IPs (for example [RR-057] [REP4-055]) cited disasters with similar pipelines in America where explosions and ruptures had occurred in recent years. The Applicant however commented that the issues in America had occurred due to large-scale ground movements, which would be highly unlikely to affect the Proposed Development because it would not cross any areas with historic records of landslides or earthquakes, as identified from the British Geological Survey National Landslide Database [REP1-044]. In addition, the Applicant confirmed that a pipeline Leak Detection System would monitor the whole pipeline length and would alert the operator to potential leaks, together with the location, along the pipeline route and the operator would have the ability to exercise direct control of the pipeline isolation valves as necessary.

3.4.26. The ExA queried whether, as a result of soil erosion or agricultural activity, the Proposed Development would be at risk of a direct strike [EV9-002, EV9-003]. The Applicant explained that the pipeline and its proposed insulation are compliant with British Standard (BS) PD 8010, HSE guidance and the relevant safety guidance. In terms of the risk of the pipeline being struck, the pipeline would be monitored and a strike on a pipeline of this thickness by agricultural equipment would not damage it [REP4-052, Paragraph 6.14]. Where the pipeline is buried at a lesser depth than targeted by design, restrictive covenants would be negotiated with the relevant landowners.

3.4.27. IPs also raised numerous technical concerns about the integrity of the pipeline including its resistance to erosion and corrosion, whether acidic and carcinogenic compounds would gather inside the pipe, and the consequences of releasing the full CO_2 inventory of the pipeline into the open air [REP1-044] [REP4-055] [REP4-058]. When asked why there was no confidence that the legislative frameworks in place to monitor and control these types of impacts [PD-021, Q2.1.5], the IP responded that not all questions were being answered fully by the Applicant thus undermining the robustness of the responses being given [REP5-091].

3.4.28. The Applicant provided a comprehensive response to these comments [REP3-029, REP5-065] reiterating the risk from the Proposed Development was ALARP and that relevant regulations were being adhered to. The Applicant also highlighted that, when operating at full capacity, the Viking Carbon Capture and Storage (CCS) Pipeline would contain approximately 10,000 tonnes of CO_2 and there would be no credible circumstance where the Applicant would vent that quantity of CO_2 in a single instance. The hazard to public safety was therefore considered negligible from this potential threat.

3.4.29. The Applicant removed vent stacks from the block valve stations during the Examination [REP4-037] [REP4-044] [REP4-049]. The safety implications of this were explored at ISH3 [EV9-004] [EV9-005], with the Applicant stating that the vents would only have been used for maintenance purposes and removing them, due to a lack of operational need, would have no consequence for public safety.

3.4.30. The ExA recognises that there are risks inherent to any such project but, in this instance, the Applicant has undertaken all reasonable and necessary steps to identify them and address them through design. The ExA has no reason to believe that the relevant health and safety regulations or pipeline regulations would not be followed during construction or operation of the Proposed Development and is reassured by the Applicant's full and detailed replies to issues that arose during the Examination.

3.4.31. The ExA notes that the operational phase mitigation [REP2-014] secured by R15 in the dDCO, together with the relevant legislative controls, would provide more than sufficient protection for public safety and for maintaining the pipeline's integrity.

National Defence

3.4.32. The Defence Infrastructure Organisation (DIO) registered as an IP, raising concern about the proximity of the Proposed Development to the Donna Nook Air Weapon Range estate [RR-029]. The DIO clarified the principal issue was a potential conflict between the 25-metre-high stack at the Theddlethorpe facility and low flying aircraft by way of physical obstruction. The DIO stated the objection could be removed subject to certain safety measures being taken.

3.4.33. The Applicant reviewed the DIO's requested provisions and mitigation measures [REP4-095, Appendix A] and accommodated all of them in a new requirement (R17) to the dDCO.

3.4.34. Although no further response was received from the DIO during the Examination, the ExA consider that there is no longer an issue on this matter following the full inclusion of the requested provisions within R17 of the DCO. Adequate mitigation for the Donna Nook Air Weapons Range is directly secured within the DCO.

CONCLUSIONS

3.4.35. The Applicant reports having consulted with HSE during the pre-application period and that the design of the Proposed Development has followed HSE's detailed advice and risk tolerance framework. The Applicant has confirmed that various safety regulations, including the COMAH, are applicable to the Proposed Development and are not proposed to be disapplied in the dDCO. In addition to the legislative regime, the Applicant has proposed a suite of mitigation measures (both embedded and additional) that have fed into the Environmental Impact Assessment (EIA) process and have reduced the risks from and to the Proposed Development to an ALARP status.

3.4.36. For these reasons the ExA considers that the policy tests in NPS EN-1 (2011), NPS EN-1 (2024), NPS EN-4 (2011) and NPS EN-4 (2024) have been met. The ExA considers has no reason to doubt the efficacy of the statutory environmental and safety regime in controlling the Proposed Development. Therefore, the ExA is confident that the mitigation adopted by the Applicant is sufficiently secured within the dDCO.

3.4.37. In the absence of any objection from the HSE or the UKHSA, the ExA conclude that the risk of major hazards and accidents is ALARP, and Applicant's approach is entirely consistent with National Policy. The Proposed Development would not obstruct or interfere with matters of national defence.

3.4.38. Major hazards and accident effects are therefore considered neutral and do not weigh for or against the making of the Order.

3.5. LANDSCAPE AND VISUAL AMENITY AND GOOD DESIGN

INTRODUCTION

3.5.1. This section considers the effects of the Proposed Development in relation to design, landscape and visual impacts, including upon the Lincolnshire Wolds National Landscape (Area of Outstanding Natural Beauty).

POLICY BACKGROUND

3.5.2. Section 5.9 of the Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) sets out guidance and policy for undertaking the assessment of landscape and visual effects.

3.5.3. Paragraph 5.9.8 recognises that virtually all nationally significant energy infrastructure projects will have effects on the landscape and states that projects need to be designed carefully, taking account of potential landscape impacts. Paragraph 5.9.15 states that the scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure and the Secretary of State (SoS) should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.

3.5.4. Areas of Outstanding Natural Beauty (now National Landscapes) are afforded the highest of protection for their landscape and scenic beauty values. Paragraph 5.9.9 states the conservation of the natural beauty of the landscape and countryside should be given substantial weight. Paragraph 5.9.10 continues that development consent may be granted in such areas in exceptional circumstances and in the public interest. The duty to have regard to the purposes of nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The aim should be to avoid compromising the purposes of designation and such projects should be designed sensitively given the various siting, operational, and other relevant constraints.

3.5.5. It is important at this stage to note that the legislative framework concerning National Landscapes has changed following the Royal Assent of the Levelling-up and Regeneration Act 2023 (LURA 2023). Originally, the Countryside and Rights of Way Act 2000 (CROW 2000) imposed a duty on public authority decision makers under s85, which required authorities *"shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty"*. The LURA 2023 s245 amended this duty and now authorities *"must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".*

3.5.6. In relation to mitigation, paragraph 5.9.22 of NPS EN-1 (2011) states that adverse landscape and visual effects may be minimised through appropriate siting of infrastructure within that site, design including colours and materials, and

landscaping schemes depending on the size and type of the proposed project. Materials and designs of buildings should always be given careful consideration.

3.5.7. Section 4.5 sets out the criteria for 'good design'. Paragraph 4.5.1 states that 'good design' for energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, and matched by an appearance that demonstrates a good aesthetic as far as possible. Paragraph 4.5.3 states that the SoS should satisfy itself that the Applicant has taken into account both functionality and aesthetics as far as possible. It also states that while there may be little or no choice in the physical appearance of some energy infrastructure, there may be opportunities for the Applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.

3.5.8. The importance of good design is also emphasised in National Policy Statement for Gas Supply Infrastructure and Oil and Gas Pipelines (EN-4) (2011) (NPS EN-4 (2011)) section 2.3, with the revised National Policy Statement for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (2024) (NPS EN-4 (2024)) reiterating the policy and principles.

3.5.9. The Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) strengthens certain factors which applicants should undertake and to which the SoS should have regard, although the SoS should be aware this National Policy Statement (NPS) was designated before LURA 2023 received Royal Assent and does not reflect the amended duty in s85 of the CROW 2000.

3.5.10. NPS EN-1 (2024) requires early consideration of landscape and visual matters for siting and design and establishing design principles, which minimise negative effects and create positive benefits or enhancement using landscape management plans. It also states that the SoS should be satisfied with the level of detailed design that applicants have provided and is secured in the Order, including the extent to which design details are subject to future approvals, and be satisfied that local authorities will have sufficient design content secured to ensure future consenting to meet landscape, visual and good design objectives.

3.5.11. The National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB) / National Landscapes. When considering applications for development within AONB, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.

3.5.12. The Local Impact Reports from the local authorities identify a number of policies related landscape and design matters, giving local effect to national policies in terms of conservation, visual impacts and good design. These are listed in Appendix A of this Report and have been considered throughout this section.

THE APPLICATION

3.5.13. The Applicant's assessment of landscape and visual amenity matters was primarily contained within Environmental Statement (ES) Chapter 7 [APP-049]. The supporting figures and appendices are listed in Table A1 in Appendix A of this report.

3.5.14. The assessment considered the impact of the Proposed Development during construction, decommissioning and operation on residents, visitors and workers, and users of recreational areas, footpaths and transport routes.

Baseline

3.5.15. The assessment gathered information on the existing baseline through a primarily desk-based study, although site visits were also undertaken. A Zone of Theoretical Visibility (ZTV) was produced for the ES using a maximum parameter height of 25 metres (m) for the single permanent vent stacks at both the Immingham Facility and the Theddlethorpe Facility. The ZTV for the block valve stations have been produced using a height of 4m. The study area has been based on the maximum parameters of the Proposed Development, with a study area of 1 kilometre (km) from the Development Consent Order (DCO) site boundary for the Landscape and Visual Impact Assessment (LVIA). At the Immingham Facility and Theddlethorpe Facility the study area has been extended to 2km from the DCO site boundary due to the taller structures at these locations. The Applicant based this on a combination of an analysis of the height and massing of the Proposed Development design, professional judgement and knowledge of the area.

3.5.16. The Study Area identified several key landscape features including:

- Lincolnshire Wolds National Landscape (LWNL).
- National Character Areas 41 (Humber Estuary), 42 Lincolnshire Coast and Marshes and 43 Lincolnshire Wolds.
- In North Lincolnshire, there are Open Undulating Farmland and Industrial Landscape types.
- Within Northeast Lincolnsire, there are the Humber Estuary, Lincolnshire Coast and Marshes, and Lincolnshire Wolds Landscape Character Areas.
- In East Lindsey District Council (ELDC), there are the Binbrook to Tetford Wolds Farmland (G1), Holton le Clay to Great Steeping Middle Marsh (I1), Tetney Lock to Skegness Coastal Outmarsh (J1) and the Donna Nook to Gibraltar Point Naturalistic Coast (K1) Landscape Character Areas.
- In West Lindsey District Council, there is the Wolds' Estates Landscape Character Area.
- An Area of Great Landscape Value, as designated and defined under policy S62 of the Central Lincolnshire Local Plan, recognised for intrinsic character and beauty and their natural, historic and cultural importance.

3.5.17. The study area is also characterised by small to medium settlements and isolated residential properties and farmsteads. A number of motorways and 'A' roads connect the larger settlements within the wider study area and several railway lines bisect the northern end of the study area.

3.5.18. The LWNL, as a statutory designated site, is assigned high landscape value by the Applicant. The special qualities are set out in Table 7-11 [APP-049] and include scenic beauty and charm, sweeping views, peace and tranquillity.

Construction Phase

3.5.19. The changes experienced by sensitive receptors during construction, as set out in paragraph 7.8.2 [APP-049] include:

- Construction of temporary access routes.
- Construction of the three main construction compounds including welfare facilities, site offices, parking and storage facilities.

- Construction of the laydown and welfare areas and site access locations.
- Construction of above ground installations at Immingham and Theddlethorpe, together with construction of three block valve stations at Washingdales Lane, Thoroughfare and Louth Road.
- Open excavation along the pipeline route including soil storage and management, stockpiling of materials and localised lighting.
- Temporary closure or diversion of Public Rights of Way (PRoW) where they cross the pipeline route.

3.5.20. In respect of the LWNL during construction, as set out in the ES chapter [APP-049], there is potential for multiple impacts from the introduction of machinery, soil movements, and construction activity as well as removal or modification of characteristic landscape elements such as agricultural land, hedgerows and trees. The Applicant states the impacts would be *"very localised, located on the edge of the LWNL and directly cutting through it for approximately 2.5km with a further 2.2km adjacent to the LWNL, outside of the boundary, in the vicinity of Barnoldby le Beck and 1.8km adjacent to East Ravendale."*

3.5.21. In all instances along the pipeline corridor, including within and adjacent the LWNL, the Applicant predicts that effects would not be significant due to impacts being temporary and of short duration, with a total anticipated duration of seven months at each kilometre, from initial fencing through to reinstatement.

Operational Phase

3.5.22. During operation of the Proposed Development, the Applicant anticipates effects relating to:

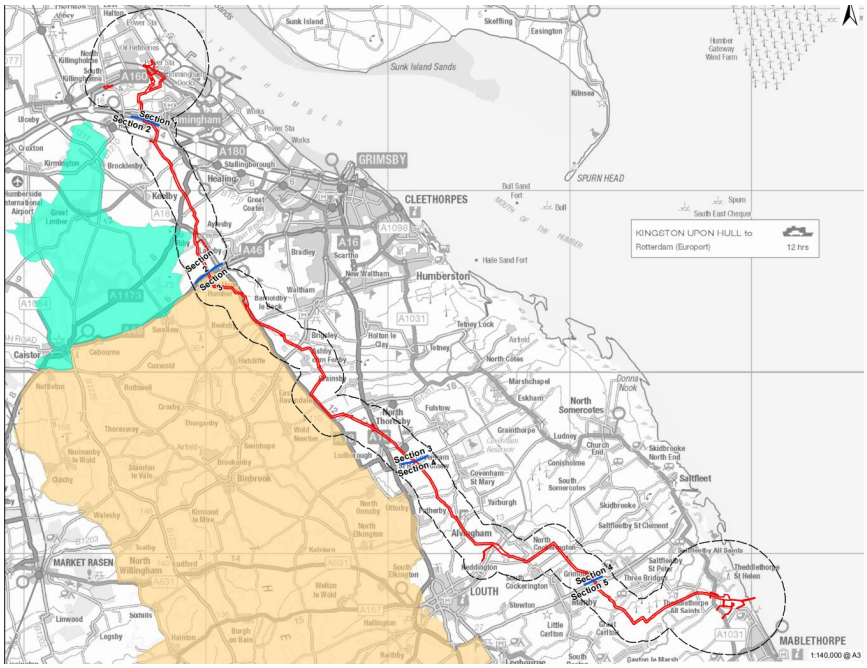
- the presence and operation of a number of permanent structures including vents of up to 25m height at the Immingham Facility and the Theddlethorpe Facility;
- gaps in hedgerows and other boundary vegetation as a result of vegetation removal during the construction stage including the presence of newly planted reinstatement planting and planting around the Immingham/ Theddlethorpe Facilities and block valve stations during Operation Year 1; and
- established planting around the Immingham/ Theddlethorpe Facilities and block valve stations during Operation Year 15.

ISSUES CONSIDERED DURING THE EXAMINATION

Lincolnshire Wolds National Landscape (LWNL)

3.5.23. The following extract from the ES Chapter 7 [APP-049] shows the location of Order Limits related to the LWNL (orange) and the locally designated Area of Great Landscape Value (teal).

Figure 2: Boundaries of Landscape Designations



3.5.24. Natural England (NE) raised concern [RR-073] [REP1-079] in two particular areas being:

- the direct effects of the pipeline corridor being routed through the LWNL, stating that a full justification as to why the project could not avoid the LWNL had not been provided; and
- the siting of the central construction compound on the A18 adjacent to the boundary of the LWNL, stating that a full assessment on the impacts on the special qualities of the LWNL had not been provided.

3.5.25. The Applicant responded to the first concern by stating that physical constraints and technical measures influenced the routeing of the pipeline and, with the need to avoid built-up areas in the public interests of health and safety, there was no viable option to route the pipeline outside of the LWNL [REP3-025, Paragraphs 2.1.1 to 2.1.8]. For this reason, coupled with the fact that the development is a buried pipeline above which land would be returned to its previous condition and use, the decision was taken to route a short section of the pipeline in the LWNL, but to exit the area as soon as reasonably practicable to do so.

3.5.26. On the second concern, Section 3 of the Applicant's technical note [REP3-025] provides an in-depth assessment and reflection of the special qualities of the LWNL, and how these would be impacted upon by the Proposed Development. In particular, the Applicant draws attention to:

- the short duration, reversibility, and proposed reinstatement of key landscape features post construction;
- the very small geographical extent of the LWNL impacted;
- the scheme does not result in the sort of impacts which are identified as pressures on the special qualities;
- the existing A18 corridor already providing a man-made intervention and disturbance upon the special qualities of the LWNL, to which the Proposed Development would only be seen in the context of; and

- the special qualities would not be harmed and the statutory purposes of the LWNL would be maintained.

3.5.27. NE advised that if the significant adverse construction impacts upon the LWNL were confirmed of being short-term and that if reinstatement plans were appropriately secured within the DCO, then NE would agree with the conclusions of the Applicant's impact assessment. To this extent, NE requested further clarity in terms of mitigation, the timescales for reinstatement and for certain commitments to restoration within the dDCO and its management plans [REP4-093].

3.5.28. The Applicant's revised technical note [REP4-040] contained details of, and commitments to, certain mitigation measures including the provision of a Hedgerow Reinstatement Specification and Management Plan, an enhanced Soil Management Plan and a seven-month duration of works per kilometre.

3.5.29. The Statement of Common Ground (SoCG) between the Applicant and NE [REP6-028] together with NE's closing statement [REP6-062] confirms that this matter has now been resolved. NE maintain some residual concerns regarding the potential for impacts on the LWNL but that there was no reason to withhold development consent for the Proposed Development.

3.5.30. NE have expressed that the Applicant has provided justification as to why there is no viable alternative to locating the scheme elsewhere or delivering it in such a way as not to directly impact on the LWNL [REP5-083] but advise it is for the decision-maker to consider if the exceptional circumstances test in national policy is passed.

3.5.31. The ExA note and accept that there were limited options for the Applicant to pursue in terms of pipeline routeing given the constraints of the urban environment at the northern end of the Proposed Development, including the arrangement of settlements such as Laceby, Grimsby and Stallingborough. The ExA considers that a well-balanced decision has been made by the Applicant to prioritise public safety and thus it was inevitable that some pipeline would be routed through the LWNL. It is regrettable that such an incursion has to occur but, given the type of infrastructure, the ExA agrees with the Applicant's rationale for the pipeline construction corridor.

3.5.32. On this basis the ExA consider that the Proposed Development, which is clearly in the public interest in tackling the causes and effects of climate change, fulfils the exceptional circumstances test set out in NPS EN-1 (2011).

3.5.33. In terms of the special qualities of the LWNL, the ExA note that both the construction of the pipeline and the siting of the central construction compound have the potential to cause adverse effects. The works would appear in the sweeping views from the higher ground to the west and would cause noise and visual disturbance to the area. The ExA does however consider such impacts are tempered by their highly localised nature and that such works would be experienced for a short-term duration only. The ExA accepts that closely aligning the project to the A18 clusters the disturbance effects rather than spreading these out into more peaceful and tranquil areas of the LWNL.

3.5.34. There were limited submissions to the Examination regarding the statutory duty under s85 of the CROW 2000 (as amended by LURA 2023). Lincolnshire County Council (LCC) expressed a need to understand what the change in the duty meant in practical terms [REP1-059, Q1.1.11] and NE commented only that duty was an active duty, not a passive one [REP1-078, Annex A] and that it was expected the

government would provide guidance on how the duty would be applied at some point.

3.5.35. The lack of clarity from IPs on the s85 duty does not inform the decision-making process. Nonetheless, the ExA takes comfort from the areas of agreement between the Applicant and NE on the effects upon the LWNL, particularly on the measures of restoration and reinstatement [REP6-028]. In addition, LCC conclude in their SoCG that there are no outstanding landscape matters or objections [REP6-015].

3.5.36. Measures are secured in the Construction Environmental Management Plan (CEMP) [REP6-050] and the Outline Landscape and Ecology Management Plan (OLEMP) [REP5-014] that are to be implemented under Requirements (R) 5 and 11 in the dDCO. Whilst this does not remove the harm to the LWNL, the ExA consider the landscape harms and the interference with the special qualities of the LWNL that would occur by way of the Proposed Development would be sufficiently mitigated. In addition, some enhancements in respect of hedgerow restoration and tree planting are proposed in the OLEMP. The ExA is of the view that such enhancements serve to further the purposes of the LWNL, reinforcing its character and qualities. The temporary effects during construction would therefore be offset by these enhancements. It is considered that this demonstrates compliance with the s85 duty within the CROW 2000.

3.5.37. The ExA would however highlight that this conclusion is reached having regard to its findings in section 3.2 of this Report in respect of the need for imposing a Grampian requirement linking the onshore and offshore elements of the overall Viking CCS Project. Without this requirement, should the offshore infrastructure not come forward, or not come forward at a pace relative to the onshore construction programme, the Proposed Development would result in a terrestrial pipeline unable to capture, transport and sequester CO_2. In such circumstances, the ExA is of the view that the statutory duty under s85 of CROW 2000 would not be met. For that duty to be met, it must be clear that the Proposed Development delivers a thing of value for the protected landscape (i.e; the achievement of net zero), and so greater control over climate change harms to the landscape values of the LWNL. Securing that the Proposed Development has a destination for captured CO2 also enables the ‘exceptional circumstances’ tests in NPS EN-1 (2011 and 2024) for development within or affecting the LWNL to be met.

Theddlethorpe Option 2

3.5.38. In the submission version of the application, the Applicant proposed two locations for the siting of the Theddlethorpe Above Ground Installation (TAGI). The preferred location would be within the grounds of the Theddlethorpe Gas Terminal (TGT) should National Gas Transmissions Plc (NGT) be amenable. The alternative location, TAGI option 2, would be on agricultural land west of the TGT and east of the A1031.

3.5.39. TAGI option 2 would have been in a more visually prominent location on flat agricultural land and would have required a whole new landscaping scheme in order to soften the infrastructure’s appearance [REP2-035]. This would have impacted upon the structure of the local landscape, on residential receptors within the landscape and upon the cultural value that the landscape has in relation to designated heritage assets.

3.5.40. However, the Applicant’s second change request [AS-063] removed this option from the dDCO and amended the Order Limits accordingly [AS-074]. Consequently, the

Applicant reported [AS-080] that no new or different significant environmental effects had been identified and that the design change would therefore not result in potential impacts of a different magnitude from those assessed in the ES.

3.5.41. The ExA considers that the TGT already benefits from significantly established landscaped boundaries, which would contain the Proposed Development more readily than relying on new landscaping to provide such cover. With the permanent infrastructure obscured from view and the proposed 25m high venting stack sitting behind some well-matured trees, the ExA considers that landscape and visual effects would either be removed entirely from this part of the Proposed Development or would certainly be reduced to a minor and insignificant effect.

3.5.42. The ExA welcome the revisions to the Order Limits and the removal of TAGI Option 2 from the Proposed Development, which is reflected in the dDCO following the change request [AS-064] and the subsequent versions. The lands plans [AS-075] and works plans [AS-074] submitted with the change request, followed by subsequent versions, also provide the ExA with reassurance that TAGI Option 2 would not proceed. Landscape character would not be adversely impacted in this vicinity through this change.

Outline Landscape and Ecological Management Plan (OLEMP)

3.5.43. The five submitted Local Impact Reports (LIR) raised no concerns regarding the level of landscape mitigation presented in the OLEMP. East Lindsey District Council (ELDC) confirmed that visual effects would be mitigated through various embedded mitigation measures as proposed by the documents supporting the DCO [REP1-053] with North Lincolnshire Council noting the Applicant's efforts [REP1-062].

3.5.44. Both West Lindsey District Council [REP1-066] and North East Lincolnshire Council [REP1-064] noted physical infrastructure above ground within their respective areas, but considered the scale of such infrastructure was minor and capable of being mitigated through the landscaping that the Applicant proposed. Meanwhile LCC, whilst raising no objections to the OLEMP, considered that the development would nevertheless have a minor negative impact upon landscape features and visual receptors.

3.5.45. The OLEMP was revised at Deadlines 2 and 4 [REP2-026] [REP4-021] in relation to discrete points such as biodiversity net gain and soil restoration as well as other changes responding to minor issues raised during the Examination. When prompted by the ExA [PD-021], no Interested Party (IP) presented any substantive concerns with the content or construct of the OLEMP.

3.5.46. The Applicant provided details of materials to be used for each element of the above ground installations [REP1-045, Q1.1.12], including justification for their use. No concerns were raised to these descriptions or specifications by any IP, and no local authority considered that a design review process was required for the project in answer to [PD-010, Q1.1.4].

3.5.47. The ExA acknowledge the thorough and detailed preparation of the OLEMP that has only required to go through minor revision during the course of the Examination. The OLEMP contains sufficient scope and assessment that could be carried forward into the Applicant's detailed design stage, should consent be granted, to provide landscape benefits as well as landscape mitigation. The OLEMP is secured via R11 of the dDCO and its preparation is required to be in consultation with LCC.

Design

3.5.48. The Applicant provided details of how the principles of good design were applied to the Proposed Development within the Planning Design and Access Statement [APP-129]. In general terms, the design and appearance of the above ground infrastructure would be controlled by R4 in the dDCO.

3.5.49. No IPs raised any concerns, recognising that there were limited opportunities to secure high quality design for functional infrastructure, and there was no appetite for an independent design review process to be imposed on the project (for example, [REP1-055, Q1.1.14].

3.5.50. The ExA queried some design choices that had been specified by the Applicant and sought further details on future design. The Applicant provided a response to the Examining Authority's First Written Questions (ExQ1) [REP1-045, Q1.1.12] setting out the approach, but noted final decisions would not be made until a post-consent detailed design stage.

3.5.51. The ExA note that the infrastructure would be utilitarian in appearance out of necessity. Notwithstanding, those elements of design within the Applicant's control have been thought through and can be secured through R4 of the dDCO. In view of the lack of objections from IPs, the ExA consider the Applicant's final position on design is sound and robust.

CONCLUSIONS

3.5.52. National planning policy sets a default of no major development within a nationally designated landscape unless exceptional circumstances can be demonstrated (para 5.10.32 of NPS EN-1 (2024)).

3.5.53. The ExA consider this project to be in public interest for which there is a demonstrable need, as set out in section 3.2 of this Report. The Applicant has provided, to the ExA's and NE's satisfaction, evidence and reasoning as to why the Proposed Development could not be located fully outside of the designated LWNL. In addition, the Applicant has demonstrated through the suite of proposed management plans that any detrimental effects on the LWNL, either through direct encroachment or by reason of adjacency, would be short-term only and swiftly reversed through effective reinstatement plans.

3.5.54. For these reasons, the ExA consider the exceptional circumstances test established in NPS EN-1 (2011) and NPS EN-1 (2024), and contained in the NPPF, has been met.

3.5.55. The suite of management plans and mitigation measures also contain areas for enhancements. This would ensure that, post-construction, the landscape that contributes to the LWNL would be restored to a better condition than at present, reinforcing the characteristics of the LWNL. On this basis the ExA concludes there would not be any significant harm to the LWNL. Its special qualities and the purposes of its designation would be protected. The enduring harm is low, small and minimised, is mitigated to the fullest practicable extent, and the achievement of net zero and the management of climate change risks are outcomes of critical importance to sustaining the values of the LWNL designated area. Although the SoS, as the decision-maker, will need to come to its own conclusion regarding whether the duty under s85 of the CROW 2000 has been met, the ExA consider that the purposes of the LWNL would be furthered via the Proposed Development.

3.5.56. In other respects, the Applicant has demonstrated an iterative design and landscaping process, making changes as necessary during the course of the Examination. The impacts have been suitably assessed in the ES and a comprehensive mitigation strategy adopted through the CEMP and the OLEMP that are to be developed in consultation with the relevant authorities under R5 and R11 of the dDCO. The ExA concludes the proposal meets the expectations of sections 4.5 and 5.9 of NPS EN-1 (2011) and the terms of those local planning policies listed in Appendix A to this Report.

3.5.57. The Proposed Development would have a visual urbanising effect on the landscape for which good design could not fully mitigate. Whilst this is an unavoidable consequence of building functional infrastructure, the ExA notes some enduring effect on the character of the host landscape but accepts that the exceptional circumstance emerging from the achievement of net zero justifies this effect.

3.5.58. The ExA acknowledge the conclusions of ES Chapter 7 that adverse impacts, even if of a non-significant nature, would occur during construction and operation despite the mitigation. The ExA concur with this assessment and therefore find that the matter of landscape effects and design carries little negative weight against the Order being made.

3.6. CULTURAL HERITAGE

INTRODUCTION

3.6.1. This section considers the effects of the Proposed Development in relation to the historic environment, including both designated and non-designated heritage assets.

POLICY BACKGROUND

3.6.2. The Infrastructure Planning (Decisions) Regulations 2010 (Decisions Regulations) require the Secretary of State (SoS) to have regard to the desirability of preserving, amongst other things, the setting of a listed building.

3.6.3. Section 5.8 of the Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) relates to the historic environment. Paragraphs of particular note are identified below.

3.6.4. Paragraph 5.8.1 of NPS EN-1 (2011) recognises that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment.

3.6.5. Paragraph 5.8.12 states that the SoS should take into account the particular nature of the significance of the heritage assets and the value that they hold for this and future generations. This understanding should be used to avoid or minimise conflict between conservation of that significance and proposals for development.

3.6.6. Paragraph 5.8.14 is clear that there should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Loss affecting any designated heritage asset should require clear and convincing justification.

3.6.7. Paragraph 5.8.15 states that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development,

recognising that the greater the harm to the significance of the heritage asset, the greater the justification will be needed for any loss.

3.6.8. The revised version of the Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) continues these themes and make it clear that the SoS should give considerable importance and weight to the desirability of preserving all designated heritage assets. Any harmful impact on the significance of a designated heritage asset should be given significant weight when weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Paragraph 5.9.30 states that where the harm to the significance of the designated heritage asset will be less than substantial, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

3.6.9. Similar advice can be found in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The Local Impact Reports from the local authorities identify a number of policies related to heritage assets, giving local effect to national policies in terms of conservation, protection of designated heritage assets and preserving the settings of the same. These are listed in Appendix A of this Report and have been considered throughout this section.

THE APPLICATION

3.6.10. The Applicant's assessment of cultural heritage matters is primarily contained within Chapter 8 of the Environmental Statement (ES) [APP-050]. The supporting figures and appendices are listed in Table A1 in Appendix A of this report. For the purposes of Environmental Impact Assessment (EIA), the ES only considered effects which are moderate or very large to be 'significant.' Nonetheless, the ES explained that a minor or negligible (not significant) effect will still amount to less than substantial harm, which triggers the statutory presumptions against development within NPPF.

Baseline

3.6.11. Appendix 8-1 of the Applicant's ES [APP-089] provided a Historic Environment Desk-Based Assessment (DBA), setting out the baseline of known and potential buried heritage assets and above ground heritage assets, assessing heritage significance, the impact of the Proposed Development on that setting and proposed mitigation where necessary.

3.6.12. A total of 169 designated heritage assets were identified within a 2-kilometre (km) study area comprising:

- 15 scheduled monuments;
- 17 listed buildings that are designated grade I;
- 22 listed building at grade II*; and
- 115 buildings at grade II.

3.6.13. There are also three local authority identified Conservation Areas:

- the Irby upon Humber Conservation Area within the 500 metres (m) of the study area; and
- the Laceby and North Thoresby Conservation Areas both within the wider 2km study area.

Construction Phase

3.6.14. For above ground heritage assets, residual moderate adverse (significant) construction effects were identified on the setting of designated and non-designated assets [APP-050, Table 8-10]. The assets for which such effects are considered to remain post-mitigation are set out below:

- Church of St Edmund in Riby (grade II*)
- Manor House and surviving parkland at Barnoldby le Beck (grade II)
- Ashleigh Farm in Theddlethorpe (grade II)
- Dicote House (non-designated)
- Greenland Farm (non-designated)
- Moorhouse Farm (non-designated)
- Westfield Farm (non-designated)
- Yew Tree Cottage (non-designated)
- The Poplars (non-designated)

3.6.15. In all cases, the Applicant considered that construction effects upon the setting of these assets would be time-limited and temporary in nature. On this basis no additional mitigation was proposed.

3.6.16. ES Chapter 8 [APP-050] identified impacts upon known below ground heritage, as well as potential impacts from groundworks on unknown buried archaeological remains. Adverse impacts were predicted on a range of known archaeological deposits, with archaeological investigation and recording proposed as a mitigation. The Applicant noted however that archaeological investigation would not however reduce the significance of the predicted effects.

3.6.17. The Applicant commits to engaging the County Archaeologist for developing and implementing an archaeology mitigation strategy alongside targeted monitoring during construction, also seeking to restore certain earthwork features impacted by the Proposed Development by way of measures D1 to D12 in the Construction Environmental Management Plan (CEMP) [APP-068].

Operational Phase

3.6.18. For most of the affected assets, the Applicant predicted no adverse effects from the operation phase of the Proposed Development. Following the Applicant's decision to pursue Theddlethorpe Option 1 (as detailed in paragraphs 1.5.8 to 1.5.11 of this Report) the Applicant concluded that the changes within the local landscape as a result of the Proposed Development would not harmfully alter the setting, nor affect the ability to interpret the heritage value, of the grade II listed Ashleigh Farm. In that circumstance, a negligible adverse effect was predicted.

ISSUES CONSIDERED DURING THE EXAMINATION

Methodology

3.6.19. Lincolnshire County Council (LCC) [RR-050] raised concern with the desk-based assessment being limited to a 500m search of the Historic Environment Record (HER) rather than the 1km which was promised in the scoping documents. Furthermore, in the Local Impact Report (LIR) the Council identified that no LiDAR survey had been included in the LiDAR assessment figures, with the geophysical survey starting out at half the width of the pipeline corridor with the results not having been submitted with the application [REP1-058].

3.6.20. The Applicant responded [REP1-045] that the 500m study area was proportionate given that the working corridor for pipeline installation would only be 30m and that the ES, in all other respects, was a sound assessment of the impacts. A geophysical survey addendum was submitted at Deadline 1 [REP1-043].

3.6.21. LCC confirmed that there were no outstanding concerns in this regard [EV9-006] and Historic England recorded no points of difference on any such grounds [REP1-073].

3.6.22. No other Interested Parties (IPs) raised substantiated concerns about the Applicant's methodology.

3.6.23. The Examining Authority (ExA) is satisfied that the Applicant has adopted a consistent and thorough approach in preparing the ES.

Archaeology

3.6.24. LCC were content that a robust programme of trenching has been included in the Written Scheme of Investigation (WSI) but advised that the number of trenches could be increased to compensate in those areas where geophysical survey has not been undertaken [RR-050]. This was echoed in part by Historic England [RR-041], requesting a robust and timely programme of archaeological investigation so that impacts upon buried remains could potentially be avoided. Historic England encouraged targeted intrusive investigations during the Examination to allow better understanding prior to determination of the application, to inform a more comprehensive mitigation package.

3.6.25. The Applicant supplied a geophysical survey addendum [REP1-043] and continued to report back to the Examination as trial trenching was undertaken across the Order Limits following commencement of such in April 2024, with a revised WSI for Archaeological Evaluation submitted at Deadline (DL) 2 [REP2-016]. LCC stated the WSI was sufficiently robust and comprehensive to ensure the sensitive evaluation of below ground heritage assets and sufficient trenching was being planned for by the Applicant [REP3-035].

3.6.26. However, LCC raised concerns regarding consistency across documentation, including in the approach to mitigation and archaeological monitoring. LCC pushed for standard practices and precautions to be applied, including a request for the submission of a WSI for Mitigation [REP3-035]. Without this document, LCC alleged a potential conflict with national policy and a departure from the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs), which states:

"The EIA must identify, describe and assess in an appropriate manner…the direct and indirect significant impacts of the proposed development on…material assets, cultural heritage and the landscape."

3.6.27. LCC also identified issues with the mitigation that would be implemented via the CEMP, specifically measures D2 and D3, and that there was little detail about the method for preserving archaeological deposits in situ.

3.6.28. The Applicant responded by stating [REP5-065]:

- The ES is based on a sufficient baseline and correctly identifies the direct and indirect likely significant effects of the Proposed Development, including effects on material assets, cultural heritage and the landscape.
- A programme of trial trenching was agreed within the WSI, that LCC said was sufficient.
- More intensive archaeological works and monitoring are provided for in measures D2 and D3 of the CEMP.
- There is no need for the CEMP to provide full details for preserving in situ.

3.6.29. In addition to this response, the Applicant provided a Detailed Archaeological Mitigation Strategy (DAMS) [REP5-061].

3.6.30. LCC expressed significant concern with the DAMS [REP5-078, Q2.6.2] citing a broad range of errors and clarifications to be rectified. This included a lack of trial trenching at the proposed location of the central construction compound, the burying of archaeological deposits under topsoil, no definitions for key features or selected features and missing justification for areas shown on a plan for mitigation. North East Lincolnshire Council (NELC) stated an assessment of archaeological impacts and mitigation could not be made until trial trenching and geophysical surveys had been completed [REP6-065].

3.6.31. At DL6, a revised DAMS was provided [REP6-042]. It was heavily caveated that the document was live and would evolve further following the completion of trial trenching works in December 2024 in consultation with heritage experts. The approach for site specific WSI, archaeological action areas and further mitigation would be finalised in the future once trial trenching was completed. Avoidance and protection of archaeological remains in situ would be the primary mitigation with investigation and recording as the last resort where avoidance would not be possible. Measure D2 in the CEMP [REP6-050] would ensure that the DAMS would be developed should consent be granted and provisions are made so that archaeological mitigation would be considered in the Decommissioning Environmental Management Plan should the pipeline be removed.

3.6.32. Due to the late stage of the Examination, no further comments from Interested Parties (IPs) were obtained regarding the revised DAMS. However, both LCC and NELC expressed dissatisfaction in their Statements of Common Ground [REP6-015] [REP7-004].

3.6.33. The ExA has reviewed the ES and its supporting appendices. The ES does provide detail to describe the potential impacts of the Proposed Development, with Table 8-10 predicting a number of either residual minor adverse or moderate adverse effects occurring from construction [APP-050]. The ES also recognises that, where avoidance is impractical, recording of archaeology would not reduce the impact of loss. The ExA understands the concerns of the IPs that, without a coherent approach to mitigation, the conclusions of the ES in terms of the residual adverse effects are called into question and thus the impacts are not fully assessed.

3.6.34. However, the ExA consider that it would be disproportionate for the entire construction corridor to have been surveyed at this stage of the process, and it is inevitable that archaeological works and investigations would be iterative and reactive during both preconstruction and construction phases. So, the lack of knowledge regarding the full extent of archaeological deposits is not a specific concern of the ExA at this stage, and there is acknowledgement across the Applicant's documentation that mitigation would need to apply to unknown archaeological finds. The ExA consider the ES does assess the nature of the

Proposed Development and demonstrates an understanding of how the Proposed Development would interact with archaeological deposits when encountered. The lack of a fully formed mitigation strategy would not undermine the ES to such a degree that a conflict with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017/572) (EIA Regulations) occurs.

3.6.35. The ExA consider that a lack of a co-ordinated approach to mitigation at this stage is a weakness in the Applicant's case, on top of the admission in the ES that adverse effects would occur to archaeology even with mitigation. The DAMS was submitted late in the Examination and gave limited opportunity for IPs to shape the construct and content of the document. With the version of the DAMS submitted at DL6, it is clear more work is required in order to minimise the adverse effects of construction.

3.6.36. The CEMP, secured by Requirement (R) 5 in the draft Development Consent Order (dDCO) would ensure the DAMS evolves at the detailed design stage and ensures direct consultation with the relevant local authorities. There is some confidence that archaeological matters and mitigation would be resolved should development consent be granted with input from LCC and NELC respectively. Therefore, despite the ExA's reservations about the Applicant's approach to date, adequate safeguards would be in place to protect, preserve or record features of archaeological interest. The ExA do however note that removal and/ or recording of remains does not amount to mitigation of harm to be caused to such assets.

Designated Heritage Assets

3.6.37. The ExA raised questions regarding the approach to assessing impacts on listed buildings and conservation areas set out within the historic environment desk-based assessment [APP-089], including the decision not to apply any additional mitigation measures to reduce the predicted harm to assets' settings [PD-010].

3.6.38. There was general consensus among IPs that, with only minor functional apparatus being on the surface of the land during operation, there were no concerns over operational impacts to designated heritage assets [REP1-062] [REP1-073]. LCC did however raise concerns regarding a small number of listed buildings and non-designated heritage assets (NDHA) that had been identified as receiving moderate adverse effects, but the Applicant was not proposing any mitigation [REP1-059].

3.6.39. In general terms, the Applicant responded that the desk-based assessment was robust and that, with construction effects being experienced temporarily for just seven months in any one location, the impacts on the settings of heritage assets would largely be transitional [REP1-045, Q1.6.4]. In terms of mitigation, the Applicant stated that options were limited aside from additional landscaping and that, of itself, would not reduce impacts to setting and could be further intrusive [REP1-045, Q1.6.11]. LCC confirmed that sufficient information had been supplied to address the concerns and it would not require any additional detail [EV9-006].

3.6.40. Following the Applicant's second change request [AS-063], the Theddlethorpe Facility would be constructed with the grounds of the former Theddlethorpe Gas Terminal (TGT) instead of requiring a greenfield site. Consequently, whilst there would still be construction related effects on the settings of listed buildings, namely Ashleigh Farm and Dicote House, there would no longer be any moderate adverse operational effects on the settings of these assets [AS-081].

3.6.41. At the conclusion of the Examination, LCC were content with the scope of the Applicant's approach and assessment, and considered that the mitigation incorporated into the CEMP was sufficiently justified for protecting heritage interests in the locality [REP6-015]. LCC submitted that the benefits of the Proposed Development would not be outweighed by the individual or cumulative considerations of less than substantial harm [REP1-059]. No dissenting voices to this position were aired when prompted during ISH3 [EV9-006]. NELC stated that the Proposed Development would be situated a sufficient distance away from listed buildings so as not to cause adverse effects at DL1 [REP1-062].

3.6.42. Historic England did not raise any issues regarding above ground designated assets initially [RR-041] and confirmed there were no concerns or points of difference with the Applicant's approach or assessment of impacts within the ES [REP1-027] [REP1-073].

3.6.43. The ExA considers that the routeing and transitory nature of the construction works, coupled with the mitigation measures secured in the CEMP [REP6-050] and the Outline Landscape and Ecology Management Plan (OLEMP) [REP5-014], would be sufficient to prevent substantial harm to heritage assets and their settings occurring. The ExA considers that the Proposed Development would not impact upon nearby heritage assets to an unacceptable degree.

CONCLUSIONS

3.6.44. Para 5.8.15 of NPS EN-1 (2011) requires that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification will be needed for any loss. The same is true for development affecting the setting of a designated heritage asset (NPS EN-1 (2011), para 5.8.18).

3.6.45. The ExA has considered the effect of the Proposed Development on the above ground designated and non-designated heritage assets identified by the Applicant in the study area. At the close of the Examination, there were no outstanding comments from IPs that either disagreed or disputed the Applicant's scope of assessment, nor the conclusions that less than substantial harm would occur during the construction phase of the Proposed Development. The ExA observes that Historic England (the statutory advisor on the historic environment), raised no points of conflict with the Applicant's submissions.

3.6.46. The ExA is satisfied with the Applicant's responses to questions and matters in relation to the historic environment and agree that less than substantial harm would be arising during the construction phase. In relation to above ground heritage assets, the ExA is satisfied that substantial harm would not occur to any heritage asset.

3.6.47. The ExA considers that the Proposed Development would result in potential losses to archaeological deposits, for which mitigation would not compensate, and thus represents a harm arising from the project. The full extent and scope of mitigation has yet to be agreed, though there remains an opportunity through R5 in the dDCO for resolutions to be reached. The ExA does not consider that the removal and recording of archaeological remains mitigates harm to archaeological features. Such steps are required but do not amount to mitigation of harm.

3.6.48. Taking into account the significant public benefits of the Proposed Development, the ExA is satisfied that there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively. Consequently, the ExA is content that matters concerning the historic environment would accord with the relevant provisions of NPS EN-1 (2011) and NPS EN-1 (2024), the NPPF and local planning policies.

3.6.49. Overall, the ExA conclude that the significant benefits of the Proposed Development would clearly outweigh the less than substantial harm(s), albeit such harm is acknowledged as a negative impact arising from construction. The ExA is satisfied that mitigation is adequately provided for and secured in the recommended Development Consent Order (rDCO) to reduce the effect on the significance of heritage assets. As such, the ExA considers that an overall moderate negative weight in the planning balance applies.

3.7. TRAFFIC AND TRANSPORT

INTRODUCTION

3.7.1. This section considers the effects of the Proposed Development in relation to traffic, transport and Public Rights of Way (PRoW).

POLICY BACKGROUND

3.7.2. Section 5.13 of the Overarching National Policy Statement for Energy (NPS EN-1 (2011)) sets out guidance and policy for undertaking the assessment of traffic and transport impacts. Paragraphs of particular note are identified below.

3.7.3. In relation to traffic and transport, paragraph 5.13.3 states that if a project is likely to have a significant transport implication, the Applicant's Environmental Statement (ES) should include a transport assessment and the applicant should consult the Highways Agency (now National Highways) and Highways Authorities as appropriate on the assessment and mitigation.

3.7.4. Paragraph 5.13.4 states that, where appropriate, the applicant should prepare a travel plan including demand management measures to mitigate transport impacts. The applicant should also provide details of proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal and to mitigate transport impacts.

3.7.5. Paragraph 5.13.6 states that because a new nationally significant infrastructure project (NSIP) may give rise to substantial impacts on the surrounding transport infrastructure, the Secretary of State (SoS) should ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development.

3.7.6. The NPS EN-1 (2024) provides a continuation of policy relating to the assessment of traffic and transport effects and states in paragraph 5.14.21 that the SoS should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe, or it does not show how consideration has been given to the provision of adequate active public or shared transport access and provision.

3.7.7. Paragraph 111 of the National Planning Policy Framework (NPPF) states that: "*Development should only be prevented or refused on highways grounds if there*

would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

3.7.8. National Planning Practice Guidance (NPPG), reference ID:42-005-20140306, guides that Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be severe, which may be a reason for refusal in line with the NPPF. It also states (reference ID: 37-004-20140306) that PRoW form an important component of sustainable transport links and should be protected or enhanced.

3.7.9. The Local Impact Reports from the local authorities identify a number of policies related traffic, transport, highway safety, accessibility, and preventing hazards affecting any road or footpath users. These are listed in Appendix A of this Report and have been considered throughout this section.

THE APPLICATION

Baseline

3.7.10. The Applicant's traffic and transport assessment features in ES Chapter 12 [APP-054]. The supporting figures and appendices are listed in Table 1A in Appendix A of this report.

3.7.11. The ES study area shown in Figure 12.1 [APP-103] included the junctions, the highway links between the junctions and the PRoWs that could potentially be affected by the Proposed Development.

3.7.12. Traffic levels and highway safety issues used to inform the assessment were compiled from traffic surveys conducted in 2022 and 2023 as well as traffic collision data [APP-103]. Traffic from other planned developments was also considered including NSIP projects.

3.7.13. The assessment considered the effects on traffic flows, delays, road safety, fear and intimidation, severance and pedestrian amenity. The sensitive receptors identified in the assessment included motorised and non-motorised users of the surrounding highway network, including drivers, pedestrians, cyclists and horse riders, users of the PRoWs.

Construction Phase

3.7.14. A Draft Construction Environmental Management Plan (CEMP) [APP-068] and a draft Construction Traffic Management Plan (CTMP) [APP-107] were submitted with the Development Consent Order (DCO) Application.

3.7.15. The Applicant identified in the ES that some residual effects would remain after mitigation had been applied. This would be primarily on homes near to the A1031, in five separate locations. Additional mitigation is identified in ES Chapter 12 [APP-054, Table 12-73].

3.7.16. Although initially scoped in, the impacts of traffic that could potentially be generated during the decommissioning phases is excluded from the assessment. However, given traffic generated by decommissioning would be considerably lower than the construction traffic levels, construction traffic impacts can be taken a worst-case proxy for the assessment of decommissioning effects.

3.7.17. During the construction phase the presence of construction plant and equipment in works areas adjacent to the PRoW network may temporarily reduce the amenity value of the paths. The Applicant considered that appropriate environmental measures could be put in place to manage the effects in the CEMP. Some PRoW would need temporarily closing and diverting where they would cross or closely interact with the Proposed Development, and these are set out in a dedicated management plan [APP-123].

Operational Phase

3.7.18. Traffic impacts of the operational phase were scoped out due to the minimal amount of traffic that would be generated by maintenance activities.

ISSUES CONSIDERED DURING THE EXAMINATION

Transport Assessment

3.7.19. National Highways (NH) raised significant concern with the quality of the Transport Assessment [APP-106] submitted at the onset of the Examination, particularly with regard to what it described as a "vague approach undertaken to derive the traffic impact resulting from the construction phase of the Authorised Development" [RR-072]. NH clarified the deficiencies in a list at Deadline (DL) 1 [REP1-077, Paragraph 3.3] comprising both generic transport impacts and those specifically potentially to occur to the Strategic Road Network (SRN), including a detailed response to the Examining Authority (ExA) first written questions [REP1-076, Q1.16.19].

3.7.20. A revised Transport Assessment submitted at DL3 [REP3-013] containing more detail on traffic routing, construction worker travel patterns, assumptions for the construction programme including working hours and consideration of relevant highways guidance and policy. Updated figures for traffic numbers per highway link were also supplied in Section 8 [REP3-013].

3.7.21. NH were invited to comment on the revised Transport Assessment [PD-021, Q2.16.2], as indeed were the local highway authorities [PD-021, Q2.16.1] that had, up until that point in the Examination, not directly challenged the content of the Transport Assessment.

3.7.22. Lincolnshire County Council (LCC) had no specific comments to make on the revised Transport Assessment [REP5-078, Q 2.16.1]. However, North East Lincolnshire Council (NELC) raised concerns regarding the approach, assessment or reported outcomes of the revised assessment [REP5-085, Q2.16.1].

3.7.23. The Applicant responded with the following points [REP5-065]:

- The maximum peak hour two-way movements forecasted (76 two-way during the 07:00-08:00hrs period) are the total movements across the entirety of the wider road network, not a single road.
- The peak hourly impacts at individual junctions have therefore not been assessed in isolation due to the low forecast impacts.
- Trips around Immingham and on the A180 will be using A roads / strategic links which have relatively high capacities and therefore any increased flow at junctions would be marginal.

3.7.24. Meanwhile NH still raised concerns regarding the robustness of the Transport Assessment due to the lack of assessment of the construction phase impacts on the SRN [REP5-082]. NH highlighted that there was potential for a severe impact on the

operation of the SRN at the Habrough Roundabout outside Immingham, for which the Applicant had not provided any information to clarify or demonstrate otherwise [REP4-059, Paragraphs 3.3 to 3.5]. NH stated it would not usually defer consideration of such information to a post-consent stage but, to be pragmatic, and to be reassured that the Proposed Development would not cause severe or unacceptable road safety issues to the SRN, NH suggested it be given an approving body for the CTMP to be submitted under Requirement (R) 6 of the draft Development Consent Order (dDCO) and decommissioning environmental management plan under R16 [REP6-061].

3.7.25. At the close of the Examination, the Applicant had not incorporated NH's requests regarding R6 and R16 in the dDCO [REP6-002], preferring to keep NH as a consultee only. In response to NH's concerns, the Applicant maintained that the SRN would not be subject to any significant adverse effects during the construction phase and that the Transport Assessment allowed full consideration of the effects on the SRN but, if necessary, the CTMP could be updated at post-consent stage for NH to comment on as a consultee [REP6-043, Q2.16.2].

3.7.26. The ExA note NH, with statutory obligations to maintain the SRN for the benefit of all users and to keep users safe, has concerns over the Proposed Development's impacts and has alleged a prospective severe impact as a result of works. Under the NPPF, projects with a severe residual impact are insisted to be refused and, as such, the ExA take NH's position seriously notwithstanding the Applicant's position that the Transport Assessment is sufficient. That NH have conceded to accept the information it requires at a post-consenting stage so as not to frustrate the project, indicates that a solution could be found and any potential severe impact alleviated.

3.7.27. The ExA consider that NH would not be able to fully exercise its statutory obligations being a consultee for the local authorities, particularly when matters would relate to the SRN under its jurisdiction. Therefore, the ExA recommends to the SoS that NH is made an approving body for R6 and R16 in the dDCO. It is recognised that the DCO process aims to simplify the consenting regime, but the ExA has confidence that NH would, in considering the information within the CTMP and deciding whether to make any discharges under these Requirements, ensure the SRN would not be subject to a severe impact.

Strategic Road Network

3.7.28. Notwithstanding the revisions to R6 and R16 suggested above resulting from perceived deficiencies with the Transport Assessment, NH also had concerns about the scope of the dDCO powers, particularly where the dDCO interacted with the SRN. These concerns related to [REP4-059] [REP5-082]:

- Article 13 (now article 14) allowing new accesses to be created and existing accesses to be improved on the SRN without NH's approval.
- Article 16 (now article 17) allow traffic regulation orders to be imposed and or revoked on the SRN without NH's approval.
- Protective provisions not providing adequate security for the SRN, with no provisions to finance the repair or restoration of the SRN should the Proposed Development cause damage either during construction or within 12 months of completion.
- Where the proposed northern construction compound is located, adjoining the SRN at the A160, evidence is required to demonstrate that there is no drainage, structural boundary treatments or other constructions that would impact on the safe operation of the SRN.

3.7.29. With regards to articles 13 and 16 (now articles 14 and 17), the Applicant altered paragraph 116(2) of the protective provisions for NH so as to exclude the SRN from the scope of the powers sought [REP6-002].

3.7.30. With regards to security for the SRN, the Applicant states it has a tangible net worth of not less than £50million and that should be accepted as an adequate form of security [REP6-046]. Equally the Applicant does not accept that a defects period is necessary in the protective provisions because NH would already be able to give approval of plans, inspect ongoing construction works and review post-consent surveys. The Applicant's concern is that NH seeks to impose liability on it for defects in the SRN that are wholly unrelated to the Proposed Development.

3.7.31. NH meanwhile have provided examples where bonds and defects clauses have been included in recently made DCOs to an amount of 200% of the cost of the relevant works [REP6-061]. Wording for the protective provisions has also been provided at paragraph 2.9 of that document, with a statement that outside of the Planning Act 2008, NH typically requires and seeks bonds before permitting any works to take place that could impact the SRN.

3.7.32. In respect of the Habrough Roundabout on the A160/A1077 interchange, the Applicant reported that there would be a distance of 15m between the edge of the northern compound and the edge of the SRN. In any event, boundary treatments have not been designed at this stage and details cannot therefore be provided but the Applicant can confirm that they will be designed to ensure that there will be no potential for any structure to topple onto the A160, or to undermine its geotechnical integrity [REP5-065].

3.7.33. The signed Statement of Common Ground (SoCG) at the close of the Examination reports these as outstanding 'not agreed' issues, with NH making an unaccepted request of the Applicant for the CTMP to provide details of the northern compound [REP6-026].

3.7.34. The ExA notes the dispute regarding the Habrough Roundabout and the northern construction compound. It is however considered that, by formalising NH as an approving body for the CTMP under R6 to the dDCO (as recommended above), there would be adequate scope to review details regarding the northern compound and for negotiation to take place on the design of the Proposed Development in that area.

3.7.35. The ExA observe the Proposed Development would involve trenchless pipe-laying works underneath the SRN that could potentially unsettle the ground conditions or result in unstable ground. The ExA recognise that NH has a significant mandate to maintain the safety of the SRN and that, in many recent instances, clauses have been inserted into made DCOs securing financial support to rectify any failures or defects in the condition of the SRN. The Applicant's concern that it would be liable to repair the SRN for problems unrelated to the Proposed Development is not substantiated by evidence or justification. Even if the real risk of damage, subsidence or land heave undermining the SRN maybe low, the ExA consider NH have made a clear and compelling case for security for the SRN consistent with other recent decisions. To time limit this to 12 months, as requested by NH, seems a reasonable measure to alleviate the Applicant's concerns regarding an ongoing liability for any repair works to the SRN.

3.7.36. On this basis the ExA recommends to the SoS that the protective provisions are amended, in the interests of protecting the SRN, and the nature of these amendments are set in Chapter 7 of this Report.

Local Network

3.7.37. LCC's Local Impact Report (LIR) stated that ES Chapter 12 formed an appropriate and reasonable estimate of highway impacts during construction, with the CTMP forming a suitable platform for mitigation [REP1-058]. Nonetheless, the LIR identified several single-track roads that required further investigation with a view to mitigation [REP1-058, Paragraph 13.7].

3.7.38. The Applicant made revisions to ES Chapter 12 at DL2 [REP2-006] that amended the Heavy Goods Vehicle (HGV) routeing strategy during construction of the Proposed Development. This resulted in no HGV movements being predicted along 3 of the 5 links that LCC had identified, in a move that was welcomed by LCC [REP3-035].

3.7.39. However, two links remained subject to HGV movements, those being Thacker Bank and Thoroughfare Road. Both single track roads were said to be required in order to facilitate construction of the block valve stations in those localities even though both had been assessed as being unsuitable for HGVs [REP2-006, Paragraph 12.5.52]. LCC stated that if HGVs were to use those roads in the numbers intended, then passing places would need to be provided [REP3-035].

3.7.40. At the Accompanied Site Inspection (ASI) [EV5-001a], the ExA took particular interest in Thoroughfare and the routeing of HGVs on this part of the network. The Applicant inferred that HGVs would actually use the haul roads created within the Order limits alongside the pipeline construction corridor, which prompted further discussion at ISH3 due to perceived confusion and conflict with what the written assessments had presented [EV9-003, minutes 28:00 to 29:30].

3.7.41. The Applicant confirmed that some limited HGV movements would occur along Thoroughfare, as well as Thacker Bank, and that a passing bay strategy would be developed in conjunction with LCC together with escort vehicles for HGVs being deployed. For those HGVs using the haul road route within the Order limits, the Applicant stated a traffic light system would be installed to allow HGVs to cross the respective roads safely without causing a hazard to local road users [EV9-003, minutes 29:30 to 38:05].

3.7.42. It was agreed between the Applicant, LCC and NELC that the passing bay strategy would come forward at the detailed design stage, with measure H15 added into the CEMP to secure its provision and delivery [REP5-067]. Article 9 of the dDCO would serve to allow such passing bays to be legally provided with the consent of the highway authority. No adverse comments were raised by any Interested Party (IP) before the close of the Examination, with LCC agreeable to the way forward [REP5-078, Q2.16.3].

3.7.43. LCC did originally request that the dDCO be amended to make reference to the Council's own road permitting scheme so that road space and road works could be managed effectively [REP1-058, paragraph 13.10] and provided details regarding this at DL4 [REP4-099]. The Applicant added this into the dDCO at DL5 as a new Article 8, with consequent reshuffling and renumbering of the articles following this amendment [REP5-002].

3.7.44. NELC raised highway access points as a matter of concern in the LIR [REP1-064, paragraph 5.4.4]. These concerns remained at DL5 [REP5-085], with NELC stressing that significant issues remained with the access points until such time that revised plans, road safety audits and traffic management proposals came forward. The concern related to four specific proposed junctions where effects on the highway had not been reported in the Transport Assessment.

3.7.45. Outside of the Examination, the Applicant provided Road Safety Audits (RSA) to NELC examining accesses 11AA, 11AC, 12AA and 13AA (as shown on plan at [REP1-011]). This prompted NELC to strengthen its concerns regarding the designs and intentions of the Applicant since the RSA highlighted a number of deficiencies [REP6-065]. NELC stated the conclusions of the RSA were a material consideration and that it expected full access designs must be submitted to the Council prior to works commencing, including construction details and traffic management arrangements. At DL7, NELC stated that access 12AA should be rejected from the Proposed Development due to serious safety concerns [REP7-019]. However, NELC stopped short of stating that there would be a severe impact on highway safety.

3.7.46. At the ExA's request, the RSA was provided to the Examination [REP7-017]. The RSA reports on those four junctions listed above, noting a need for hedgerow maintenance or removal to enable suitable visibility splays, additional warning signage, and the need to amend the geometry of junction 13AA to prevent vehicles crossing onto the opposite side of the carriageway.

3.7.47. The Applicant also commented that:

- NELC would have an approving role under R7 of the dDCO in relation to the design and construction of access points.
- If 12AA was not deemed suitable by the SoS, or indeed subsequently refused by NELC at the requirement discharge stage, the alternative access referenced 13AA was available [REP7-018].

3.7.48. The ExA note that the closing positions of NELC, as recorded in the SoCG [REP7-004]. On a plain reading of the RSA, the ExA does not consider there to be fundamental safety concerns with any of the junctions, particularly 12AA. Work needs to be done to ensure the accesses are safe, as reported in the RSA, but none appear to be insurmountable so as to render the junctions undeliverable. Whilst there may be a potential conflict with the transport policies listed in the LIRs on the basis of highway safety implications, the ExA do not therefore recommend that any of the junctions sought are specifically struck out by the Order or by the SoS as the matters appear resolvable through any post-consent detailed design.

3.7.49. The ExA is confident that submissions under R7 of the dDCO would allow resolution to any safety concerns regarding proposed new accesses to the local highway network. With NELC as the approving body, should junction 12AA prove to be unsafe or unsatisfactory, it would simply not be constructed and thus any highway safety issue removed. The Applicant has a fallback position with access 13AA available, and that in itself would require some works to accord with the RSA findings, subject to NELC approval.

3.7.50. On this basis and overall, the ExA finds that there would not be a significant residual adverse effect on the local highway network as a result of the Proposed Development. Adequate controls via the CEMP (R5), CTMP (R6) and accesses (R7) exist within the dDCO providing the necessary security and reassurances.

PRoW

3.7.51. Impacts on the PRoW network were assessed separately within ES Chapter 16 [APP-058]. No objections were raised by LCC to the assessment or conclusions LCC's LIR noted that no recreational routes would be permanently redirected during the construction phase. Temporary diversions would be reinstated to their original route on completion of the works [REP1-058, Paragraphs 14.9 and 14.10]. LCC did however wish to explore further opportunities to enhance PRoW in due course. The Applicant made no further comments on this [REP2-031] and the ExA is unaware of any enhancements being proposed during the Examination or being secured within any of the management plans to date. The SoCG between the Applicant and LCC does not report matters relating to the PRoW remain outstanding, thus it is assumed any issue has subsided [REP6-015].

3.7.52. An outline public rights of way management plan [APP-123] would be developed further under R5 as part of a future CEMP [REP4-027], detailing the necessary processes and procedures for implementing footpath diversions, restrictions and reinstatements. Article 12 of the dDCO provides the legal mechanism for managing diversions and temporary closures of PRoW.

3.7.53. No IPs raised concern regarding the maintenance or safety of the PRoW network, and no issues were raised regarding the Applicant's temporary diversion routes or the reinstatement proposals.

3.7.54. The ExA consider the Applicant has undertaken a proper assessment of the impacts on PRoW and mitigated the effects accordingly. Measures to secure the necessary diversions and reinstatement for the public footpath network are within the dDCO under R5 (j).

CONCLUSIONS

3.7.55. The ExA, on the basis of the technical objections from NH, is not satisfied that the Transport Assessment fully appraises the impacts upon the SRN, leaving the possibility of a severe residual impact upon the SRN. This appears to run contrary to the aims of NPS EN-1 (2011) and NPS EN-1 (2024). However, NH has suggested a means by which the Proposed Development could be rendered acceptable through protective provisions and through post-consent discharging processes. The ExA recommends NH's approach is taken and recommends to the SoS that:

- NH is made an approving authority for R6 and R16 in the dDCO;
- A clause securing a financial bond for repairs to the SRN is entered into the protective provisions; and
- A defects period of 12 months is provided to ensure any damage to the SRN is remedied appropriately.

3.7.56. These alterations are included in the rDCO at Appendix D to this Report, and covered in more detail in Chapter 7. Subject to these amendments, the ExA would be satisfied the Proposed Development would be compliant with national policy.

3.7.57. The ExA is satisfied that the transport and traffic assessment for the local highway network set out in the ES meets the requirements of NPS EN-1 (2011) and NPS EN-1 (2024). The ExA is also satisfied that no significant traffic or transportation effects upon the local highway network are likely to arise from the Proposed Development, in compliance with local planning policy. The test of severity in the NPPF would not be breached.

3.7.58. Whilst the ExA acknowledges there would be an increase in traffic impacts, a proportion of which would affect the SRN, the ExA is satisfied that the control and management measures included in the rDCO would be sufficient to mitigate any negative impacts to an acceptable level. R5 (CEMP), R6 (CTMP), R7 (accesses) R13 (Construction Hours) and R16 (Decommissioning Environment Management Plan) would ensure mitigation identified in the ES is adequately carried out, and this is secured in the rDCO.

3.7.59. The ExA considers that traffic and transport related effects, because of the unresolved matters at the close of the Examination, carry little weight against the making of the Order.

3.8. FLOOD RISK, HYDROLOGY AND WATER RESOURCES

INTRODUCTION

3.8.1. This section addresses the potential impact of the Proposed Development on the water environment, including water quality and flood risk.

POLICY BACKGROUND

3.8.2. National Policy Statement (NPS) EN-1 (2011) recognises that infrastructure can have adverse effects on the water environment. It states that the effects could lead to adverse impacts on human health or on protected species and habitats and could result in surface waters, groundwaters or protected areas failing to meet environmental objectives established under the Water Framework Directive (WFD).

3.8.3. It states that where projects are likely to have effects on the water environment, applicants should undertake an assessment of the existing status of, and impacts of, the proposed project on water quality, water resources and physical characteristics of the water environment as part of the Environmental Statement (ES). The ES should describe existing quality of watercourses, existing water resources, existing physical characteristics of the water environment and impacts on protected waterbodies and areas.

3.8.4. Section 5.7 of NPS EN-1 (2011) relates to flood risk. Paragraph 5.7.3 states that development and flood risk must be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall.

3.8.5. Paragraph 5.7.4 of NPS EN-1 (2011) states that applications for energy projects of 1 hectare or greater in Flood Zone 1 and all proposals located in Flood Zones 2 and 3 in England should be accompanied by a Flood Risk Assessment (FRA), which should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks would be managed, taking climate change into account.

3.8.6. Paragraphs 5.7.13, 5.7.14, 5.7.15 and 5.7.16 of NPS EN-1 (2011) set out the need for development to pass a Sequential Test, then an Exception Test if development is to be considered permissible in a high-risk flood zone area. Paragraph 5.7.12 of NPS EN-1 states that the Secretary of State (SoS) should not consent development in Flood Zone 3 unless they are satisfied that the Sequential and Exception Test requirements have been met.

3.8.7. NPS EN-1 (2024) reiterates the requirement for an FRA in Flood Risk Zones 2 and 3 and an assessment of impacts on water quality, resources and physical characteristics of the water environment. It also states that the impact on local water resources can be minimised through planning and design for the efficient use of water, including water recycling.

3.8.8. The National Planning Policy Framework 2023 (the NPPF) requires inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

3.8.9. The Local Impact Reports from the local authorities identify a number of policies related to flood risk and sustainable urban drainage systems, giving local effect to national policies in terms of flood and surface water management. These are listed in Appendix A of this Report and have been considered throughout this section.

THE APPLICATION

3.8.10. ES Chapter 11 examined the effect of the Proposed Development on the water environment including the impact of flood risk [APP-053]. This was supported by an FRA [APP-101], a WFD assessment [APP-100] and an Outline Surface Water Management Plan [APP-102]. Other documents forming part of the evidenced base for the ES are listed in Table A1 of Appendix 1 to this Report.

Baseline

3.8.11. A general study area (zone of Influence) of 500 metres (m) from the Proposed Development site boundary has been considered in order to identify water features that are hydrologically connected to the Proposed Development and have the potential to be directly impacted by the activities associated with it. This was extended to 2 kilometres (km) to check for hydrological connectivity to any designated sites that may need consideration. In terms of flood risk, the study area takes into consideration the crossing of Main Rivers and Ordinary Watercourses including the crossing of associated floodplains which may be physically impacted.

3.8.12. In terms of water resources and water quality, the Applicant identified the potential for the Proposed Development to affect over 100 freshwater surface features including six classified as main rivers, as shown in Figure 11-1 [APP-053]. Furthermore, the Applicant presented that 15no. WFD surface waterbodies could potentially be affected [APP-053, Paragraph 11.5.40, Table 11-10, Figure 11-3].

3.8.13. In respect of groundwater, the Applicant considered that underlying chalk aquifers were confined and therefore not likely to be hydraulically connected to surface waters along the entire study area due to the low permeability superficial quaternary deposits overlying the chalk.

3.8.14. Figure 11-7 [APP-053] shows the extent of the flood zones that overlap the Order limits, with the Immingham above ground infrastructure (IAGI) and the Theddlethorpe above ground infrastructure (TAGI) both falling within Flood Zone 3.

Construction Phase

3.8.15. The Description of the Proposed Development [APP-045] and also the Draft Construction Environmental Management Plan (CEMP) [APP-068] set out standard and good practice construction management measures that will be put in place to manage impacts on the water environment during the construction phase. This includes management of surface water run-off from construction compounds along the pipeline corridor route and how water courses would be crossed either by trenchless methods or using bailey bridges.

3.8.16. Commitments within the Draft CEMP, as listed in ES Chapter 11 [APP-053, Paragraph 11.8.3] includes the preparation of a Flood Warning and Evacuation Plan, an Emergency Response Plan and the appropriate management and storage of soils and construction materials during construction in the flood plain. The ES also assesses the potential for contaminant disturbance or run-off into surface and groundwater bodies, with the CEMP detailing relevant mitigation measures and industry practice to reduce the likelihood of such occurring.

Operational Phase

3.8.17. A drainage strategy has been produced as part of this planning application [APP-099]. In addition, ahead of construction, pre-commencement surveys would be undertaken which include detailed drainage surveys, and pre-construction and post-construction land drainage schemes would be produced.

3.8.18. Due to the pipeline operating underground, with appropriate cover, impacts on the water environment during its life cycle are anticipated by the Applicant to be minimal and related to the drainage for the Block Valve Stations, the IAGI and the TAGI. This would be managed through the Drainage Strategy.

3.8.19. A detailed assessment of flood risk was undertaken in the FRA [APP-101] and concludes that both the sequential test and exception test are passed as the Proposed Development is classified as essential infrastructure in the National Planning Policy Framework (NPPF) and has significant sustainability benefits.

3.8.20. For both construction and operational impacts, the Applicant concludes that all effects are assessed as not significant through the implementation of the mitigation measures proposed. The WFD assessment [APP-100] concludes that the Proposed Development would be compliant with the objectives of the WFD as it would not cause deterioration in status of the water bodies and would not prevent the water bodies achieving Good Ecological Status and Good Ecological Potential.

ISSUES CONSIDERED DURING THE EXAMINATION

Flood Risk

3.8.21. The Environment Agency (EA) raised concerns at the onset of the Examination [RR-034] regarding the accuracy of data and the legitimacy of some assumptions in the absence of information in respect of maximum breach depths, tidal impacts, fluvial and tidal flood flows, floodwater displacement and the potential requirement for floodplain compensatory storage. In particular, the EA were concerned that the FRA did not adequately consider and assess impacts of working within the floodplain. The Examining Authority (ExA) asked several questions in addition to the EA concerns [PD-010, Q1.10.2 to Q1.10.9] [PD-021] identifying areas where either ES Chapter 11 or the FRA were considered to be deficient in data or reasoning.

3.8.22. The Applicant provided a revised ES Chapter 11 [REP2-004] in response and also a technical note justifying the use of average breach water depth levels in the ES [REP2-037] as well a revised CEMP. This included commitments for materials, including soil storage, to be positioned outside of the mapped fluvial floodplain or, if unavoidable, for such materials to be located at a reasonable set-back from the watercourse. The Applicant also confirmed to the ExA [REP1-045, Q1.4.13] that sea level rises across the whole of the Order limits had been taken into account when preparing the FRA, and the Proposed Development could be remotely deactivated if extreme flood water events occurred.

3.8.23. A further revised floodwater technical note was provided at Deadline (DL) 4 [REP4-024] to resolve some residual issues with the EA. The EA confirmed at DL2 (early in the Examination that the majority of issues identified had been resolved [REP2-038] [REP3-036] and, in particular, stated that:

- The EA are satisfied with the wording in the FRA and in Mitigation Measure G20 of the draft CEMP.
- The EA are pleased to note the updated FRA confirms the location of and flood risk (fluvial and surface water) to the construction compounds. The EA has no further concerns with the location of these.
- The EA note the updates within the FRA to climate change projections and we are pleased to see that the 97.5% confidence bound has been used for the assessment of 2025 and 2100 extreme sea levels. This is now in line with national guidance and the requirements for FRAs.
- The EA now have sufficient information to confirm that the project has demonstrated compliance with the requirements for the flood risk Exception Test
- The EA withdraw the holding objection relating to flood risk issues within our remit.

3.8.24. The level of agreement is reflected in the early Statement of Common Ground (SoCG) submitted at DL3 [REP3-015], with the final SoCG reporting no significant outstanding issues between the parties [REP6-023].

3.8.25. A further updated FRA was provided at DL4 [REP4-015] to resolve concerns from East Lindsey District Council (ELDC) [REP1-053] regarding the detail that would be included in a Flood Warning and Evacuation Plan as well as detail in respect of potential decommissioning processes. No sustained concerns were reported by the Council at the close of the Examination [REP5-024].

3.8.26. Lincolnshire County Council (LCC), in its role as the Lead Local Flood Authority, confirmed in its Local Impact Report (LIR) [REP1-058] that the surface water flood risk from a pipeline development is very low and sections 5.7 to 5.10 of the FRA adequately addresses them. LCC conclude that subject to the development being carried out as proposed within the CEMP and further details being agreed as part of subsequent DCO Requirements, the impacts of this Proposed Development would be neutral. Other local authorities provided either neutral responses to the matter or deferred to LCC and the EA for technical advice.

3.8.27. The ExA welcomes the work undertaken by the Applicant to swiftly resolve flood risk concerns early in the Examination. The fast-concluded discussions with the EA give the ExA confidence that adequate mitigation is secured within both the draft CEMP [REP6-051] and the Operational Phase Mitigation Plan [REP2-014], and that further mitigation strategies would be developed in conjunction with the EA under Requirement (R) 5 (amongst others) of the draft Development Consent Order (dDCO) [REP6-002].

3.8.28. The ExA accepts the conclusions with regards to the sequential test, and recognises the wider sustainability and climate benefits attributed to the project are reason for the exception test to be passed [REP6-057].

Water Framework Directive

3.8.29. The EA originally placed a holding objection to the Proposed Development due to concerns over compliance with the relevant River Basin Management Plans, particularly in respect of assessing effects on groundwater bodies [RR-034].

3.8.30. The Applicant provided a revised WFD Assessment [REP2-020] in response to the EA's requests. The EA considered most of the representations to have been addressed, although raised an outstanding concern regarding dewatering [REP3-036]. Nonetheless, the issue was stated to be minor and the EA considered the matter of dewatering to be suitably covered and mitigated for within the draft CEMP and the proposals for Hydrogeological Impact Appraisals to be undertaken. Therefore, at DL3, The EA withdrew its holding objection and confirmed agreement with the conclusions of the WFD assessment that there would not be a deterioration in status of the water bodies assessed and these features would not be prevented from achieving Good Ecological Status and Good Ecological Potential [REP3-015] [REP3-036].

3.8.31. No other Interested Parties (IPs) raised concerns regarding the WFD assessment nor its conclusions during the course of the Examination. No further questions on this matter were deemed necessary by the ExA [PD-021].

3.8.32. The ExA recognises that the EA withdrew their objection to the Proposed Development. The ExA has no substantive evidence from any other IP that challenges or contradicts the conclusions reached on this matter. Subject to the mitigation secured in the CEMP [REP6-051] and the Operational Phase Mitigation Plan [REP2-014] being followed through, as secured in R5 and R15 of the dDCO, the ExA is content that there would not be adverse effects on WFD waterbodies.

Water Management

3.8.33. The Block Valve Stations, the IAGI and the TAGI would have individual drainage mechanisms put in place as per the Drainage Strategy [APP-099] to ensure appropriate management of surface water run-off during operation. No IPs raised concern in this regard. Equally, the contents of the Outline Surface Water Management Plan [APP-102] in respect of pollution prevention to watercourses, were not contested by any IP.

3.8.34. The ExA noted that the compounds and laydown areas to be formed during construction were of significant size yet had been considered by the Applicant to only result in minor impacts to surface water run-off [PD-010, Q1.10.1]. The Applicant responded to state purpose-built drainage systems would be designed and installed during setup of the compounds in addition to permeable surfaces being the primary means of construction of these areas [REP1-045]. Significant run-off to the surrounding environment would therefore be unlikely.

3.8.35. The EA noted that the submitted hydrogeological risk assessment [APP-094] was a preliminary document that would be reviewed and updated based upon future investigations. The EA requested direct consultation and liaison in respect of any future assessment.

3.8.36. The Applicant provided an updated Hydrogeological Risk Assessment at DL5 [REP5-071] and confirmed the EA would be a consultee in the discharge of documents under R5 in the dDCO [REP3-015]. The subsequent dDCO contained the necessary amendments to secure this consultation [REP4-001].

3.8.37. Agreement between the EA and the Applicant on this matter is recorded in the final SoCG [REP6-023].

3.8.38. The Lindsey Marsh Drainage Board raised a number of protective byelaws in respect of local watercourses and stated that, in respect of certain actions or activities, the Board's consent would only be granted where proposals are not detrimental to the flow or stability of the watercourse/ culvert or the Board's machinery access to the watercourse/ culvert which is required for annual maintenance [RR-052].

3.8.39. The Applicant responded [REP1-044] to state that negotiations on protective provisions for the dDCO were being drafted in conjunction with the Drainage Board including consideration of the most suitable method for crossing watercourses that are managed by them. The Applicant also referred to Article 36 in the dDCO that serves, amongst other things, to disapply drainage board byelaws [REP1-045, Q1.10.28]. No further comments were received from the Drainage Board throughout the Examination, although the final signed SoCG [REP6-030] does not specifically identify an outstanding issue on this point. The ExA note that the other local drainage authority, the North East Lindsey Internal Drainage Board, did not pursue or conclude an SoCG with the Applicant, as reported in the Statement of Commonality [REP7-013].

3.8.40. Measure E27 in the draft CEMP [APP-068] referred to the management of bentonite, but did not require a specific plan or strategy to be developed. In response to the ExA's questioning [PD-010, Q1.7.46] the Applicant provided a draft of such a plan at DL4 [REP4-012], to give reassurances that should bentonite breakout of any trenchless crossing construction process, it would be effectively managed to prevent adverse effects on water quality or water resources. No IPs challenged the content or construct of this document.

3.8.41. The ExA note that, apart from correcting some minor discrepancies at the onset of the Examination, neither the Drainage Strategy [AS-024] nor the Surface Water Management Plan [APP-102] were required to be amended during the Examination, demonstrating their robustness. The updates to the Hydrogeological Risk Assessment were to the satisfaction of the EA, and the ExA has no reason to find against the findings or recommendations of that document. The dDCO [REP6-002] and the draft CEMP [REP6-051] contain the necessary mitigation measures, in consultation with the EA, to ensure any impacts are sufficiently mitigated.

3.8.42. The ExA note the Drainage Boards raised no objection to the disapplication of byelaws under Article 36, and neither of the Boards raised the prospect of Protective Provisions being included in the dDCO. The ExA is satisfied that such safeguards are not required in this instance on the basis of the Applicant's submissions.

CONCLUSIONS

3.8.43. The ExA is satisfied that the Applicant has adequately assessed flood risk and that the FRA demonstrates both the Sequential and Exception Test are passed. Furthermore, the ExA considers that, subject to the mitigation measures identified in

the ES, the CEMP, the Operational Phase Mitigation Plan, the FRA and the Drainage Strategy, and secured in R5 (CEMP), R8 (Surface Water Drainage), R9 (Contaminated land and groundwater), R15 (Operational Phase Mitigation Plan) and R16 (Decommissioning Environmental Management Plan) of the rDCO, the proposed mitigation would sufficiently mitigate the impacts of the Proposed Development both during construction, operation and decommissioning.

3.8.44. Through the application of mitigation measures, the ExA is satisfied that there are limited risks to water quality and that there would not be any worsening of the water quality within WFD waterbodies. As such, the ExA finds that the Proposed Development accords with the requirements of the Water Framework Directive Regulations 2017.

3.8.45. Accordingly, the ExA concludes that the requirements in respect of water quality and flood risk set out in NPS EN-1 (2011) and NPS EN-1 (2024) are met. The Proposed Development is considered compliant with local planning policies related to flood risk. Consequently, the ExA considers the effect would be neutral and does not weigh for or against the making of the Order.

3.9. AIR QUALITY

INTRODUCTION

3.9.1. This section considers the effects of the Proposed Development in relation to air quality and emissions on human receptors. Matters relating to greenhouse gas (GHG) emissions are separately considered under ‘Climate Change’ in section 3.10 of this report. Matters relating to Habitats Regulations Assessment (HRA) and air quality are considered in Appendix C and summarised in Chapter 4 of this Report.

POLICY BACKGROUND

3.9.2. Sections 4.10 and 5.2 of National Policy Statement (NPS) EN-1 (2011) relate to pollution control and air quality matters. Paragraphs of particular note are identified below.

3.9.3. Paragraph 5.2.1 of NPS EN-1 advises that the construction, operation and decommissioning of infrastructure development can "involve emissions to air which could lead to adverse impacts on human health, on protected species and habitats, or on the wider countryside." Paragraph 5.2.6 states that where a project is likely to have adverse effects on air quality the Applicant should undertake an assessment as part of the Environmental Statement (ES) and paragraph 5.2.7 sets out what should be included in that assessment.

3.9.4. Paragraph 5.2.9 states that air quality considerations should be given substantial weight where a project would lead to a deterioration in air quality in an area or leads to a new area where air quality breaches any national air quality limits. It is also clear that air quality considerations will be important where substantial changes in air quality levels are expected, even if this does not lead to any breaches of national air quality limits.

3.9.5. Paragraph 4.10.7 states that the Secretary of State (SoS) should be satisfied, before consenting development, that the relevant pollution control authority is satisfied that potential releases can be adequately regulated, and that the effects of existing sources of pollution are not such that the cumulative effects of pollution will make the development unacceptable. Paragraph 4.10.8 is clear that the SoS should not refuse consent on the basis of pollution impacts unless it has good reason to

believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted.

3.9.6. NPS EN-1 (2024) indicates a continuation of policy relating to the assessment of air quality and human health effects. In addition, NPS EN-1 (2024) guides that the SoS should give air quality considerations substantial weight where a project is proposed near a sensitive receptor site such as an education or healthcare facility or a residential use. Furthermore, NPS EN-1 (2024) states that where a project is proposed near to a sensitive receptor site for air quality, if the applicant cannot provide justification for this location, and a suitable mitigation plan, the SoS should refuse consent.

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3.9.7. Chapter 14 of the Environmental Statement (ES) [APP-056] identified the likely significant effects (LSE) of the Proposed Development on air quality and its potential impacts on both human and ecological receptors, and designated ecological sites. The supporting figures and appendices are listed in Table A1 in Appendix A of this Report.

3.9.8. The assessment identified key pollutants of concern resulting from construction of the Proposed Development and that have the potential to raise concentrations. These are particulate matter (PM_{10} and $PM_{2.5}$) and nitrogen oxides (NOx).

3.9.9. The Applicant submitted a Draft Construction Environmental Management Plan (CEMP) [APP-068] that contains measures to mitigate the effects of dust and emissions during construction of the Proposed Development.

Baseline

3.9.10. The Applicant explained in ES Chapter 14 [APP-056] that the baseline within the study area is predominantly split into two key zones. The first is mainly influenced by emissions along the Humber Estuary from the heavy industry between Immingham and Grimsby. The second is a more rural and agricultural setting from outside Immingham down to Theddlethorpe where emissions are largely confined to traffic on local roads.

3.9.11. There are three Air Quality Management Areas (AQMAs) in the vicinity of the wider study area, though none within the Order limits, as detailed in Table 14-10 [APP-056] and Figure 14-1 [APP-066]. In these AQMAs, as well as the wider locality, air quality monitoring is undertaken by the local authorities, the results of which are detailed in Table 14-11 [APP-056].

Construction Phase

3.9.12. The Study Area for this assessment is the area over which potential direct and indirect effects of the Proposed Development on local air quality are predicted to occur during the construction period, noting that operational phase and decommissioning phase impacts have been scoped out of the assessment.

3.9.13. The Applicant identified three impact pathways for air quality effects being construction dust emissions, site plant emissions and construction traffic emissions.

3.9.14. In respect of construction activities, the Applicant predicts both medium-risk and high-risk dust impacts with the potential to cause moderate and major adverse effects at amenity sensitive receptors and nature conservation receptors. However,

the Applicant sets out mitigation measures following guidance from the Institute of Air Quality Management (IAQM) and a series of additional mitigation measures in Section 14.8 [APP-056]. To this extent, implementing best practice dust control measures as standard, the Applicant submits that an unmitigated scenario is unlikely to occur and thus any residual effects would not be significant.

3.9.15. In respect of traffic emissions, the Applicant submits that due to the temporary nature of the works, the good baseline air quality, and the fact that the data represents a worst-case increase in traffic, no significant effects are anticipated. This conclusion includes that all construction vehicles would be routed away from AQMAs and the links that lead into such areas.

Operational Phase

3.9.16. Since all emissions relating to the operation of the Proposed Development would be restricted to those associated with road traffic movements during occasional inspection and maintenance activities, operational effects on air quality were scoped out of the assessment by the Applicant.

ISSUES CONSIDERED DURING THE EXAMINATION

3.9.17. The Local Impact Reports (LIR) submitted did not raise any concerns regarding the composition of ES Chapter 14, considering appropriate standards and methodologies had been used (for example, [REP1-062]). The level of mitigation proposed was considered adequate, secured within the draft Development Consent Order (dDCO) and ultimately in line with policy objectives of each respective authority [REP1-053] [REP1-066]. The LIRs concurred with the Applicant's conclusions that no AQMAs would be affected by the Proposed Development.

Traffic emissions

3.9.18. The UK Health Security Agency (UKHSA) noted that the assessment of construction phase traffic data predicts exceedances of the IAQM and the Design Manual for Roads and Bridges (DMRB) screening criteria in the construction phase. The UKHSA suggested that, without detailed assessments into the ramifications of any exceedances, the Applicant could not justifiably conclude that no significant effects would occur [RR-113].

3.9.19. The Applicant's position, as recorded in the Statement of Common Ground (SoCG) [REP1-040], is that where traffic impacts exceed the IAQM screening criteria, there is no possibility of a significant effect arising due a lack of receptors or due to airborne pollutants already being significantly lower than air quality objectives.

3.9.20. Following the request of the UKHSA [RR-113], the Applicant produced a quantitative (modelled) assessment of construction phase traffic emissions to supplement the qualitative approach in the ES [REP3-026]. The assessment concluded that no air quality objectives would be breached by the Proposed Development, with only minor increases in air pollutants at some of the identified sensitive receptors, and thus construction phase road traffic emissions impacts would not have a significant effect on local air quality or human health.

3.9.21. The UKHSA were approached for their views on the revised information and specifically asked about this in ExQ2.2.1 [PD-021]. However, the UKHSA did not provide any further comment or response on the matter. It is noted though that a signed SoCG was supplied at Deadline (DL) 6, confirming no outstanding issues at

the close of the Examination [REP6-034]. No other Interested Parties (IPs) raised any concerns about traffic-based emissions or pollutants.

3.9.22. The Examining Authority (ExA) considers the evidence provided demonstrates that any worsening of air quality, because of construction works traffic, would be minor and unlikely to breach any tolerances or thresholds for pollutants in the locality. The ExA consider that the level of detail supplied by the Applicant adequately answers the queries raised by the UKHSA. Monitoring of air quality is secured within the CEMP required by Requirement (R) 5 in the dDCO, with routes to be used by construction traffic clearly set out in the Construction Traffic Management Plan (CTMP) avoiding areas of air quality sensitivity, secured under R11 of the dDCO.

Venting

3.9.23. Originally, the Applicant had scoped out operational emissions [APP-056, Paragraph 14.3.9] deeming such to be limited only to occasional road traffic movements during inspection and maintenance activities. This prompted numerous questions [PD-010, Q1.2.1, Q1.2.10, Q1.9.2] requesting further detail on venting processes during operation and final decommissioning including the amount of CO_2 that would be released, the conditions in which venting would take place and the need for a 25 metre (m) high stack.

3.9.24. IPs also had concerns about venting at block valve stations, calculating that there would be large volumes of CO_2 flowing through each stage of the pipeline that, if vented, could cause significant micro-climate effects to the harm of human health and the natural environment [REP1-144].

3.9.25. The Applicant responded both through responses to questions [REP1-045] and a technical note [REP3-029], summarising that:

- Venting of small quantities of CO_2 is considered to be a lost opportunity to store that CO_2, rather than a primary GHG emission from the Proposed Development, and would not represent an asphyxiant.
- The Applicant would not propose to add any contingency to the assessed operational GHG emissions; rather, it is suggested that this would be a very small/ insignificant reduction in the CO_2 to be transported.
- Further atmospheric modelling would take place at the detailed design stage to determine exact venting requirements. That which had been undertaken to inform the ES demonstrated that a 25-metre-high stack at both the Immingham and Theddlethorpe Facilities would be sufficient.
- Through adherence to relevant legislation and guidance, such as the Control of Substances Hazardous to Health Regulations 2002, any potential adverse effects on human and ecological receptors could be avoided.
- Large amounts of CO_2 would not be vented in any single venting event. Any venting would be done at a rate of 5 kilograms per second (kg/s).

3.9.26. Within this, the Applicant explained that fugitive emissions at block valve stations would be a minor performance loss of the project [REP1-045, Q1.4.5], with any attempt to re-capture such gases requiring greater complexity and unnecessary safety risks.

3.9.27. IPs raised concerns about operational air quality risks and related effects on human health. The full CO_2 capacity of the Proposed Development would amount to 10,000 tonnes. IPs identified that full pipeline inventory would be vented in the instance of an emergency [REP1-144], highlighting that such a venting event could take 23 days assuming a gas release of 5 kg/s [REP4-058]. The Applicant, whilst not

challenging the figures cited by IPs, responded that there would not be a credible circumstance where the full 10,000 tonnes of CO_2 capacity of the pipeline would be vented in a single instance [REP3-029] and therefore air quality would not suffer. The Applicant presents [REP3-029, paragraphs 2.2.1, 2.3.7] that venting would be a routine maintenance activity with low releases only, and that the vent stacks would be sufficient to ensure safe dispersal of vented CO_2.

3.9.28. The ExA challenged how and when venting would take place as well as whether human and ecological receptors, particularly at Theddlethorpe, would be safe [PD-010, Q1.4.5, Q1.4.6, Q1.4.14]. In response, the Applicant stated that through compliance with relevant legislation, associated guidance and operational mitigation measures, any potential adverse effects on human and ecological receptors would be avoided [REP1-045]. It was latterly clarified in the technical note [REP3-029] that air dispersal modelling undertaken for the Proposed Development indicated stacks of 25 metres (m) in height at the Immingham and Theddlethorpe ends of the Proposed Development would be sufficient to prevent any risks to human or ecological receptors from vented CO_2.

3.9.29. R4 of the dDCO [REP6-002] contains a maximum height limit on the venting stacks to be erected at both the Immingham and Theddlethorpe Above Ground Installations, that being of 25m. The Applicant set out that post-consent atmospheric modelling surveys would determine whether this maximum height of 25m would actually be needed, or a lower height could be erected [REP1-045, Q1.2.1], but the assessment of a 25m stack represented the most appropriate worst-case scenario. East Lindsey District Council requested to be a consultee in respect of any post-consent air quality modelling [REP3-034], but the Applicant declined saying such matters were part of the engineering exercise to determine the detailed design of the venting stacks and therefore would not require consultation with any organisation [REP3-029] [REP5-063, Q2.2.3].

3.9.30. The three block valve stations that would be constructed along the pipeline route were originally designed to have 4m high vent stacks fitted to enable localised venting to take place as part of maintenance activities. However, during the Examination the Applicant undertook further engineering appraisals and concluded that those vent stacks were not required. The Applicant confirmed removal of the proposed 4m high vent stacks at the block valve stations at DL4 [REP4-052, Paragraph 6.1], making subsequent amendments to layout plans of these facilities [REP4-037, REP4-044, REP4-049].

3.9.31. The ES [APP-045, Paragraph 3.9.4] stated that a 50m high vent stack could be erected temporarily. The Applicant stated this was only to be used in certain circumstances to allow suitable venting in a manner that would avoid any significant environmental effects, stating that ultimate control lay within R15 to the dDCO [REP1-045, Q1.9.2]. The technical note [REP3-029, Paragraph 1.3.4] went on to clarify that such a stack would only be necessary in the event that venting at the Theddlethorpe or Immingham facilities was undertaken at decommissioning.

3.9.32. The ExA is satisfied that sufficient detail has been provided regarding the incidental venting of emissions to conclude that no significant effects on air quality would arise from the Proposed Development.

3.9.33. The modelling that has taken place has resulted in design choices for the project to minimise the potential air quality effects, and the ExA is confident further work would ensure any emissions are suitably monitored and reduced. Suitable controls are set out in the Operational Phase Mitigation Plan [REP2-014] secured in the dDCO and

would be governed under the relevant legislative provisions for both the local authorities and the Environment Agency.

CONCLUSIONS

3.9.34. The ExA has assumed that the relevant pollution control and environmental regulatory regimes will be properly applied and enforced. The ExA is satisfied that the air quality assessment undertaken by the Applicant adequately assesses impacts on air quality.

3.9.35. The ExA has reservations insofar as no prediction or assumption has been made regarding operational venting emissions and thus such emissions are missing from the Applicant's calculations of the project's air quality impact. Nonetheless, the ExA has reviewed the information provided by all parties and consider that, with the appropriate regimes in place and the emergency plans of the Applicant secured in the CEMP, the possibility of a total CO_2 evacuation of the pipeline represents an unlikely scenario.

3.9.36. The ExA consider residual impacts related to construction and decommissioning activities, including from traffic, can be effectively managed through the mitigation measures secured in R5, R6, R13 and R16 of the rDCO.

3.9.37. The ExA is satisfied that no significant effects on air quality on human receptors are likely to arise in the construction or operational phases of the Proposed Development both alone and cumulatively with other projects. The ExA considers there would not be any negative impacts on the air quality in nearby AQMAs or a significant worsening of air quality across the Order limits. The ExA considers, based on the SoCG with the EA, that mitigation measures could be incorporated into, and supplemented by, any Environmental Permitting conditions.

3.9.38. The ExA considers that the requirements of NPS EN-1 (2011) and NPS EN-1 (2024) will be met. Air quality effects are therefore neutral and do not weigh for or against the making of the Order.

3.10. CLIMATE CHANGE AND EMISSIONS

INTRODUCTION

3.10.1. This section considers the overall change in greenhouse gas (GHG) emissions that may arise from the construction and operation phases of the Proposed Development. Carbon emissions and decarbonisation matters relevant to the Proposed Development are discussed here.

3.10.2. Air quality and impacts arising from the emissions on human health as well as the natural environment are considered in other chapters of this Recommendation Report.

POLICY BACKGROUND

3.10.3. Section 2.2 of NPS EN-1 (2011) relates to GHG emissions. Paragraphs of particular note are identified below.

3.10.4. Paragraph 2.2.12 of NPS EN-1 (2011) states that the European Union (EU) Emissions Trading System (ETS) formed the cornerstone of UK action to reduce emissions. Paragraph 2.2.13 explains that the caps on emissions translate to a finite number of allowances to emit GHG that companies can trade with each other. The

UK has since established an ETS to replace the UK's participation in the EU's ETS and increased the climate ambition of the UK's carbon pricing policy.

3.10.5. NPS EN-1 (2011) promotes Carbon Capture and Storage (CCS) as an emerging technology that the Government is aiming to facilitate and encourage. Paragraph 2.2.23 states that CCS is part of the UK's plans to "reduce its dependence on fossil fuels, particularly unabated combustion". Paragraph 2.2.6 states that the UK needs to wean itself off a high-carbon energy mix in order to reduce GHG emissions and to improve the security, availability and affordability of energy through diversification.

3.10.6. Section 2.4 of the NPS EN-1 (2024) updates this to include that a key mechanism for increasing deployment of low carbon generation has been the implementation of Contracts for Difference. It states that the Government is developing business models to incentivise Carbon Capture and identifies the UK ETS, Carbon Price Support (CPS) and the Emissions Performance Standard (EPS) as further levers to encourage further decarbonisation within the power sector.

3.10.7. Section 3.5 of NPS EN-1 (2024) recognises the importance of new CCS infrastructure stating it "…has an essential role to play, either on its own or in combination with measures such as electrification and fuel switching." However, paragraph 3.5.9 also stresses "It is not the role of the planning system to deliver or limit specific amounts of CCS infrastructure covered by this NPS".

3.10.8. The NPS EN-1 (2024) states in paragraph 5.3.8 that the Secretary of State (SoS) must be satisfied that the Applicant has, as far as possible, assessed the GHG emissions of all stages of the development. It adds in paragraph 5.3.9 that the SoS should be content that the Applicant has taken all reasonable steps to reduce the GHG emissions of the construction and decommissioning stage of the development.

3.10.9. Paragraph 5.3.11 of NPS EN-1 (2024) maintains that, given the range of non-planning policies that can be used to decarbonise electricity generation, such as the UK ETS, Government has determined that operational GHG emissions are not reasons to prohibit the consenting of energy projects or to impose more restrictions on them in the planning policy framework than are set out in the energy NPSs.

3.10.10. Generally, the Local Impact Reports (LIR) submitted to the Examination do not detail any specific policies relating to carbon emissions or climate change. All do however contain policy support for low carbon energy and a presumption in favour of sustainable development.

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Baseline

3.10.11. The Applicant's GHG assessment features in Environmental Statement (ES) Chapter 15 [APP-057]. The Study Area for the lifecycle GHG impact assessment considers all GHG emissions arising over the lifecycle of the Proposed Development. This includes direct GHG emissions arising from activities within the Development Consent Order (DCO) Site Boundary and indirect emissions from activities outside the DCO Site Boundary

3.10.12. For the GHG Assessment, the baseline is the 'do nothing' scenario where the Proposed Development is not constructed, operated, and decommissioned. The baseline typically consists of the GHG emissions from the existing carbon stock within the soil and the above and below-ground vegetation with the DCO Site

Boundary, as well as the industrial processes ongoing at Immingham and potential emitters from a wider general geographic area.

3.10.13. While the current land use within the DCO Site Boundary beyond the Immingham / Humber industrial area will have minor levels of associated GHG emissions, it is anticipated that these emissions will not be material in the context of the Proposed Development. Therefore, for the purposes of the lifecycle GHG impact assessment, a net GHG emissions baseline of zero is applied.

Construction Phase

3.10.14. The construction phase GHG emissions would be made up of embodied emissions from the construction materials of 107,051 tonnes of carbon dioxide equivalent (tCO2e) [REP4-029, paragraph 15.7.4]. The Proposed Development was assessed by the Applicant to result in a significant beneficial effect that outweighs the adverse effect during the construction phase.

3.10.15. For decommissioning, the total GHG emissions from the Proposed Development are calculated to be approximately 91 tCO2e with the majority (60%) of emissions associated with the transport of waste material from the Proposed Development site. The remaining emissions are associated with the recycling and disposal of onsite equipment.

Operational Phase

3.10.16. The lifetime operational GHG emissions from the Proposed Development are calculated to be approximately 2,514 tCO2e with 100% of operational emissions associated with electricity usage onsite [APP-057, Table 15-28]. Assuming that emission-related activities are similar during the initial 25-year development, annual emissions are expected to be approximately 332 tCO2e in 2027 and will decrease to approximately 15 tCO2e from 2049 onwards due to projected electricity grid decarbonisation.

3.10.17. The emissions in construction and operation were presented in the context of the UK's carbon budgets [APP-057, Table 15-32].

3.10.18. In terms of cumulative effects, the Applicant states the Proposed Development forms part of a wider Viking CCS Project designed to abate carbon emissions from large industrial emitters at Immingham and in the Humber area. This broader project will result in a significant reduction in carbon emissions based on projected carbon capture rates of 10mtpa by 2030 and 15 million tonnes per annum (mtpa) by 2035. On this basis, the Proposed Development as part of the wider Viking CCS Project causes a significant reduction in atmospheric GHG concentrations compared to the 'Do Nothing' Scenario.

ISSUES CONSIDERED DURING THE EXAMINATION

Calculating Emissions

3.10.19. The Examining Authority (ExA) asked several questions regarding how GHG emissions from both construction and operation processes had been assessed in ES Chapter 15, largely stemming from how the information had been presented [PD-010]. The Applicant provided responses at Deadline (DL) 1 [REP1-045] and submitted a revised ES Chapter at DL2 [REP2-008] showing an improved level of detail and assessment reporting. Any increases or decreases in GHG emissions from the original assessment were considered by the Applicant to be minor in scale,

particularly when contrasted with the amount of carbon dioxide (CO_2) that would be captured under the Proposed Development [REP1-045, Q1.4.6].

3.10.20. East Lindsey District Council (ELDC) [REP1-057] concluded, following a review of ES Chapter 15, that the assessment of greenhouse gas emissions was satisfactory, though recommended some enhancements. Equally, Lincolnshire County Council (LCC) [REP1-058] confirmed that the Applicant's climate change conclusions were not disputed and that, overall, the Proposed Development would have a positive regional effect on reducing carbon emissions.

3.10.21. The Applicant provided a further revised ES Chapter 15 [REP4-020] and provided an updated Bill of Quantities [REP4-051]. ELDC maintained concerns with regards the assessment and assumptions [REP6-059] specifically being:

- No description of the emission factors applied to the Bill of Quantities.
- Whilst some emissions are derived from National Highways Carbon Tool, no clarification to the units used have been derived.
- No detail about fuel use for construction compound generators.

3.10.22. The Applicant provided further detail on these matters and resolved some of discrepancies and inconsistencies identified by ELDC [REP7-018, Table 2-5, 2.5.1] and concluded that the changes were not so significant that ES Chapter 15 required a further update.

3.10.23. The signed Statement of Common Ground (SoCG) between ELDC and the Applicant does not reference these matters at all [REP6-018] and, therefore, the ExA views this matter as remaining outstanding at the close of the Examination given that the additional information came in at DL7.

3.10.24. One IP raised that routine venting emissions should also be captured to prevent leakage and improve efficiency, citing other projects expected to capture 90% of such emissions [REP1-138]. The Applicant firstly stated that routine maintenance venting of small quantities of CO_2 is considered to be a lost opportunity to store that CO_2, rather than a primary GHG emission from the Proposed Development [REP1-045, Q1.4.5]. In any event, any venting would cause of a small reduction in the overall substantial net benefit of carbon storage. They form a minor fraction of overall sequestered CO_2 so the net sequestration is significant and the project has net benefit.

3.10.25. The ExA explored this further to see if more could be done at the block valve stations to capture any vented CO_2 to reduce the losses [PD-015]. The Applicant responded to state that such would require additional infrastructure that would likely have a greater environmental impact than what would be achieved through its provision [REP3-029].

3.10.26. The ExA has no residual concerns regarding the approach to calculating and deriving project emissions. The information presented in the ES on this matter is clear and based on sound reasoning. It is an inevitable consequence of construction that minor quantity emissions would be generated and an unfortunate fact that a small amount of the captured emissions may be lost back into the environment. Any discrepancies that exist would likely be immaterial to the overall conclusions of the ES and would be minor in comparison to the significant levels of emissions forecast to be captured and sequestered by the Proposed Development.

3.10.27. The ExA is convinced that the Proposed Development, as set out and secured in Schedule 1 to the draft Development Consent Order (dDCO), as controlled by the Requirements in Schedule 2 to the dDCO, would significantly reduce carbon emissions far in excess of any losses. The net CO_2 effect of the scheme is such that all emissions must be offset against sequestration benefits, the scale of which remain very substantial and net beneficial.

Robustness of Assessment

3.10.28. Following queries regarding the assessment and methodology used in ES Chapter 15 [APP-057] from both the ExA [PD-010] and Interested Parties (IPs), the Applicant provided an updated and revised chapter at DL2 [REP2-008].

3.10.29. ELDC continued to raise several discrepancies and deficiencies within the assumptions and assessments of the Applicant [REP3-034], principally raising:

- Lack of quantitative data to determine suitability of conclusions.
- Lack of material specification from the bill of quantities.
- Insufficient consideration of impacts upon the Proposed Development, for example from drought.
- No evidence to support the assignment of likelihood or consequence metrics.

3.10.30. The Applicant responded with a further revised ES Chapter 15 at DL4 [REP4-019] with Paragraphs 15.5.10 to 15.5.14 covering climate projection data and updates to Tables 15-30 and 15-37 tackling climate resilience. The Applicant also appended information on the quantity of materials to be used during construction and the consequent carbon emissions derived therefore [REP4-051, Appendix A].

3.10.31. In answer to question Q2.4.1 [PD-021], the local authorities were generally content with the revised ES Chapter 15 and offered no comment. ELDC expressed dissatisfaction that no evidence for consequence metrics for climate resilience had been provided in the revised ES Chapter 15 [REP5-076]. Whilst noting such a matter might not be material to the outcome of the ES, maintained that the robustness of the assessment was still questionable.

3.10.32. The SoCG with ELDC does not report on this matter specifically [REP6-018] although the ExA note a high level of agreement across all other areas. The Applicant reflects that any changes to the climate resilience assessment to align with ELDC's requests would not be material [REP6-045].

3.10.33. The ExA has no residual concerns regarding the approach to calculating project emissions. The information presented in the ES on this matter is clear and based on sound reasoning. Appropriate measures in respect of climate resilience are set out in the Construction Environmental Management Plan (CEMP), secured under Requirement (R) 5 of the dDCO.

Venting Processes

3.10.34. The ExA noted that venting processes during the operational lifetime of the Proposed Development had been screened out by the Applicant in the ES [APP-056, Paragraph 14.3.9] [APP-057]. This prompted numerous questions [PD-010, Q1.2.1, Q1.2.10, Q1.9.2] requesting further detail on venting processes including the amount of CO_2 that would be released, the conditions in which venting would take place and the need for a 25 metre (m) high stack.

3.10.35. The Applicant responded both through responses to questions [REP1-045] and a technical note [REP3-029], summarising that:

- Venting of small quantities of CO_2 is considered to be a lost opportunity to store that CO_2, rather than a primary GHG emission from the Proposed Development.
- The Applicant would not propose to add any contingency to the assessed operational GHG emissions; rather, it is suggested that this would be a very small/ insignificant reduction in the CO_2 to be transported.
- Large amounts of CO_2 would not be vented in any single venting event. Any venting could be done at a rate of 5 kilograms per second. Lower venting rates are more probable [REP3-029, Table 2].

3.10.36. Tables 1 and 2 of the venting note [REP3-029] provides assumptions regarding operational venting emissions and calculates the project's climate impact. However, no worst-case scenario figures have been provided to quantify the amount of CO_2 that could be released in an emergency venting event, which appears to be a flaw that weakens the Applicant's assessments.

3.10.37. However, the ExA place such impacts into context of the significant climate benefits attributed to the Proposed Development and recognise that venting is not, under normal operating conditions, considered to be a significant part of the gas transportation process. Overall, any temporarily escaped CO_2 would be minor in relation to the net CO_2 reduction offered by the Proposed Development.

Climate resilience

3.10.38. The local authorities were consulted by the ExA [PD-021, Q2.4.2] on the climate change resilience assessment and measures contained in the revised ES Chapter 15 [REP4-029]. In general, no concerns were raised in response (for example [REP5-078] [REP5-085]) and no substantiated objections had been forthcoming to the Examination on this matter. The Environment Agency were satisfied that, with respect to flood risk and climate change allowances, sufficient information had been provided to demonstrate a robust assessment and appropriate mitigation was in place [REP6-023].

3.10.39. The ExA is satisfied that the ES provides a robust approach to and assessment of climate resilience measures and mitigation.

CONCLUSIONS

3.10.40. The ExA considers, based on the current policy framework and guidance, that the assessment carried out by the Applicant is reasonable against the information available, sufficient to understand the impacts of the Proposed Development on climate and is therefore compliant with the Environmental Impact Assessment Regulations.

3.10.41. As set out in section 3.2 above, over the whole life of the Proposed Development, there would be a significant beneficial effect due to carbon captured in the operational phase. However, the generation of emissions would be a disbenefit of the Proposed Development, even if substantially offset by the overall reduction in emissions predicted to be achieved.

3.10.42. The ExA considers that the Applicant has taken reasonable steps to reduce the GHG emissions in accordance with NPS EN-1 (2011) and NPS EN-1 (2024).

3.10.43. The ExA is satisfied that the Proposed Development would accord with the guidance in the relevant NPSs and would be in accordance with the UK's commitments under the Climate Change Act 2008 (as amended) and the Paris Agreement 2015.

3.10.44. GHG emission impacts of the Proposed Development are considered a minor consequence and, as a result, carry little negative weight in the planning balance.

3.11. ECOLOGY AND BIODIVERSITY

INTRODUCTION

3.11.1. This section considers the effects of the Proposed Development on biodiversity and the natural environment. It includes effects on protected species and consideration of sites of national, local and regional interest. The effects on European sites in the context of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) are separately considered in Appendix C of this report although there are some linkages with the content of this section.

POLICY BACKGROUND

3.11.2. Paragraph 5.3.3 of the Overarching National Policy Statement for Energy (NPS EN-1 (2011)) states that where the development is subject to Environmental Impact Assessment (EIA), the Applicant should ensure that the Environmental Statement (ES) clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.

3.11.3. Paragraph 5.3.7 of NPS EN-1 (2011) states that development should aim to avoid significant harm to biodiversity and geological conservation interests. It states that the Secretary of State (SoS) should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.

3.11.4. Paragraph 5.3.4 of NPS EN-1 (2011) states that the Applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests. Paragraphs 5.3.15 and 5.3.19 state that the SoS should maximise opportunities for building-in beneficial biodiversity or geological features, using requirements or planning obligations where appropriate.

3.11.5. NPS EN-1 (2024) sections 4.6 and 5.4 frame the emergence of biodiversity net gain (BNG) and how this would apply to the national infrastructure regime once BNG becomes mandatory for projects in November 2025.

3.11.6. The Local Impact Reports from the local authorities identify a number of policies related to ecology and biodiversity matters, giving local effect to national policies in terms of conservation, priority species and protection for the natural environment. These are listed in Appendix A of this Report and have been considered throughout this section.

THE APPLICATION

Baseline

3.11.7. ES Chapter 6 [APP-048] assessed the effects of construction, operation and decommissioning on the natural environment. A number of supporting figures and appendices were also submitted including a Preliminary Ecological Appraisal (PEA) and a number of ecological surveys, a full list of which can be found in Table A1 of Appendix A of this report.

3.11.8. The key measures being undertaken to mitigate and compensate the effects of the Proposed Development on habitats and the species they support were contained in an Outline Landscape and Ecology Management Plan (OLEMP) [APP-127] alongside numerous written commitments within the Construction Environmental Management Plan (CEMP) [APP-068]. The Applicant also submitted a Biodiversity Net Gain Assessment (BNGA) [APP-125]. All these documents were updated during the course of the Examination with the final versions being (OLEMP), (CEMP), (BNGA).

3.11.9. ES Chapter 6 detailed the analysis and assessment of likely significant effects (LSEs) predicted to arise from the Proposed Development on the following categories of ecological receptors:

- Statutory designated sites.
- Non-statutory designated sites.
- Habitats of principal importance and species of principal importance.
- Protected species and notable habitats and species.

3.11.10. The PEA was informed by an ecological desk study, a Phase 1 habitat survey and a protected/ notable species assessment for species identified in the survey area. Protected species surveys were carried out in relation to bats, otter, water voles, badger, reptile and breeding and wintering birds.

Construction Phase

3.11.11. The ES assumed the effects of decommissioning to be no worse than those of construction. It identified that likely effects from construction and decommissioning include disturbance and clearance of habitats, disturbance to protected species and the risk of water borne pollutants from plant and machinery.

3.11.12. Mitigation would be carried out to reinstate, create or enhance habitats within the Order Limits as set out in the OLEMP. Measures would also be put in place to manage and mitigate effects on protected and notable species during site clearance, construction and decommissioning activities. These measures are set out in the CEMP [APP-068], which is secured under Requirement (R) 5 in the draft Development Consent Order (dDCO) [APP-006]. The Applicant would also seek to provide 10% BNG for the areas where permanent above ground infrastructure would be proposed, as set out in the OLEMP secured under R11 of the dDCO.

3.11.13. Following the implementation of mitigation measures, set out in section 6.8 of ES Chapter 6, the Applicant considered that during construction there would be no significant effects on statutory designated and non-statutory designated sites, otters, reptiles or amphibians.

Operational Phase

3.11.14. ES Chapter 6 [APP-048, Table 6-13] establishes the likely effects from operation to include habitat loss, visual disturbance from plant and lighting, noise and emissions. In all instances the Applicant considers that non-significant (negligible) effects would occur during the operation of the Proposed Development to all and any ecological receptors.

3.11.15. No specific additional mitigation was proposed for the operation phase [APP-048, Paragraph 6.8.4] but good practice safeguarding measures were advocated including, for example, providing toolbox talks relating to wildlife and retention of brash piles over winter for hedgehogs. The Applicant anticipated that there would be no significant adverse effects during operation on statutory designated and non-statutory designated sites, habitats, otter, vascular plants and fish.

ISSUES CONSIDERED DURING THE EXAMINATION

3.11.16. The five Local Impact Reports (LIRs) generally confirmed that the surveys and assessments which had been completed were undertaken using appropriate methods. Aside from East Lindsey District Council (ELDC) raising concerns about the reptile surveys being out of date [REP1-053] and North East Lincolnshire Council (NELC) requiring further investigation into chalk streams and blow wells [REP1-064], there was consensus among the LIRs that the information in ES Chapter 6 was sufficiently detailed, with an appropriate approach by the Applicant towards avoidance and mitigation measures. The aforementioned issues are discussed in the relevant sections below.

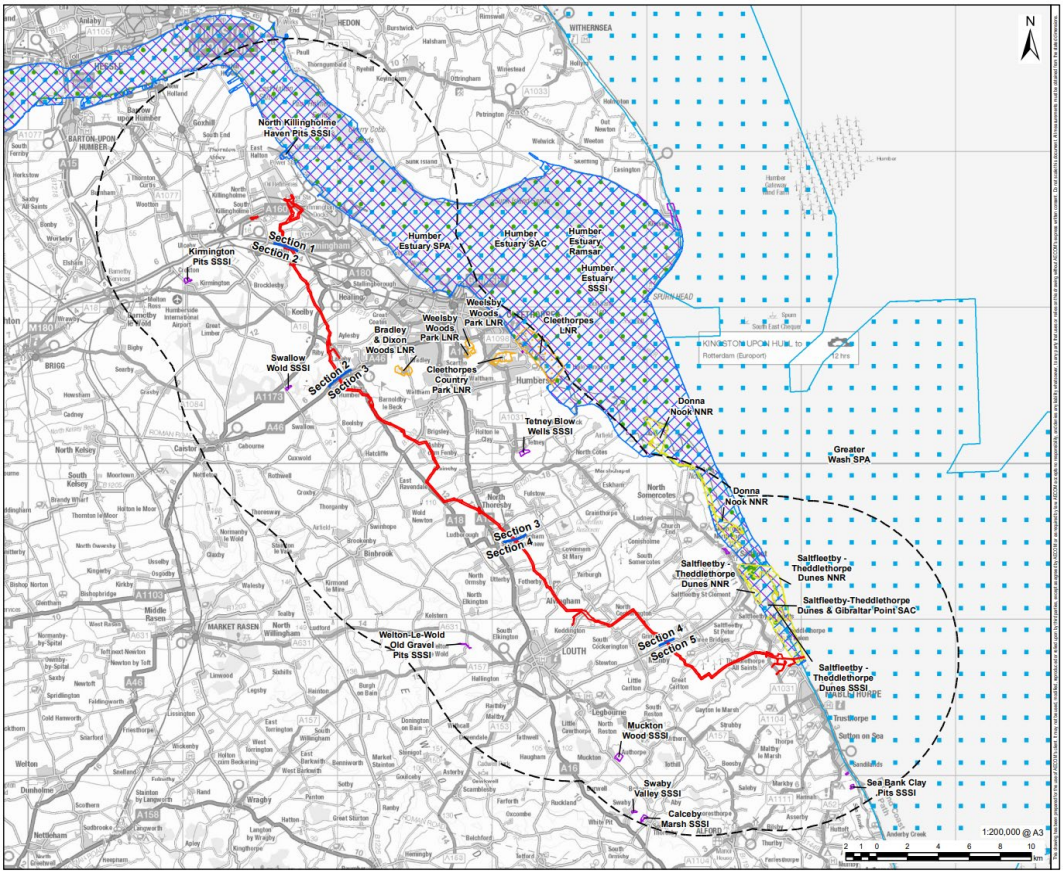
Statutory Designated Sites

3.11.17. In proximity to the Order limits are a number of statutory designated sites. Principally, though not exclusively, the designations relate to the Humber Estuary, which is a Special Protection Area (SPA), Special Area of Conservation (SAC), a Site of Special Scientific Interest (SSSI) and designated Ramsar site.

3.11.18. The impacts of the Proposed Development on internationally designated sites are considered in greater detail in Appendix C and summarised in Chapter 4 of this Report. Therefore, this section focuses primarily on nationally designated and non-statutory designated sites.

3.11.19. The figure below depicts the designated sites in relation to the site location (extract from [APP-048]).

Figure 3: Statutory designated sites in relation to the Order limits



3.11.20. In its Relevant Representation (RR) [RR-073], Natural England (NE) only had one point of dispute with the Applicant's conclusions. This dispute focused on the effects upon the Humber Estuary SSSI, although the issue overlapped considerably with the effects being considered upon the SPA and SAC. The issue related to breeding and foraging birds, primarily focused on potential loss upon functionally linked land caused by construction disturbance, visually and audibly.

3.11.21. The Applicant provided a revised Habitats Regulation Assessment (HRA) at Deadline (DL) 2 [REP2-024] providing clarification for NE on several points. However, the Applicant admitted orally that matters regarding the SSSI had been somewhat overlooked during the Examination due to the focus on the HRA [EV9-003] [REP4-052 Paragraph 1.6].

3.11.22. When specifically asked by the ExA about impacts on the SSSI, NE confirmed that there was a strong linkage and overlap between the concerns on the SSSI and the concerns regarding the SPA designation [REP5-083]. In essence, the concerns were the same for both. NE confirmed at DL6 that, following the Applicant's progress on the HRA and the mitigation secured in the CEMP, there were no residual issues regarding the integrity or protection of the SSSI [REP6-062].

3.11.23. In addition, NE and the Applicant acknowledged that Article 19 of the dDCO does not seek to disapply the requirement of the Wildlife and Countryside Act for statutory undertakers to seek Assent where works could impact a SSSI (section 28H). As such, any additional works to survey and investigate the land which could affect the integrity of a SSSI would still require a notice for Natural England's Assent [REP5-083, Q2.8.6]. However, NE raised this again at DL6 as a concern, wishing the

dDCO to be clear that any works to the SSSI would be subject to the provisions of the Wildlife and Countryside Act [REP6-062, page 3 of 4].

3.11.24. The Applicant responded that Article 19 (now article 20) could not be interpreted as disapplying the provisions of the Wildlife and Countryside Act 1981 [REP7-018, Table 2-2, 2.2.8]. Nonetheless, the Applicant would raise no objection to the Article being amended by the SoS should the need be felt to do so.

3.11.25. The ExA recognise the role of NE and that all matters relating to nationally designated sites are agreed with the Applicant [REP6-028]. There is no substantive evidence before the Examination to dispute this position, or to disprove the Applicant's assessments in this regard.

3.11.26. With respect of the wording of Article 19, the final version provided by the Applicant does not disapply the Wildlife and Countryside Act 1981. No other article within the dDCO disapplies the provisions in that Act. The ExA is confident that the wording would not give the Applicant the authority or ability to carry out works within or affecting a SSSI without first having obtained the necessary consents. The integrity of the SSSI would therefore be preserved.

3.11.27. The mitigation measures set out in the CEMP, secured by R5 in the dDCO, emerging from the HRA process would be effective for the SSSI as well. The ExA is satisfied suitable mitigation exists to avoid or minimise the interference and disturbance with nationally designated habitats.

Non-statutory designated Sites

3.11.28. NELC [REP1-064] noted that the Proposed Development would route through a Site of Nature Conservation Interest. However, no further comments were made regarding the impacts upon this designation, with the Council in agreement with the Applicant that sufficient mitigation was contained within the CEMP [REP1-064] [REP7-004].

3.11.29. In relation to NELC's concerns regarding chalk streams and blow wells (a blow well outflows in the coastal plain as opposed to a spring found at the bottom of a hill or slope), the Applicant and NELC informed the Examination that both features were indeed present in watercourses within the Order limits [REP4-094]. NELC requested a 10-metre buffer zone around each blow well feature and potential improvement works to contribute towards biodiversity net gain. In response to question Q2.8.1 [PD-021], the Applicant responded to confirm the CEMP had been amended with a new measure (B39) that would implement and secure NELC's requests [REP5-063, Q2.8.1].

3.11.30. The ExA is content that adequate assessment and mitigation has been adopted by the Applicant in respect of non-statutory designated sites as well as features of ecological and geological interest.

Protected species and habitats

3.11.31. Natterjack toads are afforded protection under the Habitats Regulations. The Applicant reported that the species was listed as being present within the Saltfleetby-Theddlethorpe dunes SSSI to the southeast extent of the Order limits, though found that there would not be any impacts on the species because the dune habitats would remain unaffected by the Proposed Development [APP-048, Paragraphs 6.5.81 and 6.5.82].

3.11.32. The ExA queried the ES findings, with the Applicant responding that there was a general absence of natterjack toad in the area and there was little evidence that noise or vibration would be an adverse impact on the species [REP1-045, Q1.8.3].

3.11.33. Interested Parties (IPs) however were insistent that the species were present on the fields immediately surrounding the Dune Valve Station that, although an existing structure in connection with the Lincolnshire Offshore Gas Gathering System (LOGGS) pipeline, would require some element of construction work to bring into operational use [REP1-119] [REP1-140]. The works, the IPs alleged, would directly disrupt the habitat for the natterjack toad because whilst construction traffic would use the farm track around the outside of the relevant fields where such species were believed to be present, the installation of the monitoring system for the LOGGS would be directly through those same fields causing direct impacts.

3.11.34. The Applicant conceded in a revised HRA [REP4-017, Paragraph 6.2.98] that natterjack toad habitat was indeed present and directly affected by the Proposed Development. Mole drilling would be used to install an electrical connection alongside the LOGGS to the Dune Valve Station and there would be the potential for machinery to encroach onto habitat used by natterjack toad. The Applicant's mitigation for this was for an ecological clerk of works to undertake a walkover of the area prior to commencement and, if a toad were found within the works area, a licence would be sought from NE [REP5-063, Q2.12.4].

3.11.35. NE, whilst noting the availability of the licencing regime, requested further detail and assessment to be undertaken [REP4-093]. The Applicant provided a further revised HRA [REP5-012] and added measure B40 in the CEMP mitigation register [REP5-067], providing a working method statement for habitat manipulation. The Applicant concluded the direct effects on the species, together with temporary habitat loss, would be limited in extent and duration. NE latterly confirmed the approach of the Applicant in this regard was acceptable [REP6-062].

3.11.36. In other respects, ELDC highlighted that the reptile surveys used to inform the ES had been undertaken in 2021 and were out of date [REP1-057]. When queried about this, the Applicant responded to state that the 2021 surveys showed that there were no protected species of reptile in the Order Limits. The Applicant would prepare a reptile method statement and further surveys will be undertaken before construction commenced to check that there are no protected species of reptile, in accordance with R12 of the dDCO [REP4-056].

3.11.37. No other concerns regarding any specific protected species, scoped by the Applicant in the ES, or the mitigation measures related to them were raised by any IPs.

3.11.38. The ExA is satisfied that information on protected species in the ES is robust and that appropriate mitigation measures have been secured in the final versions of the CEMP and the OLEMP. Pre-construction surveys would take place under R12 of the dDCO, informing any changes in the baseline and any revisions needed to the mitigation secured in R5 and R11.

Biodiversity Net Gain

3.11.39. Several IPs raised general concerns regarding impacts and loss of wildlife, landscape and the countryside (for example [RR-028] [RR-094]). In a more specific context, the LIRs [REP1-053] [REP1-058] [REP1-062] [REP1-064] and REP1-066] all called for biodiversity net gain (BNG) proposals to be developed further. NE [RR-

073] have recommended 10% BNG across all biodiversity types should be provided, being secured by a suitably worded requirement in the dDCO.

3.11.40. The Applicant had submitted an initial BNGA [APP-125] and a draft net gain strategy [APP-126] with the application. However, the Applicant reminded the Examination throughout that delivery of biodiversity net gain was not yet mandatory on national infrastructure projects and therefore any current proposed contribution was purely voluntary [REP1-045, Q1.8.12].

3.11.41. In short, the Applicant's BNG proposal is for a voluntary delivery of 10% net gain in biodiversity relating to the permanent habitat losses at the Immingham Facility, Theddlethorpe Facility and Block Valve Stations. This is not a 10% gain in respect of the entire Order limits or the whole pipeline construction corridor, which the Applicant considers is disproportionate [REP1-045]. The Applicant submitted that the OLEMP contained suitable security and robustness to delivery on the 10% BNG commitment and there was no need to write another requirement into the dDCO to secure this. Notwithstanding, draft wording was provided, on a without prejudice basis, for such a requirement [REP1-045, Q1.8.12].

3.11.42. Whilst the ExA did not include the wording for such a requirement in its proposed schedule of changes to the dDCO [PD-020], questions were issued requesting all the local authorities to update their advice in respect of the Applicant's stated position [PD-021, Q2.8.2 and 2.8.3].

3.11.43. Lincolnshire County Council (LCC) referred to Section 4.6 of NPS EN-1 (2024) that emphasises opportunities should be sought for net gains, requesting a Requirement be added to secure BNG in light of the strengthened biodiversity duty originating in the Environment Act 2021 [REP5-078]. NELC responded to state that BNG is not required for the project because of the exemption of NSIPs from the BNG regime until 2025 [REP5-085]. However, NELC felt that, notwithstanding the content of the OLEMP, there was insufficient evidence to show how measurable gains would be delivered. Other IPs were content regarding the drafting of the OLEMP and that the intentions for BNG were contained in that document [REP5-076] [REP6-063].

3.11.44. The ExA recognise that there is increasing policy support for BNG and a general move towards greater provision in all developments. Nonetheless, for nationally significant infrastructure projects, mandatory BNG is legislated to become effective in November 2025 at the earliest. Therefore, there is nothing to compel the Applicant to provide BNG at all.

3.11.45. Notwithstanding, the ExA note the Applicant's voluntary offer of 10% BNG to be provided to compensate for losses at areas where above ground infrastructure would be built. Given the transitory nature of the construction works to lay the gas pipeline, construction, the level of BNG offered by the Applicant appears fair and proportionate. This is pertinent given most of the land is currently in arable agricultural use and would be reinstated as such post-construction.

3.11.46. The ExA recognises the direction of travel for securing BNG and taking opportunities to enhance the chances for biodiversity to recover, as advocated in NPS EN-1 (2024). Nonetheless, given the circumstances, the ExA does not recommend that a further Requirement is inserted into the dDCO for BNG purposes. The content of the OLEMP, secured under R11 of the dDCO, would be sufficient for the Applicant to deliver, monitor and maintain the net gains promised.

CONCLUSIONS

3.11.47. The ExA has given careful consideration to the views of IPs, to the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, NE. The ExA is satisfied that during the Examination, the Applicant has adequately addressed those concerns.

3.11.48. Whilst acknowledging that there would be adverse impacts on some habitats and protected species during construction, these would be short term until mitigation measures have reached their target condition.

3.11.49. In the long term, during the operational phase, the ExA considers that adequate mitigation measures would be put in place to ensure that there would be no significant residual effects on ecology and biodiversity and the creation/ enhancement measures secured in the OLEMP would result in a beneficial effect for some species. Furthermore, the ExA considers that the BNG proposed would represent a modest benefit which weighs positively in favour of the Proposed Development.

3.11.50. Given the evidence presented, the ExA considers that biodiversity and ecology have been adequately assessed and that the policy requirements of NPS EN-1 (2011) and NPS EN-1 (2024) are met. The rDCO would adequately secure the mitigation necessary to address any effects. Overall, the ExA considers that the adverse impacts, albeit tempered by mitigation, weighed with the BNG arising from the Proposed Development would be of equal consequence. As such the ExA considers the matters to weigh neither for or against in the planning balance.

3.12. GEOLOGY AND LAND USE

INTRODUCTION

3.12.1. This section covers the effects of the Proposed Development on soils and land use. It includes the use of agricultural land, including the Agricultural Land Classification (ALC) and the use of best and most versatile (BMV) agricultural land as well as soil management. Other geological matters have been considered but none emerged as being important and relevant.

POLICY BACKGROUND

3.12.2. Section 5.10 of the Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) considers land use matters including open space and green infrastructure. Section 5.10 of NPS EN-1 (2011) also refers to the re-use of previously developed land for new development as being able to make a major contribution to sustainable development by reducing the amount of countryside and undeveloped greenfield land that needs to be used.

3.12.3. Paragraph 5.10.5 requires the Environmental Statement (ES) to identify existing and proposed land uses near the project, including the effects of preventing a development or use on a neighbouring site from continuing.

3.12.4. Paragraph 5.10.8 of the 2011 NPS EN-1 (2011) provides that applicants should seek to minimise impacts on the best and most versatile agricultural land, whilst paragraph 5.10.15 states that "*the Secretary of State should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification… it should give little weight to the loss of poorer quality agricultural land."* This approach is repeated in NPS EN-1 (2011) at paragraph 5.11.12 and at

paragraph 5.11.14, it encourages applicants to minimise potential land contamination through their Outline Soil Management Plan (OSMP). The OSMP sets out the principles and procedures for good practice and mitigation in the soil handling, storage and reinstatement of the Proposed Development.

3.12.5. The Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) contains similar advice and also advises that the Secretary of State (SoS) should ensure that applicants do not locate their scheme on BMV agricultural land without justification. It advises where schemes are to be sited on BMV agricultural land the SoS should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

THE APPLICATION

Baseline

3.12.6. The Applicant provided a detailed assessment of the impact on soils at the time of the Application. Chapter 10 of the Environmental Statement (ES) [APP-052] considered the potential loss of agricultural land and considered all the land within the Development Consent Order (DCO) Limits with the exception of areas considered to be marine or intertidal. This resulted in an area of approximately 613.99 hectares being identified as potentially being affected by the Proposed Development.

3.12.7. The ES included an analysis of the study area as a whole, then dividing the length of the Proposed Development into five sections based on key road intersections. It was emphasised at paragraph 10.5.5 that the study area was actually considerably larger than the actual area of disturbance as this would usually be confined to a 30-metre (m) corridor plus temporary accesses.

3.12.8. The Applicant collected details of the ground conditions from geological maps and ALC mapping, aerial photography and the National Soil Map of England and Wales which provides a digitised soil association data at a 1:250,000 scale. The published ALC data used in the Applicant's assessment were taken from detailed site surveys where available and the provisional ALC mapping data as well as climatic data from the Met Office.

3.12.9. Chapter 10 of the ES provides a detailed assessment of the baseline ALC and soils data for each of the five sections with a summary in tabular form in each case. This detail was condensed in tabular form at Table 10-23 of Chapter 10 [APP-052] which provided a comparison of results from the study area with the proposed working area, as extracted below.

Table 2: Proportion of ALC grades in the Order Limits

	DCO Site Boundary		Proposed Working Area	
ALC Grade	**Area (ha)**	**Percentage**	**Area (ha)**	**Percentage**
Grade 1 (Excellent quality)	0.0	0.0	0.0	0.0
Grade 2 (Very Good quality)	76.54	12.5	21.29	12.5
Grade 3 (Good to Moderate quality)	492.49	80.2	142.84	84.0
*Subgrade 3b (Moderate quality)	1.37	0.2	0.44	0.3
Grade 4 (Poor quality)	0.0	0.0	0.0	0.0
Grade 5 (Very Poor quality)	0.0	0.0	0.0	0.0
Non-agricultural / Urban	43.58	7.1	5.38	3.2
TOTAL	613.99	100.00	169.95	100.0
Taken from the Provisional ALC data set for Yorkshire and the Humber (Ref. 10-26) and revised to reflect subsequent changes in the extent of agricultural land due to development. *From the detailed ALC survey (Ref. 10-30)				

Construction Phase

3.12.10. The Applicant acknowledged at paragraph 10.7.3 of ES Chapter 10 [APP-052] that there was the potential loss of land available for agriculture through the construction of permanent infrastructure or the establishment of permanent landscaping or habitat creation. Paragraph 10.7 continues by considering the possible impacts of construction by the inappropriate management of soils and the potential for loss of soil functions.

3.12.11. The permanent loss of agricultural land was considered to be limited only to the locations of the three block valve stations following the Applicant's change request [AS-063], within which the location of the Theddlethorpe Above Ground Infrastructure (TAGI), was confirmed as being on the site of the Theddlethorpe Gas Terminal (TGT) as opposed to being on a greenfield site. The development of the block valve stations would result in the permanent loss of 0.2 hectares of Grade 2 and 2.7 hectares of subgrade 3a BMV land as set out at paragraph 10.5.73 of ES Chapter 10 [APP-052]. Any land lost to construction of the pipeline would be temporary, with the intention to restore the land to operational agricultural condition once construction had ceased.

3.12.12. The Applicant submitted an OSMP at the onset of the application to provide management and mitigation for soil handling, spoil storage and soil restoration post-construction [APP-096].

Operational Phase

3.12.13. The assessment [APP-052] concluded that whilst both BMV and non-BMV land would be impacted by the Proposed Development, the majority of these impacts would only be temporary and for the duration of the construction phase. The proposal is to reinstate all land within the pipeline corridor together with temporary

compounds and accesses immediately following construction to their original condition and land use.

3.12.14. The most likely impact on soils during the operational phase would arise from maintenance and emergency repairs to the pipeline. However, the Applicant submitted at paragraph 10.7.25 of Chapter 10 of the ES that such activities would be limited and of a significantly smaller scale than during construction.

ISSUES CONSIDERED DURING THE EXAMINATION

Timing of ALC Survey

3.12.15. Natural England (NE) would have preferred a full ALC survey to have been undertaken before any Development Consent Order (DCO) consent was granted. However, in view of the Applicant's commitment to undertake the survey after consent, plus the small permanent land take and commitments to the restoration of the pipeline corridor [REP6-050, Measures F2, F12 and F14], NE accepted [REP6-062] the position as set out in the draft Development Consent Order (dDCO). The ExA has no concerns in this regard and notes that the Construction Environmental Management Plan (CEMP) secures the mitigation that NE considers necessary [REP6-050].

Soil Handling

3.12.16. NE also requested [REP4-093] further detail concerning the arrangements for soil handling in wet conditions. As a result, the Applicant updated the OSMP [REP5-073] and introduced paragraphs 4.2.7. and 4.2.8. to meet the concerns of NE. Whilst NE emphasised that their general standpoint remained that soils should only be handled when dry, they accepted the Applicant's position and that soils would be returned to their pre-development ALC grading on the basis of the measures described in the OSMP being successfully implemented [REP6-062].

3.12.17. The Applicant updated the various commitments relating to agriculture and soils throughout the Examination and these were contained in section F of the updated draft CEMP which was submitted at DL6 [REP6-050].

Loss of BMV agricultural land

3.12.18. In the Local Impact Report (LIR) [REP1-058], Lincolnshire County Council (LCC) raised concerns over the possible loss of BMV land. LCC considered that the proposed development would result in the loss of use and disturbance to large areas of BMV agricultural land during the construction phase and also the potential for disturbance during the decommissioning phase. The Council welcomed the Applicant's initial OSMP [APP-096] but considered that there would be a negative residual impact on BMV land, which would be contrary to the requirements of NPS EN-1 (2011) and also the Council's own policies S67 and SP10.

3.12.19. This issue was raised in Q1.11.5 of ExQ1 [PD-010]. Submissions were also received from West Lindsey District Council (WLDC) [REP1-066] who mentioned the loss of use and disturbance in large areas during the construction period of BMV agricultural land and commented that permanent loss would occur through the development of the TAGI and its new access road as well as the three block valve stations. WLDC concluded at paragraph 3.36 that there would be neutral impact upon BMV land within the Council's area.

3.12.20. The Applicant's approach was clarified when the second Change Request was lodged on 19 June 2024 [AS-063 to AS-084]. This confirmed that the TAGI would be constructed on the TGT site and, therefore, the option to develop the TAGI on agricultural land was being removed from the dDCO entirely. As a result, this removed from the application the identified significant effects associated with the permanent loss of BMV land. This limited losses of BMV solely to the areas where block valve stations would be located that, in general terms, were in discrete locations at the edges of fields.

3.12.21. The OSMP [APP-096] was updated [REP5-073] during the Examination in response to comments from Natural England (NE) and the Environment Agency (EA). There were no further substantive comments made for the remainder of the Examination regarding the content or construct of this document.

3.12.22. So far as the pipeline runs through the West Lindsey, WLDC consider that there is neutral impact upon BMV land that would be short term.

3.12.23. In response to the Examining Authority (ExA) queries, the Applicant confirmed that any marker posts used above ground to denote the route and positioning of the pipeline would be in field margins so as to avoid impacts on agricultural activity [REP1-045, Q1.7.33].

3.12.24. Many Affected Persons (APs) had raised concern about whether their farming practices could continue after the Proposed Development had been constructed and the haul roads removed from the land (for example, [RR-004] [RR-099])[AS-056 to AS-058]). The Applicant also stated orally that the target for pipeline burial would be that the top of the pipe would be 1.2m below the surface of the ground, allowing farming activities to continue on the reinstated soil above [EV9-004]. If the target depth could not be achieved, the limits of deviation in the dDCO would allow a reduced depth of 0.7m to be constructed. In such instances, the Applicant would notify the agricultural landowners and use restrictive covenants to prevent certain activities from occurring, although it was anticipated that normal practices such as ploughing and cultivation would not be affected. The Applicant maintained that agricultural practices and use of the land could continue [REP4-052]. The ExA noted that the concerns about the impact on farming practices which were raised early in the Examination [AS-056 to AS-058] were withdrawn towards the end of the Examination [REP6-067 to REP6-069].

3.12.25. The majority of Affected Persons (farmers) removing their relevant representations by the close of the Examination (see Appendices E and F). Having considered the matters raised, the ExA does not consider that there are any significant points of objection to the Proposed Development arising from its approach to soils or agricultural land use in the operational phase. While the loss of BMV is regrettable, the ExA is satisfied that the Applicant has committed to restoration of BMV soils and that disposal would be minimised, and that this approach is adequately secured on OSMP under Requirement (R) 5 of the recommended Development Consent Order (rDCO).

Decommissioning

3.12.26. Natural England (NE) made representations at Deadline (DL) 4 [REP4-093] concerning the intention to ensure that all BMV land, upon decommissioning, would be returned to its original ALC grade. NE recommended that this should be specifically included within the Outline Decommissioning Strategy [APP-072], and all relevant mitigation measures secured within the dDCO. The ExA asked about

this in their ExQ2 [PD-021] and the Applicant agreed to make this commitment and updated the Decommissioning Strategy [REP5-069]. This was also incorporated into the Construction Environmental Management Plan (CEMP) [REP5-067] and secured under R16 of the dDCO [REP6-002].

3.12.27. East Lindsey District Council (ELDC) also raised issues concerning the decommissioning and in the LIR [REP1-053] asked for additional information by way of a detailed hydrogeological risk assessment. This was provided by the Applicant [REP5-071]. In the initial assessment [APP-094] the Applicant confirmed that the baseline assessment undertaken identified that the Order Limits passed through a number of groundwater abstraction Source Protection Zones and Drinking Water Groundwater Safeguard Zones. The risk assessment was considered further in the updated Hydrogeological report [REP5-071] but although a sensitive receptor was identified, the potential risk was considered to be low [REP5-071, Table 4].

3.12.28. At the conclusion of the Examination, there were no recorded points of difference with any IP, and the Statements of Common Ground with NE and ELDC confirm the same [REP6-017] [REP6-028].

3.12.29. The ExA is satisfied that suitable assessment has been undertaken by the Applicant in the ES and appropriate provisions have been made in the dDCO to ensure the soil resource is managed effectively.

CONCLUSIONS

3.12.30. Taking into account all the above matters, the ExA conclude that the Applicant has had adequate regard to land use impacts. The ExA is satisfied that the control and management measures included in the rDCO would be sufficient to mitigate any negative impacts to an acceptable level. The mitigation measures and commitments contained in the updated CEMP [REP6-050] secured by R5 in the dDCO would be sufficient for the project's purposes.

3.12.31. The evidence indicates a moderate adverse effect in relation to BMV but the ExA's view is that this is justified and could be managed to an acceptable level. In these circumstances, and with the adverse impact resulting from the effect on BMV, geology and soil matters carry little negative weight in the planning balance against the Order being made.

3.13. MINERALS AND WASTE

INTRODUCTION

3.13.1. This chapter briefly summarises Examination matters relating to minerals and waste effects from the Proposed Development, few significant issues were identified. The one important and relevant issue in the mind of the Examining Authority (ExA) was the interface between planning conditions requiring restoration of the Theddlethorpe Gas Terminal (TGT) to farmland and the Development Consent Order (DCO).

POLICY BACKGROUND

3.13.2. Policy on waste is intended to protect human health and the environment by producing less waste and using it as a resource. Where this is not possible, regulations ensure that waste is disposed of in a way that is least damaging to the environment and to human health according to the Overarching National Policy Statement for Energy (NPS) EN-1 (2011), Paragraph 5.14.1).

3.13.3. Paragraph 5.14.2 of NPS EN-1 (2011) sets a waste hierarchy approach to manage waste. Paragraph 5.14.6 states that the applicant should set out arrangements for managing any waste produced.

3.13.4. In respect of minerals and resources, paragraph 5.10.9 of NPS EN-1 (2011) and paragraph 5.11.19 of NPS EN-1 (2024) both include that: *"Applicants should safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place."*

3.13.5. The matter of minerals is considered further in NPS EN-1 (2011) and specifically in paragraph 5.11.28 of the Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) where it states: *"Where a proposed development has an impact upon a Mineral Safeguarding Area (MSA), the Secretary of State should ensure that appropriate mitigation measures have been put in place to safeguard mineral resources."*

3.13.6. The Planning Practice Guidance (PPG) for Minerals outlines the consideration local planning authorities should give towards mineral safeguarding, planning for aggregate minerals and planning for industrial minerals. This includes guidance on considerations to be included within development planning applications.

3.13.7. Minerals can only be worked (i.e., extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited. This means that it is necessary to consider protecting minerals from non-minerals development. It also has implications for the preparation of minerals plans and approving non-mineral development in defined mineral safeguarding areas. In this vein, the Local Impact Report (LIR) of Lincolnshire County Council (LCC) makes reference to the Minerals and Waste Local Plan June 2016 that details a number of local policies regarding the safeguarding of mineral resources and existing mineral working sites [REP1-058, paragraph 5.11].

THE APPLICATION

3.13.8. The Applicant's assessment in the Environmental Statement (ES) Chapter 18 [APP-060] identifies the potential impacts of the Proposed Development on material resources, minerals and waste facilities. The supporting appendices are listed in Table A1 in Appendix A of this Report.

Construction Phase

3.13.9. The baseline scenario involves no construction activities and therefore the construction baseline is zero emissions and zero waste.

3.13.10. For construction, the Applicant identifies [APP-060, Table 18-21] the likely sources of waste arisings from the Proposed Development that are largely inert soils, aggregates and infrastructure removed during works. The Applicant estimates a 5% wastage rate across the project amounting to 1,700 tonnes of material (approximately 371 metre^3 (m^3)) requiring offsite disposal. A worst-case scenario, where all waste is disposed of to landfill has been applied. This equates to between 0.0003% of the 127 million m^3 of inert and non-hazardous landfill capacity within the waste management study area. Following the adoption of the Waste Hierarchy [APP-060, Figure 18-4], the Applicant predicts 90% (by weight) of non-hazardous construction waste could be recovered.

3.13.11. The North East Lincolnshire Local Plan 2013 to 2032 contains a policy map (Ref 18-27) that shows the extent of existing MSAs for sand and gravel. The Applicant identifies that the DCO site boundary passes through one such MSA to the west of Laceby. Notwithstanding, the Applicant submits [APP-129, Paragraph 7.25.6] that it was not possible to route the pipeline avoiding all of the MSAs in the area without impacting on other sensitive receptors.

3.13.12. The Applicant acknowledges that, during construction and operation of the Proposed Development, any mineral along its land-take would be sterilised including in the MSA. However, it is submitted that minerals could be extracted from the MSA following the decommissioning of the development, thus representing a temporary effect.

ISSUES CONSIDERED DURING THE EXAMINATION

Waste Management

3.13.13. Lincolnshire County Council (LCC), in the Local Impact Report (LIR) [REP1-058, Paragraph 15.12] highlighted concerns with the Applicant's assessments, requiring further justification for conclusion that the impacts on waste management would not be significant. The concerns related primarily to the methodology, baseline survey data, assumptions being derived and whether or not the Proposed Development would align with the waste hierarchy and proximity principles.

3.13.14. The Applicant submitted a revised ES Chapter 18 at Deadline (DL) 2 [REP2-010] and provided additional comments [REP2-031] covering:

- The study areas being agreed at scoping stage, defined in accordance with IEMA guidance.
- Total estimated non-hazardous and inert construction waste amounted to 2,571m^3.
- In a worst-case where the full volume of waste goes to landfill, this amounts to 0.03% of capacity in Lincolnshire.
- Outcomes of assessments would not change if different parameters applied.

3.13.15. Additional details on the estimated volumes of waste as a result of construction activities as well as the split of waste types into inert, non-hazardous or hazardous, how specific materials will be recycled and diverted from landfill would be provided in the contractor's Site Waste Management Plan (SWMP) as part of their Construction Environmental Management Plan (CEMP).

3.13.16. LCC were prompted for a response by the ExA [PD-021]. At DL5, LCC confirmed that the draft CEMP was satisfactory in dealing with waste matters in the pre-construction and construction phases. However, LCC remained concerned that little information had been provided with regard to the operational and decommissioning phases of the project and required further detail on the quantity, type and proposed destination of wastes arising [REP5-078].

3.13.17. The Applicant responded to state that such little waste would be produced during the operational phase that it had been scoped out of the assessment [REP6-043]. In terms of decommissioning, the impact upon landfill sites had also been scoped out of the ES and, in any event, waste disposal for that phase of the project would be managed via a Decommissioning Environmental Management Plan (DEMP) that would be produced under Requirement (R) 16 of the draft Development Consent Order (dDCO).

3.13.18. No other Interested Parties (IPs) raised or sustained substantiated concerns regarding the Applicant's approach, methodology, assessment or conclusions in this respect.

3.13.19. The ExA consider that the Applicant's assessment is robust. The CEMP, to be produced under R5 of the dDCO, would ensure that management of construction waste would be implemented in accordance with the mitigation hierarchy and best practice measures. The ExA accepts that future waste management would be decided through the DEMP, based on whatever legislative and policy requirements are at that time.

Minerals Safeguarding

3.13.20. In North East Lincolnshire the Order Limits pass through an MSA for sand and gravel, covered by local planning policies that seek to prevent sterilisation of a mineral reserve to allow future use. MSAs are areas where there is a known naturally occurring mineral reserve and the purpose of the designation is to safeguard the mineral from sterilisation. The Applicant states it has not been possible to avoid all of the MSAs in North East Lincolnshire due to their number and distribution [APP-129, Paragraph 7.25.6].

3.13.21. The Applicant's position is that MSAs were taken into account at an early stage in the development of the route of the Proposed Development however, in some areas, selecting a route that avoided MSAs would result in different adverse effects on the environment. The Applicant continues that there is a lack of demand for won sand and gravel in the area, reflected in the 2016 North East Lincolnshire Local Plan [APP-129, Paragraph 7.25.11].

3.13.22. The LIR from North East Lincolnshire Council (NELC) [REP1-064] does not reference any MSA or related issues. In response to the ExA's questions [PD-021, Q2.17.1], NELC stated that there were no concerns on the revised ES Chapter 18 nor its conclusions [REP5-085]. No other IPs raised the matter of MSAs or mineral access in general at other stages of the Examination and nothing was directly or indirectly raised by the landowner in this regard.

3.13.23. On a matter of clarification, the ExA queried the Applicant's intention to leave the pipeline in situ during decommissioning and whether this would sterilise the MSA for future generations [PD-021, Q2.17.6]. The Applicant responded [REP5-063] to state that leaving the pipeline in situ would not result in any sterilisation of land, but the decision on decommissioning would be taken at the appropriate time in line with then current best practice and relevant legislation.

3.13.24. The ExA notes there are no outstanding matters reported in the Statement of Common Ground (SoCG) with NELC received, at the close of the Examination regarding the MSA [REP7-004]. The ExA considers the Applicant has demonstrated there were no suitable alternatives for routeing the pipeline away from the MSA, and that any residual impacts are minor. Effective decommissioning would take place in accordance with the Decommissioning Strategy [REP5-069], to be developed under R16 of the dDCO. At the close of the Examination, the ExA remains satisfied that the Proposed Development would not result in unnecessary sterilisation.

Existing Minerals Permission

3.13.25. In the LIR, LCC [REP1-058] stated that the existing TGT was subject to extant planning permissions for mineral extraction. Throughout the various permissions since TGT's construction, a planning condition has been appended requiring that

the use of the land would return to agriculture once the gas extraction works ceased, in accordance with an associated restoration plan to be agreed. In 2020, LCC granted planning permission N/180/02232/19 for prior notification for the TGT's demolition and restoration proposals. Condition 3 of this permission requires the site to be restored to Grade 3 agricultural land following the completion of demolition and remediation works. LCC submitted that these restoration requirements had not been considered in the ES and no proposals to amend the conditions had been incorporated into the dDCO [REP1-060].

3.13.26. The Applicant responded that, if the dDCO was granted and the redevelopment of TGT was pursued, the DCO would supersede any condition to reinstate the land to agriculture on the particular part of the TGT site affected [REP1-045]. In other respects, outside of the Order Limits, the Applicant anticipates the responsibility for land restoration remains with the landowner. The decision to place the Proposed Development on the TGT site was confirmed following the second change request [AS-063].

3.13.27. Nonetheless, the Applicant added a new Article 43 to dDCO at DL3 [REP3-002], (later renumbered to Article 44 at DL5 [REP5-002]) establishing the hierarchy in the planning process and the interactivity of planning permissions with the Proposed Development Order Limits.

3.13.28. The ExA sought views from LCC, and it was said that the article was broadly acceptably drafted except for the use of the term 'adjacent land' in respect of land outside the Order Limits since this would result in land beyond the Proposed Development being prevented from restoration in compliance with the extant planning conditions [EV8-004] [REP4-057]. At DL5 the Applicant and LCC were still in discussion on the wording of the article, though LCC were confident that the matter was minor [REP5-078].

3.13.29. At DL6, the SoCG between the Applicant and LCC recorded a point of difference at the close of the Examination on this point [REP6-015]. In summary, LCC was concerned that using the term 'adjacent land' in Article 44(3) that would conceivably extend the powers of Article 44 beyond the Order Limits and thereby prevent restoration being pursued across the TGT. The Applicant's position is that the Article has a wider application than just at TGT, effective over the whole Order Limits [REP6-043, Q2.17.4].

3.13.30. Firstly, the ExA welcomes the proactive discussion to resolve this issue culminating in the new article being written into the dDCO. The ExA consider this a necessary control to impose and is satisfied that significant agreement has been reached on the wording of the article.

3.13.31. The ExA observe the wording in Article 44(3) and that the power conveyed therein to cease the effect of planning conditions is only applicable where such conditions would be inconsistent with the authorised development. It occurs to the ExA that this would not prohibit restoration of the TGT site outside of the Order Limits to agricultural land unless specific restoration works would jeopardise the construction or operation of the Proposed Development. The ExA consider the likelihood of such conflict to be small since only land within the Order Limits would be required for the delivery of the authorised development. On this basis the ExA does not share LCC's concerns on this matter and believes that sufficient scope for LCC to seek compliance with planning conditions on an extant permission remains.

3.13.32. The ExA therefore recommends that Article 44 is not amended. The provisions would prevent conflict between the Proposed Development and the obligations for the landowner under the extant minerals planning permission.

CONCLUSIONS

3.13.33. The Proposed Development would result in impacts on a designated MSA that may affect the amount of resource able to be worked in the event the MSA was taken forward by a developer. However, the ExA is satisfied that the Proposed Development as a whole would not result in any unnecessary sterilisation of mineral reserves, in accordance with NPS EN-1 (2024) paragraph 5.11.19.

3.13.34. Waste arising from the construction and decommissioning of the Proposed Development would be managed with reference to the waste hierarchy, the latter being subject to any future regulations. The ExA is satisfied that suitable controls are in place to reduce, reuse or mitigate for any waste arisings, in accordance with NPS EN-1 (2011) paragraphs 5.14.1 and 5.14.2, and in compliance with local policies in the Minerals and Waste Local Plan June 2016.

3.13.35. The ExA consider the Applicants final drafting of Article 44 in the dDCO suitably bridges the interface between the Proposed Development and the existing extant planning permissions, without detriment or impediment to either. Further effects on minerals and waste assets are dealt with through provisions in the CEMP [REP6-050] and the DEMP [REP5-069]. In this respect, minerals and waste related matters weighs neither for or against the Order being made in the planning balance.

3.14. OTHER PLANNING MATTERS

INTRODUCTION

3.14.1. Other planning matters are discussed in this section, including socio-economic impacts and cumulative and in-combination effects. A common finding in relation to all such matters is that none give rise to important and relevant considerations for the Secretary of State's decision.

SOCIO-ECONOMICS

The Application

3.14.2. For matters relating to the socio-economic effects of development, section 5.12 of the Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) requires the assessment of a number of relevant impacts including the creation of jobs and training opportunities, any change in local population dynamics which may alter the demand for local services, and the effects on tourism, together with cumulative impacts (paragraph 5.12.3).

3.14.3. In reaching a decision the Secretary of State (SoS) should have regard to the potential socio-economic effects identified by the applicant and from any other sources; give limited weight to assertions of socio-economic effects that are not supported by evidence; and consider provisions and proposals to mitigate effects (paragraphs 5.12.6 to 5.12.9).

3.14.4. The Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) requires a similar assessment but goes further in requiring information on the sustainability of the jobs created, particularly where these will help develop the skills needed for the UK's transition to Net Zero.

3.14.5. The most relevant elements of the application to the consideration of socio-economic matters are contained in Environmental Statement (ES) Chapter 16 [APP-058]. This is supported by the Need Case for the Scheme [APP-131], the Planning Design and Access Statement [APP-129], and the Planning Design and Access Statement Addendum [REP1-049].

3.14.6. The Applicant has assessed the potential effects on jobs and tourism, including the availability of accommodation, and the potential effects on the regional labour market. Social effects have also been assessed with regard to direct effects on economic activity, community infrastructure and the local population.

3.14.7. The Applicant explains that the route of the Proposed Development is largely rural in nature. The Applicant states that some employment will be generated during the construction phase, and this is calculated as 222 jobs (paragraph 16.11.2 [APP-058]) whilst there will be overall benefits to the local economy which are assessed at £4.2 million for the area within a 60-minute drive time. The Applicant also raised training and upskilling opportunities including apprenticeships and overall assessed the socio-economic factors as having a minor beneficial effect.

Examination and Conclusions

3.14.8. The subject of the socio-economic effects received little attention during the Examination and did not receive much coverage in the Local Impact Reports (LIR) raised by the host local authorities, although Lincolnshire County Council (LCC) [REP1-058] at paragraphs 14.4 and 14.8 concluded that there would overall be a positive effect. East Lindsey District Council (ELDC) in their initial submission [RR-031] raised the possible impact that the Proposed Development might have on local tourism.

3.14.9. As for the Interested Parties (IPs), there again were few mentions although the following matters were touched upon in RRs:

- Impact on future use of the Theddlethorpe Gas Terminal [RR-056]
- Concern whether a proposed solar farm could co-exist [RR-086]
- Impact on a glamping pod [RR-014]
- Possible loss of local shoots [RR-066]
- Effect on local garden centre [RR-119]
- Proposals for a pig unit [REP1-123]
- General impact on tourism [RR-044]

3.14.10. Where the representations were raised in the context of possible future uses of land within the Order Limits, this is considered separately in this report in Chapter 6.

3.14.11. As to the other matter, the Examining Authority (ExA) asked about these issues at Q1.15 of ExQ1 [PD-010] and raised concerns in relation to the apparent limited socio-economic benefits of the Proposed Development. The Applicant responded [REP1-045] concerning tourism by referring to their initial assessment [APP-058] which concluded that there would be a negligible effect during construction. As to job opportunities, they referred to the commitment in the draft Construction Environmental Management Plan (CEMP) [REP6-050] to develop a skills, employment and supply chain plan in liaison with the host local authorities. This is Commitment L1 in the draft CEMP. They envisaged 10,000 jobs during the construction phase and 4,000 permanent jobs across a range of industries in the operational phase [REP1-045, Q1.5.6]. The Applicant argued that such growth would be in accordance with local planning policy and there was no suggestion to

the contrary from the relevant local authorities who were in attendance at Issue Specific Hearing (ISH) 1 and ISH2.

3.14.12. The ExA asked at Compulsory Acquisition Hearing (CAH) 2 [EV7-002 to EV7-007] for clarification on the specific benefits that would arise from the Proposed Development. This was raised as Action Point 2 [EV7-008] from the meeting. This request was to allow the ExA to consider the balance of benefits as against impacts from a Compulsory Acquisition standpoint. The Applicant responded [REP4-032] having mistakenly approached their answer whilst considering the planning balance from the socio-economic position. This Position Statement was updated [REP5-058] to reflect the original question but the original response is relevant in considering this assessment.

3.14.13. The Applicant acknowledges [REP4-032, paragraph 4.5] that the benefits are not being delivered from the construction and operation of the pipeline alone. They refer to the wider CCS chain of which the Proposed Development forms part, and the aim to decarbonise the Humber region. The Applicant referred to the recent Hynet pipeline Development Consent Order (DCO) decision where the SoS took into account the economic benefits that would derive from the wider project. In this context, the Applicant submits at paragraph 4.8 of their Position Statement [REP4-032] that "*the socio-economic benefits of the Proposed Development should be afforded great positive weight in the planning balance*."

3.14.14. The ExA is satisfied that the Applicant in the original application documents and ES Chapter 16 adequately assessed the socio-economic impacts of the Proposed Development and provided evidence to support its assessment. The ExA acknowledges that economic impacts are difficult to quantify, however the evidence presented indicates that there would be some moderate positive socio-economic impacts not least in terms of job creation, albeit this would primarily be short term during construction. The ExA also acknowledges that the Proposed Development has the potential to support further economic development in the area given the investment in the Humber region of which the Viking CCS would form a part.

3.14.15. The ExA is satisfied that the Proposed Development would support economic development in the area and would accord with all relevant local plan policies and would also be consistent with NPS EN-1 (2011) and NPS EN-1 (2024). The Applicant originally referred to the Proposed Development having minor beneficial effect although this was elevated to great positive weight in their later position statement [REP4-032]. The ExA disagrees with this later assessment and can see no justification for this suggestion as no additional evidence is provided and the ExA's conclusion is therefore to afford socio-economic factors moderate positive weight in the planning balance.

CUMULATIVE AND IN-COMBINATION EFFECTS

The Application

3.14.16. The Environmental Impact Assessment (EIA) Regulations require an ES to include a project-level assessment of potentially significant effects of a proposed development. The Applicant's assessment of cumulative and combined effects is primarily contained within ES Chapter 20 [APP-062] [APP-117] though supplemented from a highways perspective at Deadline (DL) 2 [REP2-033].

3.14.17. The supporting figures and appendices are listed in Table A1 in Appendix A of this report. The ES examined the cumulative and combined effects of the Proposed Development. It defined both as follows:

- Intra-project combined effects are the interaction and combination of different environmental effects of the Proposed Development affecting the same receptor.
- Inter-project cumulative effects are the combined residual environmental effects of the Proposed Development with a committed project (or projects) affecting the same receptor.

3.14.18. The Applicant's intra-project assessment has concluded that there would be no significant combined effects during either construction or operation of the Proposed Development. The assessment of inter-project cumulative effects has considered other developments within 15 kilometres (km) of the DCO Site Boundary, and identifies potential cumulative effects as follows:

- Temporary adverse (non-significant) cumulative effects associated with noise generated at the Proposed Development and at least one other development;
- Temporary adverse (non-significant) cumulative effects upon local ecological receptors, particularly to birds using the Rosper Road pools up near Immingham;
- Temporary adverse (non-significant) cumulative effect related to traffic movements on the local road network; and
- Beneficial effects related to employment opportunities that will arise during both construction and operation of the Proposed Development along with the other identified developments.

3.14.19. The Applicant concludes that due to the incorporation of both embedded and additional mitigation measures within the Proposed Development and associated with the other identified developments, it is not anticipated that any significant cumulative effects would occur, during either the construction or operational phases.

3.14.20. No further mitigation or monitoring is proposed by the Applicant for the Proposed Development, other than that set out in the ES for the Proposed Development alone.

Examination and Conclusions

3.14.21. There were no challenges from any IPs in respect of the list of projects that had been taken into account in the cumulative effects assessment nor with regard to the Applicant's methodology within the ES.

3.14.22. Lincolnshire County Council (LCC) highlighted that many other nationally significant infrastructure projects were forthcoming within its administrative boundaries, including the Grimsby to Walpole Grid Upgrade project that would potentially have interaction with the Proposed Development [EV9-006]. It was however acknowledged by LCC and the Applicant that the burden of cumulative assessment falls on the future projects and is not necessary for this application.

3.14.23. While undoubtedly the construction and decommissioning of the Proposed Development could cause likely additional effects particularly in relation to ecological, noise, landscape and visual matters, the ExA is nevertheless satisfied that there are not likely to be any significant cumulative or combined effects from construction, operation and decommissioning activities that are worse than the effects of the Proposed Development alone. The recommended Development Consent Order (rDCO) adequately provides and secures mitigation measures to minimise individual and cumulative effects.

3.14.24. The ExA is satisfied that the assessment of cumulative and combined effects accords with the EIA Regulations and relevant National Policy Statements (NPSs). The effect in the planning balance is neutral and does not weigh for or against the making of the Order.

4. HRA SUMMARY

4.1. INTRODUCTION

4.1.1. This Chapter sets out the Examining Authority's (ExA's) summary conclusions relevant to Habitats Regulations Assessment (HRA). This will assist the Secretary of State (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Records of Examination procedure, evidence and reasoning to support the conclusions reported upon here are set out in Appendix C.

4.1.2. HRA is a legislated process of assessment of the effects of the Proposed Development (if any) on defined sites which are subject to protection pursuant to relevant international obligations to which the UK has subscribed. These sites are referred to here as 'European Sites', referring to:

- Special Areas of Conservation (SACs), candidate SACS and proposed SACs;
- Special Protection Areas (SPAs) and potential SPAs;
- Ramsar sites and proposed Ramsar sites; and
- any sites identified as compensatory measures for adverse effects on any of the above.

4.1.3. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has the information reasonably required to carry out their duties as the Competent Authority. It has sought evidence from the Applicant and relevant Interested Parties (IPs), including from Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISHs).

4.1.4. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for this Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains[1].

4.1.5. Where it relates to a European Site, a likely significant effect is referred to as an LSE, whilst an Adverse Effect on Integrity is referred to as an AEoI in this chapter and in supporting Appendix C.

4.2. HABITATS REGULATION ASSESSMENT IMPLICATIONS

4.2.1. The Proposed Development is not directly connected with or necessary to the management of a European site. Therefore, the SoS must make an 'appropriate assessment' (AA) of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.

4.2.2. The Applicant's assessment of effects is presented in the following application document(s):

[1] CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels* v *Staatssecretaris van Landbouw, Natuurbeheer en Visserij*.

- Report to Inform the Habitats Regulation Assessment (RIAA) [APP-118], which evolved into the Habitats Regulation Assessment Report [AS-026] [REP2-024] [REP4-017] [REP6-011].
- Habitats Regulation Assessment Noise Assessment [APP-111] [AS-026].

4.2.3. All references in this report to the HRA are to [REP6-011] unless indicated otherwise.

4.2.4. The ExA has had careful regard to all Relevant Representations (RRs) and Written Representations which identify matters relevant to HRA. It has used written questions and relevant ISHs to interrogate this material. It prepared and published a Report on the Implications for European Sites (RIES) [PD-022] on 12 August 2024 and sought and has considered responses from the Applicant and IPs to it, to inform its consideration of and findings on effects on European Sites.

4.2.5. All deliberations on this information and evidence are set out in Appendix C.

4.3. SUMMARY OF MATTERS CONSIDERED

4.3.1. Five European Sites and their qualifying features were considered in the Applicant's assessment of LSE:

- Humber Estuary Ramsar site.
- Humber Estuary SAC.
- Humber Estuary SPA.
- Saltfleetby-Theddlethorpe Dunes and Gilbraltar Point SAC.
- Greater Wash SPA.

4.3.2. It was generally agreed by all relevant IPs that the correct sites had been identified and included in the Applicant's HRA Report and supporting evidence, noting that the designations for the Humber Estuary are largely applicable to same geographic extent [RR-073] [REP1-078].

4.3.3. The main permanent and temporary HRA matters raised by the ExA, NE and other IPs and discussed during the Examination include:

- potential loss of functionally linked land to the European sites during construction; and
- noise and visual disturbance to breeding and non-breeding birds within functionally linked land during all phases of the Proposed Development.

4.3.4. These matters are discussed in the RIES [PD-022] and in the sections 1.24 and 1.25 of Appendix C, as appropriate.

4.4. SUMMARY OF FINDINGS IN RELATION TO LSE

4.4.1. The Applicant initially identified that LSEs would occur:

- Alone – Humber Estuary SPA, Ramsar and SAC; Saltfleetby SAC.
- In Combination – Humber Estuary SPA and Ramsar.

and where LSEs would not occur:

- No LSE Alone – Greater Wash SPA.
- No LSE in combination - Humber Estuary SAC, Greater Was SPA, Saltfleetby SAC.

from the Proposed Development, thus only those where LSE were predicted to occur were taken forward to AA. These conclusions were not disputed by IPs (though there was some discussion in the Examination about the possibility and extent of other LSE pathways to those identified by the Applicant [PD-010, Section 1.12).

4.4.2. The methodology and outcomes of the Applicant's screening for LSEs on European sites was subject to some discussion and scrutiny. Whilst the majority of the sites and features for which LSEs were identified were not disputed by IPs, the natterjack toad feature of the Saltfleetby SAC and consideration of effects upon it were disputed by IPs throughout the Examination [REP1-140]. At the end of the Examination, the Applicant had provided information regarding the natterjack toad, acknowledging the presence and effects upon the species, together with mitigation proposals.

4.4.3. The ExA is satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and is satisfied with the approach to the assessment of alone and in-combination LSEs.

4.4.4. Taking into account the reasoning set out in Appendix C, the ExA considers that the Proposed Development is likely to have a significant effect on the qualifying features of the European sites identified in Table A of Appendix C when considered alone or in combination with other plans or projects. This was recorded as an interim conclusion in the RIES [PD-022]. It was not disputed by the Applicant, NE or any other IPs.

4.5. SUMMARY OF FINDINGS IN RELATION TO AEoI

4.5.1. The Applicant's HRA concluded that, subject to the imposition of identified mitigation measures in the Construction Environmental Management Plan [REP6-050] an AEoI can be excluded for the European sites listed in Table 1 of Appendix C from the Proposed Development alone and in combination with other plans and projects. At the close of the Examination, these conclusions were agreed with NE as the Statutory Nature Conservation Body (SNCB) [REP6-062] and it was concluded that derogations and compensation were not required.

4.5.2. The ExA has examined the conclusions reached in the Applicant's HRA. Appendix C identifies the issues that were tested. Based on the findings of the Examination, the ExA is satisfied that an AEoI of all of the European sites and their qualifying features can be excluded from the Proposed Development alone and in-combination with other plans or projects.

4.6. HRA CONCLUSIONS

4.6.1. The conclusions of the overall HRA process were not disputed by NE or any other IPs, with the Applicant and NE in agreement at the end of the Examination. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

4.6.2. The ExA's findings are that, subject to the mitigation measures to be secured in the rDCO, an AEoI of the following sites from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded from the impact-effect pathways assessed:

- Humber Estuary Ramsar site.
- Humber Estuary SAC.
- Humber Estuary SPA.
- Saltfleetby-Theddlethorpe Dunes and Gilbraltar Point SAC.
- Greater Wash SPA.

4.6.3. The ExA considers that there is sufficient information before the SoS to enable them to undertake an AA in order to fulfil their duty under the requirements of the Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. INTRODUCTION

5.1.1. This chapter provides an evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in Chapter 2 and individual applicable legal and policy requirements identified in Chapter 3 of this report. Whilst the Habitats Regulations Assessment (HRA) has been documented separately in Appendix C (summary in Chapter 4), relevant facts and issues set out in that chapter are taken fully into account.

5.1.2. The Examining Authority (ExA) has considered all Relevant Representations (RRs), Written Representations (WRs) and responses to the Examining Authority's First Written Questions (ExQ1), Second Written Questions (ExQ2), Rule 17 requests for further information and all other representations made during the course of the Examination, including the Local Impact Reports (LIR).

5.2. SUMMARY OF THE MAIN PLANNING ISSUES

THE PRINCIPLE OF DEVELOPMENT

5.2.1. The urgent need for dramatically reducing Green House Gas (GHG) emissions is established through the National Policy Statements (NPS), which recognise that there is an urgent need for new carbon capture infrastructure to support the transition to a Net Zero economy. The ExA concludes that the Proposed Development as a Carbon Capture and Storage (CCS) project would make a meaningful contribution to meeting this need, would help in the transition to a low carbon system and would generally be in accordance with the designated NPSs.

5.2.2. It is also clear that since the designation of the NPSs, the direction of travel in Government policy is that the deployment of CCS is central to the decarbonisation of the UK economy and in reaching Net Zero by 2050 and that without it, the legally binding target in the Climate Change Act 2008 (CCA2008) is unlikely to be met. As such, the Proposed Development would clearly make an important contribution towards meeting the Net Zero obligation.

5.2.3. The ExA is satisfied that sufficient details of the alternatives, including the 'do nothing' scenario, the approach to site selection, layout and technologies and how these were considered as part of the overall project design, have been provided to meet the requirements of NPS and the Infrastructure (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).

5.2.4. The ExA concludes, notwithstanding the consideration of project-specific issues, the overarching need argument for the Proposed Development is very strong in terms of meeting the urgent need for carbon capture and this weighs heavily in favour of making the Order and carries very great weight in the planning balance.

THE ENVIRONMENTAL STATEMENT

5.2.5. The ExA considers that the Environmental Statement (ES), as supplemented with additional information during the Examination, is sufficient to enable the Secretary of State (SoS) to take a decision in compliance with the EIA Regulations. The ExA has taken full account of all environmental information in its consideration of this Application.

HRA CONSIDERATIONS

5.2.6. The Proposed Development is development for which an HRA Report has been provided. In reaching the overall conclusion and recommendations in this report, the ExA has considered all documentation relevant to HRA.

5.2.7. The SoS is the competent authority under the Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) and will make the definitive assessment. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of the Habitats Regulations.

OTHER MATTERS

Noise and Vibration

5.2.8. The ExA is satisfied that the Applicant has done everything reasonably practical to mitigate and minimise adverse construction noise effects through good acoustic design in the layout of the site and primary mitigation measures set out in the ES.

5.2.9. The Applicant's approach to noise and vibration is compliant with the Overarching National Policy Statement for Energy (EN-1) (2011) (NPS EN-1 (2011)) in all respects as well as all related noise legislation and guidance. The Construction Environmental Management Plan (CEMP) secures mitigation to reduce noise impacts to a non-significant level, with further post-consent monitoring and surveying determining the best and most robust approach to mitigation. The ExA is satisfied that the construction noise management plan, to be submitted as part of the CEMP under Requirement 5 of the draft Development Consent Order (dDCO), would give the local authorities sufficient opportunity to ensure that a good acoustic design is achieved during detailed design. Through implementation of the CEMP, the ExA considers that the proposal would be compliant with local planning policies insofar as preventing negative effects upon living conditions of nearby residents.

5.2.10. In respect of operational noise effects, the ExA is content with the Applicant's conclusions that there would not be any residual adverse effects during the operational life of the Proposed Development.

5.2.11. The ExA considers that noise and vibration issues have been addressed adequately and meet the requirements specified in section 5.11 of NPS EN-1 (2011), as well as related policies in the Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)). The ExA considers that noise and vibration effects are neutral and do not weigh for or against the making of the Order.

Major accidents and disasters

5.2.12. The Applicant reports having consulted with the Health and Safety Executive (HSE) during the pre-application period and that the design of the Proposed Development has followed HSE's detailed advice and risk tolerance framework. The Applicant has confirmed that various safety regulations, including the Control of Major Accident Hazards Regulations 2015, are applicable to the Proposed Development and are not proposed to be disapplied in the dDCO. In addition to the legislative regime, the Applicant has proposed a suite of mitigation measures (both embedded and additional) that have fed into the EIA process and have reduced the risks from and to the Proposed Development to an as low as reasonably practicable (ALARP) status.

5.2.13. For these reasons the ExA considers that the policy tests in NPS EN-1 (2011), NPS EN-1 (2024), the National Policy Statement for Gas Supply Infrastructure and Oil and Gas Pipelines (EN-4) (2011) (NPS EN-4 (2011)) and the National Policy Statement for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (2024) (NPS EN-4 (2024)) have been met. The ExA considers has no reason to doubt the efficacy of the statutory environmental and safety regime in controlling the Proposed Development. Therefore, the ExA is confident that the mitigation adopted by the Applicant is sufficiently secured within the dDCO.

5.2.14. In the absence of any objection from the HSE or the United Kingdom Health Security Agency (UKHSA), the ExA conclude that the risk of major hazards and accidents is ALARP, and Applicant's approach is entirely consistent with National Policy. The Proposed Development would not obstruct or interfere with matters of national defence.

5.2.15. Major hazards and accident effects are therefore considered neutral and do not weigh for or against the making of the Order.

Landscape and Visual Impacts

5.2.16. National planning policy sets a default of no major development within a nationally designated landscape unless exceptional circumstances can be demonstrated (para 5.10.32 of NPS EN-1 (2024)).

5.2.17. The ExA consider this project to be in public interest for which there is a demonstrable need, as set out in section 3.2 of this Report. The Applicant has provided, to the ExA's and NE's satisfaction, evidence and reasoning as to why the Proposed Development could not be located fully outside of the designated Lincolnshire Wolds National Landscape (LWNL). In addition, the Applicant has demonstrated through the suite of proposed management plans that any detrimental effects on the LWNL, either through direct encroachment or by reason of adjacency, would be short-term only and swiftly reversed through effective reinstatement plans.

5.2.18. For these reasons, the ExA consider the exceptional circumstances test established in NPS EN-1 (2011) and NPS EN-1 (2024) and contained in the National Planning Policy Framework (NPPF) has been met.

5.2.19. The suite of management plans and mitigation measures also contain areas for enhancements. This would ensure that, post-construction, the landscape that contributes to the LWNL would be restored to a better condition than at present, reinforcing the characteristics of the LWNL. On this basis the ExA concludes there would not be any significant harm to the LWNL. Its special qualities and the purposes of its designation would be protected. The enduring harm is low, small and minimised, is mitigated to the fullest practicable extent, and the achievement of net zero and the management of climate change risks are outcomes of critical importance to sustaining the values of the LWNL designated area. Although the SoS, as the decision-maker, will need to come to its own conclusion regarding whether the duty under s85 of the Countryside and Rights of Way Act 2000 (CROW) has been met, the ExA consider that the purposes of the LWNL would be furthered via the Proposed Development.

5.2.20. In other respects, the Applicant has demonstrated an iterative design and landscaping process, making changes as necessary during the course of the Examination. The impacts have been suitably assessed in the ES and a comprehensive mitigation strategy adopted through the CEMP and the Outline

Landscape and Ecology Management Plan (OLEMP) that are to be developed in consultation with the relevant authorities under R5 and R11 of the dDCO. The ExA concludes the proposal meets the expectations of sections 4.5 and 5.9 of NPS EN-1 (2011) and the terms of those local planning policies listed in Appendix A to this Report.

5.2.21. The Proposed Development would have a visual urbanising effect on the landscape for which good design could not fully mitigate. Whilst this is an unavoidable consequence of building functional infrastructure, the ExA notes some enduring effect on the character of the host landscape but accepts that the exceptional circumstance emerging from the achievement of net zero justifies this effect.

5.2.22. The ExA acknowledge the conclusions of ES Chapter 7 that adverse impacts, even if of a non-significant nature, would occur during construction and operation despite the mitigation. The ExA concur with this assessment and therefore find that the matter of landscape effects (including effects on the LWNL) and design carries minor negative weight against the Order being made.

Cultural Heritage

5.2.23. Para 5.8.15 of NPS EN-1 (2011) requires that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification will be needed for any loss. The same is true for development affecting the setting of a designated heritage asset (NPS EN-1 (2011), para 5.8.18).

5.2.24. The ExA has considered the effect of the Proposed Development on the above ground designated and non-designated heritage assets identified by the Applicant in the study area. At the close of the Examination, there were no outstanding comments from Interested Parties (IPs) that either disagreed or disputed the Applicant's scope of assessment, nor the conclusions that less than substantial harm would occur during the construction phase of the Proposed Development. The ExA observes that Historic England (the statutory advisor on the historic environment), raised no points of conflict with the Applicant's submissions.

5.2.25. The ExA is satisfied with the Applicant's responses to questions and matters in relation to the historic environment and agree that less than substantial harm would arise during the construction phase. In relation to above ground heritage assets, the ExA is satisfied that substantial harm would not occur to any heritage asset.

5.2.26. The ExA considers that the Proposed Development would result in potential losses to archaeological deposits, for which mitigation would not compensate, and thus represents a harm arising from the project. The full extent and scope of mitigation has yet to be agreed, though there remains an opportunity through R5 in the dDCO for resolutions to be reached. The ExA does not consider that the removal and recording of archaeological remains mitigates harm to archaeological features. Such steps are required but do not amount to mitigation of harm.

5.2.27. Taking into account the significant public benefits of the Proposed Development, the ExA is satisfied that there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively. Consequently, the ExA is content that matters concerning the historic environment would accord with the relevant provisions of NPS EN-1 (2011) and NPS EN-1 (2024), the NPPF and local planning policies.

5.2.28. Overall, the ExA conclude that the significant benefits of the Proposed Development would clearly outweigh the less than substantial harm(s), albeit such harm is a acknowledged as a negative impact arising from construction. The ExA is satisfied that mitigation is adequately provided for and secured in the recommended Development Consent Order (rDCO) to reduce the effect on the significance of heritage assets. As such, the ExA considers that an overall moderate negative weight in the planning balance applies.

Traffic and Transportation

5.2.29. The ExA, on the basis of the technical objections from National Highways (NH), is not satisfied that the Transport Assessment fully appraises the impacts upon the Strategic Road Network (SRN), leaving the possibility of a severe residual impact upon the SRN. This appears to run contrary to the aims of NPS EN-1 (2011) and NPS EN-1 (2024). However, NH has suggested a means by which the Proposed Development could be rendered acceptable through Protective Provisions and through post-consent discharging processes. The ExA recommends NH's approach is taken and recommends to the SoS that:

- NH is made an approving authority for R6 and R16 in the dDCO;
- A clause securing a financial bond for repairs to the SRN is entered into the protective provisions; and
- A defects period of 12 months is provided to ensure any damage to the SRN is remedied appropriately.

5.2.30. These alterations are included in the rDCO at Appendix D to this Report, and covered in more detail in Chapter 7. Subject to these amendments, the ExA would be satisfied the Proposed Development would be compliant with national policy.

5.2.31. The ExA is satisfied that the transport and traffic assessment for the local highway network set out in the ES meets the requirements of NPS EN-1 (2011) and NPS EN-1 (2024). The ExA is also satisfied that no significant traffic or transportation effects upon the local highway network are likely to arise from the Proposed Development. The test of severity in the NPPF would not be breached.

5.2.32. Whilst the ExA acknowledges there would be an increase in traffic impacts, a proportion of which would affect the SRN, the ExA is satisfied that the control and management measures included in the rDCO would be sufficient to mitigate any negative impacts to an acceptable level. R5 (CEMP), R6 (Construction Traffic Management Plan (CTMP)), R7 (accesses) R13 (Construction Hours) and R16 (Decommissioning Environment Management Plan) would ensure mitigation identified in the ES is adequately carried out, and this is secured in the rDCO.

5.2.33. The ExA considers that traffic and transport related effects, because of the unresolved matters at the close of the Examination, carry minor negative weight against the making of the Order.

Flood Risk, Water Resource and the Water Environment

5.2.34. The ExA is satisfied that the Applicant has adequately assessed flood risk and that the Flood Risk Assessment (FRA) demonstrates both the Sequential and Exception Test are passed. Furthermore, the ExA considers that, subject to the mitigation measures identified in the ES, the CEMP, the Operational Phase Mitigation Plan, the Flood Risk Assessment (FRA) and the Drainage Strategy, and secured in R5 (CEMP), R8 (Surface Water Drainage), R9 (Contaminated land and groundwater), R15 (Operational Phase Mitigation Plan) and R16 (Decommissioning Environmental

Management Plan) of the rDCO, the proposed mitigation would sufficiently mitigate the impacts of the Proposed Development both during construction, operation and decommissioning.

5.2.35. Through the application of mitigation measures, the ExA is satisfied that there are limited risks to water quality and that there would not be any worsening of the water quality within Water Framework Directive waterbodies. As such, the ExA finds that the Proposed Development accords with the requirements of the Water Framework Directive Regulations 2017.

5.2.36. Accordingly, the ExA concludes that the requirements in respect of water quality and flood risk set out in NPS EN-1 (2011) and NPS EN-1 (2024) are met. The Proposed Development is considered compliant with local planning policies related to flood risk. Consequently, the ExA considers the effect would be neutral and does not weigh for or against the making of the Order.

Air Quality

5.2.37. The ExA has assumed that the relevant pollution control and environmental regulatory regimes will be properly applied and enforced. The ExA is satisfied that the air quality assessment undertaken by the Applicant adequately assesses impacts on air quality.

5.2.38. The ExA has reservations insofar as no prediction or assumption has been made regarding operational venting emissions and thus such emissions are missing from the Applicant's calculations of the project's air quality impact. Nonetheless, the ExA has reviewed the information provided by all parties and consider that, with the appropriate regimes in place and the emergency plans of the Applicant secured in the CEMP, the possibility of a total carbon dioxide (CO_2) evacuation of the pipeline represents an unlikely scenario.

5.2.39. The ExA consider residual impacts related to construction and decommissioning activities, including from traffic, can be effectively managed through the mitigation measures secured in R5, R6, R13 and R16 of the rDCO.

5.2.40. The ExA is satisfied that no significant effects on air quality on human receptors are likely to arise in the construction or operational phases of the Proposed Development both alone and cumulatively with other projects. The ExA considers there would not be any negative impacts on the air quality in nearby Air Quality Management Areas or a significant worsening of air quality across the Order Limits. The ExA considers, based on the Statement of Common Ground (SoCG) [REP6-023] with the Environment Agency (EA), that mitigation measures could be incorporated into, and supplemented by, any Environmental Permitting conditions.

5.2.41. The ExA considers that the requirements of NPS EN-1 (2011) and NPS EN-1 (2024) will be met. Air quality effects are therefore neutral and do not weigh for or against the making of the Order.

Climate Change

5.2.42. The ExA considers, based on the current policy framework and guidance, that the assessment carried out by the Applicant is reasonable against the information available, sufficient to understand the impacts of the Proposed Development on climate and is therefore compliant with the Environmental Impact Assessment Regulations.

5.2.43. As set out in section 3.2 above, over the whole life of the Proposed Development, there would be a significant beneficial effect due to carbon captured in the operational phase. However, the generation of emissions would be a disbenefit of the Proposed Development, even if substantially offset by the overall reduction in emissions predicted to be achieved.

5.2.44. The ExA considers that the Applicant has taken reasonable steps to reduce the GHG emissions in accordance with NPS EN-1 (2011) and NPS EN-1 (2024).

5.2.45. The ExA is satisfied that the Proposed Development would accord with the guidance in the relevant NPSs and would be in accordance with the UK's commitments under the Climate Change Act 2008 (as amended) and the Paris Agreement 2015.

5.2.46. GHG emission impacts of the Proposed Development are considered a minor consequence and, as a result, carry little negative weight in the planning balance.

Ecology and Biodiversity

5.2.47. The ExA has given careful consideration to the views of Interested Parties (IPs), to the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, Natural England (NE). The ExA is satisfied that during the Examination, the Applicant has adequately addressed those concerns.

5.2.48. Whilst acknowledging that there would be adverse impacts on some habitats and protected species during construction, these would be short term until mitigation measures have reached their target condition.

5.2.49. In the long term, during the operational phase, the ExA considers that adequate mitigation measures would be put in place to ensure that there would be no significant residual effects on ecology and biodiversity and the creation/ enhancement measures secured in the OLEMP would result in a beneficial effect for some species. Furthermore, the ExA considers that the Biodiversity Net Gain (BNG) proposed would represent a modest benefit which weighs positively in favour of the Proposed Development.

5.2.50. Given the evidence presented, the ExA considers that biodiversity and ecology have been adequately assessed and that the policy requirements of NPS EN-1 (2011) and NPS EN-1 (2024) are met. The rDCO would adequately secure the mitigation necessary to address any effects. Overall, the ExA considers that the adverse impacts, albeit tempered by mitigation, weighed with the BNG arising from the Proposed Development would be of equal consequence. As such the ExA considers the effects to attract neutral weight in the planning balance.

Soils and Land Use

5.2.51. The ExA conclude that the Applicant has had adequate regard to land use impacts. The ExA is satisfied that the control and management measures included in the rDCO would be sufficient to mitigate any negative impacts to an acceptable level. The mitigation measures in the CEMP [REP6-050] secured by R5 in the dDCO would be sufficient for the project's purposes.

5.2.52. The evidence indicates a moderate adverse effect in relation to Best and Most Versatile (BMV) agricultural land, but the ExA's view is that this is justified and could be managed to an acceptable level. In these circumstances and with the adverse

impact resulting from the effect on BMV, geology and soil matters carry minor negative weight in the planning balance against the Order being made.

Minerals and Waste

5.2.53. The Proposed Development would result in impacts on a designated Mineral Safeguarding Area (MSA) that may affect the amount of resource able to be worked in the event the MSA was taken forward by a developer. However, the ExA is satisfied that the Proposed Development as a whole would not result in any unnecessary sterilisation of mineral reserves, in accordance with NPS EN-1 (2024) paragraph 5.11.19.

5.2.54. Waste arising from the construction and decommissioning of the Proposed Development would be managed with reference to the waste hierarchy, the latter being subject to any future regulations. The ExA is satisfied that suitable controls are in place to reduce, reuse or mitigate for any waste arisings, in accordance with NPS EN-1 (2011) paragraphs 5.14.1 and 5.14.2.

5.2.55. The ExA consider the Applicants final drafting of Article 44 in the dDCO suitably bridges the interface between the Proposed Development and the existing extant planning permissions, without detriment or impediment to either. Further effects on minerals and waste assets are dealt with through provisions in the CEMP [REP6-050] and the Decommissioning Environmental Management Plan [REP5-070]. In this respect, minerals and waste related matters attract neutral weight in the planning balance.

Other Matters

5.2.56. The ExA is satisfied that the Applicant in the original application documents and ES Chapter 16 adequately assessed the socio-economic impacts of the Proposed Development and provided evidence to support its assessment. The ExA acknowledges that economic impacts are difficult to quantify, however the evidence presented indicates that there would be some moderate positive socio-economic impacts not least in terms of job creation, albeit this would primarily be short term during construction. The ExA also acknowledges that the Proposed Development has the potential to support further economic development in the area given the investment in the Humber region.

5.2.57. The ExA is satisfied that the Proposed Development would support economic development in the area and would accord with all relevant Local Plan Policies and would also be consistent with NPS EN-1 (2011) and NPS EN-1 (2024). The Applicant originally referred to the Proposed Development having minor beneficial effect although this was elevated to great positive weight in their later position statement [REP4-032]. The ExA disagrees with this later assessment and can see no justification for this suggestion as no additional evidence is provided and our conclusion is therefore to afford socio-economic factors moderate positive weight in the planning balance.

5.2.58. While undoubtedly the construction and decommissioning of the Proposed Development could cause likely additional effects particularly in relation to ecological, noise, landscape and visual matters, the ExA is nevertheless satisfied that there are not likely to be any significant cumulative or combined effects from construction, operation and decommissioning activities that are worse than the effects of the Proposed Development alone.

5.2.59. The rDCO adequately provides and secures mitigation measures to minimise individual and cumulative effects. The effect in the planning balance is neutral and does not weigh for or against the making of the Order.

5.3. FINDINGS AND CONCLUSIONS

5.3.1. The Proposed Development would make a significant contribution to the urgent need for carbon capture established in NPS EN-1 (2011 and 2024), which has become more urgent following the legally binding target of Net Zero by 2050. Over the lifetime of the project, the Proposed Development would result in the capture significant quantities of CO_2 emissions contributing to meeting the UK's carbon commitment. The ExA affords these significant public benefits very great weight.

5.3.2. In addition, the Proposed Development would result in some positive socio-economic benefits to employment and the local economy. However, these are primarily temporary and as such are afforded only moderate positive weight. Landscape improvements, including the delivery of BNG, represent a more permanent positive moderate weight in favour of the Proposed Development.

5.3.3. On the other hand, a range of negative impacts have been identified. The ExA has found that the Proposed Development would lead to less than substantial harm to the settings of designated heritage assets and to archaeological deposits, which carries moderate negative weight against the Order. The ExA has also found potential negative impacts on the transport network and upon the landscape character of the LWNL, albeit such adverse effects would be temporary during construction.

5.3.4. Taking the above factors into account and having had regard to all important and relevant matters, the ExA concludes that there are no adverse impacts of sufficient weight, either on their own or collectively, that would suggest the DCO should not be made.

5.3.5. The harm to heritage assets, the transport network and the landscape (including the exceptional circumstances test in relation to the LWNL) are clearly outweighed by the substantial benefit of CCS that would meet the need identified in NPS EN-1 (2011). The January 2024 versions of the NPSs, including the emphasis on delivering critical national priority infrastructure, would strengthen the case for low carbon Nationally Significant Infrastructure Projects.

5.3.6. The ExA has concluded that that the Proposed Development is clearly justified on the basis of the versions of the NPSs that were before us during the Examination and all other important and relevant matters, including relevant Government policy such as the British Energy Security Strategy.

5.3.7. The ExA does not consider there is anything contained within NPS EN-1 (2024) or NPS EN-4 (2024) that would lead us to alter our overall conclusions on the Proposed Development.

5.3.8. Regard has been paid to the LIRs, to prescribed matters and all other important and relevant policy, and to other important and relevant matters in this report, and the ExA does not consider that there are any other matters that are both important and relevant to the decision that would lead to a different conclusion being reached.

5.3.9. For the reasons set out in the preceding chapters and summarised above, the ExA finds that the Proposed Development is acceptable in principle in planning terms and that the case for Development Consent has been made.

6. COMPULSORY ACQUISITION AND RELATED MATTERS

6.1. INTRODUCTION

6.1.1. The Application includes proposals for the Compulsory Acquisition (CA) of new rights on land, the extinguishment and/ or suspension of rights on land and Temporary Possession (TP) of land. This chapter addresses the CA request and related matters including TP, Human Rights and the Public Sector Equality Duty (PSED) and records the examination of those proposals and related issues. This chapter should be read in conjunction with Appendices E and F to this Report.

6.1.2. The Examining Authority's (ExA) overall recommendation is that development consent should be granted, for reasons set in Chapter 3 of this Report and summarised in Chapter 5 (Conclusion on the case for development consent). It follows that, if that recommendation is accepted, the compelling case in the public interest which is required to justify CA and TP powers has been made out. In reaching this position, it must be noted that the Applicant does not currently benefit from a consent to use the existing Lincolnshire Offshore Gas Gathering System (LOGGS) offshore pipeline to transport carbon dioxide (CO_2) to its point of disposal. To enable the Proposed Development to deliver the very substantial public benefit of Carbon Capture and Storage (CCS), it is anticipated that the re-use of LOGGS for this purpose must be delivered. It becomes a key element of the ExA's approach to the justification for CA and the 'compelling case' test that the proposed use of the LOGGS must be deliverable, before land or rights can be taken for the Proposed Development.

6.1.3. This Chapter addresses that recommendation as its starting point.

6.2. THE REQUEST FOR COMPULSORY ACQUISITION (CA) AND TEMPORARY POSSESSION (TP) POWERS

Key Documents

6.2.1. The purposes for CA and TP powers are set out in the following latest versions of the Applicant's documents:

- Statement of Reasons (SoR) [AS-013]
- Schedule of Negotiations and Powers Sought (SNP) [REP7-002]
- Funding Statement (FS) [AS-011]
- Book of Reference (BoR) [REP6-007]
- Schedule of Changes to the BoR [REP6-006]
- Land Plans [REP5-011]
- Access and Rights of Way Plans [AS-079]
- Crown Land Plans [AS-017]

6.2.2. Articles contained in the draft Development Consent Order (dDCO) submitted with the Application [APP-006] and all subsequent versions included both permanent and temporary powers to construct, operate and maintain the Proposed Development. The Applicant's case for the CA and TP powers sought was initially set out in the Applicant's SoR [APP-010] and associated Land Plans [APP-016]. The SoR includes the following chapters:

- Chapter 4 - The dDCO and consideration of alternatives
- Chapter 7 – Need for and Benefits of the Proposed Development

- Chapter 8 – Engagement with Affected Persons (APs)
- Chapter 9 – Case for powers sought
- Chapter 10 – Special considerations including Crown Land and Statutory Undertaker's land.

6.2.3. The Applicant submitted two changes requests during the Examination, as discussed in Chapter 2 of this Report. There were no requests for additional land or rights and so the changes considered here all relate to either reductions in, or landowner approved changes for, the extent of the original CA and TP request.

6.2.4. The ExA was kept updated throughout the Examination by the Applicant on the progress with negotiations with APs by means of the SNP the final version of which was submitted at Deadline (DL) 7 [REP7-002]. In response to the ExA's written request [PD-012], the Applicant provided a Lands Rights Tracker to the Examination. The final version, contained at Appendix E to this Report, was submitted at DL7 [REP7-003].

6.2.5. These documents taken together form the basis for the analysis for this chapter and any reference to these documents in this chapter should be read as reference to the latest versions provided.

The Compulsory Acquisition and Temporary Possession Powers Sought

6.2.6. The Applicant seeks permanent acquisition of land for the Immingham Above Ground Infrastructure (IAGI), for the three block valve stations (BVS) along the route of the pipeline and for the Theddlethorpe Above Ground Infrastructure (TAGI) to be located within the site of the former Theddlethorpe Gas Terminal (TGT). Acquisition and imposition of rights and covenants are required for construction of the pipeline and to provide subsequent ability to maintain the Proposed Development.

6.2.7. The powers sought in the dDCO to achieve this relate to the acquisition of land (Article 23), acquisition of rights and covenants (Article 25), authority to override easements and other rights (Article 26) and the temporary use of land to permit construction or maintenance (Articles 33 and 34).

New Rights

6.2.8. The Applicant seeks permanent acquisition on land identified on the Land Plans as being shaded pink, with permanent acquisition of the subsurface only shaded in yellow.

6.2.9. The Applicant seeks the CA of rights in order to construct, maintain and operate elements of the Proposed Development including the necessary electrical connections.

Extinguishment of Rights

6.2.10. The Applicant seeks powers to ensure that easements, restrictions and other private rights identified as affecting the land can be extinguished or suspended. These powers allow the Applicant to construct, operate and maintain all elements of the Proposed Development. The land over which the Applicant proposes to only extinguish certain easements, and other private rights is shown shaded blue and green on the Land Plans.

Changes to the Application

6.2.11. During the Examination the Applicant submitted two formal change requests (the details of which can be found in section 1.5) neither of which invoked the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) because no additional land or rights were sought. All of the changes proposed seek a reduction in the extent of land and/ or rights sought by the Applicant.

6.3. LEGISLATIVE REQUIREMENTS

The Planning Act 2008 (PA2008)

6.3.1. CA powers can only be granted if the conditions set out in section s122 and s123 PA2008 are met. The relevant guidance in the Guidance Related to Procedures for the Compulsory Acquisition of Land, September 2013 (the Former Department for Communities and Local Government (DCLG) (the CA Guidance) sets out the purpose for which CA may be authorised.

6.3.2. S122(2) PA2008 requires that land subject to CA must be required for the development to which the development consent relates, or must be required to facilitate or be incidental to that development, or is replacement land which is given in exchange for the Order land under section 131 or 132. The CA Guidance states that in respect of land required for development the land to be taken must be no more than is reasonably required and proportionate.

6.3.3. S122(3) PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily. The CA Guidance advises for this condition to be met the Secretary of State (SoS) will need to be persuaded that there is compelling evidence that the public benefit derived from the CA would outweigh the private loss that would be suffered by those whose land is to be acquired.

6.3.4. An Order granting development consent may include provision authorising the CA of land only if the SoS is satisfied that one of the conditions in s123(2) to (4) is met. These are:

- The application includes a request for CA to be authorised - s123(2).
- All persons with an interest in the land consent to the inclusion of the provision – s123(3).
- The prescribed procedure is followed – s123(4).

6.3.5. The ExA is satisfied that the condition in s123(2) is met because the application for development consent includes a request for CA of the land to be authorised. For the purposes of s123(3), not all persons with an interest in the land consent to the inclusion of the provision, and this Chapter, together with Appendix F, addresses the outstanding objections.

6.3.6. S127 of the Planning Act 2008 (PA2008) applies to Statutory Undertakers (SU) land. S127(2) and (3) state that an order granting development consent may include provisions authorising the CA of SU land only to the extent that the SoS is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking. Similarly, s127(5) and (6) PA2008 provide that an order granting development consent may only include provision authorising the CA of rights by the undertaker over land belonging to SUs to the extent that the SoS is satisfied that the

right can be taken without serious detriment to the carrying out of the undertaking, or that any detriment can be made good. A number of SUs have land interests within the Order Limits. These are set out in the BoR [REP6-007].

6.3.7. S135 (1) PA2008 requires that an Order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if:

a. it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
b. the appropriate Crown authority consents to the acquisition.

6.3.8. S135 (2) requires that an Order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.

6.3.9. S138 PA2008 relates to the extinguishment of rights, and removal of apparatus on, under or over, from SU land. It states that an Order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. For the Proposed Development, this section of the PA2008 is relevant to SUs with land and equipment interests within the Order Limits.

6.3.10. TP powers are also capable of being within the scope of a Development Consent Order (DCO) by virtue of Paragraph 2, Part 1 of Schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole: only capable of proceeding if the primary development is justified.

6.3.11. The Neighbourhood Planning Act 2017 includes a number of provisions related to the TP of land including notice requirements, the service of counter notices and compensation. These provisions have not been brought into force and are described as technical changes in the explanatory notes that accompany the Act. Article 37(e) of the recommended Development Consent Order (rDCO) disapplies the provisions of the Act insofar as they relate to TP of land under the articles of the DCO.

The CA Guidance

6.3.12. A number of general considerations also have to be addressed either as a result of following the CA Guidance or in accordance with the legal duties on decision-makers:

- All reasonable alternatives to CA must have been explored.
- The Applicant must have a clear idea of how it intends to use the land subject to CA powers and must be able to demonstrate that adequate funds are likely to be available to meet the compensation liabilities that might flow from the exercise of CA powers.
- The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the interference with the human rights of those affected.

- Paragraph 25 of the CA Guidance states that Applicants should seek to acquire land by negotiation wherever practicable.

6.3.13. In relation to the CA guidance, the ExA is aware that negotiated settlements are not always a guaranteed outcome. The ability to fall back onto CA powers would, therefore, be justified to ensure that there would not be an impediment to the Proposed Development in the event of any negotiated sales on isolated parcels not being secured, thus severing the proposed alignment and rendering the project undeliverable.

6.3.14. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this chapter.

6.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

The Applicant's Case

6.4.1. The Application for development consent is for the construction of a new onshore pipeline of approximately 55.5 kilometres (km) in length which would transport carbon dioxide (CO_2) from the Immingham industrial area to Theddlethorpe on the east coast of Lincolnshire, where it will connect with the existing offshore Lincolnshire Offshore Gas Gathering System (LOGGS) pipeline.

6.4.2. The Applicant explained that in the absence of powers of CA and TP, it might not be possible to assemble all of the land within the Order Limits, uncertainty will continue to prevail, and the Applicant considered that its objectives and those of Government policy would not be achieved. Permanent acquisition of land is required at the IAGI, BVS locations and the TAGI, whilst the majority of the pipeline corridor would be subject to TP powers for construction followed by acquisition of permanent rights to enable maintenance and operational functions.

6.4.3. The Applicant explained in the SoR [APP-010] how it considers its proposals meet the tests set out in the PA2008 and submits that all plots of land are either needed for the development or to facilitate the development. The Applicant refered to the negotiations with landowners at paragraph 8.1.6 of the SoR. The Schedule of Negotiations and Powers Sought (SNP) [APP-012] was regularly updated and eventually in [REP7-002] sets out the persons with a freehold interest, the plots they have an interest in, the interest to be acquired or TP and the purpose for which the plot is required in relation to the works specified in the dDCO, along with the status of the negotiations and any objections.

6.4.4. The Applicant explained, at paragraph 9.1.7 of the SoR [APP-010] [REP3-007], that it had given careful consideration to the land and rights required and has sought to balance the requirement to secure sufficient land whilst also minimising the land take. Where freehold acquisition is sought, the Applicant submitted (paragraph 9.2, SoR) that this is required in order to ensure that the Applicant will have exclusive possession and control of the land necessary for the safe construction, operation, maintenance and decommissioning of the Proposed Development.

6.4.5. The Applicant further outlined its case at Compulsory Acquisition Hearing (CAH) 1 [EV2-002 to EV2-007] and submitted that the recently designated Overarching National Policy Statement for Energy (EN-1) (2024) (NPS EN-1 (2024)) emphasised the urgent need and critical national priority for new carbon capture and storage infrastructure to support the transition to a net zero economy and this new National Policy Statement (NPS) is an important and relevant consideration in the

Examination. The Applicant referred to the Planning and Design Access Statement [APP-129] and the Need Case for the Scheme [APP-131] which set out what the Applicant considered to be the substantial public benefits of the Proposed Development. As will be explored later in this Chapter, this assertion became a significant issue in the ExA's consideration of CA.

6.4.6. The Applicant confirmed that the route of the proposed pipeline would be sited on agricultural land, which would be returned to its former use once the pipeline was installed. The Applicant had engaged with the relevant landowners and had sought to minimise the impacts on them. The approach taken in the application has been to require TP of much of the route of the pipeline for construction purposes as an alternative to permanent acquisition of the land, with permanent acquisition of subsurface rights only, thus limiting interference. The areas required for TP are set out in Table 5 of the SoR [APP-010].

6.4.7. The Applicant explained its approach to the provisions contained in the PA2008, in section 7.2 of the SoR [APP-010] which was updated [REP3-007] in order to reflect the changed status of the suite of NPS for energy which came into force on 17 January 2024. The Applicant considered these documents to be important and relevant to the application and the ExA agreed with this assessment.

6.4.8. The BoR identifies all the plots of land affected and these are also shown on the Land Plans comprising thirty-six sheets. The Land Plans submitted by the Applicant were revised and amended as the Examination proceeded to accommodate the changes referred to below.

6.4.9. The Applicant asserts that the application documents demonstrate that the Proposed Development would:

- help meet the urgent need for new decarbonised energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development and security of supply;
- deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;
- minimise or mitigate adverse impacts to an acceptable degree; and
- comply with the NPSs which were relevant being NPS EN-1 (2011), NPS EN-4 (2011), NPS EN-1 (2024) and NPS EN-4 (2024), which are all important and relevant factors under section (s) 105 PA2008. The Applicant's comments in the Application documents pre-dated the designation of the 2024 NPSs which were in draft when the application was made in October 2023 but which came into force before the commencement of the Examination.

6.4.10. Overall, the ExA agrees with the Applicant's conclusions on the generality of the case and, subject to the ExA's further consideration of plots affected by outstanding objections/ representations below, together with the ExA's assessment of the issues remaining at the conclusion of the Examination below, the ExA considers the tests set out in s122(2) and s122(3) of the PA2008 are capable of being met.

Alternatives

6.4.11. The CA Guidance indicates that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.

6.4.12. The Applicant's approach to the consideration of alternatives in relation to CA is set out in section 4.2 of the SoR [REP3-007]. In summary, the Applicant submitted that

it has chosen the route of the pipeline in a way that minimises the disruption on APs and has only included permanent acquisition of land where the acquisition of rights or TP is not adequate. The installation at the northern end of the pipeline being the Immingham Above Ground Infrastructure (IAGI) and at the southern end being the Theddlethorpe Above Ground Infrastructure (TAGI) have both been brownfield land for some years and the Applicant argued provide suitable locations for the connection to the transport and storage infrastructure.

6.4.13. The Applicant stated (paragraph 4.2.1. of the SoR [REP3-007]) that it has sought and continues to seek a negotiated solution to each of the identified required interests. However, the Applicant requires the powers of CA and TP sought in order to provide certainty that it will have all the rights required to construct and operate the Proposed Development in order to realise what it claims will be the significant public benefits which it referred to in paragraph 14.1.3 of the SoR [APP-010] which was submitted with the Application.

6.4.14. The Applicant had adopted an approach where permanent taking of rights and land has been limited to where permanent above ground infrastructure is required. The TP of surface land for construction purposes, returning such land to the landowner for effective continuous use (in most cases for agricultural purposes). The Applicant stated that this represents an active approach to avoiding the need to acquire land outright, thus limiting interference with the landowner's rights.

6.4.15. In light of the above, the ExA considers that the Applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored.

Funding

6.4.16. The ExA enquired about the financial resources which would be required for the Proposed Development at the CAH1 [EV2-002 to EV2–007]. The Applicant's Funding Statement [AS-011] indicates that the Applicant has the financial resources required for the Proposed Development including the cost of acquiring any rights, blight notices and payment of compensation. The ExA is satisfied that the necessary funds would be available to the Applicant to cover the likely costs of CA, TP and compensation.

6.5. EXAMINATION OF THE CA AND TP CASE

The Examination Process

6.5.1. The Examination of the Proposed Development included consideration of all submitted written and oral submissions relevant to CA and TP. These various landholdings affected by the CA and TP proposals are summarised in the CA Tracker [REP7-003]. Where Relevant Representations (RRs) or Written Representations (WRs) have been received, they are referred to below utilising the numbering from the RR section in the Examination Library. The Applicant has confirmed in the CA Tracker [REP7-003] that it has been in dialogue with all of the landowners and is at an advanced stage of agreement with many of the objectors. Indeed, the Applicant has been successful in closing negotiations with a significant number of the Affected Persons (APs).

6.5.2. In examining the Application, the ExA considered all written material in respect of CA and TP and asked written questions regarding justification of the need for the CA/ TP in the ExA's First Written Questions (ExQ1) [PD-010], the ExA's Second Written Questions (ExQ2) [PD-021] and the Rule 17 requests [PD-023] [PD-026].

6.5.3. All relevant guidance and legislation is taken into account in the reasoning below and relevant conclusions are drawn at the end of this Chapter in relation to both CA and TP.

6.5.4. The ExA examined the case for CA and TP in writing, through written questions of the Applicant and APs, and orally at:

- CAH1 held on 27 March 2024 [EV2-002 to EV2-007]
- CAH2 held on 25 June 2024 [EV7-002 to EV7-007]

6.5.5. A total of 121 RRs were received in relation to the Application. A considerable number of these were in a generic form and it was unclear whether some of these actually amounted to an objection. Accordingly, the ExA formed an initial view that the following APs were objecting to the Application:

- Air Products [RR-003], [REP1-085], [REP4-089]
- Aylesby Manor Farms [RR-012]
- David House [REP1-110]
- David Spilman [AS-036]
- Driver and Vehicle Standards Agency [RR-030], [REP1-070]
- Executors of the late D Tuxworth [RR-103]
- George Peter Strawson [REP1-115]
- The IOT Operators – Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustees Limited– [REP1-089], [REP4-060], [REP5-088]
- J.W. Needham and Co – Partners, Family and Shareholders [AS-056 to AS-058]
- J Spilman [RR-066]
- Joanna House [REP1-119]
- Jeanette Tempest [RR-044]
- National Highways [REP1-077], [REP2-040], [REP4-059], [REP5-082], [REP6-061]
- National Gas Transmission Plc [RR-070], [REP2-039], [AS-099], REP6-061
- Network Rail Infrastructure Limited [RR-074], [REP1-081], [REP5-084], [AS-100]
- P D Port Services Limited [RR-082], [REP2-045]
- Phillips 66 Limited [RR-084], [REP1-093], [REP4-061], [REP5-087]
- R Caudwell (Produce) Limited [RR-086], [REP1-100]
- Susan House [REP1-140]

6.5.6. Non-material changes to the Proposed Development were sought by the Applicant during the Examination, but none of these involved any increase in the number of plots sought for CA and the CA Regulations were not engaged. The Applicant provided a summary of the change proposals at CAH2 [EV7-002]. Throughout the Examination the Applicant engaged with landowners, lessees, tenants and occupiers with the aim of completing voluntary agreements.

6.5.7. Towards the end of the Examination, the Applicant succeeded in many of the objections which had been sustained throughout the process being withdrawn. Amongst these were Air Products [AS-096], Calor Gas [REP6-055], the DVSA [AS-095], Network Rail [REP6-064 and [AS-100], Phillips 66 [REP6-070] and R Caudwell (Produce) Ltd [AS-094]. As a result, the only objections which remained still outstanding at the close of the Examination were as follows (with references included to the last major submission from the AP):

- A E Graves [AS-092]
- David House [REP1-110]
- Joanna House [REP1-119]
- Cadent Gas [AS-097]

- The IOT Operators [REP5-088]
- National Gas Transmissions (NGT) [REP5-079]
- National Grid Electricity Transmissions (NGET) [REP5-080]
- National Highways (NH) [REP6-061]
- Susan House [REP1-140]
- Uniper UK Limited [AS-120]

6.5.8. The majority of these outstanding objections were concerned with agreeing the form of Protective Provisions (PPs) for Statutory Undertakers (SU) and are therefore dealt with in section 6.7 below, and subsequently summarised in Chapter 7 of this Report. In respect of individual objections, Appendix E of this Report contains the ExA's assessment in respect of each individual circumstance having regard to the Applicant's final position [REP7-003] reported in Appendix F of this Report.

Written Processes

6.5.9. The ExA asked questions of the Applicant and APs in ExQ1 [PD-010] and ExQ2 [PD-021]. As referred to above the Applicant also made, and the ExA accepted, two Change Requests made on 19 March 2024 [AS-038 to AS-054] and 19 June 2024 [AS-063 to AS-084].

6.5.10. In Q1.5.5 to 1.5.37 of ExQ1 [PD-010], the ExA sought further information on the proposed funding, site selection, land ownership (including in relation to unknown owners (and attempts made to identify them)), and updates on the progress of discussions with APs, including SUs and Crown interests.

6.5.11. In ExQ2 [PD-021], the ExA sought further information from APs on their position regarding their interests, and requested updates from the Applicant about ongoing discussions, including with SUs and the Crown Estate.

6.5.12. The ExA also issued two written requests for information [PD-023] [PD-026] requesting updates on outstanding CA matters.

Hearings

6.5.13. During the Examination, we held two CAH (CAH1 [EV2-001] and CAH2 [EV7-001]. At CAH1, the Applicant was invited to briefly outline the case for CA and TP and how it meets the tests of the PA2008. We held a session to examine the Applicant's general case, consider Crown Land and SU's land and interests and the Applicant's Funding. At CAH2, APs were provided an opportunity to be heard and comment on the process and on the rights sought and provisions proposed in the dDCO and SUs were afforded an opportunity to raise or expand on any concerns or objections.

6.5.14. A number of APs attended CAH1 and CAH2 including representatives from Anglian Water, NH, Phillips 66 and VPI Immingham. We also sought to examine the individual cases from the objections received.

Site Inspections

6.5.15. The ExA's approach to site inspections is set out in Chapter 1 above. In summary, we visited a number of the sites affected by the Applicant's CA and TP proposals either unaccompanied [EV1-001], or as part of the ASI [EV5-001]. The ExA spent some time viewing the locations around the two main facilities being the IAGI and the TAGI. We also viewed the proposed location of each block valve station at Washingdales Lane, Thoroughfare and Louth Road. Taken together this has

provided us with a good understanding of the location of the affected plots as well as any above ground infrastructure.

Objections

6.5.16. The Applicant acknowledged that there were some objections still outstanding at the end of the Examination but did not consider that any should represent a barrier to the grant or subsequent implementation of the DCO. As for the objections from Statutory Undertakers (SUs), the Applicant submitted in its response to question 2.5.1 of ExQ2 [REP5-063] that their undertaking could be protected by Protective Provisions and where differences remained, these should not be an impediment to the DCO being granted.

6.6. CONSIDERATION OF THE STRATEGIC CASE FOR CA/TP POWERS

6.6.1. In Chapter 3.2 of this Report, the ExA considered the benefits of the Proposed Development in isolation and found that those benefits would be limited since, without the ability to transport and sequester the CO_2 offshore, the Proposed Development would not deliver the benefits purported and relied upon by the Applicant. The delivery of real tangible benefits would come when the Proposed Development, via its connection to the LOGGS, would be able to transport CO_2 to the subsea reservoir as part of a whole Viking CCS Project objective. Consequently, the ExA recommended a Grampian requirement be added to the dDCO to link the onshore and offshore elements of the scheme, with the purposes of the Grampian preventing development occurring until such time that all consents were in place.

6.6.2. Turning attention to the strategic case for CA and TP powers, the Applicant, submitted that CA and TP powers were justified and that there was a compelling case in the public interest for such powers to be granted. The Applicant submitted that "*the significant benefits outweigh the private loss of those impacted by the exercise of CA powers*" [AS-013, paragraph 14.1.3]. The Applicant's Need Case for the Development [APP-131] focused on the benefits of capturing, transporting and sequestering CO_2 in the fight against climate change.

6.6.3. However, the same concerns regarding the benefits for the Proposed Development remain valid. The ExA observed that the Applicant's submissions [AS-013, REP4-032, majored on the benefits of the overall Viking CCS project rather than purely the Proposed Development. Even when asked to provide a clearer explanation by the ExA as to the Proposed Development's benefits, the Applicant maintained a blurred assessment with the overall Viking CCS project [REP5-058].

6.6.4. This led to a sequence of representations and repeated issues throughout the Examination. In the last sentence of their representation [RR-073] Natural England states *"the risk that such a situation may pose to the Examining Authority, as the rationality of the decision could be questioned were it to allow the Applicant to construct an onshore pipeline that had no meaningful existence because it could not be connected to the storage area."*

6.6.5. The ExA raised this at Q1.1.8 of ExQ1 [PD-010] and the Applicant provided a detailed response [REP1-045] which contained the following paragraph:

"Natural England has suggested that a requirement should be included in the DCO that prevents any onshore works commencing until the offshore works are consented. The Applicant considers that such a requirement would be unnecessary.

The Applicant has updated the Consents and Agreement Position Statement [APP-130] to make reference to the offshore infrastructure and confirms that it does not consider there to be any reason to consider that those consents will not be granted. In practice, the Applicant is not going to construct the Proposed Development without certainty that it will be able to store the carbon dioxide offshore. Natural England's suggestion that the Proposed Development could be constructed and become a stranded asset is unrealistic."

6.6.6. This was a recurring theme throughout the Examination and the ExA asked further questions at ExQ2 [PD-021]. In particular Q2.5.4 to 2.5.9 pressed the Applicant to comment further on the apparent limited benefits of the onshore scheme and also on recent DCO decisions which the Applicant saw as providing precedents for their own approach. The Applicant responded to these concerns [REP5-063] but the ExA remained less than convinced as the Applicant was relying on the benefits of the whole project to justify the onshore pipeline but was then saying that no further linkage should be taken in respect of the offshore consents.

6.6.7. The Secretary of State was clearly aware of the issue in the recent DCO decision for the Net Zero Teesside application when it stated at paragraph 4.13 of the decision letter that they had *"taken additional steps to ensure that the environmental impacts of both the onshore and offshore elements of the wider NZT project have been fully assessed*." In that project, Requirement R31 was written into the Order to ensure the disposal facility was licenced, thus demonstrating an awareness and interactivity with further phases of that development. The Applicant has not taken such a step in this instance and in the view of the ExA, the position can be safeguarded by an additional condition which prevents onshore works being commenced until the offshore consents are obtained. The Applicant has acknowledged in its reply to Q1.1.8 referenced above [REP1-045] that will make no difference to it in practice and its reluctance to agree such a Requirement is a little difficult to understand.

6.6.8. Whilst the ExA is not aware of any particular impediments to the offshore consenting processes, a precautionary approach must be adopted given that the Applicant has yet to apply for, or obtain, the primary consents required to deliver the offshore part of the overall project. The ExA consider that the Applicant's submissions in respect of the offshore consenting process have:

- shown ambiguity and uncertainty about whether a marine licence is, or is not, required for the project, thus raising concern about the understanding of the offshore consenting process in totality [REP1-018] [REP1-045, Q1.1.8] [REP5-063, Q2.5.5];
- shown a slow pace of negotiations with the Crown Estate (see section 6.8 below); and
- shown the timeline for submitting and obtaining approvals, particularly the Environmental Impact Assessment for the offshore infrastructure, has slipped and is uncertain [REP3-031].

6.6.9. In light of the above, whilst the ExA acknowledge that the Applicant may be entitled to rely on the benefits of the wider Viking CCS project, the prospect of those benefits being realised is subject to resolution of consents to use the LOGGs pipeline to transport CO2 to the storage location, without which the Proposed Development onshore could not be used for its intended purpose and may not be developed. In such circumstances, the compelling case in the public interest to take land and rights would not appear to be present. In the ExA's view that must be

addressed by a requirement providing that land and rights would be taken once the relevant consents for the proposed use of the LOGGS have been issued.

6.6.10. The Applicant referred to a number of recent DCO decisions being the Hynet Carbon Dioxide Pipeline, the Net Zero Teesside Project and the Drax Bioenergy with Carbon Capture and Storage Project as precedents. However, it was acknowledged in the case of the Proposed Development that the Applicant is the company which is the owner of both the onshore and offshore parts of the project, which was not the case in any of the three DCOs quoted as precedents where separate entities were delivering different parts of the infrastructure. The ExA highlighted this clear distinction to the Applicant [PD-021, Q2.5.6 to 2.5.8].

6.6.11. That being said, the closest analogue with the application before this ExA and the SoS is with the Net Zero Teesside project. In that case, the ExA recommended, and the SoS resolved, to make an Order containing Requirement 31, which addresses broadly the same issue as the one under discussion here. That requirement provides that, with the exception of preliminary works, the Net Zero Teesside project must not commence until (amongst other matters); a carbon dioxide storage licence has been granted; environmental permits have been granted; and any pipeline works authorisation required by section 14 of the Petroleum Act 1998 for offshore pipeline works connecting the onshore project to the carbon dioxide storage site has been granted. The ExA considers that an equivalent requirement is justified in this case. Importantly, an equivalent requirement provides security for the public benefits of the Proposed Development, which are necessary to justify the making of the CA and TP powers sought.

6.6.12. In light of the above, the ExA have considered whether or not there is a compelling case for CA, in accordance with paragraphs 12 and 13 of the CA Guidance, that outweighs the loss to private land interests that might be acquired. The ExA cannot be clear that there is a compelling case for the acquisition of the land alignment and the taking of land and rights if it remains possible that the sea alignment might not proceed or, at least, not proceed at a pace suitable to justify works commencing onshore. For the PA2008 s122(3) test to be met, the ExA consider that it must be secured that the land development will not commence until the sea consents are secured, because at that point there will be a deliverable project and the justification for CA and TP will have been made out.

6.6.13. The Grampian requirement advocated in Chapter 3.2 of this Report is therefore viewed as necessary for CA and TP reasons, in addition to the planning merits rationale already stated. The requirement would:

a. engage the full weight of the project benefits upon which the Applicant relies;
b. apply the Applicant's justifications that a compelling case in the public interest for land to be compulsorily required exists taking into account the whole project benefits;
c. give landowners certainty about the security of their land and the circumstances by which their rights would be affected;
d. ensure that the test in s122(3) of PA2008 would not be met.

6.6.14. The ExA recognise that NPS EN-1 (2024), as an important and relevant consideration, emphasises that there is a critical national priority for this type of infrastructure and recognises that there are different stages of delivery for a CCS project to be commissioned fully. However, it is the view of the ExA that it is reasonable for the APs affected by the Proposed Development to receive a more realistic time estimate and more certainty as to when their land might be acquired.

The Applicant suggests in Article 34 of the dDCO [REP6-002] that they give an AP 28 days' notice of their intention to enter the relevant plot of land. The ExA does not accept this position especially when the Applicant has already acknowledged that [REP5-058]:

"Significant capital expenditure will be required to construct the Proposed Development. It is not economically realistic that the Applicant would build the proposed Development without certainty that the consents for the offshore scheme will be granted."

6.6.15. The full wording of the Grampian Requirement (to become Requirement 20 in the rDCO) is set out in Chapter 7 of this Report. Assuming that the SoS agrees with the ExA on this matter, the ExA proceeds in the remainder of this chapter on the basis that the Grampian Requirement secures compliance with s122(3) of PA2008.

6.7. CONSIDERATION OF INDIVIDUAL OBJECTIONS

6.7.1. Appendix E to this Report contains the Applicant's CA Tracker, for the latest position on CA matters from its perspective at the close of the Examination. Appendix F of this Report contains the ExA's assessment in respect of individual objections to CA and/or TP powers and concludes on the case in each individual circumstance. Those Affected Persons that had objections either during or at the close of the Examination are considered in more detail in Appendix F.

6.7.2. The Applicant has been successful in making contact with the Category 1 landowners in the Order Limits whose land would be subject to CA, TP with Permanent Rights or TP. If there are any other persons, they have not raised objections to the Proposed Development or CA and TP powers sought during the Examination. The Applicant's SNP [REP7-002] sets out a schedule of all negotiations and the progress made during the Examination. Aside from the position with a number of SUs, almost all have been resolved through negotiations.

6.7.3. For the purposes of this section of the Report, the ExA is satisfied that the CA powers sought over all of the land identified in the Land Plans and BoR are required for the Proposed Development, to facilitate it or are incidental to it. It therefore follows that the ExA is satisfied that the powers sought meet the condition set out in s122(2) of the PA2008.

6.7.4. Furthermore, while it is accepted that the CA and TP powers sought might result in some adverse impacts to the private interests of the owners of the land affected, in view of the established need for the Proposed Development and the need to provide certainty in terms of project delivery, the ExA considers, subject to the inclusion of a Grampian clause discussed in above, that there is a compelling case in the public interest for the CA and TP powers sought. The ExA is therefore satisfied that it meets the tests in s122(3) of the PA2008.

6.8. SPECIAL CATEGORY PROVISIONS

6.8.1. This section of the report considers Statutory Undertakers rights, as under s127 and s138 of PA2008, Crown Land considerations as per s135 of PA2008 and Special Category Land provisions as per s131 and s132 of PA208.

6.8.2. The Applicant was asked throughout the Examination by the ExA whether the Proposed Development bore on any of the special land and rights provisions that arise under the PA2008. Issues are reported under individual headings below.

Statutory Undertaker (SU) Land, Rights and Apparatus

6.8.3. S127 PA2008 allows for the DCO, if made, to authorise the compulsory acquisition of land held by SUs. If any of the SUs object to the Application and this is not withdrawn, then special parliamentary procedure would apply to the approval of the Application unless the SoS is satisfied that the land:

- Can be purchased and not replaced without serious detriment to the carrying on by the SU of the undertaking;
- or, if purchased, it can be replaced by other land either belonging to or available for acquisition by the SU without serious detriment to their carrying on of the undertaking.

6.8.4. Section 138 of the Planning Act 2008 provides that a DCO may include provision for the extinguishment of a relevant right or removal of relevant apparatus only if the SoS is satisfied that this is necessary for the purpose of carrying out the development to which the order relates.

6.8.5. The draft DCO includes PPs in respect of SUs (see Schedule 9). The Applicant sought to agree the form of PPs with the affected undertakers but, at the close of the Examination, a number retained objections to the Proposed Development on the grounds of insufficient PPs.

6.8.6. This section deals with the position of outstanding objections and the individual cases for PPs at the end of the Examination. Any amendments required in respect of PPs are recommended to SoS both below and more specifically within Chapter 7 of this Report.

6.8.7. The ExA asked about the latest position in their Rule 17 letter dated 6 September 2024 [PD-023] and the Applicant summarised this in their response DL6 [REP6-046]. In this Response, the Applicant set out the statutory provisions contained in S127 PA2008 and at paragraph 2.5 referred to a number of SUs for whom the section was engaged, and these are:

- NGT
- NGET
- Cadent Gas Limited
- Network Rail Limited
- National Highways (NH)
- British Pipeline Agency
- Uniper UK Gas Limited

6.8.8. In their closing cover letter [REP7-001] and Statement of Commonality [REP7-013], the Applicant confirmed that agreement had not been finalised with any of these SUs and therefore Statements of Common Ground (SoCG) were not being submitted with the exception of NH which was itself still recording significant areas of disagreement.

National Gas Transmissions (NGT)

6.8.9. At the Theddlethorpe end of the Order Limits, two options were originally presented with the dDCO for developing the TAGI. Both options would need to 'tie-in' with the LOGGS so that gathered CO_2 could be transported offshore. Option 1 would be on the site of the former Theddlethorpe Gas Terminal (TGT), owned and operated by

NGT. If negotiations with NGT were not successful, the Applicant had a fallback position, Option 2, which would be on arable land west of the TGT.

6.8.10. The position was clarified with the Second Change application lodged 19 June 2024 [AS-063 to AS-084] which removed Option 2 on the basis that agreement with NGT was on the verge of being completed. In their cover letter to the Second Change Application, the Applicant explained that:

"Following submission of the Application, representations were received from NGT (RR-056) and Mablethorpe Flexible Generation Limited (RR-070) regarding the proposed future use of the TGT Site. The Applicant has continued to work with these parties with a view to reaching a voluntary agreement that would allow use of the former TGT site for the Theddlethorpe Facility and accommodate potential future development by Mablethorpe Flexible Generation Limited. The Applicant and NGT have now reached agreement on the terms of a voluntary agreement, with engrossed versions of those agreements now going through the final corporate approval processes of the respective organisations. As a result of this progress, the Applicant is now confident that Option 2 is no longer required."

6.8.11. However, at the close of the Examination an agreement with NGT had not been reached and a SoCG had not been entered into, as conceded by the Applicant [REP7-001]. The Applicant provided further detail [REP6-046] by saying that a suite of arrangements had essentially been agreed between the parties and NGT informed the ExA that delays in reaching a signed agreement were as a result of corporate formalities only [AS-099].

6.8.12. This matter remains outstanding at the close of the Examination and the SoS may wish to seek clarification from the parties as to whether an agreement has or has not been reached.

6.8.13. The existence or not of an agreement is quite crucial to the Applicant's case under S127 of PA2008. This is because the Applicant had maintained throughout various submissions that the TGT did not qualify as SU land under requirements (a) or (c) of s127 PA2008 [APP-010], [REP1-051], [REP4-034], [REP5-063]. If agreement had been reached, then NGT's objection to the Proposed Development would have been withdrawn which, the Applicant states, renders the question of whether the NGT "site is operational land or not is an irrelevant consideration" [PD-021, Q2.5.17] [REP5-063].

6.8.14. The fact that the negotiation has not concluded means that the issue does need to be considered and yet the ExA has not received detailed legal analysis on the position of S127 from either party. This is highly unsatisfactory.

6.8.15. The position as to whether or not NGT's use of the TGT site met the requirement set out in s127 PA2008 was raised at CAH2 and confirmed as Action Point 7 [EV7-008]. The Applicant provided a Response [REP4-034] which essentially echoed their previous position [REP1-051]. The point being argued at a relatively simplistic level was that the site was not currently being used for the purposes connected with NGT's statutory undertaking. There was a brief reference to relevant case law at paragraph 3.5 of the Applicant's Response, but no specific cases were cited and no clear evidence or reasoning provided.

6.8.16. NGT made robust defences of its use of TGT and the applicability of S127 of PA2008 [REP2-039] [REP5-079]. In summary, NGT states:

- NGT considers Theddlethorpe to be a prime location for this use due to its direct connectivity to NGT's national transmission system, which will allow the transmission of natural gas and hydrogen.
- NGT proposes to develop the land around its existing, operational gas terminal1 as an energy park using that terminal to supply and receive gas and hosting new low or zero carbon energy technologies.
- NGT intends to grant leases which will allow them to manage ground conditions, site drainage and contamination.

6.8.17. At the end of submission [REP2-039], NGT concludes:

"Section(1)(c)(ii) is intended to afford protection where land is not in active use at the relevant time, but continues to be held for the purposes of carrying on the statutory undertakers' undertaking. It would be highly onerous to require that statutory undertakers at all times maintain active applications for consent for alternative uses of such land in order that they may rely on the s127 protection. NGT respectfully submits that such an interpretation should not be adopted by the ExA or by the Secretary of State."

6.8.18. In its response to ExQ2, NGT replies [REP5-079, Q2.5.16]:

"NGT has been clear that its plans for the TGT site will include the transmission of natural gas and hydrogen (both of which are "gas" within the meaning of the Gas Act 1986) via NGT's national transmission system ("NTS"). Indeed, a large part of the rationale for the development of an energy park in this location is due to its direct connectivity to the NTS, which will allow the transportation of gas through the existing pipelines".

"NGT's plans for the site plainly do accord with the purposes of its statutory undertaking as a gas transporter. An interest in the TGT site is held for those purposes, and s.127 is thus engaged."

6.8.19. The ExA also note that NGT has an existing obligation upon it, via the extant minerals planning permission granted by Lincolnshire County Council, to undertake restoration of the TGT site to agricultural use. NGT submit that such an obligation in itself would satisfy the relevant requirement of s127 PA2008 [REP5-079, Q2.5.18].

6.8.20. Since the ExA has to form a view on this issue without adequate submissions from the Applicant or NGT, our position is somewhat less informed that it should have been. We are reassured to some extent that both parties are indicating that negotiations are at a very advanced stage. The Applicant says in its response [REP7-016] to the Rule 17 letter [PD-026] that it would not wish to locate the TAGI "in a location that would prevent that future development coming forward" and this seems an acknowledgement that the site remains operational and the ExA's view is reinforced on the basis that the time period for reinstating the site to agricultural land is still a condition in an extant planning permission. This was specifically confirmed by Lincolnshire County Council (LCC) in a question asked at CAH2 [EV7-002 to EV7-007]. The ExA therefore does not accept the argument put forward by the Applicant in the SoR and we are of the opinion that the NGT site is indeed statutory undertaker's land for the purposes of s127 PA2008.

6.8.21. Having formed this opinion, the ExA then needs to consider the overall position under s127(3) PA2008 and whether the land can be acquired without causing serious detriment to the carrying on of NGT's undertaking. Again, the ExA has to deliberate in something of a vacuum in the light of very limited representations from

the Applicant as shown by their response to Q2.3.8 to the Rule 17 request [PD-023] and the fact that NGT have never addressed this issue aside from their opening submission [RR-070] nor have they attended either CAH1 or CAH2. In view of such limited engagement, it is difficult to conclude that there really would be "serious detriment" to the TGT site and the ExA find this view reinforced by the apparent proximity of agreement being reached and the claim from the Applicant that it is willing to work around NGT's development options. In these circumstances, the ExA considers that the land can be acquired from NGT without causing serious detriment to their undertaking.

6.8.22. The SoS is therefore advised to review in the decision-making process if an agreement has been reached between the Applicant and NGT. If it has not been, the ExA recommends that CA powers over the TGT may be granted without causing serious detriment to NGT's undertaking. Thus, the tests under s127 of PA2008 are met. The Applicant has argued that the PPs that they had proposed were more than adequate to provide the necessary protection in order to avoid serious detriment to their undertaking as a result of the Proposed Development. This is considered further in Chapter 7 of this Report.

NGET

6.8.23. PPs for NGET are in Schedule 9 Part 3 of the dDCO. At DL5, NGET stated that it could not agree to the PPs in the current written form, citing several reasons being [REP5-080]:

- a need to protect future NSIPs that NGET is planning in the area;
- the use of the word 'reasonable' in Paragraph 19 of the PPs on the basis that NGET should have absolute discretion, ensuring its statutory obligations are performed;
- the inclusion of Paragraphs 21(6) in relation to the return of unspent funds; and
- wording in Paragraph 24(2) that makes NGET and its statutory duties subject to a reasonableness test. The wording of the PPs already provides that NGET's approval will not be unreasonably withheld or delayed.

6.8.24. NGET has emerging plans for two NSIPs in the area being the Eastern Green Link 3 and 4 Projects and the Grimsby to Walpole Project. NGET say that these projects are crucial in upgrading the UK's electricity system. NGET has provided a copy of its own preferred PPs for ExA and SoS consideration, which it says would allow its objections to be withdrawn [REP5-081]. It confirmed that whilst many points had been agreed between the parties, there still remained a few areas of disagreement as outlined above.

6.8.25. The Applicant points out that the submission dates for the DCO applications for these two projects are still some time away and it would, as a result, be premature for PPs to be included in the dDCO for the Proposed Development. The ExA accepts this position and takes the view that future projects which will not be determined for some time yet should not impinge on this DCO.

6.8.26. The second area of difference is the Applicant's wish to insert "reasonable" to paragraph 21(2), Part 3 in the context of removal of apparatus. The ExA is not convinced that this insertion would provide any greater clarity and there is nothing to indicate NGET would act unreasonably in protecting its assets.

6.8.27. The third area NGET have raised relates to paragraph 24(6) and the treatment of unspent funds. The Applicant seeks for these to be returned if not spent within a three-month period. NGET refers to the practicalities of such a burden such as the

works being covered by a commercial agreement which also regulates works outside the Proposed Development. The ExA agrees with NGET that a three-month repayment period is not appropriate for a national organisation which will inevitably have a complex layer of commercial agreements involving multiple sites on many occasions. The ExA has made recommendations in respect of the wording for these PPs, which are set in Chapter 7 of this Report.

Cadent Gas Limited

6.8.28. Cadent indicated in their initial representation [RR-020] that discussions were taking place with the Applicant, but their primary concern was to meet their statutory obligations. Cadent updated the ExA during the Examination [REP1-090] and then provided draft protective provisions [REP5-075] in its response to Q2.7.15 of ExQ2 [PD-021]. Cadent justified these provisions in their closing submission to the Examination [AS-097] by submitting that they were necessary in order to ensure compliance with relevant safety standards.

6.8.29. The Applicant responded [REP6-046] to these submissions. The first difference simply turned on one word concerning the obligation on Cadent to remove apparatus. The Applicant sought a stricter obligation saying Cadent "must" take the necessary steps whilst Cadent wanted an element of discretion with a lighter obligation requiring that they "may" take such steps.

6.8.30. It is disappointing that after many months of engagement, the parties are still differing over a single word which must have been debated on many previous occasions. Cadent makes the point that it has a statutory and regulatory duty to act economically and efficiently. The ExA accepts this position and struggles to appreciate the Applicant's concerns that this could act as an impediment to the Proposed Development. The ExA therefore agrees the insertion of the word "may" as suggested by Cadent.

6.8.31. The parties are also differing over the inclusion of an indemnity clause and the position is summarised in section 5 of the Applicant's response to the Rule 17 letter [REP6-046]. Cadent explain that this indemnity is in substantially the same form as the indemnities imposed in a number of other recent DCOs. The Applicant argues that this indemnity could impose a greater burden on it and its omission does not risk serious detriment to Cadent's undertaking. The ExA remains unconvinced by the Applicant's submission. Since it is the Applicant which is the agent of change if the Proposed Development is actually constructed and since the clause has been used elsewhere both for other SUs in the proposed order as well as across other DCOs recently made, the ExA agrees to the indemnity wording sought by Cadent.

6.8.32. The ExA has made recommendations in respect of the wording for these PPs, which are set in Chapter 7 of this Report.

Network Rail Limited (NR)

6.8.33. NR submitted a closing statement [REP6-064] which withdrew their objection on the basis that the PPs had been agreed. A copy of what NR believed had been agreed between the parties was annexed to their later representation [AS-100] and NR confirms that it was in process of formalising agreement on PPs.

6.8.34. The Applicant states [REP6-046] that NR is "agreeable to the PPs included in the dDCO (Revision H)". However, this is clearly not correct when the PPs submitted by NR [REP6-064] are compared with the dDCO Revision H [REP6-002]. As an example, the Applicant has included a clause 67(5) at page 126 of the dDCO which

lists a number of exclusions to the need to provide details of any proposed works to NR prior to such works being carried out. There is no such clause in the version submitted by NR. Another example is the inclusion in the dDCO of clause 67(3)(b). Yet again a discrepancy arises as there is a proviso added to clause 71(2) on page 127 requiring NR to mitigate its loss.

6.8.35. Confusingly, the dDCO then includes additional clauses 74-83 which in the main appear to be for the protection of the assets of NR but which are not included in the version provided by NR as clauses they would accept.

6.8.36. The ExA is less than satisfied with the position at the close of the Examination and the Applicant ought not to be asserting that changes have been made to the dDCO in accordance with the requests from SUs when this is clearly not the case. On the basis that NR submitted PPs to the Examination that it believed had been agreed, the ExA recommends to the SoS that NR's preferred PPs are incorporated into the rDCO without amendment or modification, as set out in Chapter 7 of this Report. Notwithstanding, the SoS is advised to seek clarity on the matter and whether any resolution upon different wording has been achieved between the parties.

National Highways (NH)

6.8.37. NH submitted that the PPs produced at Schedule 9 Part 9 of the dDCO did not meet the standard provisions that NH normally require on DCO applications [REP5-082] [REP6-061]. The planning-based changes to these are considered thoroughly in section 3.7 of this Report and are not repeated here. In summary, the ExA considered it necessary to amend the PPs in the interests of protecting the Strategic Road Network and ensuring NH, as an SU, was able to perform its statutory functions.

6.8.38. The relative position of the parties is set out in Table 3 in the Applicant's final response concerning Statutory Undertakers and Protective Provisions [REP6-046]. There are four remaining areas of difference being firstly the definition of "acceptable security", secondly the ability of NH to undertake construction works to the pipeline, thirdly the inclusion of a twelve-month defects period and fourthly the position of NH as an approving body in the discharge procedure of several requirements.

6.8.39. As to the first point, the Applicant argues that providing evidence that the Applicant has a tangible net worth of at least £50 million should be an acceptable form of security. NH set out its position [REP6-061] and emphasised that it was seeking additional security by way of a bond which merely replicated the security provisions which are consistent with the measures applying to developments carried out under other consenting regimes such as the Town and Country Planning Act 1990 and Highways Act 1980. NH refers between paragraphs 2.4 and 2.8 [REP6-061] to a number of recent DCO decisions where the bond provisions they are seeking have been included in the DCO. The Applicant does not refer to any of these in its closing submission [REP6-046] and merely states that it considers the security offered to be adequate and regularly accepted by other SUs. The points that NH make are far more persuasive and the ExA agree with the wording that they have submitted relating to the requirement for a bond.

6.8.40. The second point is NH's ability to undertake works to the pipeline and the necessity to comply with its own statutory responsibilities. The Applicant responds [REP6-046] by saying that the operation of the pipeline accords with strict health and safety standards and if there are safety issues affecting the road network then these can

be covered in the short term by a road closure. In this case, the ExA accepts the Applicant's position.

6.8.41. The defects period is the third point of difference [REP5-082] and NH state that this is again a standard request and allows an assessment of potential settlement arising from the pipe installation. The Applicant responds [REP6-046] by saying there are already sufficient protections including prior approvals of plans by NH and post construction surveys. However, as with the bond requirement, the ExA considers that a defects period is a relatively standard provision which is regularly required by NH and accepted by developers and the Applicant has not put forward a strong argument for one to be omitted in this case.

6.8.42. As to the fourth difference, NH reaffirmed its position in robust terms in its final submission [REP6-061] with some criticism of the application. NH states the following:

"*Unfortunately, with regards to this application, the measures set out to date by the Applicant are insufficient to manage the effects of construction traffic on the SRN. The Applicant has not assessed their impact or safety on the SRN and National Highways has made it clear that further evidence is still required. If insufficient information is provided for National Highway at this juncture we would expect to be approvers of the relevant management plans to provide reassurance for a safe and smooth operation of the SRN. If the Applicant had provided sufficient information upfront, as National highways would ordinarily expect, then it may have not been necessary to make this request. Rather than holding the Applicant to task over information that should have already have been provided as part of their application National Highways sort a pragmatic solution by instead requesting this role in discharging the CTMP and DTMP."*

6.8.43. In view of other omissions elsewhere in this application, the ExA is not surprised by the position set out by NH. The ExA agrees with the need for NH request for an approval role under Requirements 6 and 16 of the dDCO.

6.8.44. The amendments to the PPs are listed in Table 3 in Chapter 7 of this Report.

British Pipeline Agency Limited

6.8.45. This relates to a high-pressure fuel pipeline which is crossed by the Proposed Development. In their early representation [RR-016] the Agency wanted a review of all activities in close proximity to the pipeline to ensure no damage, The draft SoCG [REP1-037] states that the parties are in discussion over PPs.

6.8.46. However, no further representation was received from this SU and nor is there any mention in the summary of negotiations with SUs [REP6-046]. There is no known outstanding objection, and the ExA therefore concludes that the proposed PPs in the rDCO are adequate.

Uniper UK Limited (Uniper)

6.8.47. The dDCO [REP6-002] does not contain any PPs for Uniper. This is despite [REP6-046] from the Applicant confirming that Uniper "has land interests and apparatus within the Order Limits." Uniper has provided a set of its PPs [AS-120]. The Applicant has commented on them and is seeking amendments [REP6-046, Table 4] but were not agreed or resolved during the Examination.

6.8.48. The ExA recommends to the SoS that a new Part 14 is written into the rDCO for the benefit of Uniper and can be done so without prejudice to either the Applicant or Uniper.

6.8.49. In terms of the content of Part 14, there are two points of difference remaining at the close of the Examination.

6.8.50. The first relates to the "as-built records" and the support for this is set out in the closing submission from Uniper [AS-120]. Uniper is seeking details of works carried out which affect its undertaking within 20 business days after completion. The Applicant is resisting this [REP6-046] since it does not intend to produce "as-built" records until after completion of the full 55km of the pipeline. Uniper argue (paragraph 6 of their closing submission) that such a delay is potentially detrimental and dangerous to their undertaking. The Applicant has not provided any compelling reason to justify the delayed passing of built records to Uniper, or why such would be unreasonable or an impediment to the Proposed Development. Uniper also submit that recent made DCOs, Cottam Solar Project Order 2024 and the Gate Burton Energy Park Order 2024, provide Uniper with such protection. The ExA accepts this argument and takes the view that these records are necessary for safe apparatus management.

6.8.51. The second difference between the parties is also explained by Uniper in their closing statement [AS-120]. This is on the issue of indirect loss and whether the potential liability of the Applicant should extend to third parties or should be restricted. Uniper refer in this submission to all the DCOs entered into in the past three years and have found circa 20 DCOs with almost identical wording to protect the SU as they are seeking. Uniper has further found that none of these DCOs in the past three years adopt the wording proposed by the Applicant. The Applicant seeks to justify its position (paragraph 8.1 [REP6-046]) by stating that it should only be liable for indirect or consequential losses where they were reasonably foreseeable.

6.8.52. The Applicant said that it would discuss the position further with Uniper and "submit a separate update before the close of the Examination" (paragraph 8.2 [REP6-046]) but this did not occur. It is difficult to understand why the Applicant has continued to argue this position when the weight of recently determined DCOs so clearly supports the position taken by Uniper.

6.8.53. The ExA sees no justification in the Applicant's position and recommends to the SoS the inclusion in the dDCO of Part 14 including the amendment sought by Uniper. The full details of the wording are set out in Table 3 in Chapter 7 of this Report.

Other Requests for Protective Provisions

6.8.54. Associated Petroleum Terminals and Humber Oil Terminals Trustee Limited have land interests and apparatus within the Order Limits and representations were made on their behalf throughout the Examination with the final submission at DL5 [REP5-088]. Their objection to the application was maintained at the close of the Examination but they do confirm that technical discussions have taken place and good progress has been made with the Applicant's team in settling the drafting for the proposed PPs to protect their key interests and operations and the related overarching agreement. In the absence of specific concerns relating to the PPs, the ExA recommends no changes be undertaken to PPs proposed at part 12, schedule 9, of the dDCO [REP6-002].

6.8.55. The representations from R Caudwell (Produce) Limited made reference to a future solar farm being proposed on the owner's land within the Order Limits [RR-086] [REP1-100] [AS-091] and [AS-093]. The objection from this AP was ultimately withdrawn [AS-094], although the potential operator of the solar farm, Bluestone Ludborough, made its own representations to the Examination at DL6 [REP6-053] [REP6-054]. The representation (which was only raised in the final month of the Examination) was to request to have PPs written into the dDCO to ensure that any future solar projects could co-exist with the Proposed Development

6.8.56. The Applicant responded [REP7-016] to state that co-existence of the pipeline and a solar farm on this site could be possible. The solar farm development cannot be built in a way that might adversely impact the pipeline (e.g. by having panels directly on top of it), but the pipeline would not prevent development of the majority of the field. The Applicant confirmed that it would continue to engage with the solar developer on how both proposals might co-exist.

6.8.57. In a similar instance, Stallingborough Energy Project Limited (SEPL) made submissions at DL6 [REP6-066] again requesting that PPs be included in the dDCO to make allowances for the future development of land.

6.8.58. The Applicant responded [REP7-016] to state that SEPL's intention to develop the Grange Energy Park was at a premature stage, with no application for planning permission or development consent having been submitted and a longer term construction programme as a result. Whilst the Applicant would continue to engage and work with SEPL, the Applicant considered that PPs are not necessary or appropriate. Any solar farm development would have to make allowances for the Proposed Development so as not adversely affect it.

6.8.59. In both cases, the ExA note that the submissions from the two proposed developers were only raised at a late stage in the Examination and at its close, no application for solar farms have been submitted to the relevant authority and that the emerging projects are not matured to a stage as to represent an impediment or constraint to the Proposed Development. Any future development above or in proximity to the Proposed Development would need to take account of the pipeline's existence and the restrictive covenants imposed thereto for protection of the pipeline. The ExA concurs with the Applicant that there it is not appropriate, at this stage in the development of the various projects, for PPs to be incorporated into the dDCO.

ExA's Conclusions on s127 and s138 of PA2008

6.8.60. Schedule 9 of the dDCO includes PPs for all of the affected SUs whose rights and apparatus would be interfered with by the delivery of the Proposed Development. Subject to the amendments noted above which we have added as appropriate to the RDCO, we are satisfied that the interference with the apparatus and rights is necessary for the purposes of carrying out the development.

6.8.61. Accordingly, having regard to the provisions of s127 and s138 PA2008, we recommend to the SoS that the Order may include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus.

Crown Land

6.8.62. Section 135(1) of the PA2008 precludes the CA of interests in Crown Land unless the land is held "otherwise than by or on behalf of the Crown", and the appropriate Crown authority consents to the acquisition. Section 135(2) precludes a DCO from

including any provision applying to Crown Land or Crown rights without consent from the appropriate Crown authority. This is not limited to CA provisions in a DCO.

6.8.63. The CA Guidance encourages Applicants to apply for consent from the Crown as soon as possible. Indeed, paragraph 2 to Annex B from the CA Guidance to the PA2008 provides that:

"The aim should be to ensure that Crown consent is in place before the application for the development consent order is submitted. If consent is not granted by the time an application is submitted, then the Applicant should give an indication of when they expect consent to be received. At the very latest, this should be by the time the examination phase of the project is completed."

6.8.64. Crown Land was identified in the Order Limits at plots 1/50, 1/60, 1/67, 1/71, 36/12, 36/14, 36/15 and 36/16, as shown on the plans [AS-076].

6.8.65. The Driver and Vehicle Standards Agency (DVSA) operate from the land at plots 1/50, 1/60, 1/67 and 1/71, which adjoins Manby Road, South Killingholme. The Applicant stated in the SoR [AS-013] submitted in October 2023 that "it is not anticipated that there will be any difficulty in securing this agreement."

6.8.66. However, the DVSA were far from content with the proposal and initially indicated that it would need to relocate should the Proposed Development directly interfere with the DVSA's operational yard [RR-030]. This possibility was then clarified by DVSA when they submitted that an alternative site was unlikely to be found by the Applicant in the Order Limits [REP1-070].

6.8.67. The ExA requested clarification in ExQ2 [PD-021] and also in the Rule 17 request [PD-023]. Eventually, the DVSA confirmed on 24 September 2024 [AS-095], two days before the close of the Examination, that it granted consent to the inclusion of their Crown Land in the dDCO and for the articles applicable in relation to Crown Land (as listed in the letter from the DVSA) to be included. This consent was subject to the Applicant obtaining the DVSA's further consent before exercising such rights.

6.8.68. With regards to the second range of plots affecting Crown Land (36/12, 36/14, 36/15 and 36/16), these are located in the foreshore leading from the TAGI to the level of mean low water springs (MLWS). Despite assurances from the Applicant, Crown Estate consent was not readily forthcoming during the Examination.

6.8.69. The ExA asked about this at each CAH and again at question 2.5.30 of ExQ2 [PD-021]. The Applicant responded [REP5-063] by saying that they were continuing to engage with the Crown Estate (tCE) and confirmed that *"this will remain a priority in the remaining weeks of the Examination".*

6.8.70. The ExA raised the position concerning both sections of Crown Land in our Rule 17 request of 20 September 2024 [PD-026] and referred to paragraph 40 of the CA Guidance, which reminds the Applicant that discussions with tCE should start before the application is submitted and the consents should be obtained at the very latest by the time the Examination phase is completed.

6.8.71. The Applicant admitted in its response [REP7-016] that it had not been able to obtain this consent and that the consent would be sent to the SoS post-Examination when available. The Applicant will be aware that this is a failing and not how the process should be progressed.

6.8.72. Whilst recognising that the offshore elements of the Viking CCS Project would be subject to a separate consenting process, the ExA sought to understand whether the Applicant had made any meaningful progress on obtaining Crown Estate consent for use of the seabed.

6.8.73. The ExA asked about the necessary lease from tCE for the offshore pipeline at various stages of the Examination and again at question 2.4.2 of our final Rule 17 letter [PD-026]. The response originally given in April 2024 in the reply to the ExA's First Written Questions, was that discussions were progressing and by the end of the Examination the Applicant was very confident that "a lease with the Crown Estate will be progressed timeously" [REP1-045].

6.8.74. However, in the light of the very slow pace of negotiations with tCE for the onshore land and also with certain Statutory Undertakers, the ExA finds this optimism somewhat less than convincing. On any analysis, the negotiation for the terms of a commercial lease for the length (of around 118km of existing pipeline plus a new 28km spur) of offshore pipeline together with the necessary facility as explained in paragraph 2.1.2 of the Bridging Document [APP-128] is likely to prove considerably more difficult.

ExA Conclusions on s135 PA2008

6.8.75. The Applicant has failed to show signs of material progress with the Crown Estate for what will be a commercial negotiation. The SoS is advised, in the decision-making process, to obtain an update from the Applicant in respect of Crown Estate consent both for land within the Order Limits and for land required to deliver the project overall. In the absence of this, the ExA cannot confirm that s135(2) PA2008 has been complied with.

Special Category Land

6.8.76. As shown in Part 5 of the Book of Reference [REP6-007] and the Special Category Land Plans [AS-077] the dDCO [REP6-002] includes provisions for the compulsory acquisition of land and rights to which the provisions of the Planning Act 2008 relating to special category land apply.

6.8.77. Such Land was addressed in section 10.3 of the SoR [APP-010]. Three plots of Common Land were identified being plots 29/11, 29/13 and 30/23 and two different sections of Open Space land were considered, one being at the northern end of the Order Limits and the other at the southern end. As to the Open Space land, the Applicant proposed to use trenchless installation techniques (for example, horizontal directional drilling) without interfering with the recreational use of the surface. As to the Common Land, this comprised a ditch and part of an existing track, which the Applicant would cross using trenchless techniques. In both cases, no surface land would be acquired. The Applicant therefore submits that no replacement land is required because there will be no loss of use, or loss of enjoyment, of the surface at any time.

ExA Conclusions on Special Category Land

6.8.78. The ExA accepts that the Order land when burdened with the new rights proposed would be no less advantageous than before and therefore the proposal fell within the exception provided by s132(3) PA2008.

6.8.79. The ExA accepts that, during construction and operation, no replacement land is required to be given in exchange for any new rights conferred by the Order. On this basis s132(4) is not applicable to the Proposed Development.

6.9. OTHER CA/TP MATTERS CONSIDERED DURING THE EXAMINATION

6.9.1. Throughout the Examination, the ExA were mindful of the steps outlined in the CA Guidance and considered that the following paragraphs were of particular relevance to the Application:

- Paragraph 9 – that the Applicant had a clear idea of how they intended to use the land.
- Paragraph 13 – the Applicant proving that the public benefits of the Proposed Development would outweigh the private loss that would be suffered.
- Paragraph 19 - any potential risks or impediments to the implementation of the scheme had been properly managed.

Phillips 66 Limited and the IAGI

6.9.2. The IAGI would require permanent acquisition of land in order to be constructed and operated. Once the proposed pipeline went outside the boundaries of the IAGI, TP powers would be used to construct the pipeline, with permanent rights acquired to allow maintenance and operation.

6.9.3. In close proximity to the IAGI are the industrial premises owned and operated by Phillips 66 Limited, pertaining to the Humber Refinery. At the onset of the Examination, two options were proposed for the routeing of the pipeline corridor upon exodus from the IAGI. Option 1 involved the pipeline travelling along the A1173 (Manby Road) in a southeasterly direction whilst Option 2 would take the pipeline directly through the site of the Humber Refinery.

6.9.4. The possibility of Option 2 from the IAGI was explained in Table 1 of the SoR [APP-010]. During the course of the Examination, Phillips 66 Limited objected strongly to the inclusion of its land in the Order Limits and the prospect of disturbed operations in the Option 2 scenario [REP1-093]. Being one of the Applicant's so-called "anchor" industries, upon whom the Proposed Development would serve to capture the CO_2 emissions, this objection represented an impediment to the project.

6.9.5. However, the Applicant's first change request application lodged on 19 March 2024 [AS-038 to AS-054] removed Option 2 from the Order Limits and land. Phillips 66 Limited were represented at each stage of the Examination and their objection was finally withdrawn on 11 September 2024 [REP6-032] with agreement to Protective Provisions.

Unknown Land Interest Positions

6.9.6. The ExA refer to Appendices E and F of this report, with particular focus on the position for Lincolnshire County Council (LCC) and the Lindsey Marsh Drainage Board. Both of these entities are recorded as having land interests in the BoR and as having ongoing negotiations with the Applicant.

6.9.7. The last iterations of the SNP and the Applicant's CA Tracker [REP7-002] [REP7-003] contain text regarding these APs behind a strikethrough amendment. It is unclear to the ExA as to why the information is presented in this way, or whether it is an error. The underlying text seems to imply that negotiations are ongoing.

6.9.8. No formal objections to the CA and TP powers sought by the Applicant were received from these APs during the Examination. The last known position at the close of the Examination was that the Applicant was pursuing voluntary agreement but there is no evidence before the ExA to draw that conclusion. The ExA assumes voluntary agreement has been reached. Even if it has not been, in either case, given the lack of representation and objection, the plots owned by LCC and the Lindsey Marsh Drainage Board are considered by the ExA to be essential for the delivery of the Proposed Development and therefore the seeking of CA of land and rights is justified in this instance.

Human Rights Act 1998 and Equality Act 2010 considerations

6.9.9. The Human Rights Act 1988 places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not European Union (EU) institutions and are unaffected by the decision to leave the EU.

6.9.10. Schedule 1 of the Human Rights Act 1998 sets out the articles. Article 6 (right to a fair trial) and Article 1 of the First Protocol (protection of property) are engaged.

6.9.11. There are no residential properties to be acquired for the Proposed Development and, as such, the ExA have no reason to believe that Article 8 (Right to respect for private and family life) would be engaged.

6.9.12. Chapter 10 of the SoR [AS-013] addresses the compliance with the relevant provisions of the ECHR and fair compensation. The Applicant concludes that any infringement of the ECHR of those whose interests are affected by the inclusion in the dDCO of powers of CA, proportionate and legitimate, would be in the public interest and in accordance with national and European law.

6.9.13. The ExA considers that appropriate consultation took place before and during the process and that there has been an opportunity to make representations. The CAHs provided an opportunity for all APs to be heard had they wished to do so.

6.9.14. Furthermore, should the Order be made, there are further opportunities for APs to challenge the Order in the High Court. The ExA considers this sufficient to meet the obligations set out in Article 6.

6.9.15. The Applicant acknowledges in the SoR that the Order has the potential to infringe the rights of APs. The ExA notes it has sought to minimise the amount of land affected and included suitable provisions for the payment of compensation in the dDCO. The ExA has found above that there is a compelling case in the public interest for all of the land identified to be acquired compulsorily. Furthermore, the ExA considers that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. The ExA therefore concludes that the CA and TP sought is compatible with the Human Rights Act 1998 and the ECHR.

6.9.16. The Equality Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the Examination and in its consideration of the issues raised in this report.

6.9.17. Overall, the ExA finds that the Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, the ExA has found no breach of the Public Sector Equality Duty.

6.10. CONCLUSIONS

6.10.1. In order for there to be a compelling case in the public interest, as s122(3) stipulates, the Grampian Requirement proposed by the ExA is essential to secure the benefits of the whole Viking CCS Project. Before land or rights are acquired by compulsion it must be clear that the Proposed Development will form part of a broader scheme for CCS, the offshore components of which are also adequately consented and secured.

6.10.2. Having considered all of the material submitted to the Examination, and subject to the imposition of the Grampian Requirement stated above, the ExA has reached the following conclusions:

- The Application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The Applicant would have access to the necessary funds and the rDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
- There is a clear need for all the land included in the BoR to be subject to CA or TP.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe.
- That in all cases relating to individual objections and issues that CA and TP are justified to enable implementation of the Proposed Development.
- Subject to our reservations mentioned before in this Chapter, the ExA finds that the powers sought satisfy the conditions set out in s122 and s123 of the PA2008.
- In the majority, subject to the ExA's recommended amendments to PPs detailed above (discussed in further detail in Chapter 7 of this Report), the powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.
- The SoS is recommended to seek confirmation from the Applicant whether or not agreement has been reached with NGT, and whether Crown Estate consent has been granted under s135 of PA2008.

6.10.3. Considering all of the above, the ExA finds there is a compelling case in the public interest for the CA and TP powers sought and the ExA recommends acceptance of the CA and TP powers proposed in the dDCO.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

7.1.1. The application draft Development Consent Order (dDCO) [APP-006] and the Explanatory Memorandum (EM) [APP-007] were submitted by the Applicant as part of the application for development consent. Both the dDCO and EM were updated throughout the Examination with the latest version of the dDCO being [REP6-002] and EM being [REP6-004]. The EM explains the purpose and effect of each article of, and Schedules to, the Order and why they are required.

7.1.2. The EM also identifies and explains departures from the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. It also makes reference to where the drafting has been taken from wording for other orders made under the Planning Act 2008 (PA2008). The original application dDCO and subsequent iterations are in the form of a statutory instrument as required by section (s) 117(4) of the PA2008.

7.1.3. During the Examination, several further drafts of the DCO were submitted by the Applicant incorporating progressive changes arising from the Examining Authority's (ExA) written questions and requests for further information, as well as points made by Interested Parties (IP) [REP1-002, REP3-002, REP4-001, REP5-002, REP6-002].

7.1.4. This chapter provides an overview of the Examination of the Development Consent Order including notable changes made to the dDCO during the Examination and considers changes made to the final dDCO in order to arrive at the recommended DCO (rDCO) in Appendix D of this Report. Changes as a result of typographical or grammatical errors, or minor changes in the interests of clarity, consistency or updates to lists following discussion between the Applicant and relevant IPs, or as a result of written questions or comments made by the ExA, are not reported. No planning obligations have been pursued during the Examination and, whilst the Applicant is pursuing side agreements with various parties, these are not being relied upon at this stage to justify the Proposed Development or the wording of the dDCO.

7.1.5. A number of management plans controlling and mitigating the construction and operation aspects of the Proposed Development were submitted with the application, and subsequently revised during the Examination. The final versions of these outline management plans are considered by the ExA not to require any further amendment or alteration, thus are not reported on further below. The management plans are secured in the Requirements of the dDCO.

7.2. THE ORDER AS APPLIED FOR

7.2.1. This section records the structure of the dDCO. It is based on the Applicant's final dDCO and is as follows:

7.2.2. Part 1: Article 1 sets out what the Order may be cited as and when it comes into force. Article 2 sets out the meaning of various terms used in the Order.

7.2.3. Part 2: Articles 3 to 7 provide development consent for the Proposed Development, who has the benefit of the powers of the Order and how those powers could be

transferred. Within this, Article 6 sets out the limits of deviation within the Order limits.

7.2.4. Part 3: Articles 8 to 17 provide for the undertaker to be able to carry out works to and within streets, to alter the layout of streets, to create or improve accesses; and to temporarily close public rights of way.

7.2.5. Part 4: Articles 18 to 22 set out supplemental powers relating to discharge of water, authority to survey land, carrying out protective work to buildings and removal of human remains.

7.2.6. Part 5: Articles 23 to 36 provide for the undertaker to be able to compulsorily acquire rights over/ within the Order land, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions also provide for the undertaker to suspend or extinguish certain private rights. The provisions provide for compensation to be payable to Affected Persons (AP) in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to equipment of statutory undertakers.

7.2.7. Part 6: Articles 37 to 49 includes various provisions in relation to the Order including:

- Article 36 disapplies certain legislative provisions
- Article 37 provides a defence to proceedings in respect of statutory nuisance.
- Articles 38 to 48 provides for tree and hedgerow works, Crown Rights, enactment of protective provisions, certification of documents, service of notices and both the appeals and arbitration processes pertinent to Requirement discharge.
- Article 49 containing provisions for Arbitration in the event of disputes.

7.2.8. There are 10 Schedules to the Order:

- Schedule 1 providing for the description of the Proposed Development;
- Schedule 2 setting out the requirements (R) which apply to it;
- Schedules 3 to 5 relate to matters in relation to streets, accesses and rights of way;
- Schedules 6 to 8 set out matters relating to land rights, temporary possession and compensation;
- Schedule 9 provides Protective Provisions (PP) for Statutory Undertakers and their apparatus; and
- Schedule 10 sets out the arbitration rules.

7.2.9. The structure of the dDCO is set out in the Contents and is listed on its face. The ExA is content that the structure is fit for purpose and does not recommend any changes to it.

7.3. EXAMINATION OF THE DEVELOPMENT CONSENT ORDER

7.3.1. The Applicant updated the dDCO at alternative Deadlines (DL) and then the final DL. responding to issues raised in questions, to Written Representations (WR) and as a consequence of the hearing process. The Applicant submitted both clean and tracked change versions of the dDCO. The changes made to the dDCO and the reasons for these changes can be found in the Schedule of Changes to Development Consent Order, the final summary version of which was submitted at

DL6 [REP6-006]. **Table 3** sets out the key dDCO documentation submitted into the Examination.

Table 3: DCO documentation history

dDCO Version	Deadline	Examination Library Reference
Revision A	Pre-Exam	dDCO [AS-008]] Schedule of Changes [AS-009]
Revision B	Pre-Exam (Change Request Documents)	dDCO [AS-040] Schedule of Changes [AS-041
Revision C	DL1	dDCO [REP1-002] EM [REP1-004] Schedule of Changes [REP1-006]
Revision D	DL3	dDCO [REP3-002] EM [REP3-004] Schedule of Changes [REP3-006] Statement of Reasons [REP3-007]
Revision E	Accepted as additional submissions between DL	dDCO [AS-064] EM [AS-066] Schedule of Changes [AS-068]
Revision F	DL4	dDCO [REP4-001] EM [REP4-002] Schedule of Changes [REP4-004]
Revision G	DL5	dDCO [REP5-002] EM [REP5-004] Schedule of Changes [REP5-006]
Revision H	DL6	dDCO [REP6-002] EM [REP6-005] Schedule of Changes [REP6-006]

7.3.2. As referred to above, all changes made to the iterations of the dDCO were accompanied by a Schedule of Changes detailing all amendments. A summary of the notable changes made throughout the Examination is shown in **Table 4**.

Table 4: Notable changes made to the dDCO during Examination

Version of dDCO	Notable Changes Made
Revision C	Removal of word 'telecommunications' from across the whole Order in response to concerns from the ExA [PD-010, Q1.7.6]
Revision C	Amendments to Article 17 regarding environmental permits, in response to the Environment Agency request [RR-034]
Revision C	Schedule 2 Part 2 (Procedure for the discharge of requirements) paragraph 22 amended to allow longer timeframes for handling and consulting upon applications to discharge requirements.
Revision D	Schedule 2 Part 1 Paragraph 5 amended to include additional management plans to be produced under the construction environmental management plan.
Revision D	Schedule 2 Part 1 Paragraph 1 changed to define the relevant planning authority in respect of discharging requirements.
Revision D	Article 43 added to the Order in respect of the interface between the Proposed Development and extant minerals planning permissions.
Revision E	Removal of all references to Theddlethorpe Option 2 from across the Order, following the Applicant's second change request.
Revision F	Schedule 2 Part 2 Paragraph 23 in respect of application fees chargeable for discharge applications to an approving authority.
Revision F	New Article 49 (Crown Rights) added following discussion with the Crown Estate.
Revision G	Schedule 2 Part 1 Paragraph 17 added providing mitigation for the Donna Nook Air Weapon Range, following submissions from the Ministry of Defence [REP4-095].
Revision G	New Article 8 inserted to give authority to Lincolnshire County Council's road permitting scheme. Consequent renumbering of articles from thereon.
Revision H	Updates, insertions and deletions across a number of Protective Provisions in Schedule 9.

7.3.3. The main issues arising in or outstanding at the end the Examination were:

1) Relationship between onshore and offshore elements of the Proposed Development;
2) National Highways being a discharging authority for Requirement (R) 6 and for R16 and their requirement for acceptable security for works undertaken by the Applicant.
3) Applicant seeking a repayment provision within three months of any funds provided to National Grid Electricity Transmissions.
4) The wording of Article 9 including the phrase “without the consent of the street authority”.
5) Fees for the discharges of requirements.
6) Issues with the Protective Provisions, which are reflected on in section 7.4 of this Chapter below.

Issue 1: Onshore and Offshore Elements

7.3.4. Section 3.2 of this Report considers the debate regarding the interaction between onshore and offshore elements of the overall Viking CCS Project. Though not repeating all matters here, that section concludes that the Viking CCS Pipeline (the Proposed Development) is intrinsically linked to the future offshore consenting regime and, without such offshore consents in place, would not be able to be operational and therefore fail to fulfil the significant climate benefits predicted by the Applicant.

7.3.5. Chapter 6 of this Report details further the ExA’s concerns regarding the justification for Compulsory Acquisition (CA) and Temporary Possession (TP) powers to be granted without the offshore consents first obtained by the Applicant.

7.3.6. To this extent, the ExA proposed a change to the dDCO for an amendment to Requirement (R) 2 so as to ensure the onshore works could not commence unless and until all offshore works were consented [PD-020, PC001]. This would also serve to give more certainty by providing a realistic timescale to those subject to compulsory acquisition that land would not be taken until the whole Viking CCS Project was authorised.

7.3.7. The Applicant rejected the ExA’s amendment, citing it to be unnecessary, contrary to the provisions of NPS EN-1 (2024) and out of step with precedent from other DCOs for similar development [REP5-064]. However, the ExA take the view that there is a significant distinction between the Viking CCS project and the other recently made DCOs because the Applicant in this case has full control of both the onshore and offshore sections. If the Applicant was to be allowed to divide different parts of the project as it suggests, then it would be tantamount to a “salami slicing” of the two different parts of a wider proposal which was considered by the Court of Appeal in R (Larkfleet) v South Kesteven District Council [2015] EWCA 887 (see paragraph 51). This was raised with the Applicant in Q2.5.5. of ExQ2 [PD-021]. The Applicant argued in their response that this would not be the case if there were two distinct and separate projects as was found by the Court in the Larkfleet case [REP5-063, Q2.5.5]. However, the ExA remains unconvinced by this argument when it is incontrovertible that the pipeline which is the subject of this Application cannot become operational without the consents being obtained and construction taking place of the offshore pipeline.

7.3.8. In view of this exchange, the ExA requested suggested wording for an appropriate clause and the Applicant submitted, on a without prejudice basis, wording for a new

Requirement which recognised the interaction between the onshore and offshore consents required for the Proposed Development. This also involved some consequential amendments to the definitions within the dDCO. The without prejudice wording for a new requirement is set out below:

"(1) No part of the authorised development may commence until details of the following have been submitted to and approved by the relevant planning authority-

(a) evidence that a carbon dioxide storage permit for the offshore pipeline and storage works is in place;

(b) evidence of any pipeline works authorisation required by section 14 of the Petroleum Act 1998 for the offshore pipeline and storage works."

7.3.9. The ExA, for the reasons given in this Report, consider the Requirement is necessary, precise and enforceable. The Requirement would not unfairly burden the Applicant in any way although the ExA does wish to raise to the SoS an issue in respect of the approving body being the 'relevant planning authority.' The definition of relevant planning authority in the dDCO encompasses several authorities that may, albeit in a highly unlikely scenario, result in some authorities giving approval and others not. Whilst this represents a small and perhaps negligible potential risk of impediment to the Proposed Development given the Requirement only requires the presentation of approval documents and consents, the ExA recommend that the approving body be the SoS, thus simplifying the approvals process.

7.3.10. The wording the ExA relies upon is set out in Table 3 below, with the SoS as the approving body for the Requirement. If the SoS agrees with the ExA, consultation with the Applicant would be required on the revised wording since this was not discussed during the Examination.

7.3.11. Aside from that minor revision detailed above, the wording of the Requirement is considered acceptable, to achieve the desired restrictions and to ensure the benefits of the Viking CCS Project as a whole justify the Proposed Development in its own right. The SoS is recommended to accept the change accordingly.

Issue 2: National Highways Requests

7.3.12. National Highways (NH) requested to be an approving body in respect of R6 and R16 of the dDCO [REP6-002] in respect of the Construction Traffic Management Plan (CTMP) and the Decommissioning Environmental Management Plan (DEMP).

7.3.13. The rationale for the request, and the rebuttals from the Applicant, are set out in section 3.7 of this Report, from paragraphs 3.7.18.

7.3.14. In summary, the ExA concluded that NH would need to be an approving body in respect of those documents to ensure the safety of the Strategic Road Network.

7.3.15. It is recognised the DCO serves to simplify an approvals process and the Applicant is keen to rely on the DCO to allow the project to proceed without time constraint or impediment. The ExA does not however consider there to be any great obstructions to the Applicant's progress by making this change, since approval is already stipulated under the requirement from the local highway authority. The same timescales for determining a discharge of requirements application would apply to all.

7.3.16. Consequently, the ExA has included the necessary wording NH requested in the rDCO, as set out in Table 3 below.

7.3.17. NH also sought to include wording which would provide it with acceptable security for works to be undertaken by the Applicant to the highway. NH argued [REP6-061] that such security probably in the form of a highways bond was highly usual in development projects and the ExA accepted this and therefore have included the wording suggested by NH in Table 3 below.

Issue 3: National Grid Electricity Transmissions (NGET)

7.3.18. The Applicant sought to include a provision [REP6-046] requiring NGET to repay any funds provided by the Applicant if not expended within three months of the date of payment. NGET rejected this [REP5-080] and referred to the likelihood that works on this pipeline project could well be part of a larger contract which might well have its own timeline for payments. The ExA accepted that trying to treat the Proposed Development as a stand-alone project was unrealistic when NGET would very likely be dealing with a series of complex transactions involving multiple sites. The three-month period for repayment was therefore deleted.

Issue 4: Wording of Article 9

7.3.19. Lincolnshire County Council (LCC) raised an objection with Article 8 (renumbered Article 9 after Deadline (DL) 5. This was on the basis of the phrase “may without the consent of the street authority” being included in the Article and the implications of this on managing traffic on the local road network [REP1-059, Q1.7.12] [REP1-060, paragraph 3].

7.3.20. The Applicant did not consider it necessary to make the change, giving full reasons for not doing so at DL5 [REP5-064, PC004]. The position is one that other powers in the dDCO already cover the matter and alleviate the concerns of LCC. Meanwhile, LCC endorsed the potential change and insisted it be enacted [REP5-078, Q2.7.2].

7.3.21. This matter is not accounted for in the signed Statement of Common Ground (SoCG) [REP6-015] but the ExA has not received any evidence to suggest the matter is resolved. On this basis, it remains a point of dispute.

7.3.22. The ExA note the plain reading of the power gives the Applicant authorisation to undertake works without the consent of the street authority. However, other articles in the dDCO, including the Applicant’s insertion of an article adopting LCC’s Road Permitting Scheme (the effective new Article 8), would ensure adequate control of works in the public highway. Article 11 applies section 55 of the New Roads and Street Works Act 1991, which requires advance notice to the street authority prior to undertaking certain works.

7.3.23. The ExA has not therefore included LCC’s requested changes in the rDCO.

Issue 5: Fees for discharges of Requirements

7.3.24. LCC requested the appropriate fees be secured in the dDCO for the handling of applications seeking to discharge obligations and requirements [REP1-058].

7.3.25. The Applicant amended Schedule 2 Part 2 Paragraph 24 at DL4 [REP4-001] so that where an application is made to the approving authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests

and Site Visits) (England) Regulations 2012 (or any regulations replacing the same) is to be paid by the undertaker to the approving authority in accordance with these regulations.

7.3.26. However, LCC are recorded as maintaining an objection to the provisions as amended in the SoCG [REP6-015], stating the fees from said regulations would be "woefully inadequate" to cover the costs of discharging requirements. Instead, alternative fees were preferred [REP4-057].

7.3.27. The ExA is conscious of the burdens upon local authorities to process, manage and ultimately consider applications for the discharge of requirements. Nonetheless, LCC have not substantiated the alternative fees nor set out specific justification for them. Meanwhile the Applicant has logically grounded the fees to an appropriate regulatory regime.

7.3.28. In this instance, the ExA considers the Applicant has adopted a reasonable approach within the dDCO and thus the ExA does not recommend any changes in this regard. Whether or not the Applicant engages LCC in a separate Planning Performance Agreement outside of the Examination is not for the ExA's or SoS' concern. In all other respects and having regard to the advice in the Inspectorate's Advice Note 15, the ExA considers that the procedure, fees and appeal process set out in Schedule 2 are sufficiently clear and proportionate to the scale of the Proposed Development and have been adequately justified.

7.4. PROTECTIVE PROVISIONS

7.4.1. Schedule 9 of the dDCO provides Protective Provisions (PPs) for Statutory Undertakers (SUs) and their apparatus. The status of any PPs with SUs can be found in the final Compulsory Acquisition Tracker [REP6-010]. In summary, PPs as set out below have been agreed for the most part:

- Part 1 Protection for electricity, gas, water and sewerage undertakers
- Part 2 Protection for operators of electronic communications code networks
- Part 3 For the protection of National Grid Electricity Transmission plc as electricity undertaker
- Part 4 For the protection of National Gas Transmission plc as gas undertaker
- Part 5 For the protection of Cadent Gas Limited
- Part 6 For protection of Railway Interests
- Part 7 For the protection of the Environment Agency
- Part 8 For the protection of Northern Powergrid Limited
- Part 9 For the protection of National Highways Limited
- Part 10 For the protection of Anglian Water
- Part 11 For the benefit of Phillips 66 Limited
- Part 12 For the benefit of IOT Operators
- Part 13 For the benefit of Air Products (BR) Limited

7.4.2. At the conclusion of the Examination, a number of SUs were not satisfied with the content of the Protective Provisions, requesting further detailed changes to be made. Chapter 6 of this Report considers PPs in greater detail where objections were raised and draws conclusions therein. Table 3 below captures the necessary textual revisions that the ExA has included in the rDCO to accommodate those requests that were deemed necessary and appropriate to prevent serious detriment occurring to SU operations or apparatus.

7.4.3. In summary, subject to the imposition of the PPs identified in the preceding paragraphs, the ExA is satisfied with the wording of Schedule 12 and that adequate protection is provided to SUs with the consequence that there would be no serious detriment to the carrying out of their respective roles and functions and recommends no amendments in the rDCO.

7.5. EXAMINING AUTHORITY'S PROPOSED CHANGES

7.5.1. In light of the ExA's conclusions above, it is principally considered that only small number of changes, primarily to achieve correctness and consistency with other DCOs, are required. There are however some issues recorded where substantive changes are needed to address the concerns. **Table 5** sets out the provisions in respect of which the ExA has recommended changes to the Applicant's preferred dDCO (Revision H [REP6-002]) in the rDCO (Appendix D), for reasons.

Table 5: DCO Provisions Recommended to be Changed

Provision	Recommendation	ExA Reasoning
Paragraph 1 of Part 1 Schedule 2 (Requirements)	New defined terms: "carbon dioxide storage permit" means any carbon dioxide storage permit granted in terms of The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 or such other licence, authorisation or consent as may replace it; "offshore pipeline and storage works" means works for the offshore carbon dioxide transportation and storage infrastructure into which the authorised development will connect.	To define those terms that would appear in the Order on the basis of a new Requirement 20 being imposed within the Order.
Schedule 2 (Requirements)	New Requirement 20: "(1) No part of the authorised development may commence until details of the following have been submitted to and approved [by the Secretary of State] - (a) evidence that a carbon dioxide storage permit for the offshore pipeline and storage works is in place;	To ensure the benefits of the whole Viking CCS Project apply and will justify the commencement of onshore works at the appropriate juncture. To ensure that the enacting of compulsory acquisition and powers complies with s122(3) PA2008, as reported in Chapter 6 of this Report. The red highlighted text

Provision	Recommendation	ExA Reasoning
	(b) evidence of any pipeline works authorisation required by section 14 of the Petroleum Act 1998 for the offshore pipeline and storage works."	represents the deviation from the Applicant's wording preferred by the ExA, for which the SoS will need to consult if it is minded agreeing.
Schedule 2 Requirements Requirement 6	Rephrase 6(1), in the following way: "No stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline construction traffic management plan, has been submitted to and approved by the relevant planning authority [and, in respect of effects on the Strategic Road Network, National Highways] following consultation with the relevant highway authority~~, National Highways~~ and Network Rail."	In the interests of protecting the safety of all road users on the Strategic Road Network by National Highways.
Schedule 2 Requirements Requirement 16	Rephrase 16(1), in the following way: "The undertaker must, no later than six months prior to the planned permanent cessation of operation of the authorised development, submit a DEMP to the relevant planning authorities [and, in respect of effects on the Strategic Road Network, National Highways] for approval following consultation with the Environment Agency~~,~~ ~~National Highways~~ and Lincolnshire County Council."	In the interests of protecting the safety of all road users on the Strategic Road Network by National Highways.

Provision	Recommendation	ExA Reasoning
Schedule 9 Part 3 (Protective Provisions for National Grid Electricity Transmission Plc (NGET)	In paragraph 16, amend the definition of "NGESO" to [National Energy System Operator (NESO)] Consequential amendment in paragraph 16 to the definition of "STC", removing NGESO and replacing with NESO.	This change was not discussed in the Examination. On 1 October 2024, NGESO ceased to be an entity and the National Energy System Operator (NESO) was formed. This change is recommended by the ExA to ensure the definitions are up to date.
Schedule 9 Part 3 (Protective Provisions for National Grid Electricity Transmission Plc (NGET)	Amend the proposed paragraph 21(2) so this reads: "(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its [~~reasonable~~] satisfaction (taking into account paragraph 22(1)	To protect NGETs ability to perform its statutory duties. There is no evidence or indication that, in NGET exercising their statutory duties, NGET would be unreasonable in any way. If there were to be any dispute about the reasonableness of an action or decision, then Article 49 (Arbitration) would provide an appropriate mechanism for dispute resolution.

Provision	Recommendation	ExA Reasoning
	below) the necessary facilities and rights—"	
Schedule 9, Part 3 (Protective Provisions for National Grid Electricity Transmission)	Delete the entire paragraph 24(6) which reads: "Where in accordance with paragraph 24(1) the undertaker pays National Grid in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three-month period, National Grid shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known."	National Grid Electricity Transmission explained [REP5-080] that it frequently enters into contract arrangements which include several sites. The Applicant's proposal is in the expectation that the works arising from the Proposed Development can be treated as a stand-alone project and that is unrealistic for a SU responsible for any number of different works to be undertaken. Accordingly, the ExA takes the view that the whole of clause 24(6) is not appropriate. There remains the ability, via Article 49 (Arbitration) for the Applicant to pursue National Grid Electricity Transmission if it is believed what has been invoiced has not been delivered.
Schedule 9, Part 5 (Protective Provisions for Cadent Gas Limited)	Amend the word "must" to the word "may" in paragraph 53(3) (3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent ~~must~~ [may], on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable	Cadent explained in their submission [AS-097] that it is the holder of a gas distribution licence pursuant to the Gas Act 1986 and is under a statutory duty to maintain an efficient and economical pipe-line system for the conveyance of gas. One of Cadent's duties is to ensure that it conducts itself in an efficient and cost-effective way. Therefore, it cannot be obliged to take steps which are the responsibility of the

Provision	Recommendation	ExA Reasoning
	in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.	Applicant. In any event, the obligation should be consistent with the relevant PPs agreed with National Grid Electricity Transmission and National Gas. The ExA accepted this position put forward by Cadent.
Schedule 9 Part 5 (Protective Provisions for Cadent Gas Limited)	Amend paragraph 57(3) in the following way: (3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of— (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent Gas, its officers, servants, contractors or agents; (b) any authorised development carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the Order) of the Order and subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-	To ensure consistency of approach a) across the whole Order applied for in respect of similar provisions for other SUs and b) to ensure consistency across other DCOs made in 2024 as listed by Cadent [REP5-075].

Provision	Recommendation	ExA Reasoning
	paragraph 3(b) will be subject to the full terms of this Part of this Schedule; ~~(c) any indirect or consequential loss of Cadent or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) where reasonably foreseeable.~~	
Schedule 9 Part 6 (Protective Provisions for Railway Interests)	Remove clauses 67(3)(b) and 67(5) and 71(2).	NR submitted its preferred Protective Provisions at the DL6 in the Examination [REP6-064], stating that these had been agreed with the Applicant and expected they would be included in final version of the dDCO [REP6-002]. However, the Applicant made further changes to the PPs than what NR had envisaged [REP6-002]. NR did not have time within the remainder of the Examination to provide any further comment on the Applicant's proposed additional clauses. The ExA consider that the Applicant's case [REP6-046] for the alterations is unclear and unjustified, and are not supported by NR. It is suggested that the SoS seek clarity as to whether there has been any resolution between the parties as to the final wording. Removal of the clauses reflects those PPs that NR have considered to

Provision	Recommendation	ExA Reasoning
		be agreed between the parties in [REP6-064].
Schedule 9 Part 6 (Protective Provisions for Railway Interests)	Remove clauses 74-83	NR submitted its preferred Protective Provisions at the DL6 in the Examination [REP6-064], stating that these had been agreed with the Applicant and expected they would be included in final version of the dDCO [REP6-002]. However, the Applicant made further changes to the PPs than what NR had envisaged [REP6-002]. NR did not have time within the remainder of the Examination to provide any further comment on the Applicant's proposed additional clauses. The ExA consider that the Applicant's case [REP6-046] for the alterations is unclear and unjustified, and are not supported by NR. Removal of the clauses reflects those PPs that NR have considered to be agreed between the parties in [REP6-064].
Schedule 9 Part 9 (Protective Provisions for National Highways)	Paragraph 114(2) amend the definitions as follows: "acceptable credit provider" means a [United Kingdom based] bank or financial institution [that transacts under the law of England and Wales] with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard	In response to the request by National Highways [REP6-061]. In the interests of ensuring the availability of finances for the repair and reparation of the Strategic Road Network should the need arise as a result of the Proposed Development, for the safety of all road users.

Provision	Recommendation	ExA Reasoning
	and Poor's Ratings Group or Fitch Ratings, or (ii) "A3" if the rating is assigned by Moody's Investors Services Inc.; "acceptable security" means [a bank bond or letter of credit from an acceptable credit provider in favour of National Highways to cover the undertaker's liability to National Highways for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to National Highways)] ~~either: —~~ ~~(a) evidence provided to National Highways' reasonable satisfaction that the undertaker has a tangible net worth of not less than £50,000,000 (fifty million pounds); or~~ ~~(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Highways to cover the undertaker's liability to National Highways for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to National Highways);~~ ["defects period" means a period of twelve months commencing from the date of completion of a specific work.]	

Provision	Recommendation	ExA Reasoning
Schedule 9 Part 9 (Protective Provisions for National Highways)	At paragraph 119, a new clause (7) to be inserted to read: [“(7) A defects period shall commence following completion of a specified work during which time the undertaker must, at its own expense, remedy any defects in the SRN as are reasonably required by National Highways. All identified defects must be remedied in accordance with the following timescales— a. in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways); b. in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and c. in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.]	In response to the request by National Highways [REP6-061]. In the interests of ensuring the availability of finances for the repair and reparation of the Strategic Road Network should the need arise as following the construction of the Proposed Development resulting from land movement or instability, for the safety of all road users.
Schedule 9 Part 9 (Protective Provisions for National Highways)	Amend paragraph 120 in the following way: “No specified work shall commence until the undertaker has first provided the acceptable security in favour of National Highways, and provided evidence (to the reasonable satisfaction of National Highways) that it shall maintain such	In response to the request by National Highways [REP6-061]. In the interests of ensuring the availability of finances for the repair and reparation of the Strategic Road Network should the need arise as a result of the Proposed Development, for the safety of all road users.

Provision	Recommendation	ExA Reasoning
	acceptable security for the construction period of the specified works from the proposed date of commencement of the specified works [until no earlier than the end of the defects period.]	
Schedule 9 Part 9 (Protective Provisions)	A new Part 14 to be added for the benefit of Uniper UK Limited, using the wording promoted by Uniper in [AS-120, Appendix] without modification.	Uniper UK Limited is an SU that has land interests and apparatus within the Order Limits. It is right that PPs are included in the Order for their benefit. The Applicant's suggested amendments have not been detailed to any great degree or extent, particularly since Uniper have cited other made DCOs where such provisions have been adopted. The Applicant has not, therefore, to the satisfaction of the ExA provided justification for the departure from the PPs that Uniper have requested.

7.6. CONCLUSIONS

7.6.1. The ExA has considered all iterations of the dDCO as set out in **Table 1** above and the degree to which the Applicant's final version has addressed matters arising during the Examination.

7.6.2. The Recommended DCO in Appendix D to this Report largely reflects the final dDCO submitted by the Applicant, but with the addition of the changes listed in **Table 3** above.

7.6.3. The ExA has sought to make informed recommendations with regard to changes to the Protective Provisions within the rDCO. Should the SoS disagree with any of the conclusions reached, the SoS may wish to undertake consultation with all necessary parties.

7.6.4. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this report, the ExA recommends that the Secretary of State should make this Order, with the recommended changes, if the SoS is satisfied that the Proposed Development should be consented.

8. SUMMARY OF FINDINGS AND CONCLUSIONS

8.1. INTRODUCTION

8.1.1. This Chapter draws together the matters set out in the preceding Chapters of this Report and provides a final summary of the Examining Authority's (ExA) findings. These findings take the ExA's consideration of the compulsory acquisition (CA) and/ or temporary possession (TP) of land and rights and the provisions of and submissions on the draft Development Consent Order (dDCO), supporting plans and documents into account. The Chapter then sets out the final recommendation to the Secretary of State (SoS) with concluding matters.

8.1.2. This is a decision to be made under the Planning Act 2008 (PA2008) section (s) 105 and this Chapter also frames the matters that the SoS is recommended to consider.

8.1.3. In deciding the application, the SoS must have regard to:

- any duly submitted Local Impact Report (LIR);
- any prescribed matters; and
- any other matters which the SoS thinks are both important and relevant to the decision.

which have been identified in this report.

8.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

8.2.1. As the ExA has noted in Chapter 5 above, the urgent need for low carbon energy is established through the National Policy Statements (NPS) and is carried forward into the revised NPSs. In relation to s105 of the PA2008, the ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with NPS EN-1 (2011), NPS EN-1 (2024), NPS EN-4 (2011) and NPS EN-4 (2024).

8.2.2. In reaching the above conclusions, the ExA has also had regard to the LIRs produced by the local authorities and notes that, on balance, the Proposed Development would be acceptable subject to the mitigation measures secured in the rDCO.

8.2.3. Whilst the SoS for the Department of Energy Security and Net Zero (DESNZ) is the competent authority under the Conservation of Habitats and Species Regulations 2017, and will make the definitive assessment, the ExA concludes that subject to mitigation secured in the rDCO, adverse effects on the integrity of the European sites and their features from the Proposed Development when considered alone or in combination with other plans or projects can be excluded from the impact-effect pathways assessed. The ExA has taken this finding into account in reaching its conclusion.

8.2.4. With regard to designated heritage assets and in consideration of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has found the Proposed Development would result in less than substantial harm to designated heritage assets. However, those harms are outweighed by the substantial benefit from the provision of low carbon energy to meet the national need identified in NPS EN-1 (2011), NPS EN-1 (2024) and by the other benefits of the Application as summarised in Chapter 5 of this Report.

8.2.5. In terms of biodiversity and bearing in mind Regulation 7 of the Decisions Regulations, the ExA is satisfied that biodiversity, ecological and nature conservation issues have been adequately assessed and that the requirements of both NPS EN-1 (2011) and NPS EN-1 (2024) are met.

8.2.6. In relation to the application for Compulsory Acquisition (CA) and Temporary Possession (TP) powers, there is a clear need for all the land included in the Book of Reference to be subject to CA or TP, when considering the project as a whole, not just for the Proposed Development. The Grampian Requirement included in the rDCO secures the project and consequently the compelling need.

8.2.7. The ExA subsequently concludes, in relation to CA and TP, that:

- The Application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The Applicant would have access to the necessary funds and the rDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe, and the Proposed Development represents a significant public benefit to weigh in the balance.
- That in all cases relating to individual objections and issues that CA and TP are justified to enable implementation of the Proposed Development.
- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.

8.2.8. Whilst the project would not benefit from the presumption in favour as would those projects considered of critical national priority (CNP) under NPS EN-1 (2024), the ExA considers that if CNP was applied, the Applicant has demonstrated compliance with the need to explore and follow a mitigation hierarchy.

8.2.9. The ExA has had regard to the Public Sector Equality Duty (PSED) throughout the Examination and in producing this report. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.

8.2.10. In relation to s105 of the PA2008, and with the mitigation proposed through the rDCO in Appendix D to this report, the ExA considers that, having had regard to the LIRS, there are no adverse impacts arising that would outweigh the need for, or the benefits of, the Proposed Development.

8.2.11. The powers sought in relation to Statutory Undertakers meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance. Some Protective Provisions do however remain unsigned and unagreed at the close of the Examination. The ExA has made recommendations in this regard, as per Table 3 in Chapter 7 of this Report.

8.2.12. The Applicant has not obtained consent from the relevant Crown authorities for all of the Crown Estate land in the Order limits. Therefore, the powers sought do not meet the conditions in s135 of the PA2008.

8.2.13. The ExA has recommended Requirement 20 be included in the rDCO, with modification to make the SoS the approving body as opposed to the relevant

planning authority. This is considered a necessary addition should the SoS consider granting Development Consent.

8.3. RECOMMENDATION

8.3.1. For all of the above reasons, the ExA considers that the Proposed Development meets the tests in s105 of the PA2008. On that basis, the ExA concludes that the case for the development has been made and that the SoS for DESNZ makes the Viking Carbon Capture and Storage Pipeline Project Order in the form attached at Appendix D to this report.

APPENDICES

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APPENDIX A: REFERENCE TABLES

Table A1 – The Environmental Statement (ES)

ES Chapter/Figures/Appendix	Examination Library (EL) Reference
ES Non-Technical Summary	APP-041
Chapter 1 Introduction	APP-043
Appendices	APP-067
Chapter 2 Design Evolution and Alternatives	APP-044 AS-021
Chapter 3 Description of the Proposed Development	APP-045
Appendices	APP-068 APP-069 APP-070 APP-071 APP-072 APP-073 REP5-067 REP5-068 REP6-050
Chapter 4 Consultation	APP-046
Chapter 5 Environmental Impact Assessment Methodology	APP-047
Appendices	APP-074 APP-075 APP-076
Chapter 6 Ecology and Biodiversity	APP-048
Appendices	APP-077 APP-078 APP-079 APP-080 APP-081 APP-082 APP-083 APP-084 APP-085 APP-086
Chapter 7 Landscape and Visual	APP-049
Appendices	APP-087 APP-088
Chapter 8 Historic Environment	APP-050 AS-023
Appendices	APP-089 APP-090 APP-091
Chapter 9 Geology and Hydrogeology	APP-051
Appendices	APP-092 APP-093 APP-094 APP-095 REP5-071
Chapter 10 Agriculture and Soils	APP-052
Appendices	APP-096 REP5-074
Chapter 11 Water Environment	APP-053 REP2-004
Appendices	APP-097 APP-098 APP-099 APP-100 APP-101 APP-102 REP4-015
Chapter 12 Traffic and Transport	APP-054 REP2-006
Appendices	APP-103 APP-104 APP-105 APP-106 APP-107 REP3-013
Chapter 13 Noise and Vibration	APP-055
Appendices	APP-108 APP-109 APP-110 APP-111
Chapter 14 Air Quality	APP-056
Appendices	APP-112
Chapter 15 Climate Change	APP-057 REP2-008 REP4-029
Chapter 16 Socio-economics	APP-058
Chapter 17 Health and Wellbeing	APP-059
Chapter 18 Materials and Waste	APP-060 REP2-010
Appendices	APP-113
Chapter 19 Major Accidents and Disasters	APP-061
Appendices	APP-114 APP-115 APP-116
Chapter 20 Cumulative Effects Assessment	APP-062
Appendices	APP-117
Chapter 21 Summary of Likely Significant Effects	APP-063
High Resolution Figures to Support the ES Chapters	APP-064 APP-065 APP-066

Table A2 – Change Request Documents

Document	EL Reference
Applicant's Change Request dated 19 March 2024	
Cover letter	AS-038
Environmental Technical Note	AS-053
Updated Application Documents Following Acceptance of Change Request	AS-039 AS-040 AS-041 AS-042 AS-043 AS-044 AS-045 AS-046 AS-047 AS-048 AS-049 AS-050 AS-051 AS-052
Applicant's Change Request dated 19 June 2024	
Cover letter	AS-063
Environmental Technical Notes	AS-080 AS-081
Change Request Appendices	AS-084
Updated Application Documents Following Acceptance of Change Request	AS-064 AS-065 AS-066 AS-067 AS-068 AS-069 AS-070 AS-071 AS-072 AS-073 AS-074 AS-075 AS-076 AS-077 AS-078 AS-079 AS-082 AS-083

Table A3 – Summary of National Policy Statements (NPS)

NPSs
Overarching National Policy Statement for Energy (NPS EN-1) • NPS EN-1 (July 2011) NPS EN-1 includes over-arching principles that support decarbonisation. Whilst NPS EN-1, 2011 has a primary focus on energy generation, it includes details regarding the requirement for infrastructure to deliver this overarching goal. All other energy NPSs are used together with this NPS. • Part 2 of NPS EN-1 sets out "Government policy on energy and energy infrastructure development". The paragraphs of note are as follows: ○ Paragraph 2.2.1 sets out the Government's commitment to meeting the UK's legally binding target to cut greenhouse gas (GHG) emissions by at least 80% by 2050, compared to 1990 levels. ○ Paragraph 2.2.8 confirms that to avoid the most dangerous impacts of climate change, global emissions must start falling as a matter of urgency. ○ Paragraph 2.2.23 states that Carbon Capture and Storage (CCS) is part of the UK's plans to reduce its dependence on fossil fuels, particularly unabated combustion. • Part 3 of NPS EN-1 sets out the need for new nationally significant energy infrastructure projects. The paragraphs of note are as follows: ○ paragraph 3.1.1 sets out the need for the types of energy infrastructure covered by the NPS in order to achieve energy security at the same time as dramatically reducing GHG emissions. ○ paragraph 3.1.4 states that the Secretary of State (SoS) should give substantial weight to the contribution which projects would make towards satisfying this need. • Part 4 of NPS EN-1 sets out assessment principles and general policies against which applications relating to energy infrastructure are to be decided. paragraphs 4.5.1 to 4.5.6 set out the criteria for good design for infrastructure projects. • Part 5 of NPS EN-1 lists a number of generic impacts that relate to most types of energy infrastructure, which the SoS should take into account when considering applications. A summary of the topics and policy tests in NPS EN-1 relevant to the Examination is set out below and topic specific policy is considered where necessary in the remainder of this report, particularly within Chapter 3:

○ Air Quality – section 5.2. ○ Biodiversity – section 5.3. ○ Greenhouse Gas Emissions – section 5.2. ○ Historic Environment – section 5.8. ○ Landscape and Design – section 5.9. ○ Noise and Vibration – section 5.11. ○ Water Environment and Flood Risk – paragraphs 5.7.1 to 5.7.25 and 5.15.1 to 5.15.10. ○ Socio-Economic Effects – section 5.12. ○ Traffic and Transport – section 5.13. ○ Waste Management – section 5.14. ○ Land Use, Ground Conditions and Contamination – section 5.10. ○ Resilience to Climate Change – section 4.8.
National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4) • NPS EN-4 (2011), although not specifically referencing pipelines for Carbon Capture and Storage, sets out generic pipeline consenting requirements. • Part 2 of NPS EN-4 sets out the need to good design, climate adaptation and the requirement to manage effectively hazardous substances, such as large volumes of natural gas, and the safety implications.
Revised National Policy Statements • NPS EN-1 (2011) was replaced with NPS EN-1 (2024) designated in January 2024. Similarly NPS EN-4 (2011) was replaced with the newly designated NPS EN-4 (2024) at the same time. These NPSs reiterate the urgent need for low carbon energy development and carbon capture. • The revised NPSs are clear that "…for any application accepted for examination before designation of the 2021 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPS" (paragraph 1.6.2 of draft NPS EN-1). However, it is also clear in paragraph 1.6.3 that any emerging draft NPSs may potentially be important or relevant matters for consideration, pursuant to section (s) 104(2)(d) of the Planning Act 2008 (PA2008).

Table A4 – Other Relevant National Policies for the Proposed Development

The National Planning Policy Framework
Net Zero: The UK's Contribution to Stopping Global Warming Emissions
Ten Point Plan for a Green Industrial Revolution
Energy White Paper: Powering our Net Zero Future
Industrial Decarbonisation Strategy (HM Government, 2021)
Net Zero Strategy: Build Back Greener
British Energy Security Strategy (2022)
Powering up Britain (DESNZ, 2023)
Carbon capture, usage and storage net zero investment roadmap, 2023

Table A5 – Summary of Relevant Legislation for the Proposed Development

Relevant Legislation

- Air Quality (England) Regulations 2000
- Air Quality Standards Regulations 2010, as amended
- Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019
- Ancient Monuments and Archaeological Areas Act 1979
- Building Act 1984 and the Building Regulations 2010 (as amended)
- Climate Change Act 2008
- Climate Change Act 2008 (2050 Target Amendment) Order
- Carbon Budget Order 2009
- Carbon Budget Order 2011
- Carbon Budget Order 2016
- Carbon Budget Order 2021
- Climate Change Act 2008 (Credit Limit) Order 2021
- Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations 2017') as amended
- Contaminated Land (England) (Amendment) Regulations 2012 ('Contaminated Land Regulations')
- Control of Pollution Act 1974 (as amended)
- The Commons Registration Act 1965
- The Countryside and Rights of Way Act 2000
- Eels (England and Wales) Regulations 2009
- Environmental Protection Act 1990
- The Environment Act 1995
- Environment Act 2021
- Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020
- Environment (Amendment etc.) (EU Exit) Regulations 2019
- Environmental Protection Act 1990 (as amended by the Environmental Act 1995 Part 2A)
- Environmental Permitting (England and Wales) Regulations 2016
- Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019
- Environmental Noise (England) Regulations 2006 (as amended)
- European Commission Circular Economy Package Environmental Protection Act 1990
- European Landscape Convention (ELC) (Council of Europe, 2016) Hedgerow Regulations 1997
- Flood Risk Regulations 2009
- Flood and Water Management Act 2010 Environmental Damage (Prevention and Remediation) (England) Regulations 2015
- Hazardous Waste (England and Wales) Regulations 2005 (as amended)
- The Health and Social Care Act 2012
- Highways Act 1980
- The Kyoto Protocol
- Land Drainage Act 1991
- Localism Act 2011
- Marine and Costal Access Act 2009
- National Parks and Access to the Countryside Act 1949 (as amended)
- The National Parks and Access to the Countryside Act 2000
- Natural Environment and Rural Communities (NERC) Act 2006
- Noise Insulation Regulations 1975
- The Paris Agreement
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Pollution Prevention and Control Act 1999
- Protection of Badgers Act 1992 (as amended)

Relevant Legislation
▪ Salmon and Freshwater Fisheries Act 1975 (as amended) ▪ Town and Country Planning Act 1990 (as amended) ▪ Water Resources Act 1991 ▪ Water Industry Act 1991 ▪ The Water Resources (Abstraction and Impounding) Regulations 2006 ▪ Water Framework Directive (2000/60/EC) (as amended) ▪ Water Resources Act 1991 (WRA 1991) (as amended) ▪ Water Act 2003 (as amended) Environmental Permitting (England and Wales) (Amendment) Regulations 2016/1154 ▪ Water Framework Directive (2000/60/EC) (as amended) ▪ Water Act 2014 ▪ Water Resources (Abstraction and Impounding) Regulations 2006 ▪ Water Abstraction and Impounding (Exemptions) Regulations 2017 ▪ Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015 ▪ Groundwater (Water Framework Directive) (England) Direction 2016 ▪ Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ▪ Water Supply (Water Quality) Regulations 2018 ▪ Waste Framework Directive (2000/60/EC (as amended) ▪ Waste (England and Wales) Regulations 2011 (as amended) ▪ Waste Electrical and Electronic Equipment ('WEEE') Regulations 2013 ▪ Wildlife and Countryside Act (WCA) 1981 (as amended)

Table A6 – Relevant Local Policies

Plan	Identified documents and/or relevant policies
North Lincolnshire Local Plan adopted 2003, saved policies	Policy T1: Location of Development Policy R5: Recreational Paths Network Policy LC1: Special Protection Areas, Special Areas of Conservation and Ramsar Sites Policy LC2: Sites of Special Scientific Interest and National Nature Reserves Policy LC4: Development Affecting Sites of Local Nature Conservation Importance Policy LC5: Species Protection Policy LC7: Landscape Protection Policy LC12: Protection of Trees, Woodland and Hedgerow Policy HE5: Development affecting Listed Buildings Policy HE8: Ancient Monuments Policy HE9: Archaeological Evaluation Policy M8: Safeguarding Minerals Policy DS13: Groundwater Protection and Land Drainage Policy DS15: Water Resources Policy DS16: Flood Risk
North Lincolnshire Core Strategy 2006-2026, adopted June 2011	CS1: Spatial Strategy for North Lincolnshire CS2: Delivering More Sustainable Development CS5: Delivering Quality Design in North Lincolnshire CS6: Historic Environment CS12: South Humber Bank Strategic Employment Site – A Broad Location

	CS17: Biodiversity CS19: Flood Risk CS20: Sustainable Waste Management CS21: Minerals
North East Lincolnshire Local Plan 2013-2032, adopted March 2018	Policy 1: Employment Land Supply Policy 5: Development Boundaries Policy 8: Existing employment areas Policy 9: Habitat Mitigation – South Humber Bank Policy 11: Skills and training Policy 31: Renewable and low carbon infrastructure Policy 33: Flood Risk Policy 34: Water Management Policy 39: Conserving and enhancing the historic environment Policy 40: Developing a green infrastructure network Policy 41: Biodiversity and Geodiversity Policy 42: Landscape Policy 44: Safeguarding minerals and related infrastructure
Central Lincolnshire Local Plan, adopted April 2023	Policy S11: Embodied Carbon Policy S16: Wider Energy Infrastructure Policy S20: Resilient and Adaptable Design Policy S21: Flood Risk and Water Resources Policy S53: Design and Amenity Policy S56: Development on Land Affected by Contamination Policy S57: The Historic Environment Policy S59: Green and Blue Infrastructure Networks Policy S60: Protecting Biodiversity and Geodiversity Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value Policy S66: Trees, Woodland and Hedgerow Policy S67: Best and Most Versatile Agricultural Land
East Lindsey Local Plan, adopted July 2018	SP2: Sustainable Development SP10: Design SP11: Historic Environment SP16: Inland Flood Risk SP17: Coastal East Lindsey SP23: Landscape SP27: Renewable and Low Carbon Energy
Lincolnshire Minerals and Waste Local Plan including the Core Strategy and Development Management Policies Plan	Policy M10: Underground Gas Storage Policy M11: Safeguarding of Mineral Resources Policy M12: Safeguarding of Existing Minerals Sites and Associated Minerals Infrastructure Policy DM1: Presumption in Favour of Sustainable Development

adopted June 2016	

Table A7 – Made Development Consent Orders

Other Made DCOs identified by the Applicant
The Applicant has identified the following made Orders to support the Proposed Development: • Southampton to London Pipeline Development Consent Order 2020 • The Thorpe Marsh Gas Pipeline Order 2016 • The HyNet Carbon Dioxide Pipeline Order 2024 • Hornsea Three Offshore Wind Farm Order 2020 • Norfolk Vanguard Offshore Wind Farm Order 2022 • Norfolk Boreas Offshore Wind Farm Order 2021 • River Humber Gas Pipeline Replacement Order • Reinforcement to the North Shropshire Electricity Distribution Network Order 2020 • National Grid (Richborough Connection Project) Development Consent Order 2017 • A19/A184 Testo's Junction Alteration Order • Silvertown Tunnel Order 2018 • A14 Cambridge to Huntingdon Improvement Order 2016
In addition to the above, the Applicant has made reference to the following draft Order to support its position: • The Net Zero Teesside Order 2024 • The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024

APPENDIX B: ABBREVIATIONS

APPENDIX B: ABBREVIATIONS

Abbreviation	Definition
AA	Appropriate Assessment
AEoI	Adverse Effects on Integrity
AEP	Annual Exceedance Probability
AGI	Above Ground Installation
AILs	Abnormal Indivisible Loads
ALARP	As low as reasonably practicable
ALC	Agricultural Land Classification
AN	Advice Note
ANCB	Appropriate Nature Conservation Body
AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
APFP	Infrastructure Planning (Applications, Prescribed Forms and Procedure) Regulations 2009
Applicant	Chrysaor Production (UK) Limited
AQMA	Air Quality Management Area
ASI	Accompanied Site Inspection
BECCS	Bio Energy with Carbon Capture and Storage
BESS	British Energy Security Strategy
BMV	Best and most versatile
BNG	Biodiversity Net Gain
BNGA	Biodiversity Net Gain Assessment
BoR	Book of Reference
BS	British Standard
BVS	Block Valve Station
CA	Compulsory Acquisition
CA Guidance	Planning Act 2008: guidance related to procedures for the compulsory acquisition of land
CA Regulations	Infrastructure Planning (Compulsory Acquisition) Regulations 2010

Abbreviation	Definition
Cadent	Cadent Gas Limited
CAH	Compulsory Acquisition Hearing
CCA2008	Climate Change Act 2008
CCC	Climate Change Committee
CCS	Carbon Capture and Storage
CCUS	Carbon Capture, Usage and Storage
CEMP	Construction Environmental Management Plan
CIA	Cumulative Impact Assessment
CIL	Community Infrastructure Levy
CNP	Critical National Priority
CO_2	Carbon dioxide
CoCP	Code of Construction Practice
COMAH	Control of Major Accidents Hazards Regulations 2015
CoPA	Control of Pollution Act 1974
CPS	Carbon Price Support
CROW	Countryside and Rights of Way Act 2000
CTMP	Construction Traffic Management Plan
CWTP	Construction Workers Travel Plan
DAMS	Detailed Archaeological Mitigation Strategy
dB	Decibels
DBA	Desk Based Assessment
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEMP	Decommissioning Environmental Management Plan
DESNZ	Department for Energy Security and Net Zero
DIO	Defence Infrastructure Organisation
DL	Deadline
DLUHC	Department for Levelling Up, Housing and Communities
DMRB	Design Manual for Roads and Bridges

Abbreviation	Definition
DVSA	Driver and Vehicle Standards Agency
EA	Environment Agency
EC	European Commission
ECHR	European Convention on Human Rights
EEA	European Economic Area
EIA	Environmental Impact Assessment
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017/572)
EL	Examination Library
ELDC	East Lindsey District Council
EM	Explanatory Memorandum
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EPS	Emissions Performance Standard
ES	Environmental Statement
ESP	Energy Security Plan
ETS	Emissions Trading System,
EU	European Union
ExA	Examining Authority
ExQ1	The Examining Authority's First Written Questions
ExQ2	The Examining Authority's Second Written Questions
FRA	Flood Risk Assessment
FS	Funding Statement
GEART	Guidance for the Environmental Assessment of Road Traffic
GHG	Greenhouse gas
GLVIA3	Guidelines for Landscape and Visual Impact Assessment
ha	Hectare
Habitats Regulations	Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017
HDD	Horizontal Directional Drilling
HER	Historic Environment Record

Abbreviation	Definition
HGV	Heavy Goods Vehicle
HPI	Habitats of Principal Importance
HRA	Habitats Regulations Assessment
HRAR	Habitats Regulation Assessment Report
HSE	Health and Safety Executive
IAGI	Immingham Above Ground Installation
IAQM	Institute of Air Quality Management
IAPI	Initial Assessment of Principal Issues
IDB	Internal Drainage Board
IEMA	Institute of Environmental Management and Assessment
INNS	Invasive Non-Native Species
IP	Interested Party
IPC	Infrastructure Planning Commission
IRoPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
km	Kilometre(s)
LAeq 1hr	Equivalent continuous sound level
LBCAA	Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
LCC	Lincolnshire County Council
LGV	Light Goods Vehicle
LHA	Local Highways Authority
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LoD	Limits of Deviation
LOAEL	Lowest Observed Adverse Effect Level
LOGGS	Lincolnshire Offshore Gas Gathering System
LPA	Local Planning Authority
LRN	Local Road Network
LSE	Likely Significant Effects

Abbreviation	Definition
LURA	Levelling-up and Regeneration Act 2023
LVIA	Landscape and Visual Impact Assessment
LWNL	Lincolnshire Wolds National Landscape
m	Metre(s)
MA&D	Major accidents and disasters
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MMO	Marine Management Organisation
MoD	Ministry of Defence
MSA	Mineral Safeguarding Area
Mt	Million tonnes
Mtpa	Million tonnes per annum
NDHA	Non-designated heritage assets
NE	Natural England
NELC	North East Lincolnshire Council
NGET	National Grid Electricity Transmission Plc
NGT	National Gas Transmission Plc
NH	National Highways
NLC	North Lincolnshire Council
NM	Noise Monitoring location
NOx	Nitrogen oxide
NNR	National Nature Reserve
NPA2017	The Neighbourhood Planning Act 2017
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPS	National Policy Statement
NPS EN	National Policy Statement Energy Suite
NPS EN-1 (2011)	Overarching National Policy Statement for Energy (EN-1) (2011)
NPS EN-3 (2011)	National Policy Statement for Renewable Energy (EN-3) (2011)

Abbreviation	Definition
NPS EN-4 (2011)	National Policy Statement for Gas Supply Infrastructure and Oil and Gas Pipelines (EN-4) (2011)
NPS EN-1 (2024)	Overarching National Policy Statement for Energy (EN-1) (2024)
NPS EN-4 (2024)	National Policy Statement for Natural Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (2024)
NPSE	Noise Policy Statement for England
NR	Network Rail Infrastructure Limited (Network Rail)
NRSWA	New Roads and Street Works Act 1991
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
NZGP	Net Zero Growth Plan
OCEMP	Outline Construction Environmental Management Plan
Ofgem	Office of Gas and Electricity Markets
OFH	Open Floor Hearing
OLEMP	Outline Landscape and Ecology Management Plan
OSMP	Outline Soil Management Plan
Pa	Per Annum
PA2008	Planning Act 2008
PD	Procedural Decision
PEA	Preliminary Ecological Appraisal
PEIR	Preliminary Environmental Information Report
PM	Preliminary Meeting
PM_{10} and $PM_{2.5}$	Particulate Matter
PP	Protective Provisions
PPA	Planning Performance Agreement
PPG	Planning Practice Guidance
Project webpage	Project webpage of the National Infrastructure Planning website
Proposed Development	Viking Carbon Capture and Storage Pipeline Project
PRoW	Public Right of Way

Abbreviation	Definition
PSED	Public Sector Equality Duty
R	Requirement
rDCO	Recommended Development Consent Order
RIAA	Report to Inform Appropriate Assessment
RIES	Report on the Implications for European Sites
RIESQ	ExA's Questions on the Report on the Implications for European Sites
RR	Relevant Representation
RSA	Road Safety Audit
Rule 17	Request for further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
s	Section of Parliamentary Legislation
SAC	Special Area of Conservation
SEPL	Stallingborough Energy Project Limited
SI	Statutory Instrument
SLA	Service Level Agreement
SNCB	Statutory Nature Conservation Body
SNP	Schedule of Negotiations and Powers Sought
SNS	Statutory Nuisance Statement
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SPA	Special Protection Area
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SU	Statutory Undertaker
SUDS	Sustainable Urban Drainage System
SWMP	Site Waste Management Plan
TAGI	Theddlethorpe Above Ground Installation
tCE	The Crown Estate

Abbreviation	Definition
TCO	Traffic Coordination Officer
tCO2e	Tonnes of Carbon Dioxide Equivalent
TCPA	Town and Country Planning Act 1990
TGT	Theddlethorpe Gas Terminal
TP	Temporary Possession
TRO	Traffic Regulation Order
UK	United Kingdom
UKHSA	UK Health Security Agency
Uniper	Uniper UK Limited
USI	Unaccompanied Site Inspection
WACA1981	Wildlife and Countryside Act 1981
WFD	Water Framework Directive
WHO	World Health Organisation
WLDC	West Lindsey District Council
WR	Written Representation
WSI	Written Scheme of Investigation
ZoI	Zone of Influence
ZTV	Zone of Theoretical Visibility
µg /m^3	One cubic metre of air contains one microgram (10-6 grams) of pollutant

APPENDIX C: HABITATS REGULATIONS ASSESSMENT

C.1 INTRODUCTION

C.1.1 This Appendix sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for the Department of Energy Security and Net Zero (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

C.1.2 This Appendix is structured as follows:

- Section 1.2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites
- Section 1.3: Conservation Objectives for sites and features
- Section 1.4: Findings in relation to Adverse Effects on Integrity
- Section 1.5: HRA conclusions.

C.1.3 In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (CJEU Case C-127/02 Waddenzee 7 September 2004).

C.1.4 For the purpose of this report, in line with the Habitats Regulations and relevant Government policy, the term 'European sites' includes Special Areas of Conservation (SAC), candidate SACs, proposed SACs, Special Protection Areas (SPA), potential SPAs, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.

C.1.5 Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 4 of this Report.

C.1.6 The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISH)s.

RIES and Consultation

C.1.7 The application documentation details consultation in relation to HRA matters as follows.

C.1.8 The HRA report [REP6-011] does not contain any specific correspondence with Natural England or other statutory consultation bodies.

C.1.9 Environmental Statement (ES) Chapter 6 [APP-048] contains details of correspondence with Natural England in relation to the EIA Scoping (Table 6-3), responses to the Preliminary Environmental information Report (PEIR) (Table 6-4) and additional consultation (Table 6-5)

C.1.10 The Consultation Report [APP-034] provides comments from Natural England in Section 8.3 and Appendix E in relation to the statutory consultation [APP-039].

C.1.11 Natural England provided details of the correspondence undertaken with the Applicant in [RR-073]. The Relevant Representation detailed matters where Natural England were not in agreement with at the time of submission of the Relevant Representation, which were addressed as part of the examination as detailed below in the summary of matters considered during the examination.

C.1.12 The ExA produced a Report on the Implications for European Sites (RIES) [PD-022] which compiled, documented, and signposted information relevant to the HRA provided in the DCO application and examination representations up to and including Deadline (DL) 4 (29 July 2024). The RIES was issued to set out ExA understanding on the HRA and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 12 August 2024 and 02 September 2024. Comments were received from the Applicant [REP5-062] and Natural England [REP5-083] at DL5 (2 September 2024). Responses to these comments on the RIES were then submitted by the Applicant [REP6-044] at DL6 (19 September 2024). These comments have been taken into account in the drafting of this Appendix.

C.1.13 The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations should the SoS wish to do so.

Proposed Development Description and HRA Implications

C.1.14 The Proposed Development is described in Chapter 1 of this Report.

Applicants HRA Documents

C.1.15 The Applicant's assessment of effects is presented in the following application document(s):

- [APP-118] Report to Inform the Habitats Regulations Assessment, updated as [AS-026], [REP2-024], [REP4-017], [REP5-012] and [REP6-011].

C.1.16 Supporting information is also provided in the following applications documents:

- [APP-048] - Environmental Statement - Volume II - Chapter 6: Ecology and Biodiversity.
- [APP-111] - Environmental Statement - Volume IV - Appendix 13-4: HRA Noise Assessment.
- [APP-119] - Plans of Statutory / Non-Statutory Sites or Features of Nature Conservation.

Relationship between the Proposed Development and European Sites

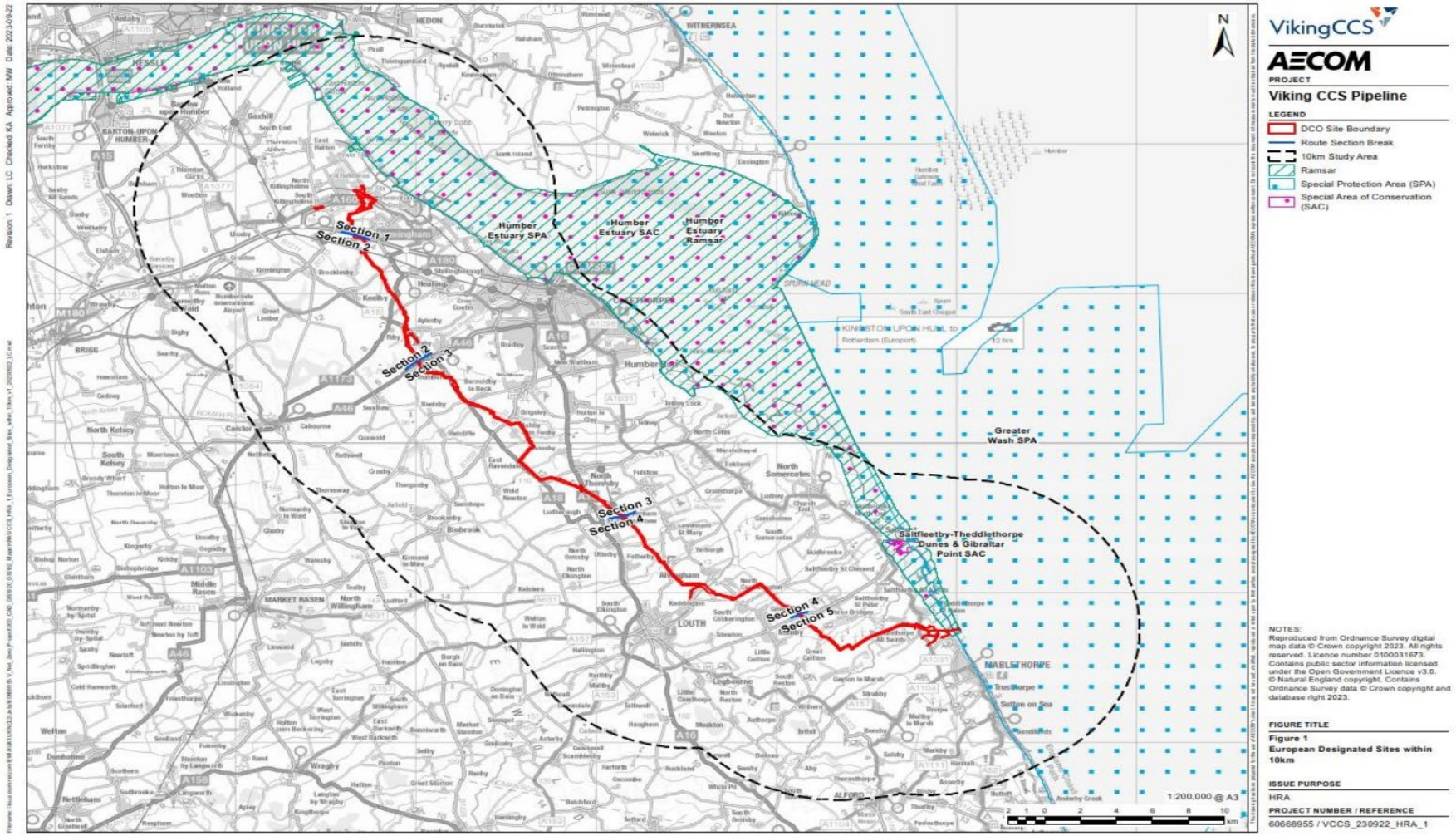
C.1.17 The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 1 of the Applicants HRA [REP6-011].

C.1.18 The Proposed Development is not directly connected with, or necessary to, the management of a European site. Therefore, the SoS must make an 'appropriate

assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.

C.1.19 A copy of Figure 1 from [REP6-011] is reproduced below in this report for ease of reference.

Figure 1: European Sites within 10 km of the Proposed Development



Change requests

C.1.20 During the Examination, the Applicant submitted two change requests as described in Chapter 2 of this Report. These changes were accepted by the ExA as described.

C.1.21 In relation to change request 1 [AS-053] and change request 2 [AS-080 and AS-081], the Applicant provided Environmental Technical Notes. The technical notes considered the implications of the change request, which concluded that the changes resulted in a reduction to the order limits considered previously in the HRA [APP-118], and the areas removed as a result of the changes were not required to mitigate or compensate for any potential Adverse Effects on the Integrity (AEoI) of European Sites. As such it was concluded that there are no changes to the findings as reported in the HRA report [APP-118].

Transboundary

C.1.22 The Applicant did not identify likely significant effects (LSE) on non-UK European sites in European Economic Area (EEA) States in its HRA Report [APP-118] or within its ES [APP-043 to APP-063]. Only UK European sites are addressed in this Report. No such impacts were raised for discussion by any IPs during the Examination, including following publication of the Inspectorate's transboundary screening [OD-008].

Summary of HRA Matters Considered During the Examination

C.1.23 HRA matters were raised by the ExA during the examination at first and second written questions [PD-010 and PD-021], Issue Specific Hearings and by issue of a rule 17 request for further information [PD-023].

C.1.24 The HRA matters raised by the ExA, NE and host local authorities and discussed during the examination in relation to screening for likely significant effects include:

- The timings and coverage of ornithological surveys.
- Effects from changes to water quality.
- Effects from maintenance venting and the presence of venting equipment.
- Effects to individual qualifying species including Natterjack toads and lamprey.
- Assessment of non-breeding birds, including temporary loss of functionally linked land.
- Noise, vibration and visual / lighting disturbance to breeding and non-breeding birds.
- Effects of changes to air quality and generation of dust.
- Effects as a result of cumulative and in combination impacts, including a holistic approach to the interaction between the onshore and offshore elements of the Proposed Development.
- General methodology matters and points of clarification.

C.1.25 The HRA matters raised by the ExA, NE and host local authorities and discussed during the examination in relation to adverse effects on integrity include:

- Impacts from changes to water quality.
- Effects to individual qualifying species including grey seals and Natterjack Toads
- Assessment of non-breeding birds, including temporary loss of functionally linked land.
- Noise, vibration and visual disturbance to breeding and non-breeding birds.

- Effects as a result of cumulative and in combination impacts, including a holistic approach to the interaction between the onshore and offshore elements of the Proposed Development.
- Direct works within the designated sites.
- General methodology matters and points of clarification.

C.1.26 These matters are discussed in the Sections below, as appropriate.

C.1.27 Matters which were undisputed by IPs, including NE as the ANCB were:

- The European sites included within the HRA are considered appropriate [RR-073, NE1].
- There would be no LSE on any qualifying features of the Greater Wash SPA RR-073, NE1].
- There would be no permanent habitat loss for breeding avocet at the Theddlethorpe facility (Humber Estuary SPA and Ramsar site) [RR-073, NE11].
- Mitigation of effects from noise and vibration to breeding avocet in proximity to the dune isolation valve would be appropriate (Humber Estuary SPA and Ramsar site) [RR-073, NE13].
- There would be no AEoI from atmospheric pollution provided that mitigation is secured (Humber Estuary SPA and Ramsar site) [RR-073, NE19].
- From NE - There would be no AEoI to lamprey due to the use of HDD, mitigation measures and relevant watercourses not forming lamprey migration routes (Humber Estuary Ramsar site and SAC) [RR-073, NE20].
- There would be no AEoI from changes to water quality at the Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC [RR-073, NE22].

C.2 Findings in relation to Likely Significant Effects (LSE)

C.2.1 Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.

C.2.2 The European sites and qualifying features that were considered in the Applicant's assessment of LSE are presented in Section 4.2 of the Applicants HRA report [REP6-011].

C.2.3 The Applicant's HRA Report [REP6-011] sets out the methodology applied to determining what would constitute a 'significant effect' within its HRA Report [REP6-011].

C.2.4 Table A below summarises the European Sites and Qualifying features considered

Table A: European sites screened by the Applicant

European site(s)	Distance from the Proposed Development	Qualifying Feature(s)
Humber Estuary Special Protection Area (SPA)	Within the DCO Site Boundary (at the easternmost extent)	Breeding: ▪ Little tern. ▪ Marsh harrier. Breeding and wintering: ▪ Avocet. ▪ Bittern. Wintering: ▪ Bar-tailed godwit. ▪ Golden plover. ▪ Hen harrier. ▪ Shelduck. Wintering and Passage: ▪ Black-tailed godwit. ▪ Dunlin. ▪ Knot. ▪ Redshank. Passage:

European site(s)	Distance from the Proposed Development	Qualifying Feature(s)
		▪ Ruff. Waterbird Assemblage: ▪ Avocet, Bar-tailed godwit, Bittern, Black-tailed godwit, Brent goose, Crane, Curlew, Dunlin, Golden plover, Goldeneye, Green sandpiper, Greenshank, Grey plover, Greylag goose, Knot, Lapwing, Little egret, Mallard, Oystercatcher, Pink-footed goose, Pochard, Redshank, Ringed plover, Ruff, Sanderling, Scaup, Shelduck, Shoveler, Teal, Turnstone, Whimbrel, Wigeon
Humber Estuary Ramsar site	Within the DCO Site Boundary (at the easternmost extent)	Criterion 1 - The site is a representative example of a near-natural estuary with the following component habitats: dune systems and humid dune slacks, estuarine waters, intertidal mud and sand flats, saltmarshes, and coastal brackish/saline lagoons. It is a large macro-tidal coastal plain estuary with high suspended sediment loads, which feed a dynamic and rapidly changing system of accreting and eroding intertidal and subtidal mudflats, sandflats, saltmarsh and reedbeds. Examples of both strandline, foredune, mobile, semi-fixed dunes, fixed dunes and dune grassland occur on both banks of the estuary and along the coast. Criterion 3 - The Humber Estuary Ramsar site supports a breeding colony of grey seals at Donna Nook. It is the second largest grey seal colony in England and the furthest south regular breeding site on the east coast. The dune slacks at Saltfleetby-Theddlethorpe on the southern extremity of the Ramsar site are the most north-easterly breeding site in Great Britain of the natterjack toad.

European site(s)	Distance from the Proposed Development	Qualifying Feature(s)
		Criterion 5 - Assemblages of international importance - 153,934 waterfowl, non-breeding season (5-year peak mean 1996/97-2000/2001) Criterion 6 - Species / populations occurring at levels of international importance: ▪ Eurasian golden plover. ▪ Red knot. ▪ Dunlin. ▪ Black Tailed Godwit. ▪ Common redshank. ▪ Common shelduck and ▪ Bar-tailed godwit. Criterion 8 - The Humber Estuary acts as an important migration route for both River lamprey and Sea lamprey between coastal waters and their spawning areas.
Saltfleetby-Theddlethorpe Dunes & Gibraltar Point Special Area of Conservation (SAC)	Within the DCO Site Boundary (at the easternmost extent)	▪ Dunes with sea-buckthorn. ▪ Embryonic shifting dunes. ▪ Fixed dunes with herbaceous vegetation (grey dunes). ▪ Humid dune slacks and ▪ Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) (Shifting dunes with marram).
Greater Wash SPA with marine components	Within the DCO Site Boundary (at the easternmost extent)	▪ Red throated diver (non-breeding). ▪ Little gull (non-breeding). ▪ Sandwich tern (breeding). ▪ Common tern (breeding).

European site(s)	Distance from the Proposed Development	Qualifying Feature(s)
		▪ Little tern (breeding) and ▪ Common scoter (non-breeding).
Humber Estuary SAC	1.27 km east of the DCO Site Boundary	Habitats: ▪ Atlantic salt meadows. ▪ Coastal lagoons. ▪ Dunes with sea buckthorn. ▪ Embryonic shifting dunes. ▪ Estuaries. ▪ Mudflats and sandflats not covered by seawater at low tide. ▪ Fixed dunes with herbaceous vegetation (`grey dunes`). ▪ Glasswort Salicornia sp. and other annuals colonising mud and sand. ▪ Sandbanks which are slightly covered by sea water all the time and ▪ Shifting dunes along the shoreline with (*Ammophila arenaria*) (`white dunes'). Species ▪ Grey seal ▪ River lamprey and ▪ Sea lamprey.

C.2.5 The Applicant identified potential impacts of the Proposed Development considered to have the potential to result in likely significant effects (LSE) alone in section 6.2 (construction), 6.3 (operation) and 7 (decommissioning) of the HRA Report [REP6-011].

C.2.6 The impacts considered by the Applicant to have the potential to result in LSE are:

- Humber Estuary SPA (Table 1, Appendix G and report Table 7-1):
  - Construction – Permanent Loss of Functionally Linked Land:
    - Avocet.
    - Redshank.
    - Waterbird assemblage (Avocet, Mallard, Oystercatcher, Redshank).
  - Construction – Temporary Loss of Functionally Linked Land:
    - Waterbird assemblage (Golden plover, Curlew, Lapwing, Pink Footed Goose).
  - Construction and decommissioning – Noise and Visual Disturbance:
    - Avocet.
    - Golden plover.
    - Bar Tailed godwit.
    - Black Tailed godwit.
    - Redshank.
    - Waterbird assemblage (Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink Footed Goose, Redshank, Shelduck, Teal, Black-tailed godwit, Bar-tailed godwit and Wigeon).
  - Construction and decommissioning – Dust and particulates:
    - All qualifying features
  - No LSE were identified to any qualifying feature at any phase of the Proposed Development from the pathways of habitat loss, water quality and atmospheric pollution from vehicles and plant.
  - No LSE were identified for any qualifying feature during operation from the project alone.

- Humber Estuary Ramsar site (Table 2, Appendix G and report Table 7-1):
  - Construction and decommissioning – Dust and particulates
    - All qualifying features except grey seals (Construction only for River lamprey and Sea lamprey)
  - Construction– Water Quality:
    - River lamprey and Sea lamprey
  - Construction and decommissioning – Noise and Visual Disturbance:
    - Golden plover
    - Black-tailed godwit
    - Redshank
    - Waterbird assemblage (Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink-footed goose, Redshank, Shelduck, Teal, Black-tailed godwit, Wigeon).
    - River lamprey and Sea lamprey (Construction only).
  - Construction and decommissioning– Direct injury / mortality:
    - Natterjack toad.
  - Construction – Direct injury / mortality:
    - River lamprey and Sea lamprey.
  - Construction – Permanent Loss of Functionally Linked Land:
    - Redshank.
    - Waterbird assemblage (Avocet, Redshank, Oystercatcher and Mallard).

- Construction – Temporary Loss of Functionally Linked Land:
  - Redshank.
  - Waterbird assemblage (Curlew, Lapwing, Mallard, Pink Footed Goose and Teal).
- No LSE were identified to any qualifying features at any phase of the Proposed Development from the pathways of habitat loss and atmospheric pollution from vehicles and plant.
- No LSE were noted to the grey seal qualifying feature.
- No LSE were identified for any qualifying feature during operation from the project alone.

- Humber Estuary SAC (Table 3, Appendix G and report Table 7-1):
  - Construction– Dust and particulates, Water quality, noise and vibration, direct injury /mortality:
    - River lamprey and Sea lamprey.
  - No LSE were identified to any qualifying features at any phase of the Proposed Development from the pathways of air quality and visual disturbance.
  - No LSE were noted to the habitats or grey seal qualifying features.
  - No LSE were identified for any qualifying feature during operation from the project alone.

- Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC (Table 4, Appendix G and report Table 7-1):
  - Construction and decommissioning – Habitat loss, water quality, dust and particulates.
  - No LSE were identified to any qualifying features at any phase of the Proposed Development from the pathway of transport emissions.
  - No LSE were identified for any qualifying feature during operation from the project alone.

C.2.7 The Applicant's HRA Report [REP6-011] concluded no LSE from the Proposed Development alone on any of the qualifying features of:

- Greater Wash SPA (with marine components) (Table 5, Appendix G and report Table 7-1) – From the impact pathways of habitat loss, loss of functionally linked land, noise and visual disturbance, changes in water quality and atmospheric pollution.

LSE from the Proposed Development in Combination

C.2.8 The Applicant addressed potential in-combination effects arising from the Proposed Development within section 7.4 of [REP6-011] which sets out the methodology applied. The other plans and projects included in the in-combination assessment are set out in Appendix A of [REP6-011].

C.2.9 In many cases, where the Applicant's screening exercise established the potential for LSE to arise from the Proposed Development alone, the potential for in-combination effects was also considered and discussed in the Applicant's HRA Report [REP6-011]. This approach as far as it has a bearing on the screening for LSE was not a matter for discussion in the Examination.

C.2.10 The impacts considered by the Applicant to have the potential to result in LSE are:

- Humber Estuary SPA (Table 1, Appendix G):

- Construction and decommissioning - Avocet and Waterbird assemblage.

- Humber Estuary Ramsar site (Table 2, Appendix G):
  - Construction and decommissioning - Waterbird assemblage and Black Tailed Godwit.

C.2.11 The Applicant's HRA Report [REP6-011 concluded no LSE from the Proposed Development in combination on any of the qualifying features of:

- Humber Estuary SAC (Table 3, Appendix G).
- Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC (Table 4, Appendix G).
- Greater Wash SPA with marine components (Table 5, Appendix G).

LSE Assessment Outcomes

C.2.12 The sites for which the Applicant concluded no LSE would occur from either the project alone or in combination with other projects and plans are presented in the RIES [PD-022].

C.2.13 Commentary on the sites and features for which LSE was a matter for discussion during the Examination is set out below.

All sites

Methodology of HRA

Water quality

C.2.14 The ExA queried whether the Applicant's HRA methodology had considered the potential for bentonite breakout during Horizontal Directional Drilling (HDD) or auger boring works [PD-010, 1.12.3]. The Applicant confirmed [REP1-045] that the assessment included consideration of bentonite breakout and that the draft Construction Environmental Management Plan (CEMP) was updated [REP1-013] to include requirement E34 in relation to the control of bentonite breakout.

C.2.15 The ExA queried whether the Applicant had considered that potential dilution of pollution prior to reaching the Humber Estuary would not occur at Functionally Linked Land (FLL) upstream of the Humber Estuary sites [PD-010 1.12.5]. The Applicant confirmed [REP1-045] that its conclusions of no LSE on functionally linked land was not solely based on dilution of pollution.

C.2.16 NE [REP1-079, NE22] confirmed that they agreed with the Applicant's overall position on water quality.

Venting

C.2.17 The ExA queried whether the assessment of noise, visual or air quality disturbance had considered the potential effects from planned or emergency venting operations [PD-010, 1.12.4]. The Applicant confirmed [REP1-045] that venting will be undertaken at a rate whereby the noise at the nearest noise sensitive receptor will be no greater than 10 dB above daytime background levels. A description of the effect of venting was added to the updated HRA at paragraphs 6.3.17 – 6.3.18 [REP2-024]

C.2.18 Further information on venting and additional supporting information provided by the Applicant are discussed below in relation to the Greater Wash SPA.

Spatial extent of assessment

C.2.19 The ExA requested additional information as to the spatial extent of the assessment, as it was not clear in the wording of the HRA report [APP-118] whether land outside the order limits (which could be FLL) had been considered [PD-010, 1.12.14]. The Applicant clarified [REP1-045] that the habitats adjacent and contiguous with the order limits were considered within the assessment. A summary assessment of the relevant baseline data collected in this geographic area was also provided by the Applicant [REP1-045].

Requirement for holistic HRA

C.2.20 Following comments in the NE's RR [RR-073], the ExA sought clarification on the implications of the Proposed Development requiring additional consent (for the offshore elements) in order to be fully operational [PD-010 1.12.15 and PD-022, RIESQ6]. The ExA noted [PD-010, 1.12.15] that NE [RR-073] recommended that a "holistic approach" was taken to the assessment of the onshore and offshore elements, as the scheme as a whole is dependent on both being granted.

C.2.21 The Applicant [REP1-045] considered that the onshore scheme does not include any works in the intertidal zone or wider marine environment, and as such there is no potential for marine-based receptors to be affected by the onshore works cumulatively with the offshore works, and that there is no potential that bird species/ populations impacted by the onshore scheme could also be impacted by works 118km offshore.

C.2.22 NE [REP2-041] provided an update to its position including suggesting an alternative approach to the SoS to completing a holistic HRA when all the relevant marine information is available at a later date. This would require a planning condition / DCO requirement restricting the commencement of the terrestrial elements until such time that the holistic HRA had been completed and the marine elements have been consented on the basis that AEoI could either be excluded for the whole project, or suitably compensated for.

C.2.23 The Applicant reiterated the position of DL1 [REP3-030] and added that they would not commence construction without confirmation of the consent for the offshore elements [REP3-007, with reference to the bridging document APP-128]. This matter was addressed in ISH3, with responses submitted as a position statement on the benefits of the Proposed Development [REP4-032] and summary of oral submissions [REP4-052]. The Applicant referred to previous DCOs which addressed this matter, and the award of carbon storage licences to the Applicant as indicators of progress of the offshore scheme. The Applicant also confirmed at ISH 3 that Work No 48A (electrical connection) would not be installed through the intertidal area, and therefore there would be no works directly within the marine area of the European sites. The Applicant also noted that the electrical cable would be installed via a mole plough, which is already considered in the report to inform the HRA.

C.2.24 In response to [PD-022, RIESQ6], the Applicant [REP5-062] and NE [REP5-083] reiterated their previous position on this matter. It is noted that NE did not raise a concern during the examination that this had the potential to lead to AEOI, and overall agreed with the Applicants conclusion of no AEOI on any European site.

C.2.25 Further questions in relation to the matter of the approach of requiring separate consents for the offshore and onshore elements were raised in [PD-010] and [PD-

022], and the matter is discussed in chapters 3, 6 and 7 on the recommendation report.

Description of effects of disturbance from sources of noise, visual and vibration

C.2.26 The ExA queried the varying terminology used to describe noise, vibration and visual disturbance [PD-010 1.12.20]. The Applicant confirmed [REP1-045] that 'noise and vibration' and 'visual disturbance' were given separate columns in Table 3 of Appendix G (Humber Estuary SAC) as some interest features are susceptible to underwater noise/ vibration but not to visual impacts. For Tables 1 and 2 of Appendix G (Humber Estuary SPA and Ramsar site) 'noise and visual' disturbance is given as a single column on the basis that these are similar pathways for birds. Vibration was not explicitly referenced in the heading of Tables 1 and 2 because vibration was not considered a specific impact to birds but is relevant to interest features of the Humber Estuary SAC. The Applicant provided updated matrices and explanation throughout the updated HRA at DL2 [REP2-024] to provide further clarity.

Overlapping site designations

C.2.27 The ExA queried the results of the screening undertaken by the Applicant in relation to differing conclusions on the same qualifying feature of two overlapping designations [PD-010 1.12.29]. The following conclusions were queried by the ExA:

- Noise and Visual disturbance to Golden Plover and Redshank in the Humber Estuary SPA, where LSE was identified, and the Humber Estuary Ramsar site where no LSE were identified.
- Permanent Loss of FLL used by Redshank in the Humber Estuary SPA, where LSE was identified, and Humber Estuary Ramsar site, where no LSE were identified.
- Habitat loss in the Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC where LSE was identified, and the Humber Estuary SPA and Ramsar site, where no LSE was identified.
- Water quality effects in the Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC where LSE was identified, and the Humber Estuary SPA and Ramsar site, where no LSE was identified.

C.2.28 The Applicant [REP1-045] responded that whilst the designations are overlapping, the boundaries differ. The Applicant confirmed that there will be no direct habitat loss within any of the European designated sites at Theddlethorpe, as the onshore pipeline will connect to the existing (below ground) Lincolnshire Offshore Gas Gathering System (LOGGS) pipeline west of the sand dunes at Theddlethorpe. Localised works (which may result in noise and visual disturbance or water quality issues) will be required to replace the Dune Isolation Valve which is adjacent to the designated site boundaries.

C.2.29 As the Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC is designated for its dune habitat, the potential for habitat loss as a result of encroachment of machinery was taken forward to the assessment of effects on integrity. This was based upon a precautionary approach to allow mitigation to be applied, namely adjacent habitats to be fenced off during works.

General matters and screenings conclusions

C.2.30 In its RR [RR-073], NE confirmed that it was in broad agreement with the Applicant's conclusions of LSE in respect of the European sites and was satisfied with the amount of survey data used to inform the HRA and assessment of effects on integrity. The ExA sought further confirmation from NE as to its position on the matters of Matrix accuracy, survey data, screening conclusions and AEOI conclusions [PD-010 1.12.13]. NE's position as updated on this matter throughout the examination.

C.2.31 The ExA sought minor clarifications on matters relating to the HRA text, matrices and methodology [APP-118] in [PD-010] 1.12.16, 1.12.17, 1.12.18, 1.12.19, 1.12.22, 1.12.23 1.12.25, 1.12.26, 1.12.28, 1.12.30 and 1.12.33.

Humber Estuary SPA and Ramsar site

C.2.32 The Applicants HRA [REP6-011] assessed the bird species that are qualifying features of these sites in a single section of the HRA report, and as such they are presented together within this recommendation report annex.

Assessment of the non-breeding bird assemblage

C.2.33 Within [RR-073, NE2], NE indicated that the HRA report [APP-118] had not fully assessed all species which form the waterbird assemblage qualifying feature, as NE considered that some species may have been omitted with insufficient justification. In response, the Applicant updated paragraphs 4.2.8 to 4.2.10 of the HRA at DL2 [REP2-024] to include details on the full assemblage and the potential LSE to these individual species where relevant, and carried species which may have LSE forwards to the assessment of AEoI.

C.2.34 Within [RR-073, NE6] NE indicated that there is the potential for LSE from a temporary loss of FLL during construction for Lapwing and Pink footed goose (component features of the assemblage). The Applicant [REP1-045] confirmed that paragraph 6.2.57 of the HRA [APP-118] identified that Lapwing and Pink footed goose have the potential to be affected by noise and visual disturbance and were taken forward to the assessment of effects on integrity. For clarity, the Applicant added Lapwing and Pink Footed Goose into Table 7-1 in the updated HRA [REP2-024] and provided a further update [REP4-017] at paragraph 7.3.11 - 7.3.16 to give information on the duration of pipeline construction. NE confirmed [REP4-093] that potential cumulative impacts have been considered appropriately.

C.2.35 Within [RR-073, NE3], NE indicated that the HRA report [APP-118] determined the significance of the qualifying bird population on a per field basis, however, did not provide sufficient information on cumulative impacts to SPA birds using functionally linked land across the project area. The Applicant confirmed that the HRA report has been updated [REP2-024] at paragraphs 7.3.8, 7.3.21 and 7.4.5 to discuss the likelihood of cumulative impacts across the development site. The key areas of value for SPA birds are identified to be in pipeline sections 1 and 5 which are separated by a large distance. The pipeline route sections will be also installed sequentially rather than simultaneously. Therefore, it was considered that there is limited potential for cumulative impacts from multiple parts of the Proposed Development being worked simultaneously. The Applicant provided a further update to the HRA [REP4-017] at paragraph 6.3.14 and 7.3.11 - 7.3.16 to confirm that routine operational maintenance would be undertaken outside of the nesting bird season and to provide further information in the HRA on the duration of pipeline

construction. NE confirmed [REP4-093] that potential cumulative impacts have been considered appropriately, and no LSE were noted.

C.2.36 The ExA [PD-022, RIESQ3] however sought further clarity to confirm how the apparent mitigation measure of sequential (rather than continuous) construction was secured. The Applicant confirmed [REP5-062] that the sequential construction is an inherent aspect of pipeline construction rather than a form of mitigation, and the practicalities of constructing a pipeline would preclude simultaneous work in all areas at the same time,

Ornithological surveys

C.2.37 Within [RR-073, NE4], NE indicated that the frequency of surveys during non-breeding season was lower than recommended, and as such the HRA should assume a precautionary approach with appropriate consideration given to potential limitations of the data. The Applicant confirmed [REP1-044] that the precautionary approach had already been taken within the HRA with regard to use of peak counts, however additional information was provided at paragraph 6.2.50 of the DL2 submission [REP2-024].

C.2.38 Within [RR-073, NE5] NE, and at ExQ1 [PD-010, 1.12.2] the ExA, raised concerns that that no bird surveys have been undertaken at the location of the Northern Compound, which is within 10km of the Humber Estuary SPA and as such may represent functionally linked to the Humber Estuary SPA. The Applicant [REP1-044 and REP1-045] noted that the land was appraised for its suitability to support breeding and wintering birds. However, due to the proximity to a major road, it was considered unlikely to be functionally linked. NE confirmed agreement with the Applicant's conclusion in its DL1 response [REP1-079] and the HRA was updated to include this information at DL2 [REP2-024] at paragraph 6.2.53.

Noise and visual disturbance to non-breeding birds within functionally linked land (Construction and decommissioning) – Black tailed Godwit

C.2.39 Within [RR-073, NE7], NE indicated that significant numbers of black-tailed godwit are present at Rosper Road Pools, and therefore considered that LSE cannot be screened out. In addition, The ExA [PD-010, 1.12.24] requested clarification as to whether the screening stage had considered the qualifying feature of black tailed godwit (Ramsar site criterion 6).

C.2.40 The Applicant [REP1-044 and REP1-045] noted that as noise and visual disturbance impacts on Rosper Road Pools and black-tailed godwit had been taken forwards to the assessment of effects on integrity. The matrices and paragraph 6.2.107 were updated to include black-tailed godwit at DL2 [REP2-024]. The Applicant also updated paragraphs 7.3.29 to 7.3.35 of the HRA [REP4-017] to provide further information on the screening thresholds used and proposed mitigation.

Noise and visual disturbance to breeding and non-breeding birds within functionally linked land (Operation)

C.2.41 Within [RR-073, NE9 breeding birds and NE10 nonbreeding birds], NE indicated that an assessment was required for LSE from maintenance to the dune isolation valve. The Applicant [REP1-044] signposted to where the HRA had considered the dune isolation valve works and gave some additional details of the anticipated works required including frequency and duration, and context of existing disturbance from activities in the wider area. NE [REP1-079] noted that there is still potential for

works to cause disturbance and result in nest abandonment and advised that further assessment should be undertaken on the suitability of habitat near to the dune valve. The Applicant [REP2-029] and Paragraph 6.3.14 of the HRA [REP2-024] confirmed that routine maintenance work will be undertaken outside of the bird breeding season. This commitment is included in ES Appendix 3-6 Operational Phase Mitigation [REP2-014] as commitment OP21. Further minor amendments were provided at [REP4-017] paragraphs 7.3.21 – 7.3.23. NE [REP4-093] agreed that that it is unlikely the works would create a disturbance greater than the baseline.

Lighting disturbance to breeding and non-breeding birds within functionally linked land (Construction, operation and decommissioning)

C.2.42 Within [RR-073 NE8], NE indicated that additional information should be provided on lighting design, and potential impacts from lighting should be considered at the HRA screening stage. The Applicant [REP1-044] indicated that detailed information on lighting requirements for the Proposed Development were included within ES Chapter 3: Description of the Proposed Development [APP-045]. Further detail was provided in the updated HRA [REP2-024] to provide clarity on potential lighting impacts during construction, operation, and decommissioning, with particular reference to the consideration of existing conditions associated with industrial and vehicle lighting. NE agreed [REP4-093] with the conclusions of the assessment.

Humber Estuary Ramsar site

Effects to River lamprey and Sea lamprey

C.2.43 The ExA requested clarity on the screening of effects to lamprey from dust and particulates [PD-010 1.12.21] as there was a discrepancy between the information provided in Appendix G Table 2 [APP-118], and the accompanying footnotes, and therefore it was not clear whether dust and particulate impacts to lamprey was intended to be carried forwards to stage 2. The Applicant confirmed [REP1-045] that this pathway was intended to be included in the assessment of effects on integrity and provided updated matrices and paragraph 6.2.82 in the DL2 submission [REP2-024]. The East Lindsey District Council Local Impact Report [REP1-053] indicated that there were comments which may require addressing with regard to the mitigation measures recommended for lamprey. No further comments on this matter were received, including in response to [PD-022, RIESQ5]. NE confirmed [RR-073, Ref NE20] that the relevant watercourses appear to fall outside the Humber Estuary lamprey migration routes.

Humber Estuary SAC

Effects to grey seals

C.2.44 The ExA sought clarity as to whether there no recorded seal haul-out sites (or other records of seal foraging activity) in proximity to the Proposed Development [PD-010 1.12.8]. Both the Applicant [REP1-045] and NE [REP1-079] provided confirmation of the findings of the initial assessment presented in the HRA [APP-118].

Greater Wash SPA

Effects to Red throated diver

C.2.45 The ExA questioned the conclusions of potential LSE to Red throated diver as a result of displacement from flight paths as a result of the presence of either a 25m or 50m high stack [PD-010 1.12.11]. The Applicant [REP1-045 and REP1-048] considered that displacement of Red throated diver is only a concern from structures or ships in the marine environment in which they forage and roost outside of the breeding season. There is no evidence of Red throated diver being displaced due to structures on land or being displaced while on the wing over land. NE provided additional information [REP1-079] to include commentary on the likely locations of red throated diver (offshore) and agreed with the Applicant's position. A technical note was provided by the Applicant [REP3-029] in relation to venting, which concluded that any potential adverse effects ecological receptors from venting would be avoided.

LSE Assessment Outcomes - Conclusions

C.2.46 Table B below lists the sites and features which were assessed by the Applicant to determine if they could be subject to adverse effects on integrity, as a result of the Proposed Development alone or in combination with other plans and projects, in view of its conservation objectives:

C.2.47 The ExA is satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects.

C.2.48 Taking into account the reasoning set out above, the ExA considers that the Proposed Development is likely to have a significant effect from the impacts identified above on the qualifying features of the European sites identified in Table A when considered alone, or in combination with other plans or projects. This was not disputed by IPs/NE during the Examination.

Table B: European sites and features for which LSE could not be excluded

European site(s)	Qualifying Feature(s)	LSE Alone from:	LSE in-combination from:
Humber Estuary SPA	Avocet.	Construction: ▪ Permanent loss of FLL. Construction and decommissioning: ▪ Noise and Visual Disturbance. ▪ Dust and Particulates.	Construction and decommissioning: ▪ Noise and visual disturbance
	Redshank.	Construction: ▪ Permanent loss of FLL. Construction and decommissioning: ▪ Noise and Visual Disturbance. ▪ Dust and Particulates.	▪ No LSE in-combination noted
	▪ Bittern. ▪ Hen Harrier. ▪ Ruff. ▪ Marsh Harrier. ▪ Little Tern. ▪ Shelduck. ▪ Knot. ▪ Dunlin.	Construction and decommissioning: ▪ Dust and Particulates.	▪ No LSE in-combination noted
	▪ Golden Plover. ▪ Bar Tailed Godwit. ▪ Black tailed godwit.	Construction and decommissioning: ▪ Noise and Visual Disturbance. ▪ Dust and Particulates.	▪ No LSE in-combination noted

European site(s)	Qualifying Feature(s)	LSE Alone from:	LSE in-combination from:
	Waterbird assemblage.	Construction: ▪ Permanent Loss of FLL (Avocet, Mallard, Oystercatcher, Redshank). ▪ Temporary Loss of FLL (Golden Plover, Curlew, Lapwing, Pink footed goose). Construction and decommissioning: ▪ Noise and visual disturbance (Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink Footed Goose, Redshank, Shelduck, Teal, Black-tailed godwit, Bar-tailed godwit and Wigeon). ▪ Dust and particulates (all component species).	Construction and decommissioning: ▪ Noise and visual disturbance (all component species).
Humber Estuary Ramsar site	Ramsar site Criterion 1 - The site is a representative example of a near-natural estuary with the following component habitats: dune systems and humid dune slacks, estuarine waters, intertidal mud and sand flats, saltmarshes, and coastal brackish/saline lagoons.	Construction and decommissioning: ▪ Dust and Particulates.	▪ No LSE in-combination noted

European site(s)	Qualifying Feature(s)	LSE Alone from:	LSE in-combination from:
	Ramsar site Criterion 3 - The dune slacks at Saltfleetby-Theddlethorpe on the southern extremity of the Ramsar site are the most north-easterly breeding site in Great Britain of the natterjack toad.	Construction and decommissioning: ▪ Dust and Particulates. ▪ Direct Injury / mortality.	▪ No LSE in-combination noted
	Ramsar site Criterion 5 - Assemblages of international importance	Construction and decommissioning: ▪ Dust and Particulates (all species) ▪ Noise and visual disturbance (Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink-footed goose, Redshank, Shelduck, Teal, Black-tailed godwit, Wigeon). Construction: ▪ Permanent loss of FLL (Avocet, Redshank, Oystercatcher, mallard) ▪ Temporary loss of FLL (Curlew, Lapwing, Mallard, Pink-footed goose, Teal).	Construction and decommissioning: ▪ Noise and visual disturbance
	Ramsar site Criterion 6 - Species / populations occurring at levels of international importance: ▪ Red knot; ▪ Dunlin; ▪ Bar-tailed godwit	Construction and decommissioning: ▪ Dust and Particulates.	▪ No LSE in-combination noted

European site(s)	Qualifying Feature(s)	LSE Alone from:	LSE in-combination from:
	▪ Shelduck		
	Ramsar site Criterion 6 - Species / populations occurring at levels of international importance: ▪ Eurasian golden plover	Construction and decommissioning: ▪ Dust and Particulates. ▪ Noise and visual disturbance.	▪ No LSE in-combination noted
	Ramsar site Criterion 6 - Species / populations occurring at levels of international importance: ▪ Black Tailed Godwit;	Construction and decommissioning: ▪ Dust and Particulates. ▪ Noise and visual disturbance.	Construction and decommissioning: ▪ Noise and visual disturbance
	Ramsar site Criterion 6 - Species / populations occurring at levels of international importance: ▪ Common redshank;	Construction: ▪ Temporary and permanent loss of FLL. Construction and decommissioning: ▪ Dust and Particulates. ▪ Noise and visual disturbance.	▪ No LSE in-combination noted

European site(s)	Qualifying Feature(s)	LSE Alone from:	LSE in-combination from:
	Ramsar site Criterion 8 - The Humber Estuary acts as an important migration route for both River lamprey and Sea lamprey between coastal waters and its spawning areas.	Construction: ▪ Dust and Particulates ▪ Water Quality ▪ Noise and Visual Disturbance ▪ Direct Injury / mortality	▪ No LSE in-combination noted
Humber Estuary SAC	River lamprey and Sea lamprey.	Construction: ▪ Dust and particulates ▪ Water Quality ▪ Noise and Vibration ▪ Direct Injury / mortality	▪ No LSE in-combination noted
Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC	▪ Dunes with sea-buckthorn; ▪ Embryonic shifting dunes; ▪ Fixed dunes with herbaceous vegetation (grey dunes). (Dune grassland); ▪ Humid dune slacks; and, ▪ Shifting dunes along the shoreline with Ammophila arenaria (white dunes). (Shifting dunes with marram).	Construction and decommissioning: ▪ Habitat Loss or degradation ▪ Water Quality ▪ Dust and Particulates	▪ No LSE in-combination noted

C.3 Conservation Objectives

C.3.1 The conservation objectives for the sites and features identified in Table A (Humber Estuary SPA, Ramsar site, SAC, and Saltfleetby–Theddlethorpe Dunes and Gibraltar Point SAC are set out in Section 4.2 and Appendix C of the Applicant's HRA Report [REP6-011].

C.4 Findings in relation to Adverse Effects on Integrity (AEoI)

C.4.1 The European sites and qualifying features identified in Section 1.2 / Table A above were further assessed by the Applicant to determine if they could be subject to adverse effects on integrity (AEoI) from the Proposed Development, either alone or in combination. The assessment of AEoI was made in light of the conservation objectives for the European sites.

C.4.2 A description of each European site and its qualifying features, and the potential effects resulting from the Proposed Development, are provided in Sections 4.2, 6.2, 6.3 and 7 of the Applicant's HRA Report [REP6-011].

C.4.3 Several of the Applicant's conclusions of no AEoI in relation to these European sites and its qualifying features were disputed by IPs and were discussed throughout the Examination. The account of the Examination of these matters is set out in the following sections.

All sites

Matters considered during the examination

Embedded mitigation

C.4.4 The ExA sought clarity on how the Applicant had considered the effects of embedded mitigation at the assessment of effects on integrity stage [PD-010, 1.12.34]. In its response [REP1-045], the Applicant confirmed that mitigation to prevent changes in water quality has been considered as embedded as it would be applied regardless of HRA requirements. No other mitigation was assumed to be embedded mitigation or taken into account at Stage 1 (Assessment of LSE).

Draft bentonite management plan

C.4.5 The Applicant provided a draft bentonite management plan [REP4-012] as required by CEMP commitment E34. The ExA sought comments on this from IPs [PD-021, 2.12.7], with NE confirming [REP5-083] that it had no concerns over the draft management plan.

Final position of Natural England and the host local authorities

C.4.6 The ExA sought further confirmation from NE as to its position on the matters of Matrix accuracy, survey data, and AEOI conclusions [PD-010 1.12.13], [PD-021 2.12.2, 2.12.3, 2.12.9] and PD-022 [RIESQ2], with its final position being confirmed in [REP6-062] in response to the ExA's Rule 17 letter [PD-023]. NE's final position is that subject to the required mitigation measures detailed in the Applicant's HRA report [REP6-011] being secured, that it was satisfied that AEOI can be ruled out for all European sites screened into the assessment.

C.4.7 The ExA also sought further comments from the host local authorities [PD-022, RIESQ1, Q10 and Q11], in particular related to matters raised within the SOCG with

North Lincs Council [REP1-020] and Lincolnshire County Council [REP1-021]. Whilst no responses were received to this question, the final versions of these SOCG [REP6-013] [REP6-015] indicate that matters related to HRA have been agreed overall.

General matters and AEOI conclusions

C.4.8 The ExA sought minor clarifications on matters relating to the HRA matrices and methodology [APP-118] and methodology in [PD-010] 1.12.12, 1.12.27, 1.12.31 and 1.12.32.

Humber Estuary SPA and Ramsar site

Permanent Loss of Functionally Linked Land (birds) during construction - Proposed Development alone

C.4.9 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features of

- SPA - Avocet, Redshank and waterbird assemblage (Avocet, Mallard, Oystercatcher and Redshank).
- Ramsar site – Redshank (Criterion 6) and Waterbird assemblage (Criterion 5, Avocet, Redshank, Mallard, and Oystercatcher, as detailed in Table 7-1 of the HRA [REP6-011].

C.4.10 A pair of avocets were recorded within Theddlethorpe Gas Terminal (TGT) site, immediately adjacent to the draft order limits, during a bird survey on 15 June 2022. However, given the suboptimal breeding habitat for the species it is considered likely that the nesting attempt by avocet at the site in 2022 is an irregular opportunistic occurrence following the recent creation of bare habitat and the demolition of the terminal infrastructure. The birds are likely to be associated with the nearby avocet breeding population which occurs at the Viking Fields pools.

C.4.11 The assessment concluded that the likelihood that the Theddlethorpe Gas Terminal site supports regular breeding population of avocet is negligible and predicted effects are not considered to compromise any of the conservation objectives or have the potential for AEOI on qualifying interest features of the Humber Estuary SPA.

C.4.12 In [RR-073, NE11], NE agreed with this conclusion in relation to avocet. Whilst the Applicants assessment of AEOI focused on the assessment of Avocet as a breeding species in the FLL, no queries have been raised by IPs, including NE, in relation to the application of these findings to Redshank and the relevant species of the waterbird assemblage.

C.4.13 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary SPA and Ramsar site from the Proposed Development alone.

Temporary Loss of Functionally Linked Land (non-breeding birds) during construction - Proposed Development alone

C.4.14 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features of

- SPA - Waterbird assemblage (Golden plover, Curlew, Lapwing, Pink footed goose).
- Ramsar site – Redshank (Criterion 6) and waterbird assemblage (Criterion 5, Lapwing, Curlew, Mallard, Pink-footed goose and Teal, as detailed in Table 7-1 of the HRA [REP6-011])

C.4.15 The HRA [APP-118] assessed that the temporary loss of FLL will not have negative implications at the population level of SPA / Ramsar bird species and would not result in adverse effects on the integrity. This was predominately due to the nature of farmland in the wider foraging / roosting zone around the SPA / Ramsar, pockets of habitat will be moving in and out of suitability constantly due farm management, such as crop rotation and farming activities. The Applicant considered that even if a small amount of foraging habitat is temporarily lost, this will not affect the long-term cumulative resource availability to SPA / Ramsar birds, especially when the habitats involved are widespread and easily recreated, and the original land use of impacted fields will be reinstated immediately following completion of the works.

C.4.16 Within [RR-073, NE12], NE did not agree with the assessment of the temporary loss of FLL, in particular to curlew [APP-118]. NE highlighted that loss of habitat may result in an increase in local bird densities and have consequences for individual bird fitness. Consequently, this may lead to effects on breeding productivity and population size. Curlews are particularly vulnerable to these effects as individuals are faithful to specific sites and forage within a short distance of these. NE considered that further assessment was required on the sequence / timing of works and the availability of roost and feeding sites to provide information on the proportion of suitable habitat that would be affected at any one time and determine whether additional mitigation measures may be required.

C.4.17 The Applicant [REP1-044] responded to confirm that they would undertake a review of the baseline data in order to provide further clarification, particularly regarding potential effects upon curlew. The Applicant provided an updated HRA at DL2 [REP2-024] to include further information on FLL (paragraph 7.3.9). The Applicant provided a further update to the HRA [REP4-017] at paragraphs 7.3.6 – 7.3.17 to provide further assessment of the potential for temporary loss of FLL, with specific reference to curlew, pink-footed goose, golden plover, lapwing. In its DL4 submission, [REP4-093] NE advised that it agreed with assessment conclusion.

C.4.18 The ExA sought [PD-022, RIESQ7] to resolve an apparent discrepancy between the HRA [REP4-017] conclusions which appeared to require restrictions on works timings throughout the construction route, and the CEMP [REP4-027] and Operational Phase Mitigation Plan [REP2-014], which allowed works within these restricted dates, in relation to avoidance of nesting bird season.

C.4.19 In response, NE considered [REP5-083] that it did not consider that the HRA [REP4-017] conclusions rely upon the timing of works outside the breeding season for birds associated with the SPA/Ramsar site.

C.4.20 The Applicant [REP5-062] also confirmed that the CEMP includes several references to specific species that could be disturbed during the breeding season, however, in each case mitigation is also identified to allow works to be undertaken in the breeding season. In the Operational Phase Mitigation report [REP2-014] a commitment is made to undertake routine maintenance of the Dune Isolation Valve outside of the bird breeding season to avoid any potential effects on breeding avocet. This is specific to routine maintenance of the Dune Isolation Valve and is not related to pipeline construction, which will not take place in the fields to the east

of the former TGT site. A similar commitment is made regarding the initial electrical cable installation and the Dune Valve Replacement works in this location (B38 in the CEMP). The Applicant [REP6-044] also confirmed NE's consideration that the conclusions of the HRA do not rely upon the timing of works outside the breeding season for birds associated with the SPA/Ramsar site, and in all instances, there are mitigation measures proposed to allow works to take place during the bird breeding season.

C.4.21 The ExA sought further clarity as to whether there was any potential consideration of displacement of species as a result of this pathway [PD-010 2.12.8], to which the Applicant [REP5-063] and NE [REP5-083] confirmed that displacement had been considered within the assessment and no further assessment or information was required.

C.4.22 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary SPA and Ramsar site from the Proposed Development alone.

Noise and visual disturbance (functionally linked land) during construction and decommissioning to breeding and non-breeding birds - Proposed Development alone

C.4.23 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features:

- SPA - Avocet, Golden Plover, Bar tailed godwit, Black tailed godwit, Redshank, and Waterbird assemblage (Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink Footed Goose, Redshank, Shelduck, Teal, Black-tailed godwit, Bar-tailed godwit and Wigeon).
- Ramsar site – Golden plover, Black tailed godwit, Redshank (Criterion 6) and Waterbird assemblage (Criterion 5, Curlew, Golden plover, Lapwing, Mallard, Oystercatcher, Pink-footed goose, Redshank, Shelduck, Teal, Black-tailed godwit, Wigeon).

Rosper Road Pools

C.4.24 The HRA [APP-118] considered, in relation to breeding birds, that construction works will have a maximum unmitigated average noise level of 55-60 dB at Rosper Road Pools, which is up to 7 dB above the baseline. However, with the proposed mitigation of close-board noise fencing, this would reduce average noise levels at Rosper Road Pools due to the works to 45-50 dB, which is below the baseline, and Maximum (LAmax) noise levels due to the works will be well below the baseline maximum noise levels.

Viking fields

C.4.25 Within [RR-073, NE14], NE requested confirmation that works to construct a replacement valve should be limited to august and September to avoid breeding bird season. The ExA also sought clarity on how Viking fields working restrictions had been secured [PD-010 1.12.6].

C.4.26 The Applicant [REP1-044 and REP1-045] signposted to this information, and further provided confirmation in the DL2 submission [REP2-024, 7.3.14] that the works timings would be undertaken outside of the bird breeding season (1st March - 31st August inclusive). The Applicant also confirmed that the measures were added into the Draft CEMP [REP1-013] as commitment B38, and the Operational Phase

Mitigation [REP2-014] as OP21. The Applicant provided a further update to the HRA [REP4-017] at paragraphs 7.3.21 - 7.3.23 to provide further information on mitigation measures. The Applicant also provided an outline precautionary working method statement [REP4-011] which provides details of the proposed mitigation checks to breeding birds. NE indicated agreement at [REP1-079].

C.4.27 Within [RR-073, NE15, NE18], NE recommended that specific assessment is provided regarding potential noise and visual disturbance to breeding and non-breeding SPA birds using Viking Fields from works associated with the Theddlethorpe Facility and southern compound.

C.4.28 The Applicant [REP1-044] confirmed that existing woodland to the east of the proposed southern compound location provides screening between the works and Viking Fields, therefore effects at this location will not be significant. The Applicant provided further details of this in the DL2 submission [REP2-024] at paragraphs 7.3.15 and 7.3.16. The Applicant provided a further update to the HRA [REP4-017] at paragraphs 7.3.15 and 7.3.16 to provide further information on disturbance, 7.3.21 - 7.3.23 to provide further information on mitigation measures and paragraphs 7.3.29 - 7.3.35 to provide further information on the population number (screening thresholds) used and proposed mitigation in relation to the Theddlethorpe facility construction works. The Applicant also provided an outline precautionary working method statement [REP4-011] which provide details of the proposed mitigation checks to breeding birds.

C.4.29 In its DL4 submission [REP4-093] NE confirmed that the Applicant had provided further information regarding existing screening of the compounds, confirmed agreement with the assessment conclusions and that no further information required.

C.4.30 The HRA [REP6-011] concluded that at the Theddlethorpe facility and area of the pipeline, all works at Viking Fields, including replacement of the dune valve, will need to be undertaken during August/September when avocets are no longer likely to be breeding and non-breeding numbers are still low.

C.4.31 It was also considered unlikely that works at the southern compound (and Theddlethorpe facility) would result in noise and visual disturbance of birds within Viking Fields as existing woodland to the east of the proposed southern compound location provides screening.

Assessment of whole order limits

C.4.32 The HRA [APP-118] considered, in relation to non-breeding birds, that the remainder of the Proposed Development has limited value to non-breeding birds and generally supports bird populations below 1% of the Humber Estuary SPA or Ramsar population, with the exceptions of seven fields in relation to curlew and pink footed goose. For the duration of most construction activities (excluding HDD), Project average construction noise levels (LAeq) exceed 5dB above the average baseline LAeq up to c. 500m from the works footprint as a worst-case, requiring noise mitigation fencing.

C.4.33 For HDD works, the following was concluded:

- baseline LAmax levels are not forecast to be exceeded except in the immediate vicinity of the HDD at noise monitoring locations E3 and E5.

- At noise monitoring location E2, LAmax levels are forecast to be exceeded by up to 5dB up to 200m from the HDD, in the absence of mitigation. With mitigation (close-board noise fencing) LAmax levels would not be exceeded except in the immediate vicinity of the HDD.
- At noise monitoring locations E13 and E16, construction LAmax would be more than 5 dB above baseline up to approximately 250-300m from the HDD. However, with mitigation (close-board noise fencing) LAmax would be below the baseline except within the immediate vicinity of the HDD.

C.4.34 The HRA [APP-118] assessed that the noise and visual disturbance (with mitigation) will not have negative implications at the population level of SPA / Ramsar bird species and would not result in adverse effects on the integrity of the relevant European sites (including any temporary exceedances of LAmax). This was predominately due to the nature of farmland in the wider foraging / roosting zone around an SPA / Ramsar, with pockets of habitat will be moving in and out of suitability constantly due farm management, such as crop rotation and farming activities The Applicant considered that even if a small amount of foraging habitat is temporarily lost, this will not affect the long-term cumulative resource availability to SPA / Ramsar birds, especially when the habitats involved are widespread and easily recreated, and the original land use of impacted fields will be reinstated following completion of the works.

Noise mitigation – Acoustic fencing

C.4.35 The ExA sought confirmation from NE that close board fencing would offer sufficient mitigation for noise effects [PD-010 1.12.9], and that the proposed mitigation for pink footed goose was adequate to ensure no AEOI [PD-010 1.12.10]. NE considered [REP1-079] that further assessment was required. Within [RR-073, NE16], NE also requested further detail on where noise mitigation is required.

C.4.36 The Applicant confirmed [REP1-044] that the final locations of fencing etc will be confirmed once the exact route of the pipeline (within the DCO site boundary) is confirmed and following a pre-construction check by an ornithologist, and locations may need to move in relation to works. The Applicant provided information in the DL2 submission [REP2-024, Appendix I] to indicate the currently anticipated mitigation locations and specific references to pink footed geese (throughout the HRA) to the DL2 submission [REP2-024].

C.4.37 The Applicant provided a further update to the HRA [REP4-017] at Paragraphs 7.3.29 - 7.3.35 to provide further information on the population number screening thresholds used and proposed mitigation, and at paragraph 6.3.14 to confirm that routine maintenance would be undertaken outside of the nesting bird season. Additional information was also provided in relation to fencing height and design at ISH3 [REP4-052].

C.4.38 In its DL4 submission [REP4-093] NE confirmed that whilst the Applicant had provided further information on noise fencing, clarity is still required on the suite of mitigation measures proposed, and triggers for implementation. The ExA also sought additional information on this matter and the trigger requirements for implementation [PD-022, RIESQ8 and RIESQ9], and clarification [PD-010 2.12.5] from NE as to whether it was satisfied that the 2.4-metre-high acoustic fencing, micro-sited by the Applicant, was a sufficient mitigation, with a specific request for confirmation in relation to pink footed goose [PD-010, 2.12.6].

C.4.39 Following the RIES, the Applicant [REP5-012 and REP6-011] further updated the HRA (at paragraphs 7.3.29 – 7.3.34) to update matters 1.12.9, 1.12.10, NE16, RIESQ8, RIESQ9, 2.12.5 and 2.12.6 in relation to the requirements for ECoW surveys to confirm where 'core' and 'additional' mitigation of acoustic fencing is required and how this would be decided, with reference to population size of affected qualifying features. The updated HRA also confirmed the anticipated fencing design. The CEMP was also updated [REP5-067 and REP6-050] at commitment B37 and B41 to include the information on mitigation triggers.

C.4.40 Therefore, in general, noise mitigation was not considered necessary away from Rosper Road Pools and the TGT Site. However, in the areas where non-breeding birds congregate at the northern (curlew) and (for pink footed geese) southern end of the scheme, noise fencing will be included for works within 500m of the relevant survey fields, to minimise the area of noise exposure.

C.4.41 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary SPA and Ramsar site from the Proposed Development alone.

Effects during construction and decommissioning to birds from generation of dust and particulates - Proposed Development alone

C.4.42 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on all qualifying features of the SPA and all bird species which are qualifying features of the Ramsar site.

C.4.43 ES Chapter 14 [APP-056] and the Draft CEMP [REP6-050] set out the additional mitigation measures proposed to control dust and particulates. These mitigation measures are based on recommendations by Institute of Air Quality Management (IAQM) and are summarised in paragraph 7.3.43 of the HRA Report [REP6-011]. The Applicant's assessment concluded that with the implementation of the additional dust mitigation measures, there will be no AEoI of the Humber Estuary SPA and Ramsar site.

C.4.44 In [RR-073, NE19], NE agreed with the conclusion of no AEoI from atmospheric pollution subject to securing and adequate implementation of the proposed mitigation measures.

C.4.45 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary SPA and Ramsar site from the Proposed Development alone.

Effects to birds during construction and decommissioning from the Proposed Development in combination.

C.4.46 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on:

- SPA - Avocet and waterbird assemblage qualifying features.
- Ramsar site – Black-tailed godwit (Criterion 6) and waterbird assemblage (Criterion 5) qualifying features.

C.4.47 The Applicants HRA [APP-118] identified a total of 10 projects which were considered to have the potential to give rise to LSE in combination with the Proposed Development. In all cases, it was concluded that either:

- The zones of influence of the Proposed Development and the other project do not overlap.
- Impact pathways present for the other project are not present for the Proposed Development or.
- Where similar impact pathways do exist, there is either a sufficiently great unaffected area that no adverse effect on integrity will arise, or the mitigation that is proposed for both the other project and Proposed Development will collectively ensure that overall impacts are reduced to a nonsignificant level.

C.4.48 For the VPI Immingham Pilot Capture Plant, Humber Zero Project and Associated British Ports - Land adjacent to Westgate entrance applications, development on all three of these sites was modelled cumulatively for their applications. The Applicant considers that the nature of the noise mitigation proposed for the three projects is modelled to be sufficient to reduce noise from each development to an acceptable level thus avoiding additive noise impacts.

C.4.49 Gigastack, Humber Hub Blue, and Immingham Onshore Wind are early in their consenting processes and based on current programmes there will be no temporal overlap between these three projects and the Proposed Development

C.4.50 Within [RR-073, NE17], NE however requested that a detailed in-combination assessment and confirmation of the securing of mitigation measures was required, and in [RR-073, NE24], NE requested further detail on the in-combination assessment, in particular identify where impacts have been fully avoided through mitigation and where there is still a residual impact that could act in combination.

C.4.51 This matter was also raised with in the North Lincolnshire Council LIR [REP1-062], with the Applicant responding at [REP2-031] that the draft CEMP includes commitment B26 in Table 3: Draft Mitigation Register (Construction Phase) for the use of noise abatement fencing/ reduction measures such as acoustic fencing or other barriers in areas such as Rosper Road Pools. No further comments were received from the local authorities on this matter.

C.4.52 In response to NE17, the Applicant [REP1-044] stated that if noise levels from the Proposed Development with mitigation are within an acceptable threshold, the contribution of Proposed Development to any cumulative or in-combination effects will be resolved since the disturbing noise threshold is not exceeded and noise sources do not cumulatively build upon each other.

C.4.53 In response to NE24, the Applicant considered that the accompanying text at 7.4.4 and 7.4.5 [APP-118] of the HRA discusses residual effects and whether overlapping impact areas or similar impact pathways exist, and that Table 7-2 of the HRA report was intended to refer to residual effects, since if there are no residual effects for a given impact pathway there are no in-combination effects that require discussion and should be read in conjunction with paragraphs 7.4.4 and 7.4.5 which discuss residual effects and whether overlapping impact areas or similar impact pathways exist.

C.4.54 The Applicant also provided an updated HRA at DL2 [REP2-024] with Table 7-2 containing more information on the assessment for both NE17 and NE24.

C.4.55 NE confirmed [REP1-079] that it agreed that there will be no adverse effects on integrity to species at Rosper Road Pools, subject to securing (and adequate implementation of) these mitigation measures. In its DL4 submission [REP4-093], NE confirmed that the residual effects have been assessed appropriately.

Cumulative effects

C.4.56 Within [RR-073 NE25], NE indicated that a cumulative effects assessment should be undertaken to consider the impact of the project against the current environmental baseline of the Humber Estuary and the potential to impact on the delivery of the conservation objectives (in relation to the existing influences on the site which have affected and/ or are continuing to affect the condition of relevant designated site features, the 'current baseline'). NE considered that a cumulative effect might arise when individual impacts, which have each been previously assessed in isolation as being insignificant, accumulate to reach an incremental scale of loss which becomes adverse. This matter was also raised in the East Lindsey District Council Local Impact Report [REP1-053]

C.4.57 In their response [REP1-044 to NE and REP2-031 to ELDC], the Applicant confirmed that the HRA methodology and baseline data had accounted for the current environmental baseline. A separate cumulative effects assessment section was not considered to be required as the current condition of the SPA features is part of determining whether an adverse effect on integrity will arise, even from the project alone. The Applicant also provided further clarity on where the HRA had considered cumulative effects at the DL2 submission [REP2-024], in particular within Section 7.3, 7.4 and Appendix A. The updated HRA also included further references to the conservation objectives of the European sites as requested by NE25.

C.4.58 NE [REP1-079] confirmed that they agree that there was not a requirement for a separate cumulative assessment section.

C.4.59 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary SPA or Ramsar site from the Proposed Development in combination with other plans and projects.

Humber Estuary Ramsar site

Direct mortality and injury to Natterjack Toads during construction and decommissioning - Proposed Development alone

C.4.60 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on Natterjack toads (Criterion 3).

C.4.61 In relation to direct mortality and injury, the ExA requested confirmation from NE [PD-010 1.12.7] as to whether they considered pathways other than encroachment of machinery into the habitat of natterjack toads were required to be taken forwards to the assessment of effects on integrity. NE [REP1-079] considered that they initially considered that natterjack toads are not known to be present in the location of the Dune Valve Station or access route, and that the key sensitivities of the species to be loss and damage to suitable habitat. As a result, other possible disturbance effects of the works at the Dune Valve Station are considered minor, and unlikely to cause a significant effect.

C.4.62 However, in its DL4 submission [REP4-093, NE30], NE stated that it has been made aware that Natterjack Toad have been identified within Viking Fields, in proximity to the dune valve station, and noted that this requires reconsideration within the HRA. Based upon the new position of NE, the ExA requested [PD-021, 2.12.4 and PD-023, RIESQ4] and updated assessment to include further assessment (and where relevant updates to other examination documents) of

natterjack toads. NE also noted [REP5-083], in response to the RIES that the information provided in the HRA to date, that the mitigation fencing around natterjack toad habitats may in itself cause direct impacts to the qualifying features and provided further recommendations for required mitigation.

C.4.63 The Applicant responded [REP5-063] to list the potential impact pathways to natterjack toads and assess how the Proposed Development may impact on these. The Applicant provided an updated CEMP [REP5-067 and REP6-050] to include commitment B40 which detailed the requirements for and methodology of ECoW searches and a mitigation licence, and the updates requested by NE in relation fencing and additional searches. These amendments and written question responses were also detailed in the HRA as [REP4-017] paragraphs 7.3.55 – 7.3.57) and [REP6-011] at paragraphs 7.3.60 – 7.3.64.

C.4.64 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary Ramsar site from the Proposed Development alone.

Effects from generation of dust and particulate matter during construction and decommissioning - Proposed Development alone

C.4.65 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the near-natural estuary (criterion 1), and Natterjack toads (Criterion 3).

C.4.66 ES Chapter 14 [APP-056] and the Draft CEMP [REP6-050] set out the additional mitigation measures proposed to control dust and particulates. These mitigation measures are based on recommendations by Institute of Air Quality Management (IAQM) and are summarised in paragraph 7.3.43 of the HRA Report [REP6-011]. The Applicant's assessment concluded that with the implementation of the additional dust mitigation measures, there will be no AEoI of the Humber Estuary SPA and Ramsar site.

C.4.67 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary Ramsar site from the Proposed Development alone.

Humber Estuary Ramsar site and SAC

Effects upon River lamprey and Sea lamprey during construction

C.4.68 The Stage 1 screening exercise concluded that construction of the Proposed Development alone would result in potential LSE on the qualifying features of lamprey in the SAC and Ramsar site (Criterion 8). Effects from decommissioning would not result in LSE as the pipeline is to be left in situ, and therefore this was not taken forwards to the assessment of AEOI. It was concluded that LSEs upon lamprey could result from the following impact pathways during construction:

- Dust and particulates (Ramsar site only).
- Water quality.
- Noise and visual disturbance (Ramsar site).
- Noise and vibration (SAC); and
- Direct killing or injury.

C.4.69 The draft CEMP [REP6-050] outlines additional mitigation measures identified to prevent effects upon lamprey. The relevant mitigation measures are summarised in

paragraphs 7.3.47 and 7.3.48 of the HRA Report [APP-118]. The assessment concludes that with the application of the identified mitigation measures, the Proposed Development would not undermine the conservation objectives relating to the lamprey qualifying feature and there would be no AEoI on the Humber Estuary SAC or Ramsar site.

C.4.70 In [RR-073, NE20], NE advised that the relevant watercourses appear to fall outside the Humber Estuary lamprey migration routes but welcomed the commitment to secure the relevant mitigation measures through the CEMP. NE agreed with the Appellant's conclusion of no AEoI in relation to lamprey and no further information was requested.

C.4.71 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Humber Estuary Ramsar site or Humber Estuary SAC from the Proposed Development alone.

Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC

Habitat loss or degradation during construction and decommissioning - Proposed Development alone

C.4.72 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features of habitats.

C.4.73 The Draft CEMP [REP6-050] outlines additional mitigation measures identified to avoid adverse effects upon habitats during construction. These measures have been summarised in paragraph 7.3.51 of the HRA Report [APP-118]. The Applicant concludes that following the implementation of the relevant control measures, the Proposed Development would not undermine the conservation objectives or AEoI of the Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC.

C.4.74 Within [RR-073, NE21], NE requested clarification that no works, fencing or vehicle access will take place within the SAC. In the updated HRA [REP2-024], the Applicant confirmed this was the case (paragraph 7.3.36).

C.4.75 On the basis of the above information, the ExA is/ is not satisfied that this LSE pathway will not result in AEoI to the Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC from the Proposed Development alone.

Water quality during construction and decommissioning - Proposed Development alone

C.4.76 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features of habitats.

C.4.77 The Draft CEMP [REP6-050] sets out the additional mitigation measures identified to avoid adverse effects upon water quality. Control measures have also been outlined within the Drainage Strategy [APP-099] and Outline Surface Water Management Plan [APP-102].

C.4.78 The assessment concluded that with the implementation of the mitigation measures proposed in the Draft CEMP, Drainage Strategy and the Outline Surface Water Management Plan, the conservation objectives of maintaining the extent and distribution of qualifying natural habitats or maintaining or restoring the structure and function (including typical species) of the qualifying natural habitats is not

undermined and will not result in AEoI of the Saltfleetby – Theddlethorpe Dunes and Gibraltar Point SAC. In [RR-073, NE22], NE agreed with this conclusion.

C.4.79 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC from the Proposed Development alone.

Dust and particulates during construction and decommissioning - Proposed Development alone

C.4.80 The Stage 1 screening exercise concluded that this impact pathway would result in potential LSE on the qualifying features of habitats.

C.4.81 Additional mitigation measures proposed to control dust and particulates are set out in ES Chapter 14 [APP-056] and the Draft CEMP [REP6-050]. These mitigation measures are based on recommendations by IAQM and are summarised in paragraph 7.3.43 of the HRA Report [APP-118]. The Applicant's assessment concluded that with the implementation of the additional dust mitigation measures, there will be no AEoI of the Humber Estuary SPA and Ramsar site.

C.4.82 On the basis of the above information, the ExA is satisfied that this LSE pathway will not result in AEoI to the Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC from the Proposed Development alone.

AEoI Assessment Conclusions

C.4.83 The Applicant's HRA Report [REP6-011] concluded that AEoI can be excluded on the European site(s) listed in Table B from the Proposed Development alone, or in combination with other plans and projects. These conclusions were agreed with NE [REP6-062]

C.4.84 Some of the conclusions in the Applicant's HRA Report were subject to Examination though ExA written questions and Issue Specific Hearings.

C.4.85 Based on the findings of the Examination, the ExA is satisfied that AEoI on all qualifying features of European site(s) can be excluded from the Proposed Development alone and in combination.

C.5 HRA Conclusions

C.5.1 The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.

C.5.2 Five of European Sites and their qualifying features were considered in the Applicant's assessment of LSE:

- Humber Estuary SPA, Ramsar site and SAC.
- Saltfleetby to Theddlethorpe Dunes and Gibraltar Point SAC.
- Greater Wash SPA.

C.5.3 LSE were identified for a number of these sites, listed in Table A both from the Proposed Development alone and in combination with other plans or projects.

C.5.4 The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny, however, the sites and features for which LSE were identified were not disputed by any IP. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

C.5.5 The ExA's findings are that, subject to the mitigation measures to be secured in the dDCO, AEoI on all European sites from the Proposed Development when considered alone or in combination with other plans or projects can be excluded from the impact-effect pathways assessed.

C.5.6 The ExA wish to draw the SoS attention to a suggestion from NE made a DL2 [REP2-041] that a holistic HRA should be undertaken when the relevant marine information became available. NE asked for a Requirement to the dDCO preventing commencement of the terrestrial elements until that HRA had been completed. The ExA has recommended the incorporation of a Requirement in the rDCO restricting onshore works commencing until offshore consents had been secured. One of those offshore consents would be the relevant marine HRA, which would legally have to take into account the Viking CCS Pipeline project (if consented). In this respect, whilst NE's suggestion reinforces the ExA's position on such a Requirement (as per chapters 2, 6 and 7 of this Report), no further action is required from the SoS on this matter.

APPENDIX D: THE RECOMMENDED DCO

STATUTORY INSTRUMENTS

202 No.

INFRASTRUCTURE

The Viking CCS Carbon Dioxide Pipeline Order 202

Made - - - -	***
Laid before Parliament	***
Coming into force	***

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**a**) ("the 2008 Act") for an Order granting development consent.

The application was examined by a panel of 3 members appointed by the Secretary of State ("the Panel") in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**b**).

The Panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section [83(1)][74(2)] of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

(**a**) 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c.20).
(**b**) S.I. 2010/103. This instrument was amended by S.I. 2012/635

The Secretary of State has considered the [representations made and not withdrawn], and the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation [4] of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**a**), and has had regard to the documents and matters referred to in section 105 of the 2008 Act.

[The Secretary of State is satisfied that open space within the Order land, when burdened with any new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.]

[The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application [with modifications] which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

The Secretary of State, in exercise of the powers conferred by sections [114, 115, 117, 120, 122, 123, 132 and schedule 5] of the 2008 Act, makes the following Order:

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Viking CCS Carbon Dioxide Pipeline Order 202[•]

(2) This Order comes into force on [•] 202[•].

Interpretation

2.—(1) In this order –

"1961 Act" means the Land Compensation Act 1961(**b**);

"1965 Act" means the Compulsory Purchase Act 1965(**c**);

"1980 Act" means the Highways Act 1980(**d**);

"1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**e**);

"1984 Act" means the Road Traffic Regulation Act 1984(**f**);

"1990 Act" means the Town and Country Planning Act 1990(**g**);

"1991 Act" means the New Roads and Street Works Act 1991(**h**);

"2003 Act" means the Communications Act 2003 (**i**);

"2008 Act" means the Planning Act 2008;

"address" includes any number or address used for the purposes of electronic transmission;

(**a**) S.I. 2017/572.
(**b**) 1961 c33.
(**c**) 1965 c56.
(**d**) 1980 c66.
(**e**) 1981 c66.
(**f**) 1984 c.27
(**g**) 1990 c8.
(**h**) 1991 c.22.
(**i**) 2003 c21.

"access and rights of way plans" means the plans certified as such by the Secretary of State for the purposes of this Order;

"AGI" means above ground installation, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance, including PIG facilities, ancillary infrastructure (including lighting and parking provisions), and Electrical and Instrumentation Kiosks;

"ancillary works" means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

"apparatus" has the same meaning as in section 105(1) of the 1991 Act;

"authorised development" means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

"bank holiday" means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(**a**);

"block valve" means an intermediate underground valve which can rapidly stem the flow of the carbon dioxide;

"book of reference" means the document certified as the book of reference by the Secretary of State as the book of reference for the purposes of the Order;

"building" includes any structure or erection or any part of a building, structure or erection;

"business day" means a day other than a Saturday or Sunday or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

"BVS" means block valve station, being a secure compound above ground level containing equipment relating to the pipeline which is necessary for its operation and/or maintenance, including a block valve, ancillary infrastructure (including lighting, parking provisions), and above ground electrical and instrumentation kiosks;

"carriageway" has the same meaning as in the 1980 Act;

"CEMP" means construction environment management plan to be approved under requirements;

"commence" means carry out a material operation, as defined in section 155 of the 2008 Act (when development begins), comprised in or for the purposes of the authorised development other than site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of temporary fencing to site boundaries or marking out of site boundaries, installation of temporary amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures and any such temporary accesses that may be required in association with these, and "commencement", "commenced" and cognate expressions are to be construed accordingly;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition "electronic communications network" has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the 2003 Act;

"environmental statement" means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

"existing pipeline" means the existing natural gas pipeline, constructed in accordance with a pipeline construction authorisation issued by the Secretary of State on 2 April 1987, which pipeline is to be repurposed under this Order;

(**a**) 1971 c80

"general arrangement plans" means the Immingham Facilities Plot Plan, the Theddlethorpe Facility Plot Plan, the Washingdales Lane Block Valve Station plan, the Thoroughfare Block Valve Station plan, and the Louth Road Block Valve Station plan certified as the general arrangement plans by the Secretary of State in accordance with article 45 (certification of plans, etc.);

"highway", "highway authority" and "local highway authority" have the same meaning as the 1980 Act and "highway" includes part of a highway;

"land plans" means the document certified as the land plans by the Secretary of State for the purposes of this Order;

"limits of deviation" means the limits of deviation referred to in article 6;

"maintain" includes inspect, assess, repair, test, cleanse, adjust, landscape, preserve, make safe, divert or alter the authorised development, and remove, clear, reconstruct, re-new, re-lay, re-furbish, improve, replace, dismantle, demolish, abandon or decommission any part of the authorised development, provided these do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, but must not include the renewal, re-laying, reconstruction or replacement of the entirety of the new pipeline; and any derivative of "maintain" is to be construed accordingly;

"new pipeline" means the pipeline to be constructed and operated as part of the authorised development forming Work Nos. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 43;

"Order land" means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

"Order limits" means the limits shown on the works plans within which the authorised development may be carried out;

"outline archaeological written scheme of investigation" means the document certified as the outline archaeological written scheme of investigation by the Secretary of State for the purposes of this Order;

"outline construction environment management plan" means the document certified as the outline construction environment management plan by the Secretary of State for the purposes of this Order;

"outline construction traffic management plan" means the document certified as the outline construction traffic management plan by the Secretary of State for the purposes of this Order;

"outline landscape and ecological management plan" means the document certified as the outline landscape and ecological management plan by the Secretary of State for the purposes of this Order;

"outline operational phase mitigation plan" means the document certified as the outline operational phase mitigation plan by the Secretary of State for the purposes of this Order;

"outline surface water drainage strategy" means the document certified as the outline surface water drainage strategy by the Secretary of State for the purposes of this Order;

"the permit scheme" means the Lincolnshire Permit Scheme for Road Works and Street Works Order 2016, which scheme is made under made under Part 3 of the Traffic Management Act 2004;

"PIG" means pipeline inspection gauge, a device used for internal maintenance, cleaning, and monitoring of a pipeline;

"pipeline" means the existing pipeline and the new pipeline and includes all of the authorised development including all AGIs and BVSs;

"relevant planning authority" means in any given provision of this Order (including the requirements), the local planning authority—

(c) for the area of land to which the provision relates is situated; and

(d) with the relevant legislative competence under the 1990 Act for the matter to which that provision relates;

"requirements" means those matters set out in Schedule 2 (Requirements) to this Order and a reference to a numbered requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;

"statutory undertaker" means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

"street" means a street within the meaning of section 48 of the 1991 Act(**a**), together with land on the verge of a street or between two carriageways, and includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**b**);

"Theddlethorpe Facility" means an AGI for the control and interface of the pipeline to the Theddlethorpe Facility, within the location shown as Work No.44 on Sheet 35 of the Works Plans

"traffic authority" has the same meaning as in the 1984 Act;

"trenchless installation techniques" means the installation of the new pipeline and/or associated electronic communications cabling by means of boring techniques including horizontal directional drilling, auger boring and micro-tunnelling;

"tribunal" means the Lands Chamber of the Upper Tribunal;

"undertaker" means Chrysaor Production (U.K.) Limited, incorporated under company number 00524868 and having its registered office at 23 Lower Belgrave Street, London, England, SW1W 0NR;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

"works plans" means the plan or plans certified as such by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

(7) References to any statutory body includes that body's successor bodies from time to time that have jurisdiction over the authorised development.

(8) In this Order, the expression "includes" is to be construed without limitation.

(**a**) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c.26).

(**b**) "Street authority" is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

PART 2

Principal Powers

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

(a) development consent for the authorised development; and

(b) consent for the ancillary works,

to be carried out within the Order limits.

Operation and use of the authorised development

4.—(1) The undertaker may at any time operate and use the authorised development and the existing pipeline except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Subject to the provisions of this Order the undertaker is granted consent to use the existing pipeline for the conveyance of carbon dioxide.

(3) The consent granted under paragraphs (1) and (2) does not relieve the undertaker from compliance with any obligation under the Pipeline Safety Regulations 1996(**a**).

Power to maintain the authorised development

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not authorise diversion of the authorised development—

(a) outside the limits of deviation; or

(b) which would result in the authorised development varying from the description in Schedule 1 (authorised development).

Limits of deviation

6.—(1) In carrying out or maintaining the authorised development, the undertaker may—

(a) deviate the works laterally within the extent of the limits of deviation for those works shown on the works plans;

(b) deviate the pipeline works vertically upwards to a limit of not less than 1.2 metres below the surface of the ground (except where ground conditions make compliance with this upwards limit impracticable in which case the upwards limit is 0.7 metres below the surface of the ground);

(c) in respect of those sections of the pipeline works which may be constructed and installed using trenchless installation techniques, deviate the pipeline works vertically downwards to such extent as may be found necessary or convenient subject to a maximum depth of 20m;

(d) deviate works other than the pipeline vertically—

(i) upwards or above ground level to the height limits set for those works in Schedule 2 (requirements); and

(ii) downwards to any extent as may be found necessary or convenient.

(2) The maximum limits of vertical deviation specified in paragraphs (1)(b), (c) and (d) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the

(**a**) S.I.1996/825

Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

Benefit of the Order

7.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

PART 3

Streets

Application of the permit scheme

8.—(1) The permit scheme applies to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(2) For the purposes of this Order—

(a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and

(b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(3) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Part 2 of Schedule 2 (requirements) of this Order.

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Part 1 (streets subject to permanent street works) and Part 2 (streets subject to temporary street works) of Schedule 3 as is within the Order limits and may without the consent of the street authority —

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;

(c) remove or use all earth and materials in or under the street;

(d) place and keep apparatus in or under the street;

(e) maintain, alter or renew apparatus in or under the street or change its position;

(f) demolish, remove, replace and relocate any street furniture within the street;

(g) execute any works to provide or improve sight lines;

(h) execute and maintain any works to provide hard and soft landscaping;

(i) carry out re-lining and placement of road markings;

(j) remove and install temporary and permanent signage; and

(k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out in paragraph (1).

(4) The powers conferred by paragraph (3) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority that receives an application for consent under paragraph (4) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was received by that street authority, that authority will be deemed to have granted consent.

(6) In this article "apparatus" has the same meaning as in Part 3 of the 1991 Act save that "apparatus" includes pipelines (and parts thereof), fibre optic or other telecommunication cables, aerial markers, cathodic protection test posts, field boundary markers, monitoring kiosks, and electricity cabinets.

Power to alter layout, etc. of streets

10.—(1) The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (2) Part 1 of Schedule 3 (streets subject to permanent street works) or column (2) Part 2 of Schedule 3 (streets subject to temporary street works) in the manner specified in relation to that street in column (3) of the relevant Part of that Schedule.

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

(a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track, central reservation or verge within the street;

(b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;

(c) reduce the width of the carriageway of the street;

(d) execute any works to widen or alter the alignment of pavements;

(e) make and maintain crossovers and passing places;

(f) execute any works of surfacing or resurfacing of the highway;

(g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;

(h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians;

(i) execute any works to provide or improve sight lines required by the highway authority.

(j) execute and maintain any works to provide hard and soft landscaping

(k) carry out re-lining and placement of new temporary markings and

(l) remove and replace kerbs and flume ditches for the purposes of creating permanent and temporary accesses

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

Application of the 1991 Act

11.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

(a) the carrying out of works under articles 9 (street works) and 10 (power to alter layout, etc. of streets);

(b) the temporary restriction, temporary alteration or temporary diversion of a public right of way by the undertaker under article 12 (temporary restriction of public rights of way); and

(c) the temporary restriction, temporary alteration or temporary diversion of a street by the undertaker under article 13 (temporary restriction of use of streets).

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act(**a**) are—

(a) subject to paragraph (3), section 55 (notice of starting date of works);

(b) section 57 (notice of emergency works);

(c) section 60 (general duty of undertakers to co-operate);

(d) section 68 (facilities to be afforded to street authority);

(e) section 69 (works likely to affect other apparatus in the street);

(f) section 76 (liability for cost of temporary traffic regulation);

(g) section 77 (liability for cost of use of alternative route); and

(h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs(a) to (g).

(**a**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18)

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 56(d) (power to give directions as to timing of street works);

(b) section 56A(e) (power to give directions as to placing of apparatus);

(c) section 58(f) (restriction on works following substantial road works);

(d) section 58A(g) (restriction on works following substantial street works);

(e) section 61(protected streets); and

(f) schedule 3A(h) (restriction on works following substantial street works).

Temporary restriction of public rights of way

12.—(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily restrict, prevent use of or close each of the public rights of way specified in column (2) of Schedule 5 (public rights of way to be temporarily restricted) to the extent specified in column (3), by reference to the numbered points shown on the access and rights of way plans.

(2) The public rights of way specified in Schedule 5 (public rights of way to be temporarily restricted) may not be temporarily closed under this article unless an alternative public right of way is first provided by the undertaker to the reasonable satisfaction of the relevant local highway authority.

(3) The relevant alternative route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant public right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) If a highway authority which receives an application for confirmation that an alternative public right of way is satisfactory under paragraph (2) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that highway authority, it is deemed to have granted consent.

Temporary restriction of use of streets

13.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, alter or divert any street and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street; and

(b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily closed under the powers conferred by this article within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily close, alter, divert or use as a temporary working site any street other than those referred to in Schedule 3 (streets subject to street works) and Schedule 5 (public rights of way to be temporarily restricted) without the consent of the street authority, which may attach reasonable conditions to the consent, but such consent is not to be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

Access to works

14.—(1) The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) Subject to paragraph (3), the power set out in paragraph (1) may not be exercised without the undertaker having first obtained the consent of the street authority, which may attach reasonable conditions to the consent, but such consent is not to be unreasonably withheld or delayed following consultation by the street authority with the relevant planning authority.

(3) If the street authority which has received an application for consent under paragraph (2) fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

(4) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Schedule 1 (authorised development) and Schedule 4 (new means of access).

Agreements with street authorities

15.—(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;

(b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(c) any stopping up, alteration or diversion of a street authorised by this Order; or

(d) the carrying out in the street of any of the works referred to in article 9 (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

Use of private roads

16.—(1) Subject to paragraphs (2), (3) and (4), the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 33 (temporary use of land for carrying out the authorised development) and article 34 (temporary use

of land for maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

Traffic regulation

17.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which may attach reasonable conditions to any consent but which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

(a) given not less than 42 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**)

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time.

(6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(7) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

(**a**) 2004 c.18.

PART 4

Supplemental powers

Discharge of water

18.—(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**a**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016(**b**) in respect of a water discharge activity or groundwater permit.

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency , an internal drainage board or a local authority; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 42 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

Maintenance of drainage works

19.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with

(**a**) 1991 c.56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the Water Act 2003 (c.37) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(**b**) S.I. 2016/1154.

the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(**a**).

Authority to survey and investigate the land

20.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes or pits in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without prejudice to the generality of sub-paragraph (a), carry out environmental, utility or archaeological investigations on such land; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that sub-paragraph the power to take, and process, samples of or from any of the following found on, in or over the land –

(a) water;

(b) air;

(c) soil or rock;

(d) its flora;

(e) bodily excretions, or dead bodies, of non-human creatures; or

(f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and

(b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or pits.

(5) No trial holes or pits are to be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

(c) which authority may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, as if it were a dispute under Part 1 (determination of question of disputed compensation) of the 1961 Act.

(7) If either a highway authority or a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision within 42 days of receiving the application for consent, that authority is deemed to have granted consent.

(**a**) 1991 c.59.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Protective work to buildings

21.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development first becomes operational.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from building any apparatus and equipment for use in connected with the survey.

(4) For the purpose of carrying out protective works to a building under this article, the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a power under paragraph (1) to carry out protective works to a building;

(b) a power under paragraph (3) to enter a building and land within its curtilage;

(c) a power under sub-paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a power under sub-paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 49 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

(a) protective works are carried out under this article to a building; and

(b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "protective works", in relation to a building, means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised development; and

(b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised development.

Removal of human remains

22.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains in the Order land it must remove those human remains from the Order land, or cause them to be removed, in accordance with the following provisions of this article.

(2) Subject to paragraph (11), before any such remains are removed from the Order land the undertaker must give notice of the intended removal, describing the Order land, and stating the general effect of the following provisions of this article, by—

(a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised development; and

(b) displaying a notice in a conspicuous place on or near to the Order land.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specific land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be;

(a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

(a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land; or

(b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who has received the notice fails to remove the remains within a further period of 56 days; or

(c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice under paragraph (4) relates cannot be identified,

subject to paragraph (9), the undertaker must remove the remains and cause them to be re-interred in such burial ground, or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

(a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and

(b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) No notice is required under paragraph (2) before the removal of any human remains where the undertaker is satisfied—

(a) that the remains were interred more than 100 years ago; and

(b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(12) In the case of remains in relation to which paragraph (11) applies, the undertaker—

(a) may remove the remains;

(b) must apply for direction from the Secretary of State under paragraph (13) as to their subsequent treatment; and

(c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

(13) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(14) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(15) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857(**a**) is not to apply to a removal carried out in accordance with this article.

(**a**) 1857 c.81.

PART 5

Powers of Acquisition

Compulsory acquisition of land

23.—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development.

(2) This article is subject to paragraph (2) of article 25 (compulsory acquisition of rights and restrictive covenants), paragraph (8) of article 33 (temporary use of land for carrying out the authorised development) and article 50 (Crown rights).

Time limit for exercise of authority to acquire land compulsorily

24.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act(**a**)as applied by article 29 (application of the 1981 Act).

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and restrictive covenants

25.—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 23 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) Subject to articles 28 (private rights), 35 (statutory undertakers) and article 50 (Crown rights) in the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 4(8) of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(**a**) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Statutory authority to override easements and other rights

26.—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), despite it involving—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to use of land arising by virtue of contract, caused by the carrying out or use of the authorised development and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Subsection (2) of section 10 of the 1965 Act (further provision as to compensation for injurious affection) applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph (2) with any necessary modifications.

Compulsory acquisition of land: minerals

27. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

(a) paragraph 8(3) is not incorporated;

(b) for "acquiring authority" substitute "undertaker";

(c) for "undertaking" substitute "authorised development"; and

(d) for "compulsory purchase order" substitute "this Order".

Private rights

28.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 23 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 23—

(a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act(**a**)

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under

(**a**) Section 11(1) was amended by sections 186 to 188 of the Housing and Planning Act 2016 (c.22), Schedule 4 to the Acquisition of Land Act 1981 (c.67)

article 25 (compulsory acquisition of rights and restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

(a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or

(b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 35 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land,

(iii) the undertaker's entry onto the land, or

(iv) the undertaker taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in sub-paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Application of the 1981 Act

29.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order."

(4) Omit section 5 (earliest date for execution of declaration).

(5) Omit section 5A (time limit for general vesting declaration).

(6) In section 5B(1) (extension of time limit during challenge)—

(a) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)"; and

(b) for "the three year period mentioned in section 5A" substitute "the 5 year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Viking CCS Carbon Dioxide Pipeline Order 202[•]".

(7) In section 6 (notices after execution of declaration) for subsection (1)(b) substitute—

"(1)(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008."

(8) In section 7 (constructive notice to treat) in subsection (1)(a) omit "(as modified by section 4 of the Acquisition of Land Act 1981)".

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(10) References to the 1965 Act in the 1981 Act are to be constructed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act and as modified by article 31 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of the land under this Order.

Acquisition of subsoil or airspace only

30.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or airspace of the land referred to in paragraph (1) of article 23 (compulsory acquisition of land) and paragraph (1) of article 25 (compulsory acquisition of rights and restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in the subsoil or airspace of land under paragraph (1), the undertaker is not to be required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 31 (modification of Part 1 of the 1965 Act) or paragraph 3(8) of Schedule 9 as the case may be) from applying where the undertaker acquires any part of, or rights in a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

(a) Schedule 2A to the 1965 Act (as modified by article 31 (modification of Part 1 of the 1965 Act));

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

Modification of Part 1 of the 1965 Act

31.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for "section 23 (application to High Court in respect of compulsory purchase order) of the Acquisition of Land Act 1981, the

three year period mentioned in section 4" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the 5 year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of The Viking CCS Carbon Dioxide Pipeline Order 202[●]".

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision";

(b) in subsection (2), after "land" insert "under that provision".

(4) In section 22(2) (interests omitted from purchase), for "section 4 of this Act" substitute "article 24 (time limit for exercise of authority to acquire land compulsorily) of The Viking CCS Carbon Dioxide Pipeline Order 202[●]".

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) —

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 30(3) (acquisition of subsoil only) of The Viking CCS Carbon Dioxide Pipeline Order 202[●] which excludes the acquisition of subsoil only from this Schedule" and

(b) at the end insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 21 (protective work to buildings), article 33 (temporary use of land for carrying out the authorised development) or article 34 (temporary use of land for maintaining the authorised development) of The Viking CCS Carbon Dioxide Pipeline Order 202[●]".

Rights under or over streets

32.—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

33.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 24 (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take temporary possession of—

(i) the land specified in columns (1) and (2) of Schedule 6 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;

(ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from the land referred to in sub-paragraph (a);

(c) construct temporary works (including the provision of means of access), structures and buildings on the land referred to in sub-paragraph (a);

(d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;

(e) construct any works on the land referred to in sub-paragraph (a) as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works required pursuant to the requirements in Schedule 2.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 6 (land of which only temporary possession may be taken); or

(b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace a building, or structure removed under this article;

(b) remove any drainage works installed by the undertaker under this article;

(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works);

(d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or

(e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

(a) acquiring new rights over any part of that land under article 25 (compulsory acquisition of rights and restrictive covenants); or

(b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 30 (acquisition of subsoil or airspace only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(**a**) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 23 (compulsory acquisition of land) or article 25 (compulsory acquisition of rights and restrictive covenants).

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(**a**) Section 13 was amended by Tribunals Courts and Enforcement Act 2007 (c.15)

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period", in relation to any part of the authorised development means the period following completion of that part of the authorised development until the commencement of decommissioning.

(12) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

(a) the authorised development or any of its parts;

(b) the public; or

(c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

Statutory undertakers

35. Subject to the provisions of Schedule 9 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference; and

(b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Recovery of costs of new connections

36.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 35 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 35 (statutory undertakers), any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

"public communications provider" has the same meaning as in section 151(1) of the 2003 Act(**a**); and

"public utility undertaker" has the same meaning as in the 1980 Act.

PART 6

Miscellaneous and general

Application and modification of legislative provisions

37.—(1) The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development —

(a) regulation 12 (requirement for environmental permit) of the Environmental Permitting Regulations 2016 in respect of a flood risk activity only;

(b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991;

(c) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(**b**);

(d) sections 23 (prohibition on obstructions etc. in watercourses) and 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991(**c**); and

(e) the provisions of the Neighbourhood Planning Act 2017(**d**) in so far as they relate to the temporary possession of land under articles 33 (temporary use of land for carrying out the authorised development) and 34 (temporary use of land for maintaining the authorised development).

(2) Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(b) any building comprised in the authorised development must be deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Defence to proceedings in respect of statutory nuisance

38. Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(**e**) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent

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(**a**) 2003 c.21.
(**b**) As substituted by section 31 of, and paragraphs 25 and 38 of Schedule 2 to the Water Management Act 2010 (c. 29) and section 86(1) and (3) of the Water Act 2014 (c. 21).
(**c**) 1991 c. 59
(**d**) 2017 c.20
(**e**) 1990 c.43

given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or

(ii) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development; or

(iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or

(v) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the CEMP will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the CEMP approved under Schedule 2 (Requirements).

(4) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article "premises" has the same meaning as in section 79 of the Environmental Protection Act 1990(**a**).

Application of landlord and tenant law

39.—(1) This article applies to any agreement entered into by the undertaker under article 7 (benefit of Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Felling or lopping of trees and removal of hedgerows

40.—(1) The undertaker may fell or lop any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(**a**) 1990 c.43

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must-—

(a) do no unnecessary damage to any tree or shrub; and

(b) pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits.

(5) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**).

Trees subject to Tree Preservation Orders

41.—(1) The undertaker may fell, lop or prune any part of any tree which is within, over or under land within the Order limits or cut back its roots, if it reasonably believes it to be necessary in order to prevent the tree—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any damage arising from such activity; and

(b) the duty in section 206(1) of the 1990 Act (replacement of trees) will not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined as if it were a dispute under Part 1 of the 1961 Act.

Crown rights

42.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(**a**) S.I 1997/1160

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Protective provisions

43. Schedule 9 (protective provisions) has effect.

Planning legislation

44. —(1) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is not to be treated as operational land) of the 1990 Act.

(2) Any planning permission which has been initiated prior to the commencement of the authorised development pursuant to this Order may continue to be lawfully implemented thereafter notwithstanding any physical incompatibility with the authorised development or inconsistency with any provision of this Order.

(3) As from the date on which the authorised development is commenced, any conditions of a planning permission granted pursuant Part 3 (Control over Development) of the 1990 Act (whether express or otherwise) which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or with anything done or approved under the requirements in Schedule 2 (requirements).

(4) As from the date of this Order where planning permission (whether express or otherwise) is granted (whether prior to the date of this Order or after) pursuant to Part 3 of the 1990 Act in respect of land within the Order limits for development not forming part of the authorised development, the carrying out of development pursuant to such planning permission is not to operate to prevent the undertaker from carrying out further works for the development of the authorised project pursuant to the terms of this Order.

(5) Nothing in this Order restricts the undertaker from seeking or implementing, or the relevant planning authority from granting, planning permission for development within the Order limits.

(6) Any development, or any part of a development within the Order limits which is constructed or used under the authority of a planning permission pursuant to Part 3 of the 1990 Act (whether express or otherwise) following the coming into force of this Order is to be disregarded at all times for the purposes of ascertaining whether or not an offence has been committed under the provisions of sections 160 (offences) or 161 (breach of terms of order granting development consent) of the 2008 Act.

Certification of plans, etc.

45.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

(a) the access and rights of way plans (consisting of a key plan and sheets 1 to 36 inclusive) (document number 4.20);

(b) the land plans (consisting of a key plan and sheets 1 to 36 inclusive) (document number 4.3);

(c) the crown land plans (consisting of a key plan and sheets 1 to 2 inclusive) (document number 4.4);

(d) the special category land plans (consisting of a key plan and sheets 1 to 4 inclusive) (document number 4.5);

(e) the works plans (consisting of a key plan and sheets 1 to 36 inclusive) (document number 4.2);

(f) the general arrangement plans comprising the Immingham Facilities Plot Plan (document number 4.6); Theddlethorpe Facility Plot Plan (document number 4.7); Washingdales Lane Block Valve Station plan (document number 4.14); Thoroughfare Block Valve

Station plan (document number 4.15); Louth Road Block Valve Station plan (document number 4.16);

(g) the book of reference (document number 3.3);

(h) the environmental statement (consisting of 4 volumes) (document numbers 6.1 to 6.4.20.1);

(i) the outline construction environment management plan (document number 6.4.3.1);

(j) the outline landscape and ecological management plan (document number 6.8);

(k) the outline construction traffic management plan (document number 6.4.12.5);

(l) the outline drainage strategy (document number 6.4.11.3);

(m) the outline archaeological written scheme of investigation (document number 6.4.8.3);

(n) outline operational phase mitigation plan (document number 6.4.3.6); and

any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

46.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (2) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(**a**) 1978 c. 30.

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

No double recovery

47. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

Requirements, appeals, etc.

48.—(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

(a) after "local planning authority" insert "or Secretary of State"

(b) after subsection (b) insert the following—

"refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or"

(c) after Sub-section (1), insert the following—

"(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of The Viking CCS Carbon Dioxide Pipeline Order 202[•] section 103(1) of the 2008 Act applied."

(2) Sections 78 (right to appeal against planning decisions and failure to take such decision) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied.

Arbitration

49.—(1) Any difference under any provision of this Order, unless otherwise provided for, is be referred to and settled in arbitration in accordance with the rules at Schedule 10 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Signed
Head of Energy Infrastructure Planning
Date Department for Energy Security and Net Zero

SCHEDULE 1

Articles 3

PART 1

Authorised development

A nationally significant infrastructure project as defined in sections 14 and 21 of the 2008 Act, comprising:

Work No.01 – Construction of AGI at the Immingham facility comprising equipment for the control of the authorised development, within the location shown on Sheet 1 of the Works Plan, including:

(a) a fenced compound area containing;
  (i) security lighting;
  (ii) parking;
  (iii) cathodic protection measures (including grounded);
  (iv) CCTV cameras, intrusion detection systems and access control systems;
  (v) PIG launcher and receiver facilities (including a projectile blast wall);
  (vi) local equipment room;
  (vii) control mechanisms and electrical and instrumentation kiosk;
  (viii) venting system including vent pipework, valves and vent stack;
  (ix) analyser house; and
  (x) supporting utilities;
(b) above ground control boxes;
(c) above/below ground pipework and isolation valves;
(d) below ground cables and cable ducts;
(e) hard standing;
(f) drainage works, including creation of connections to existing drainage system; and
(g) landscaping.

Work No.02 – Construction of a 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.1km length between Work No. 1 and Work No. 3 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including pipeline installation in existing crossing sleeve, on existing pipe racks, trenchless installation technique pit works, the creation of reception pits, and launch pits, and installation of concrete-lined sleeve tunnels;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of buried fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 1 of the Works Plan.

Work No.03 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.2km length between Work No.1 and Work No.4 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of buried fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheets 1 and 2 of the Works Plan.

Work No.04 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1km length between Work No. 3 and Work No. 5 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of buried fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 2 of the Works Plan.

Work No.05 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 300 metres length between Work No. 2, Work No. 4, and Work No. 6 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of buried fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 2 of the Works Plan.

Work No.06 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.4km length between Work No. 5 and Work No. 8 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 3 of the Works Plan.

Work No.07 – The creation and use of a temporary logistics and construction compound (North Construction Compound) for the use during the construction of the authorised development, within the location shown on Sheet 4 of the Works Plan, including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) power supplies and lighting;

(d) pipe equipment and fittings storage;

(e) plant storage;

(f) a fabrication area;

(g) workshop/repair facility;

(h) a plant wheel wash area;

(i) waste management areas; and

(j) fencing and gating.

Work No.08 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.8km length between Work No. 6 and Work No. 9 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 5 of the Works Plan.

Work No.09 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 8 and Work No. 10 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 6 of the Works Plan.

Work No.10 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 9 and Work No. 11 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 7 of the Works Plan.

Work No.11 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 10 and Work No. 12 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 8 of the Works Plan.

Work No.12 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.4km length between Work No. 11 and Work No. 13 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 9 of the Works Plan.

Work No.13 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 12 and Work No. 14 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 10 of the Works Plan.

Work No.14 – Construction of a BVS at Washingdales Lane, within the location shown on Sheet 10 of the Works Plan, including:

(a) a fenced compound area containing

(i) security lighting and CCTV cameras;

(ii) block valve;

(iii) parking area;

(iv) cathodic protection measures

(v) instrumentation and control kiosk;

(vi) vent stack.

(b) below ground pipework;

(c) above ground control boxes;

(d) hard standing;

(e) soakaway type drainage system;

(f) landscaping; and the following temporary requirements during construction activities;

(g) welfare and security facilities;

(h) parking area;

(i) plant and materials storage area; and

(j) temporary waste management facility.

Work No.15 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 2.0km length between Work No. 13 and Work No. 16 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 11 of the Works Plan.

Work No.16 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.9km length between Work No. 15 and Work No. 17 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 12 of the Works Plan.

Work No.17 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 16 and Work No. 18 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 13 of the Works Plan.

Work No.18 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 17 and Work No. 19 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage systems.

as shown on Sheet 14 of the Works Plan.

Work No.19 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 18 and Work No. 20 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

As shown on Sheet 15 of the Works Plan.

Work No.20 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 19 and Work No. 21 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 16 of the Works Plan.

Work No.21 – Construction of a BVS at Thoroughfare Road within the location shown on Sheet 16 of the Works Plan, including:

(a) a fenced compound area containing

(i) security lighting and CCTV cameras;

(ii) block valve;

(iii) parking area;

(iv) cathodic protection measures

(v) instrumentation and control kiosk;

(vi) vent stack.

(b) below ground pipework;

(c) above ground control boxes;

(d) hard standing;

(e) soakaway type drainage system;

(f) landscaping; and the following temporary requirements during construction activities;

(g) welfare and security facilities;

(h) parking area;

(i) plant and materials storage area; and

(j) temporary waste management facility.

Work No.22 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 21 and Work No. 23 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 17 of the Works Plan.

Work No.23 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 22 and Work No. 24 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 18 of the Works Plan.

Work No.24 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 23 and Work No. 25 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 19 of the Works Plan.

Work No.25 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.9km length between Work No. 24 and Work No. 26 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 20 of the Works Plan.

Work No.26 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 25 and Work No. 27 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 21 of the Works Plan.

Work No.27 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 26 and Work No. 28 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 22 of the Works Plan.

Work No.28 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 27 and Work No. 29 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 23 of the Works Plan.

Work No.29 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 28 and Work No. 30 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 24 of the Works Plan.

Work No.30 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 29 and Work No. 31 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 25 of the Works Plan.

Work No.31 – Construction of a BVS at Louth Road within the location shown on Sheet 25 and Sheet 26 of the Works Plan, including:

(a) a fenced compound area containing
  (i) security lighting and CCTV cameras;
  (ii) block valve;
  (iii) parking area;
  (iv) cathodic protection measures
  (v) instrumentation and control kiosk;
  (vi) vent stack.
(b) below ground pipework;
(c) above ground control boxes;
(d) hard standing;
(e) soakaway type drainage system;
(f) landscaping; and the following temporary requirements during construction activities;
(g) welfare and security facilities;
(h) parking area;
(i) plant and materials storage area; and
(j) temporary waste management facility.

Work No.32 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 31 and Work No. 33 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;
(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
(c) installation of underground fibre optic cables for transfer of electronic communications;
(d) construction of a haul road, temporary construction accesses and working areas and laydown area;
(e) reinstatement, ecological and environmental works; and
(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 26 of the Works Plan.

Work No.33 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 32 and Work No. 34 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;
(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;
(c) installation of underground fibre optic cables for transfer of electronic communications;
(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 27 of the Works Plan.

Work No.34 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 33 and Work No. 35 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 28 of the Works Plan.

Work No.35 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.8km length between Work No. 34 and Work No. 36 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 29 of the Works Plan.

Work No.36 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.7km length between Work No. 35 and Work No. 37 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 30 of the Works Plan.

Work No.37 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.9km length between Work No. 36 and Work No. 38 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 31 of the Works Plan.

Work No.37a – Construction and use of a temporary access and laydown location at Lordship Road for use during the construction of the authorised development at the location shown on Sheet 31 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.38 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.9km length between Work No. 37 and Work No. 39 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 32 of the Works Plan.

Work No.39 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.6km length between Work No. 38 and Work No. 40 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 33 of the Works Plan.

Work No.40 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 1.5km length between Work No. 39 and Work No. 41 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 34 of the Works Plan.

Work No.41 – Construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 437 metres length between Work No. 40 and Work No. 43 including:

(a) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(b) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(c) installation of underground fibre optic cables for transfer of electronic communications;

(d) construction of a haul road, temporary construction accesses and working areas and laydown area;

(e) reinstatement, ecological and environmental works; and

(f) drainage works including creation of connections to existing drainage system.

as shown on Sheet 35 of the Works Plan.

Work No.43 –

(a) construction of a buried 24-inch (610 millimetre) external diameter Carbon Dioxide (CO2) pipeline section of approximately 304 metres length between Work No. 41 and Work No. 44 including:

(i) construction and installation of the pipeline by trenched and trenchless methods, including trenchless installation technique pit works, the creation of reception pits, and launch pits;

(ii) installation of pipeline marker posts and cathodic protection test posts along the pipeline route;

(iii) installation of underground fibre optic cables for transfer of electronic communications;

(iv) construction of a haul road, temporary construction accesses and working areas and laydown area;

(v) reinstatement, ecological and environmental works; and

(vi) drainage works including creation of connections to existing drainage system.

as shown on Sheet 35 of the Works Plan.

Work No.44 –

(a) construction of an AGI comprising equipment for the control and interface of the pipeline to the Theddlethorpe Facility, within the location shown on Sheet 35 of the Works Plan, including:

(i) a fenced compound area containing;

(aa) security lighting;

(bb) parking;

(cc) cathodic protection measures (including groundbeds)

(dd) CCTV cameras, intrusion detection systems and access control systems;

(ee) PIG launcher and receiver facilities (including a projectile blast wall);

(ff) local equipment room;

(gg) supporting infrastructure;

(hh) control mechanisms and electrical and instrumentation kiosk; and

(ii) venting system including vent pipework, valves and vent stack;

(ii) above ground control boxes

(iii) above/below ground pipework and isolation valves;

(iv) below ground cables and cable ducts;

(v) hard standing;

(vi) drainage works, including creation of connections to existing drainage system; and

(vii) landscaping.

Work No.47 – The creation and use of a temporary logistics and construction compound (Southern Construction Compound) for the use during the construction of the authorised development, within the location shown on Sheet 35 of the Works Plan, including:

(a) welfare and security facilities;

(b) a parking area;

(c) temporary lighting;

(d) pipe equipment and fittings storage;

(e) plant storage;

(f) a plant wheel wash area;

(g) waste processing and management areas; and

(h) fencing and gating.

Work No.48 – Removal and replacement of an existing isolation valve with a new isolation valve at the Dune Valve Station, within the location shown on Sheet 36 of the Works Plan.

Associated Development

Associated development within the meaning of section 115(2) of the 2008 Act comprising:

Work No.01a – The creation and use of a temporary working area for use during the construction of the AGI works at the Immingham facility, within the location shown on Sheet 1 of the Works Plan, including;

(a) office, welfare and security facilities;

(b) a parking area;

(c) plant and materials storage;

(d) waste processing and management areas; and

(e) fencing and gating.

Work No.01b – The creation and use of a vehicular access to Work No. 1, from Rosper Road within the location shown on Sheet 1 of the Works Plan, including;

(a) improvement of road surfacing and provision of new hard surfacing;

(b) creation of a new bellmouth junction and visibility splays; and

(c) installation of utilities.

Work No.01c – Installation and use of cables and fibre optic cables within Rosper Road to the Immingham facilities as shown on Sheet 1 of the Works Plan for supply of electricity and electronic communications.

Work No.03a – Construction and use of a temporary access and laydown location at Humber Road for use during construction of the authorised development at the location shown on Sheet 1 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.03b – Construction and use of a temporary access and laydown location at A1173 – Manby Road for use during the construction of the authorised development at the location shown on Sheet 1 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.06a – Construction and use of a temporary access and laydown location at Habrough Road for use during the construction of the authorised development at the location shown on Sheet 3 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.07a – Creation and use of temporary access from Habrough Road, within the location shown on Sheet 4 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.07b – Installation and use of cables and fibre optic cables from within Habrough Road as shown on Sheet 4 of the Works Plan for supply of electricity and electronic communications.

Work No.08a – Construction and use of a temporary access and laydown location at Roxton Road for use during the construction of the authorised development at the location shown on Sheet 5 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.09a – Creation and use of a temporary access from Roxton Road for construction of the authorised development, within the location shown on Sheet 6 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.10a – Construction and use of a temporary access and laydown location at Keelby Road for use during the construction of the authorised development at the location shown on Sheet 7 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.11a – Construction and use of a temporary access and laydown location at A1173 – Riby Road for use during the construction of the authorised development at the location shown on Sheet 8 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; an

(e) fencing and gating.

Work No.12a – Creation and use of a temporary access on Lay-By off A18 – Barton Street for construction of the authorised development, within the location shown on Sheet 9 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.12b – Creation and use of a temporary access on Lay-By off A18 – Barton Street for construction of the authorised development, within the location shown on Sheet 9 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.13a – Construction and use of a temporary access and laydown location at Washingdales Lane for use during the construction of the authorised development at the location shown on Sheet 10 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.14a – Creation and use of a vehicular access from Washingdales Lane to Work No. 14, within the location shown on Sheet 10 of the Works Plan, including:

(a) improvement of road surfacing and provision of new hard surfacing;

(b) creation of a new bellmouth junction and visibility splays; and

(c) installation of utilities.

Work No.14b – Installation and use of cables and fibre optic cables within A18 (Barton Street) to Work No. 14 as shown on Sheet 10 of the Works Plan for supply of electricity and electronic communications.

Work No.15b – Construction and use of a temporary access and laydown location at Road A46 for use during the construction of the authorised development at the location shown on Sheet 11 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.15c – Construction and use of a temporary access and laydown location at Old Main Road for use during the construction of the authorised development at the location shown on Sheet 11 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.16b – The creation and use of a temporary logistics and construction compound (Central Construction Compound) for the use during the construction of the authorised development, within the location shown on Sheet 12 of the Works Plan including:

(a) office, welfare and security facilities;

(b) a parking area;

(c) temporary lighting;

(d) pipe equipment and fittings storage;

(e) plant storage;

(f) a plant wheel wash area;

(g) waste management areas; and

(h) fencing and gating.

Work No.16c – Creation and use of a temporary access from Road A18 (Barton Street) for construction of the authorised development, within the location shown on Sheet 12 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public highway; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.17a – Construction and use of a temporary access and laydown location at Beelsby Road for use during the construction of the authorised development at the location shown on Sheet 13 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.17b – Creation and use of a temporary access from Road A18 (Barton Street) for construction of the authorised development, within the location shown on Sheet 13 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.18a – Creation and use of a temporary access for construction of the authorised development within the location shown on Sheet 14 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) installation of road surfacing (i.e. temporary stone surface).

Work No.21a – Creation and use of a vehicular access from Thoroughfare Road to Work No. 21, within the location shown on Sheet 16 of the Works Plan, including:

(a) improvement of road surfacing and provision of new hard surfacing;

(b) creation of a new bellmouth junction and visibility splays; and

(c) installation of utilities.

Work No.21b – Installation and use of cables and fibre optic cables within Thoroughfare Road to Work No. 21 as shown on Sheet 16 of the Works Plan for supply of electricity and electronic communications.

Work No.21c – Creation and use of a temporary access from Thoroughfare Road for construction of the authorised development, within the location shown on Sheet 16 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.24a – Construction and use of a temporary access and laydown location at White Road for use during the construction of the authorised development at the location shown on Sheet 19 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.24b – Creation and use of a temporary access from White Road for construction of the authorised development, within the location shown on Sheet 19 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.24c – Construction and use of a temporary access and laydown location at White Road for use during the construction of the authorised development at the location shown on Sheet 19 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.25a – Creation and use of a temporary access from Road A16 for construction of the authorised development, within the location shown on Sheet 20 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.25b – Creation and use of a temporary access from Road A16 for construction of the authorised development, within the location shown on Sheet 20 of the Works Plan, including:

(a) improvement of an existing junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.25c – Construction and use of a temporary access and laydown location at Road A16 – Louth Road for use during the construction of the authorised development at the location shown on Sheet 20 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.26a – Construction and use of a temporary access and laydown location at Pear Tree Lane for use during the construction of the authorised development at the location shown on Sheet 21 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.28a – Construction and use of a temporary access and laydown location at Fotherby Road (Little Grimsby Lane) for use during the construction of the authorised development at the location shown on Sheet 23 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.29a – Creation and use of a temporary construction access from Brackenborough Road for construction of the authorised development, within the location shown on Sheet 24 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.29b – Creation and use of a temporary construction access from Brackenborough Road for construction of the authorised development, within the location shown on Sheet 24 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.31a – Creation and use of a vehicular access from Louth Road to Work No. 31, within the location shown on Sheet 25 and Sheet 26 of the Works Plan, including:

(a) improvement of road surfacing and provision of new hard surfacing;

(b) creation of a new bellmouth junction and visibility splays; and

(c) installation of utilities.

Work No.31b – Installation and use of cables and fibre optic cables within Louth Road to Work No. 30 as shown on Sheet 25 and Sheet 26 of the Works Plan for supply of electricity and electronic communications.

Work No.32a - Construction and use of a temporary access and laydown location at Louth Road for use during the construction of the authorised development at the location shown on Sheet 25 and Sheet 26 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.33a – Construction and use of a temporary access and laydown location at Louth Road for use during the construction of the authorised development at the location shown on Sheet 27 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.34a – Construction and use of a temporary access and laydown location at Marsh Lane for use during the construction of the authorised development at the location shown on Sheet 28 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.34b – Creation and use of a temporary construction access from Red Leas Lane for construction of the authorised development, within the location shown on Sheet 28 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.34c – Creation and use of a temporary construction access from Pick Hill Lane for construction of the authorised development, within the location shown on Sheet 28 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.36a – Creation and use of a temporary construction access from B1200 - Manby Middlegate Road for construction of the authorised development, within the location shown on Sheet 30 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.36b – Construction and use of a temporary access and laydown location at B1200 – Manby Middlegate Road for use during the construction of the authorised development at the location shown on Sheet 30 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.36c – Construction and use of a temporary access and laydown location at B1200 Manby Middlegate Road for use during the construction of the authorised development at the location shown on Sheet 30 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste management facilities; and

(e) fencing and gating.

Work No.36d – Improvement and use of an existing track as a temporary access for construction of the authorised development within the location shown on Sheet 30 of the Works Plan, including:

(a) improvement of an existing track access; and

(b) improvement of the track surfacing (i.e. temporary stone surface).

Work No.40a – Construction and use of a temporary access and laydown location at Mill Road for use during the construction of the authorised development at the location shown on Sheet 34 of the Works Plan including:

(a) temporary office, welfare and security facilities;

(b) a parking area; and

(c) fencing and gating.

Work No.41a – Creation and use of a temporary construction access from A1031- Maplethorpe Road for construction of the authorised development, within the location shown on Sheets 34 and 35 of the Works Plan, including:

(a) creation of a new bellmouth junction with the public road; and

(b) improvement of road surfacing and provision of new hard surfacing.

Work No.41b – Construction and use of a temporary access and laydown location at Maplethorpe Road for use during the construction of the authorised development including trenchless crossing installation works at A1031- Maplethorpe Road within the location shown on Sheets 34 and 35 of the Works Plan, including:

(a) office, welfare and security facilities;

(b) a parking area;

(c) laydown / materials storage area;

(d) waste processing and management areas; and

(e) fencing and gating.

Work No.44a –improvement and use of an existing vehicular access from A1031- Maplethorpe Road to Work No. 44, within the location shown on Sheet 35 of the Works Plan, including improvement of existing road surfacing.

Work No.45 – Installation and use of cables and fibre optic cables to the Theddlethorpe Facility within the location shown on Sheet 35 of the Works Plan for supply of electricity and electronic communications.

Work No.46 – Creation and use of a temporary access for construction of the authorised development, within the location shown on Sheet 35 of the Works Plan, including:

(a) creation of a new bellmouth junction with the existing road; and

(b) improvement of road surfacing (i.e. temporary stone surface).

Work No.47a – Improvement and use of an existing vehicular access for construction of the authorised development from A1031- Maplethorpe Road to Work No. 47, within the location shown on Sheet 35 of the Works Plan, including improvement of existing road surfacing.

Work No.48a –

(a) installation and use of cables and fibre optic cables from Work No. 44 to Work No. 48 as shown on Sheets 35 and 36 of the Works Plan for supply of electricity and electronic communications;

Work No.48b – The creation and use of a vehicular access to the Work No. 48, from North End Road, Mablethorpe within the location shown on Sheet 36 of the Works Plan including;

(a) installation of any required visibility splay at an existing junction with the public road;

(b) road surfacing and provision of new hard surfacing; and

(c) installation of utilities.

Work No.48c – The creation and use of a temporary working area for use during the construction of the authorised development, within the location shown on the Works Plan, including construction of a temporary construction accesses and laydown area.

Further Associated Development

In connection any of those works, within the Order Limits development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development which does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement, including—

(a) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage and site levelling) and pre-construction drainage works;

(b) installation of wires, cables, conductors, pipes and ducts;

(c) establishment of winching points and installation of temporary scaffolding;

(d) construction works including—

(i) works to enable power supplies and temporary lighting;

(ii) establishment of temporary working areas;

(iii) installation of demarcation fencing/stockproof fencing/heras fencing or similar;

(iv) earthworks;

(v) aerial markers, cathodic protection test posts, cathodic protection rectifier cabinets, sacrificial anodes, field boundary markers, manholes, marker posts, underground markers, tiles and tape;

(e) works to place, alter, divert, relocate, remove or maintain the position of apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, lights and cables;

(f) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds and temporary culverts;

(g) landscaping, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;

(h) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development;

(i) works for the purpose of habitat creation;

(j) the felling, planting and maintenance of trees and hedgerows; and

(k) such other works as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development.

PART 2

Ancillary works

50. Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising works for the benefit or protection of land affected by the authorised development.

SCHEDULE 2

Articles 3 and 4

Requirements

PART 1

Requirements

Interpretation

1. In this Schedule—

"AOD" means above Ordnance Datum;

"carbon dioxide storage permit" means any carbon dioxide storage permit granted in terms of The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 or such other licence, authorisation or consent as may replace it;

"commissioning" means the process during which plant components and systems forming part of the authorised development, having been constructed or modified, are made operational and are tested and verified to be in accordance with design assumptions and to have met the appropriate safety criteria;

"contaminated land" has the same meaning as that given in section 78A of the Environmental Protection Act 1990(**a**);

"CTMP" means construction traffic management plan;

"DEMP" means decommissioning environmental management plan;

"discharging authority" means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;

"LEMP" means the landscape and ecological management plan;

"offshore pipeline and storage works" means works for the offshore carbon dioxide transportation and storage infrastructure into which the authorised development will connect.

"relevant planning authority" means–

(a) Lincolnshire County Council, North Lincolnshire Council and North East Lincolnshire Council for the purposes of–

  (i) Requirement 6 (construction traffic)

  (ii) Requirement 7 (highway accesses)

  (iii) Requirement 8 (surface water drainage)

  (iv) Requirement 10 (archaeology)

(b) East Lindsey District Council, North Lincolnshire Council, North East Lincolnshire Council and West Lindsay District Council for the purposes of–

  (i) Requirement 2 (time limits)

(**a**) 1990 c.43.

(ii) Requirement 3 (stages of authorised development)

(iii) Requirement 4 (scheme design)

(iv) Requirement 5 (construction environmental management plan)

(v) Requirement 9 (contaminated land and groundwater)

(vi) Requirement 11 (landscape and ecological management plan)

(vii) Requirement 12 (ecological surveys)

(viii) Requirement 13 (construction hours)

(ix) Requirement 14 (restoration of land)

(x) Requirement 15 (operational phase mitigation plan)

(xi) Requirement 16 (decommissioning environmental management plan)

and "relevant planning authorities" and "relevant planning authority" means Lincolnshire County Council, North Lincolnshire Council, North East Lincolnshire Council, East Lindsay District Council and West Lindsay District Council, as applicable; and

"requirement consultee" means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement.

Time limits

2.—(1) The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

(2) Notice of commencement of the authorised development must be given to the relevant planning authorities no later than 14 days before the date on which the authorised development is intended to be commenced.

Stages of authorised development

3.—(1) The authorised development must not commence until a written scheme setting out all stages of the authorised development and including a plan indicating when each stage will be constructed has been submitted to each relevant planning authority, which scheme may subsequently be amended from time to time as notified to the relevant planning authority.

(2) The written scheme must be implemented as notified under paragraph (1).

Scheme design

4.—(1) Subject to sub-paragraph (2), Works Nos. 1, 14, 21, 31 and 44 must be carried out in general accordance with the general arrangement plans.

(2) The authorised development will not be in general accordance with the general arrangement plans if any departure from the general arrangement plans would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The authorised development must be designed in accordance with the parameters specified in Table 1 below and the works plans and implemented in accordance with approved plans and any other approvals given by the relevant planning authority pursuant to these requirements.

Table 1

Work Type	*Parameter*	*Part(s) of authorised development*	*Maximum value(s) and unit*
AGI	Maximum fenced area at the Immingham facility	Work No. 1	10,500m2
AGI	Maximum height of buildings and structures at the	Work No. 1	5m from ground level

	Immingham facility, excluding the vent stack		
AGI	Maximum height of the vent stack at the Immingham facility	Work No. 1	25m from ground level
AGI	Maximum height of fencing and gating at the Immingham facility	Work No. 1	3.2m from ground level
AGI	Maximum fenced area at the Theddlethorpe facility	Work No. 44	13,500m2
AGI	Maximum height of buildings and structures at the Theddlethorpe facility, excluding the vent stack	Work No. 44	5m from ground level
AGI	Maximum height of the vent stack at the Theddlethorpe facility	Work No. 44	25m from ground level
AGI	Maximum height of fencing and gating at the Theddlethorpe facility	Work No. 44	3.2m from ground level
BVS	Maximum fenced area of each BVS	Work Nos. 14, 21, 31	2,000m2
BVS	Maximum height of buildings and structures	Work Nos. 14, 21, 31	4m from ground level
BVS	Maximum height of fencing and gating	Work Nos. 14, 21, 31	3.2m from ground level

(4) The buildings and structures identified in Table 1 must only be constructed within the area for the Work No. of which they form part as shown in the works plans.

Construction environmental management plan

5.—(1) No stage of the authorised development can commence until a CEMP which includes that stage has been submitted to and approved by the relevant planning authority following consultation with the Environment Agency and Lincolnshire County Council.

(2) The CEMP must be substantially in accordance with the outline construction environment management plan and include management plans, working methods and mitigation measures including—

(a) details of lighting during construction;

(b) noise and vibration management plan,

(c) dust management plan;

(d) materials management plan;

(e) soil management plan;

(f) water management plan

(g) site waste management plan;

(h) emergency response plan;

(i) stakeholder communication plan;

(j) public right of way management plan;

(k) construction ecological management plan;

(l) species protection plans; and

(m) invasive non-native species method statement.

(3) Each stage of the authorised development must be undertaken in accordance with the approved CEMP for that stage, or with such changes to that document as approved by the relevant planning authority.

Construction traffic

6.—(1) No stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline construction traffic management plan, has been submitted to and approved by the relevant planning authority and, in respect of effects on the Strategic Road Network, National Highways following consultation with the relevant highway authority and Network Rail.

(2) The CTMP for each stage must include a construction worker travel plan in accordance with the interim worker travel plan and include measures to be taken to promote sustainable travel options and minimise use of private vehicles.

(3) Each stage of the authorised development must be implemented in accordance with the approved CTMP for that stage.

Highway accesses

7.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration must not commence until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The relevant highway authority must be consulted on the access plan before it is submitted for approval.

(4) The highway accesses (including visibility splays) must be implemented in accordance with the approved details.

Surface water drainage

8.—(1) No development of Work Nos 1, 14, 21 and 31, and Work No. 44 may commence until, for that Work No, a surface water drainage plan for permanent works relevant to that stage, in accordance with the relevant part of the outline surface water drainage strategy has been submitted to and approved by the relevant planning authority following consultation with Anglian Water.

(2) The surface water drainage system for each stage must be implemented in accordance with the approved details.

Contaminated land and groundwater

9.—(1) In the event that contamination is found at any time when carrying out the authorised development then works in that location must cease immediately and it must be reported in writing to the relevant planning authority as soon as reasonably practicable.

(2) Where contamination has been reported to the relevant planning authority in accordance with sub-paragraph (1), an investigation and risk assessment must be completed in accordance with a contamination scheme to assess the nature and extent of any contamination on the part of the Order limits within which works are being carried out, whether or not that contamination originates on that part of the Order limits; and—

(a) the contents of that scheme are subject to the approval of the relevant planning authority, following consultation with the Environment Agency; and

(b) that investigation and risk assessment must be undertaken within timescales agreed with the relevant planning authority and in accordance with the approved contamination scheme and a written report of the findings must be submitted to the relevant planning authority, following consultation with the Environment Agency.

(3) Where remediation is determined by the relevant planning authority to be required having had regard to the results of an investigation and risk assessment carried out under sub-paragraph (2), a detailed remediation scheme must be prepared and submitted for the approval of the relevant planning authority, following consultation with the Environment Agency.

(4) The approved remediation scheme must be implemented in accordance with its terms.

Archaeology

10.—(1) No stage of the authorised development with the potential to affect buried archaeological assets must commence until a written scheme for the investigation of areas of archaeological interest relevant to that stage (if any) as identified in the outline archaeological written scheme of investigation has been submitted to and approved by the relevant planning authority following consultation with Historic England.

(2) The scheme approved under sub-paragraph (1) must be in accordance with the outline archaeological written scheme of investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(4) Any archaeological works must be implemented in accordance with the approved scheme.

Landscape and ecological management plan

11.—(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, substantially in accordance with the outline landscape and ecological management plan, has been submitted to and approved by the relevant planning authority in consultation with Lincolnshire County Council.

(2) The LEMP must include:

(a) an implementation timetable; and

(b) measures for the protection of existing features adjacent to the Works as detailed in the Environmental Statement;

(3) Each stage of the authorised development must be implemented in accordance with the approved LEMP for that stage.

(4) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.

Ecological surveys

12. No stage of the authorised development may commence until it has been established by survey work whether any European protected species are present within the Order limits or may be affected by that stage of the authorised development.

Construction hours

13.—(1) Subject to sub-paragraphs (2), (3), and (4), construction works must only take place between 0700 and 1900 on weekdays and 0700 and 1330 on Saturdays (except public and bank holidays), except in the event of an emergency unless a scheme for the carrying of those works

specifying the hours in which they may be carried out has been submitted to and approved by the relevant planning authority. Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(3) The following operations may where necessary continue or take place outside the working hours referred to in sub-paragraph (1)—

(a) trenchless construction techniques which cannot be interrupted;

(b) filling, testing, dewatering and drying; and

(c) commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes—

(a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities;

(b) start-up and shut-down activities up to an hour either side of the stated working hours and undertaken in compliance with the CEMP;

(c) works on a traffic sensitive street where so directed by the relevant highway authority; and

(d) works to make construction sites safe in the event of extreme weather

(5) In this Requirement—

"emergency" means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action; and

"trenchless construction techniques which cannot be interrupted" means drilling, tunnelling, boring or similar construction methods used to create an underground route for the pipeline without trenching from the surface, and includes any necessary ancillary activities to that drilling, tunnelling or boring; but does not include operations to prepare for drilling, tunnelling and boring, and specifically does not include works of excavation of pits, or works to remediate the site of pits used for drilling, tunnelling and boring.

Restoration of land

14. Subject to article 33 (temporary use of land for carrying out the authorised development), any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised development.

Operational phase mitigation plan

15.—(1) The undertaker must, no later than three months prior to the planned completion of commissioning of the authorised development, submit to the relevant planning authorities the operational phase mitigation plan (or plans) which details the monitoring and management requirements of the authorised development, including post-construction monitoring.

(2) The operational phase mitigation plans submitted under sub-paragraph (1) must be in accordance with the outline operational phase mitigation plan, and developed having regard to the approved CEMP(s) and the LEMP(s).

(3) Operation of the authorised development must be implemented in accordance with the submitted operational phase mitigation plan(s).

Decommissioning environmental management plan

16.—(1) The undertaker must, no later than six months prior to the planned permanent cessation of operation of the authorised development, submit a DEMP to the relevant planning authorities and,

in respect of effects on the Strategic Road Network, National Highways for approval following consultation with the Environment Agency and Lincolnshire County Council.

(2) The DEMP submitted under sub-paragraph (3) must include the details required by the demolition management plan and specifically including:

(a) details of any below ground apparatus to be left in situ;

(b) method statements for the decommissioning and dismantlement of above ground infrastructure;

(c) traffic management plan for the decommissioning works; and

(d) waste management plan for the decommissioning works.

(3) Decommissioning of the authorised development must be implemented in accordance with the approved DEMP.

Donna Nook Air Weapon Range

17.—(1) The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of Work Nos 01 and 44, in writing of the following information—

(a) the date of the commencement of the erection of any vent stack, or tall or narrow profile structure over 15 metres high;

(b) the maximum height of any construction equipment to be used in the erection of any vent stack;

(c) the date the vent stack is brought into use;

(d) the latitude and longitude and maximum heights of the vent stack.

(2) The Ministry of Defence must be notified of any changes to the information supplied in accordance with this requirement and of the completion of the construction of the development.

Written approval

18. Where under any of the Requirements the approval or agreement of the relevant planning authority or another person or authority is required, that approval or agreement must be given in writing.

Amendments to approved details

19.—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or another discharging authority, the approved details must be carried out as approved unless an application for an amendment or variation is previously agreed, by the relevant planning authority or that other discharging authority as specified in the relevant requirement, in accordance with sub-paragraph (2) and in consultation with any body specified in the relevant requirement.

(2) No amendments to or variations from the approved details may be approved if their likely significant effects on the environment are not assessed in the environmental statement, or have not been subject to such further assessment as the relevant planning authority or that other discharging authority may require; provided that such approval must not be given except where it has been demonstrated that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other discharging authority.

(4) Subject to sub-paragraph (2), if a relevant planning authority which receives an application for approval of any amendments to approved details under sub-paragraph (1) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, or such longer period as may be agreed in writing by the undertaker and the relevant authority, it is deemed to have granted consent.

Offshore consents

20. (1) No part of the authorised development may commence until details of the following have been submitted to and approved by the Secretary of State-

(a) evidence that a carbon dioxide storage permit for the offshore pipeline and storage works is in place;

(b) evidence of any pipeline works authorisation required by section 14 of the Petroleum Act 1998 for the offshore pipeline and storage works."ff

Anticipatory steps towards compliance with any requirement

21. If, before the coming into force of this Order, the undertaker or any other person has taken any steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

PART 2

Procedure for discharge of Requirements

Applications made under requirements

22.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the relevant authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

(a) where no further information is requested under requirement 22, the day immediately following that on which the application is received by the authority;

(b) where further information is requested under requirement 22, the day immediately following that on which further information has been supplied by the undertaker; or

(c) such longer period as may be agreed in writing by the undertaker and the discharging authority.

(2) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

Multiple discharging authorities

23. Where an application is required to be made to more than one discharging authority for any single consent, agreement or approval under a requirement, the undertaker may submit a request for comments in respect of its proposed application to each discharging authority and, where it does so, each discharging authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, or such longer period as may be agreed in writing by the undertaker and the relevant authority or authorities, so as to enable the undertaker to prepare a consolidated application to each discharging authority in respect of the consent, agreement or approval required by the requirement.

Further information

24.—(1) Where an application has been made under requirement 20 the discharging authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 20 business days of receipt of the application.

(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Fees

25.—(1) Where an application is made to the approving authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (or any regulations replacing the same) is to be paid by the undertaker to the approving authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

(a) the application or request being rejected as invalidly made; or

(b) the relevant planning authority failing to determine the application or to provide written comments within 56 days from the date on which the application is received, or such longer period as may be agreed in writing under requirement 22, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

Appeals

26.—(1) The undertaker may appeal if—

(a) the discharging authority refuses an application for–

(i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or

(ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;

(b) having received a request for further information under requirement 22 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or

(c) having received any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

(a) the undertaker must submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documents which the undertaker may wish to provide ("the appeal documents");

(b) the undertaker must on the same day provide copies of the appeal documents to the discharging authority and the requirement consultee (if applicable);

(c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal ("the appointed person") and notify the appeal parties of

the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;

(d) the discharging authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 21 days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(e) the appeal parties may make any counter-submissions to the appointed person within 21 days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

Outcome of appeals

27.—(1) On an appeal under requirement 24, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under requirement 24.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the discharging authority.

(6) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Interpretation

28. In this part;

"the appeal parties" means the discharging authority, the requirement consultee and the undertaker;

"discharging authority" means the body responsible for giving a consent, agreement or approval under this schedule; and

"requirement consultee" means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

SCHEDULE 3

Articles 9 and 10

Streets subject to street works

PART 1

Articles 9 and 10

Streets subject to permanent street works

(1) Area	*(2) Streets subject to street works*	*(3) Description of the street works*
In the borough of North Lincolnshire	Rosper Road	Construction of a permanent access to the Immingham facility using existing access ways at either Point 1-AA (Option 1) or Point 1-AB (Option 2) between Points 1- SA and 1-SB as shown on sheet 1 of the access and rights of way plans.
In the borough of North Lincolnshire	A160	Construction and installation of the pipeline by trenchless techniques within the A160 to the extent covered by Work No.3 on Sheet 1 the Works Plan.
In the borough of North Lincolnshire	Rosper Road, Humber Road	Installation and use of cables and fibre optic cables at a designated location along Rosper Road, running through Humber Road to the Immingham facility (between point 1-SA and 1-SB) as shown on sheet 1 of the access and rights of way plans.
In the borough of North Lincolnshire	A180	Construction and installation of the pipeline by trenchless techniques within the A180 to the extent covered by Work No.8 on Sheet 5 the Works Plan.
In the borough of North East Lincolnshire	Washingdales Lane	Construction of a permanent access to the Work No. 14, point 10-AB as shown on sheet 10 of the access and

		rights of way plans.
In the borough of North East Lincolnshire	Barton Street (A18), Washingdales Lane	Installation and use of cables and fibre optic cables at a designated location along Barton Street running through Washingdales Lane to the Work No. 14 (between point 10-SA and 10-SC) as shown on sheet 10 of the access and rights of way plans.
In the borough of North East Lincolnshire	Thoroughfare	Construction of a permanent access to Work No. 21, point 16-AB as shown on sheet 16 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Construction of a permanent access to Work No. 31, point 25-AA as shown on sheet 26 of the access and rights of way plans, and Work No. 31a. Installation and use of cables and fibre optic cables at a designated location along Louth Road to Work No. 31 (between point 25-SA and 26-SA) as shown on sheets 25 and 26 of the access and rights of way plans.

PART 2

Article 9

Streets subject to temporary street works

(1) Area	*(2) Streets subject to street works*	*(3) Description of the street works*
In the borough of North Lincolnshire	Rosper Road	Works (as may be required) for the use of existing accesses as temporary access points, including maintenance and restoration works and installation of any required visibility splays at points 1-AA or 1-AB between points 1-SA and 1-SB as shown on sheet 1 of the access and rights of way plans.
In the borough of North Lincolnshire	Rosper Road	Works (as may be required) for the use of existing access as temporary access point, including maintenance and restoration works and installation of any required visibility splays at point 1-AC between points 1-SB and 1-SC as shown on sheet 1 of the access and rights of way plans.
In the borough of North Lincolnshire	Humber Road	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 1-AE between points 1-SD and 1-SE as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Manby Road	Works (as may be required) for the use of an existing access as a temporary access, including

		maintenance and restoration works and installation of any required visibility splays at point 1-AF between points 1-SF and 1-SG as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Manby Road	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works and installation of any required visibility splays at point 1-AG between points 1-SH and 1-SI as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Manby Road	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 1-AH between points 1-SH and 1-SI as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Mill Lane	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 3-AA and 3-AB between points 3-SA and 3-SB as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough Road, Immingham (B1210)	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 3-AC and 3-AD between points 3-SC and 3-SD as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough Road	Installation and use of cables and fibre optic cables at a designated location along Habrough Road (between points 4-SA and 4-SB) to the “North Construction Compound” as shown on sheet 4 of the access and rights of way plans, and Work No. 7b.
In the borough of North East Lincolnshire	Roxton Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 5-AA and 5-AB (between points 5-SC and 5-SD) as shown on sheet 5 of the access and rights of way plans.
In the borough of North East Lincolnshire	Roxton Road	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works

		and installation of any required visibility splays at point 6-AA between points 6-SA and 6-SB as shown on sheet 6 of the access and rights of way plans.
In the borough of North East Lincolnshire	Keelby Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 6-AB and 7-AA (between points 7-SA and 7-SB) as shown on sheet 7 of the access and rights of way plans.
In the borough of North East Lincolnshire	Riby Road	Works for the construction, use, maintenance and restoration of temporary plant crossing and any required visibility splays at points marked 8-AA and 8-AB (between points 8-SA and 8-SB) as shown on sheet 8 of the access and rights of way plans.
In the county of Lincolnshire	Wells Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points 8-AC and 8-AD (between points 8-SC and 8-SD) as shown on sheet 8 of the access and rights of way plans.
In the borough of North East Lincolnshire	Lay-By on Barton Street (A18)	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 9-AA (between points 9-SA, 9-SB, 9-SC and 9-SD) as shown on sheet 9 of the access and rights of way plans.
In the borough of North East Lincolnshire	Washingdales Lane	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 10-AA and 10-AB (between points 10-SA and 10-SB) as shown on sheet 10 of the access and rights of way plans.
In the borough of North East Lincolnshire	Old Main Road	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at points marked 11-AB and 11-AC (between points 11-SC and 11-SD) as shown on sheet 11 of the access and rights of way plans.
In the borough of North East Lincolnshire	Barton Street	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 12-AA (between points 12-SA and 12-SB) as shown on sheet 12 of the access and rights of way plans.

In the borough of North East Lincolnshire	Barton Street	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 13-AA (between points 13-SC and 13-SD) as shown on sheet 13 of the access and rights of way plans.
In the borough of North East Lincolnshire	Beelsby Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 13-AB and 13-AC (between points 13-SE and 13-SF) as shown on sheet 13 of the access and rights of way plans.
In the borough of North East Lincolnshire	Brigsley Road	Works for the construction, use, maintenance and restoration of temporary plant crossing and any required visibility splays at points marked 15-AA and 15-AB (between points 15-SA and 15-SB) as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Thoroughfare	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 16-AA and 16-AB (between points 16-SA and 16-SB) as shown on sheet 16 of the access and rights of way plans.
In the county of Lincolnshire	Grainsby Lane	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 17-AA and 18-AA (between points 18-SA and 18-SB) as shown on sheet 18 of the access and rights of way plans.
In the county of Lincolnshire	White Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 19-AA and 19-AB (between points 19-SA and 19-SB) as shown on sheet 19 of the access and rights of way plans.
In the county of Lincolnshire	Main Road (A16)	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works and installation of any required visibility splays at points marked 20-AA and 20-AB (between points 20-SA and 20-SB) as shown on sheet 20 of the access and rights of way plans.
In the county of Lincolnshire	Main Road (A16)	Works for the construction, use,

		maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 20-AC and 20-AD (between points 20-SC and 20-SD) as shown on sheet 20 of the access and rights of way plans.
In the county of Lincolnshire	Station Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 21-AA and 21-AB (between points 21-SA and 21-SB) as shown on sheet 21 of the access and rights of way plans.
In the district of East Lindsey	Pear Tree Lane	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 21-AC and 21-AD (between points 21-SC and 21-SD) as shown on sheet 21 of the access and rights of way plans.
In the district of East Lindsey	Ings Lane	Works for the construction, use, maintenance and restoration of temporary plant crossing and any required visibility splays at points marked 23-AA and 23-AB (between points 23-SA and 23-SB) as shown on sheet 23 of the access and rights of way plans.
In the district of East Lindsey	Fotherby Road	Works for the construction, use, maintenance and restoration of temporary access/plant crossing and any required visibility splays at points marked 23-AC and 23-AD (between points 23-SC and 23-SD) as shown on sheet 23 of the access and rights of way plans.
In the district of East Lindsey	Brackenborough Road	Works for the construction, use, maintenance and restoration of temporary plant crossing and any required visibility splays at point 24-AA (between points 24-SA and 24-SB) as shown on sheet 24 of the access and rights of way plans.
In the district of East Lindsey	Brackenborough Road	Works for the construction, use, maintenance and restoration of temporary plant crossing and any required visibility splays at point 24-AB (between points 24-SC and 24-SD) as shown on sheet 24 of the access and rights of way plans.
In the district of East Lindsey	Brackenborough Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points

		marked 24-AC and 24-AD (between points 24-SE and 24-SF) as shown on sheet 24 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at point marked 25-AA and 26-AA (between points 25-SB and 26-SA) as shown on sheets 25 and 26 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 27-AA and 27-AB (between points 27-SA and 27-SB) as shown on sheet 27 of the access and rights of way plans.
In the district of East Lindsey	Mill Hill Way	Works for the construction, use, maintenance, and restoration of temporary plant crossing and any required visibility splays at points marked 27-AC and 27-AD (between points 27-SC and 27-SD) as shown on sheet 27 of the access and rights of way plans.
In the district of East Lindsey	Red Leas Lane	Works for the construction, use, maintenance, and restoration of temporary plant crossing and any required visibility splays at points marked 28-AA, 28-AB, 28-AC, 28-AD and 28-AE (between points 28-SA and 28-SB) as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Marsh Lane	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 28-AF and 28-AG (between points 28-SC and 28-SD) as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Pick Hill Lane	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 28-AH and 28-AI (between points 29-SA and 29-SB) as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Pick Hill Lane	Works for the construction, use, maintenance, and restoration of temporary plant crossing and any required visibility splays at points marked 29-AA and 29-AB (between

		points 29-SC and 29-SD) as shown on sheet 29 of the access and rights of way plans.
In the district of East Lindsey	Manby Middlegate	Works for the Construction, use, maintenance and restoration of temporary access and any required visibility splays at points marked 30-AA, 30-AB, 30-AC and 30-AD (between points 30-SA and 30-SB) as shown on sheet 30 of the access and rights of way plans.
In the district of East Lindsey	Lordship Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 31-AA and 31-AB (between points 31-SA and 31-SB) as shown on sheet 31 of the access and rights of way plans.
In the district of East Lindsey	Mill Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 34-AA and 34-AB (between points 34-SA and 34-SB) as shown on sheet 34 of the access and rights of way plans.
In the district of East Lindsey	Mablethorpe Road	Works for the construction, use, maintenance, and restoration of temporary access/plant crossing and any required visibility splays at points marked 34-AC and 35-AB (between points 35-SC and 35-SD) shown on sheet 35 of the access and rights of way plans.
In the district of East Lindsey	Mablethorpe Road	Works for the construction, use, maintenance and restoration of temporary access and any required visibility splays at point 34-AD (between points 35-SE and 35-SF) as shown on sheet 35 of the access and rights of way plans.
In the district of East Lindsey	Mablethorpe Road	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works and installation of any required visibility splays at point 35-AC (between points 35-SG and 35-SH) as shown on sheet 35 of the access and rights of way plans.
In the district of East Lindsey	Mablethorpe Road	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works and installation of any required visibility splays at point 35-AD

		(between points 35-SI and 35-SJ) as shown on sheet 35 of the access and rights of way plans.
In the district of East Lindsey	Meers Bank	Works (as may be required) for the use of an existing access as a temporary access, including maintenance and restoration works and installation of any required visibility splays at point 36-AA (between points 36-SA and 36-SB) as shown on sheet 36 of the access and rights of way plans.

SCHEDULE 4

Article 14

New means of access

PART 1

New permanent means of access from the public highway

(1) Area	*(2) Street*	*(3) Description of relevant part of access*
In the borough of North East Lincolnshire	Rosper Road	Works for the installation and maintenance of a new access to Work No. 1 at either Point 1-AA or Point 1-AB as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Washingdales Lane	Works for the installation and maintenance of a new access to Work No. 14, point 10-AB as shown on sheet 10 of the access and rights of way plans.
In the borough of North East Lincolnshire	Thoroughfare	Works for the installation and maintenance of a new access to Work No. 21, point 16-AB as shown on sheet 16 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Works for the installation and maintenance of a new access to Work No. 31, point 25-AA as shown on sheet 26 of the access and rights of way plans.

PART 2

New temporary means of access from the public highway

(1) Area	*(2) Street*	*(3) Description of relevant part of access*
In the borough of North Lincolnshire	Humber Road	Works for the installation, use, maintenance and restoration of temporary access at point marked 1-AE as shown on sheet 1 of the access and rights of way plans.

In the borough of North East Lincolnshire	Manby Road – A1173 Road	Works for the installation, use, maintenance and restoration of temporary access at point marked 1-AH as shown on sheet 1 of the access and rights of way plans
In the borough of North East Lincolnshire	Mill Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 3-AA and 3-AB as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough Road, Immingham (B1210)	Works for the installation, use, maintenance and restoration of temporary access at points crossing marked 3-AB and 3-AC as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Roxton Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 5-AA and 5-AB as shown on sheet 5 of the access and rights of way plans.
In the borough of North East Lincolnshire	Keelby Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 6-AB and 7-AA as shown on sheet 7 of the access and rights of way plans.
In the borough of North East Lincolnshire	Riby Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 8-AA and 8-AB as shown on sheet 8 of the access and rights of way plans.
In the county of Lincolnshire	Wells Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 8-AC and 8-AD as shown on sheet 8 of the access and rights of way plans.
In the borough of North East Lincolnshire	Lay-By on Barton Street (A18)	Works for the installation, use, maintenance and restoration of temporary access at point marked 9-AA as shown on sheet 9 of the access and rights of way plans.
In the borough of North East Lincolnshire	A46 Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 11-AA and 11-AD as shown on sheet 11 of the access and rights of way plans.
In the borough of North East Lincolnshire	Old Main Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 11-AB and 11-AC as shown on sheet 11 of the access and rights of way plans.
In the borough of North East Lincolnshire	Barton Street (A18)	Works for the installation, use, maintenance and restoration of temporary access at point marked 12-AA as shown on sheet 12 of the access and rights of way plans.

In the borough of North East Lincolnshire	Barton Street (A18)	Works for the installation, use, maintenance and restoration of temporary access at point marked 13-AA as shown on sheet 13 of the access and rights of way plans.
In the borough of North East Lincolnshire	Beelsby Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 13-AB and 13-AC as shown on sheet 13 of the access and rights of way plans.
In the borough of North East Lincolnshire	Brigsley Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 15-AA and 15-AB as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Thoroughfare	Works for the installation, use, maintenance and restoration of temporary access at points marked 16-AA and 16-AB as shown on sheet 16 of the access and rights of way plans.
In the county of Lincolnshire	Grainsby Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 17-AA and 18-AA as shown on sheet 18 of the access and rights of way plans.
In the county of Lincolnshire	White Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 19-AA and 19-AB as shown on sheet 19 of the access and rights of way plans.
In the county of Lincolnshire	Main Road (A16)	Works for the installation, use, maintenance and restoration of temporary access at points marked 20-AC and 20-AD as shown on sheet 20 of the access and rights of way plans.
In the county of Lincolnshire	Station Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 21-AA and 21-AB as shown on sheet 21 of the access and rights of way plans.
In the district of East Lindsey	Pear Tree Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 21-AC and 21-AD as shown on sheet 21 of the access and rights of way plans.
In the district of East Lindsey	Ings Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 23-AA and 23-AB as shown on sheet 23 of the access and rights of way plans.
In the district of East Lindsey	Fotherby Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 23-AC and 23-AD as shown on sheet 23 of the access and rights of way plans.
In the district of East Lindsey	Brackenborough Road	Works for the installation, use,

		maintenance and restoration of temporary access at points marked 24-AC and 24-AD as shown on sheet 24 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 25-AA and 26-AA as shown on sheet 26 of the access and rights of way plans.
In the district of East Lindsey	Louth Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 27-AA and 27-AB as shown on sheet 27 of the access and rights of way plans.
In the district of East Lindsey	Mill Hill Way	Works for the installation, use, maintenance and restoration of temporary access at points marked 27-AC and 27-AD as shown on sheet 27 of the access and rights of way plans.
In the district of East Lindsey	Red Leas Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 28-AA, 28-AB, 28-AC, 28-AD and 28-AE as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Marsh Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 28-AF and 28-AG as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Pick Hill Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 28-AH and 28-AI as shown on sheet 28 of the access and rights of way plans.
In the district of East Lindsey	Pick Hill Lane	Works for the installation, use, maintenance and restoration of temporary access at points marked 29-AA and 29-AB as shown on sheet 29 of the access and rights of way plans.
In the district of East Lindsey	Manby Middlegate	Works for the installation, use, maintenance and restoration of temporary access at points marked 30-AA, 30-AB, 30-AC and 30-AD as shown on sheet 30 of the access and rights of way plans.
In the district of East Lindsey	Lordship Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 31-AA and 31-AB as shown on sheet 31 of the access and rights of way plans.
In the district of East Lindsey	Mill Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 34-AA and 34-AB as shown on sheet 34 of the access and rights of way plans.

In the district of East Lindsey	Mablethorpe Road	Works for the installation, use, maintenance and restoration of temporary access at points marked 34-AC, 34-AD, 35-AA and 35-AB A as shown on sheet 35 of the access and rights of way plans.

SCHEDULE 5

Article 12

Public rights of way to be temporarily restricted

(1) Area	*(2) Public right of way*	*(3) Description of temporary stopping up etc.*
In the borough of North Lincolnshire	North Lincolnshire/ SKIL 91A	Temporary closure with diversion provided between points marked 1-PA and 1-PB as shown on sheet 1 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough/11	Temporary closure with diversion provided between points marked 3-PA and 3-PB as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough/11	Temporary closure with diversion provided between points marked 3-PC and 3-PD as shown on sheet 3 of the access and rights of way plans.
In the borough of North East Lincolnshire	Habrough/4	Temporary closure with diversion provided between points marked 6-PA and 6-PB as shown on sheet 6 of the access and rights of way plans.
In the borough of North East Lincolnshire	Aylesby/116	Temporary closure with diversion provided between points marked 9-PA and 9-PB as shown on sheet 9 of the access and rights of way plans.
In the borough of North East Lincolnshire	Aylesby/130	Temporary closure with diversion provided between points marked 10-PA and 10-PB as shown on sheet 10 of the access and rights of way plans.
In the borough of North East Lincolnshire	Laceby/119	Temporary closure with diversion provided between points marked 11-PA and 11-PB as shown on sheet 11 of the access and rights of way plans.
In the borough of North East Lincolnshire	Irby Upon Humber/161a	Temporary closure with diversion provided between points marked 11-PC and 11-PD as shown on sheet 11 of the access and rights of way plans.
In the borough of North East Lincolnshire	Irby Upon Humber/124	Temporary closure with diversion provided between points marked 12-PA and 12-PB as shown on sheet 12 of the access and rights of way plans.
In the borough of North East Lincolnshire	Barnoldby Le Beck/94	Temporary closure with diversion provided between points marked 13-PA and 13-PB as shown on sheet 13 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/81	Temporary closure with diversion provided between points marked 15-PA

		and 15-PB as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/82	Temporary closure with diversion provided between points marked 15-PA and 15-PB as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/85	Temporary closure with diversion provided between points marked 15-PA and 15-PB as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/85	Temporary closure with diversion provided between points marked 15-PC and 15-PD as shown on sheet 15 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/85	Temporary closure with diversion provided between points marked 16-PA and 16-PB as shown on sheet 16 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/86	Temporary closure with diversion provided between points marked 16-PA and 16-PB as shown on sheet 16 of the access and rights of way plans.
In the borough of North East Lincolnshire	Ashby cum Fenby/87	Temporary closure with diversion provided between points marked 17-PA and 17-PB as shown on sheet 17 of the access and rights of way plans.
In the county of Lincolnshire	NTho 113/1	Temporary closure with diversion provided between points marked 19-PA and 19-PB as shown on sheet 19 of the access and rights of way plans.
In the county of Lincolnshire	Utte 78/1	Temporary track/pathway closure with diversion provided to all traffic/pedestrian between points marked 22-PA and 22-PB as shown on sheet 22 of the access and rights of way plans.
In the county of Lincolnshire	Utte 83/1	Temporary track/pathway closure with diversion provided to all traffic/pedestrian between points marked 22-PA and 22-PB as shown on sheet 22 of the access and rights of way plans.
In the county of Lincolnshire	Utte 83/1	Temporary closure with diversion provided between points marked 22-PA and 22-PC as shown on sheet 22 of the access and rights of way plans.
In the county of Lincolnshire	Utte 83/2	Temporary closure with diversion provided between points marked 22-PA and 22-PC as shown on sheet 22 of the access and rights of way plans.
In the county of Lincolnshire	LGri 77/1	Temporary closure with diversion provided between points marked 24-PA and 24-PB as shown on sheet 24 of the access and rights of way plans.
In the county of Lincolnshire	NCoc 68/1	Temporary closure with diversion provided between points marked 26-PA

		and 26-PB as shown on sheet 26 of the access and rights of way plans.
In the county of Lincolnshire	GayM 193/1	Temporary closure with diversion provided between points marked 31-PA and 31-PB as shown on sheet 31 of the access and rights of way plans.
In the county of Lincolnshire	ThSH 250/2	Temporary closure with diversion provided between points marked 34-PA and 34-PB as shown on sheet 34 of the access and rights of way plans.
In the county of Lincolnshire	ThSH 249/1	Temporary closure with diversion provided between points marked 34-PC and 34-PD as shown on sheet 34 of the access and rights of way plans.

SCHEDULE 6

Article 33

Land of which only temporary possession may be taken

PART 1

Land of which only temporary possession may be taken

(1) Area	*(2) Number of plot shown on land plans*	*(3) Purpose for which temporary possession may be taken*	*(4) Relevant part of authorised development*
In the borough of North Lincolnshire	1/57	Temporary use as a working area	Work No.01A
In the borough of North East Lincolnshire	4/1, 4/2, 4/3, 4/4, 4/5, 4/6, 4/7, 4/8, 4/9, 4/10, 4/11, 4/12, 4/13, 4/14, 4/15	Temporary use as a construction compound and working area.	Work Nos.7, 7A, 7B
In the borough of North East Lincolnshire	6/1, 6/2	Temporary use as a construction access.	Work No. 9A
In the county of Lincolnshire	9/1, 9/3, 9/6	Temporary use as a construction access.	Work No. 12A
In the borough of North East Lincolnshire	9/13	Temporary use as a construction access.	Work No. 12B
In the borough of North East Lincolnshire	12/6, 12/8	Temporary use as a construction compound and working area.	Work Nos. 16B, 16C
In the borough of North East Lincolnshire	13/6	Temporary use as a construction access.	Work No. 17B
In the	14/3, 14/4, 14/5	Temporary use as a construction	Work No. 18A

borough of North East Lincolnshire		access.	
In the borough of North East Lincolnshire	16/9	Temporary use as a construction access.	Work No. 21C
In the county of Lincolnshire	20/6, 20/7, 20/9	Temporary use as a construction access.	Work No. 25A
In the county of Lincolnshire	20/10, 20/11, 20/13, 20/14	Temporary use as a construction access.	Work No. 25B
In the county of Lincolnshire	24/4, 24/5	Temporary use as a construction access.	Work No. 29A
In the county of Lincolnshire	24/6, 24/7	Temporary use as a construction access.	Work No. 29B
In the county of Lincolnshire	28/7, 28/9, 28/10,28/11	Temporary use as a construction access.	Work No. 34B
In the county of Lincolnshire	29/3, 29/4, 29/5, 29/7	Temporary use as a construction access.	Work No. 34C
In the county of Lincolnshire	30/3, 30/4, 30/5	Temporary use as a construction access.	Work No. 36A
In the county of Lincolnshire	30/13,30/14, 30/15	Temporary use as a construction access.	Work No. 36D
In the county of Lincolnshire	35/2, 35/3, 35/4, 35/6	Temporary use as a construction access.	Work No. 41A
In the county of Lincolnshire	35/42, 36/1	Temporary use as a construction compound and working area.	Work No.47
In the county of Lincolnshire	36/9, 36/10	Temporary use as a working area.	Work Nos. 48C and 48D

SCHEDULE 7

Article 25

Land in which only new rights etc., may be acquired

(1) Number of plot shown on land plans	*(2) Purpose for which rights may be acquired*
1/43, 35/20, 35/24, 35/30, 35/34, 35/36, 36/3, 36/4, 36/5, 36/6, 36/7, 36/11	Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to— (a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and

replacing the authorised development, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the pipeline and connection into any adjacent pipeline and associated works, to take plant and equipment on to adjoining land;

(b) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights;

(c) construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the Land, adjoining land and highway;

(d) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;

(e) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land;

(f) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;

(g) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;

(h) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure; and

(i) lay out temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to:

(j) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or electronic communications through the cables and fibre optic cables ancillary to the pipeline, or support for the authorised development;

(k) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);

(l) prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development); and

(m) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.

1/52, 1/55, 1/56, 1/62, 1/63, 1/65, 1/66, 10/8, 10/9, 10/13, 10/14, 10/15, 10/16, 16/7, 16/8, 25/8, 25/9, 26/1, 35/24, 35/27, 35/29, 35/32, 35/39, 35/40, 35/41, 36/2	The right to enter and remain upon the land for the purposes of the construction, operation, maintenance and decommissioning of the authorised development and to— (a) install, construct, maintain, use, improve, cleanse, repair, replace and remove cables, conduits, service media and associated apparatus that are used for the purposes of transmitting or distributing electricity and communications within that part of the land over which the new rights are acquired (b) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing cables, conduits, service media and associated apparatus as part of the authorised development; (c) make such investigations in or on the Land which is ancillary for the purposes of exercise of the rights; (d) place and use plant, machinery, structures and temporary structures within the Land, and to erect temporary signage and provide measures for the benefit of public and personnel safety; (e) fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the Land; (f) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping; (g) install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; (h) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure; and (i) lay out temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out. A restrictive covenant over the Land for the benefit of the remainder of the Order land to— (j) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or electronic communications through the cables and fibre optic cables ancillary to the pipeline, or support for the authorised development; (k) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto); (l) prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood

would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development); and

(m) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.

36/12, 36/13, 36/14, 36/15, 36/16

The right to enter and remain upon the land for the purposes of the operation, maintenance and decommissioning of the authorised development and to—

(a) use, maintain, repair, renew, upgrade, inspect, survey, cleanse, re-lay, divert, make safe, make incapable of operation, replace and remove the existing pipeline together with ancillary equipment including cathodic protection;

(b) enter and be upon that part of the land over which the new rights are acquired and remain with or without all necessary plant, vehicles, machinery, materials, drilling fluids, apparatus and equipment for the purposes of using, maintaining, repairing, renewing, upgrading, inspecting, surveying, cleansing, re-laying, diverting, making safe, making incapable of operation, replacing and removing the pipeline and ancillary equipment to include cathodic protection;

(c) retain and use the existing pipeline and ancillary equipment within that part of the land over which the new rights are acquired for the purpose of the transmission of carbon dioxide and for associated purposes;

(d) place and use apparatus, materials (including matting, trackways, hard standing and other material in connection with construction of haul and access roads and storage areas), plant, machinery, trench shuttering, temporary structures and welfare accommodation for the maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the pipeline and ancillary equipment to include cathodic protection within that part of the land over which the new rights are acquired; and to construct, lay down, use and remove temporary haul and access roads, trackways, matting and other suitable materials, including for any necessary temporary bridging of statutory undertakers' apparatus, other apparatus, conduits, watercourses, ditches and drains; and to effect access to the highway;

(e) install, keep, maintain, replace, renew and remove pipeline marker posts, test posts and aerial markers within that part of the land over which the new rights are acquired, to identify the location of the pipeline (subject to the undertaker seeking to locate the marker posts so as to minimise interference with the owner's future use and operations within the land);

(f) fell, lop, prune or cut trees, shrubs or hedges or remove roots of trees, hedges or shrubs within that part of the land over which the new rights are acquired for the purposes of using, maintaining, repairing, renewing, upgrading, inspecting, surveying, cleansing, re-laying, diverting, making safe, making incapable of operation, replacing and removing the pipeline and ancillary equipment;

(g) use, inspect, modify, maintain, adjust, alter, support, renew, repair, improve, extend, test or cleanse and to connect in to existing drainage, watercourses, sewers or culverts and to manage water

flows in existing drains, watercourses and culverts, including by way of damming and overpumping within that part of the land over which the new rights are acquired;

(h) alter, re-lay, maintain, adjust or remove existing pipes, cables or conduits or service media and associated apparatus (including apparatus of statutory undertakers) within that part of the land over which the new rights are acquired;

(i) install, construct, maintain, use, improve, cleanse, repair, replace and remove new pipes, cables, conduits, service media and associated apparatus that are used for the purposes of transmitting or distributing electricity, communications, carbon dioxide, gas, oil, water supply, sewerage and drainage (including apparatus of statutory undertakers) within that part of the land over which the new rights are acquired;

(j) erect, maintain and remove temporary fencing for site safety and to create, retain and remove temporary secure works compounds within that part of the land over which the new rights are acquired;

(k) remove fences, hedges, gates or other barriers during any period during which laying down, construction, installation, adjusting, altering, testing, maintaining, repairing, renewing, upgrading, cleansing, relaying, diverting, making safe, making incapable of operation, replacing and removing the pipeline and ancillary equipment to include cathodic protection (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement, replanting or re-instatement of fences, hedges or other barriers following the exercise of the new rights);

(l) install, maintain, use, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary and permanent drainage;

(m) carry out environmental surveys, mitigation works, maintenance and enhancement works within that part of the land over which the new rights are acquired;

(n) enter for the purposes of intrusive surveys including for site investigation and environmental surveys, making of boreholes, trial pits and archaeological trenches, auger hole sampling and the taking of soil and other samples, and to reinstate the land to its condition prior to commencement of such works;

(o) benefit from continuous vertical and lateral support for the pipeline and associated apparatus; and

(p) erect temporary signage and provide measures for benefit of public and personnel safety.

A restrictive covenant over the Land for the benefit of the remainder of the Order land to—

(q) prevent any activity being undertaken on the Land which would interfere with the vertical or lateral support of the pipeline;

(r) prevent anything being done which may interfere with free flow and passage of carbon dioxide along the pipeline or electronic communications through the cables and fibre optic cables ancillary to the pipeline, or support for the authorised development;

(s) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or

construction erection or works of any kind (including the foundations or footings thereto);

(t) prevent anything to be done by way of hard surfacing of the Land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(u) prevent anything to be done by way of mole draining or excavation of any kind in the Land nor any activities which would alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.7m for the purposes of arable farming);

(v) prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);

(w) prevent, without the written consent of the undertaker, the carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and

(x) prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of the drainage works, ecological mitigation areas or areas of habitat creation including any ploughing or grazing without the prior written consent of the undertaker

SCHEDULE 8

Articles 25

Modification of compensation and compulsory purchase enactments for creation of new rights

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2. Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification-

For section (5A) (relevant valuation date) of the 1961 Act substitute—

"(5A) If—

(a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act

1965 (as modified by paragraph 4(5) of Schedule 9 to the Viking CCS Carbon Dioxide Pipeline Order 202[•]).

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 4(8) of Schedule 9 to the Viking CCS Carbon Dioxide Pipeline Order 202[•]) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

(1) Without limitation on the scope of paragraph (1), the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4(3) of this Schedule—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable."

Application of Part 1 of the 1965 Act

3.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 31 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 25 (compulsory acquisition of rights and restrictive covenants)—

(a) with the modifications specified in sub-paragraph 4(2); and

(b) with such other modifications as may be necessary.

(2) The modifications referred to in sub-paragraph (1) are as follows.

(3) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(4) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

(5) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(**a**) 1973 c.26.

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(6) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(**a**) (powers of entry: further notices of entry), 11B(**b**) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(7) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(8) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 33(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(9) For Schedule 2A of the 1965 Act substitute—

"SCHEDULE 2A

Section 8

Counter-notice requiring purchase of land not in notice to treat

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act) of the Viking CCS Carbon Dioxide Pipeline Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 32 (acquisition of subsoil) of the Viking CCS Carbon Dioxide Pipeline Order 202[•] which excludes the acquisition of subsoil only from this Schedule.

(3) In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

2. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the acquiring authority to purchase the owner's interest in the house, building or factory.

3. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

(**a**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).
(**b**) Section 11B was inserted by section 187(2) of the above Act.

Response to counter-notice

4. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat;

(b) accept the counter-notice; or

(c) refer the counter-notice to the Upper Tribunal.

5. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

6. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

7. If the authority do not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

8. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

9. On a referral under paragraph (6), the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

10. In making the determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant;

(b) the use to be made of the right or covenant proposed to be acquired or imposed; and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

11. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 9, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

12. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

13.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

14. Any dispute as to the compensation is to be determined by the Upper Tribunal."

SCHEDULE 9

Article 43

Protective provisions

PART 1

Protection for electricity, gas, water and sewerage undertakers

1. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

2. In this Part—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that licence holder;

(b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by that gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a utility undertaker within paragraph (c) of the definition of that term, mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and

(d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

(i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991(**c**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act(**d**),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

"utility undertaker" means—

(e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(g) a water undertaker within the meaning of the Water Industry Act 1991; and

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(**a**) 1989 c.29.
(**b**) 1986 c.44.
(**c**) 1991 c.56.
(**d**) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the onshore works, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus and offshore works

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Acquisition of land

4. Regardless of any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 85(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph 87 must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Expenses and costs

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, 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 the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

9.—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents; or

(b) any indirect or consequential loss of the operator or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Miscellaneous

10. Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

PART 2

Protection for operators of electronic communications code networks

11. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator in question.

12. In this Part—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106(**b**) (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

"operator" means the operator of an electronic communications code network.

13. The exercise of the powers conferred by article 37 (statutory undertakers) are subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

14.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of

(**a**) 2003 c.21.
(**b**) Section 106 was amended by section 4 of the Digital Economy Act 2017.

its intended removal for the purposes of the authorised development), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost agreed by the undertaker in advance and reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 49 (arbitration).

(5) This Part does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(6) Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

PART 3

For the protection of National Grid Electricity Transmission plc as electricity undertaker

Application

15.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of Order):

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to paragraph 25(3)(b)).

Interpretation

16. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard and Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance**"** means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds sterling) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid;

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security**"** means a bank bond or letter of credit from an acceptable credit provider in favour of National Grid to cover the undertaker's liability to National Grid for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any electric lines or electrical plant as defined in the Electricity Act 1989(**a**), belonging to or maintained by National Grid, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring

(**a**) 1989 c.29.

activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"NESO" means as defined in the STC;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which:

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 21(2) or otherwise; and/or

(c) includes any of the activities that are referred to in National Grid's document "Development near overhead lines" EN43-8 and the Health and Safety Executive's (HSE) Guidance Note GS6 "Avoiding Danger from Overhead Power Lines";

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"undertaker" means the undertaker as defined in article 2(1) of this Order.

On Street Apparatus

17. Except for paragraphs 18 (apparatus of statutory undertakers in temporarily restricted streets), 23 (retained apparatus: protection of electricity undertakers), 24 (expenses) and 25 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of statutory undertakers in temporarily restricted streets

18. Notwithstanding the temporary stopping up or diversion of any highway under article 13 (temporary restriction of use of streets), National Grid may at all times take all necessary access across any such highway and execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

Protective works to buildings

19. The undertaker, in the case of the powers conferred by article 21 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

Acquisition of land

20.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Grid and the undertaker, the undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 23 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

21.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub- paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed

in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 22(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

22.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 15 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of electricity undertaker

23.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to specified works, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; —

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus 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 any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction, prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and

National Grid shall give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 15 to 17 and 19 to 21 apply as if the removal of the apparatus had been required by the undertaker under paragraph 21(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub- paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

24.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

(a) any costs reasonably and properly incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 21(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 29 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid 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 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.

Indemnity

25.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and

(b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National

Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

(a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-paragraph (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 25; and/or

(c) any indirect or consequential loss of National Grid or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid or in respect of which National Grid has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid's apparatus until the following conditions are satisfied:

(a) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same to the undertaker in writing; and

(b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with paragraph 25(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

26. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker

and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

27.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 21(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 23, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

28. If in consequence of the agreement reached in accordance with paragraph 20(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

29. Save for differences or disputes arising under paragraphs 21(2), 21(4), 22(1) and 23 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 49 (arbitration).

Notices

30. Notwithstanding article 46 (service of notices), any plans submitted to National Grid by the undertaker pursuant to this Part must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

For the protection of National Gas Transmission plc as gas undertaker

Application

31.—(1) For the protection of National Gas Transmission as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas Transmission.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas Transmission, where the benefit of this Order is transferred or granted to another person under article 7 (benefit of Order)—

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Gas Transmission and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Gas Transmission on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas Transmission (but without prejudice to paragraph 41(3)(b)).

Interpretation

32.—(1) In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: "A-" if the rating is assigned by Standard and Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £10 million (ten million pounds sterling) per occurrence or series of occurrences arising out of one event or £50m (fifty million pounds sterling) in aggregate. Such insurance shall be maintained for the duration of the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10 million (ten million pounds sterling) per occurrence or series of occurrences arising out of one event or £20 million (twenty million pounds sterling) in aggregate;

"acceptable security" means a bank bond or letter of credit from an acceptable credit provider in favour of National Gas Transmission to cover the undertaker's liability to National Gas Transmission for an amount of not less than £10 million (ten million pounds sterling) per asset per event up to a total liability cap of £50 million (fifty million pounds sterling) (in a form reasonably satisfactory to National Gas Transmission);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Gas Transmission to enable National Gas Transmission to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any mains, pipes or other apparatus belonging to or maintained by National Gas Transmission for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas Transmission for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any ancillary works as defined in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Gas Transmission (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Gas Transmission's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas Transmission: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Gas Transmission" means National Gas Transmission plc (company number 02006000) whose registered office is at National Grid House Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986 ;

"Network Code" means the network code prepared by National Gas Transmission pursuant to Standard Special Condition A11(3) of its Gas Transporter's Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas Transmission's Transporters Licence, as both documents are amended from time to time;

"Network Code Claims" means any claim made against National Gas Transmission by any person or loss suffered by National Gas Transmission under the Network Code arising out of or in connection with any failure by National Gas Transmission to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas Transmission as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which

(c) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or

(d) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise; and/or

(e) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas Transmission's policies for safe working in proximity to gas apparatus, "Specification for safe working in the vicinity of National Grid, High Pressure Gas pipelines and associated installations- requirements for third parties"; and

"undertaker" means the undertaker as defined in article 2(1) of this Order.

On Street Apparatus

33. Except for paragraphs 34 (Apparatus of statutory undertakers in temporarily restricted streets), 39 (retained apparatus: protection of gas undertaker), 40 (expenses) and 41 (indemnity) of this

Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas Transmission, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas Transmission are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of statutory undertakers in temporarily restricted streets

34. Despite the temporary stopping up or diversion of any highway under article 13 (temporary restriction of use of streets), National Gas Transmission may at all times take all necessary access across any such highway and execute and do all such works and things in, on or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction or diversion was in that highway.

Protective works to buildings

35. The undertaker, in the case of the powers conferred by article 21 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas Transmission.

Acquisition of land

36. — Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

37.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas Transmission to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas Transmission in accordance with sub- paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas Transmission advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas Transmission reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas Transmission to its reasonable satisfaction (taking into account paragraph 38(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas Transmission may, in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Gas Transmission to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Gas Transmission and the undertaker.

(5) National Gas Transmission must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas Transmission of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

38.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas Transmission facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas Transmission and must be no less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas Transmission.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Gas Transmission than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 45 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas Transmission as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of gas undertaker

39.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas Transmission a plan and, if reasonably required by National Gas Transmission, a ground monitoring scheme in respect of those works.

(2) In relation to specified works, the plan to be submitted to National Gas Transmission under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas Transmission has given written approval of the plan so submitted.

(4) Any approval of National Gas Transmission required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,

(b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Gas Transmission may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus 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 any apparatus.

(6) Works executed under sub-paragraphs (1) or (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 National Gas Transmission and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Gas Transmission for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas Transmission will be entitled to watch and inspect the execution of those works.

(7) Where National Gas Transmission requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas Transmission's satisfaction, , prior to the commencement of any specified works for which protective works are required and National Gas Transmission must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas Transmission in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 31 to 33 and 35 to 37 apply as if the removal of the apparatus had been required by the undertaker under paragraph 37(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas Transmission notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Gas Transmission's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and 69 associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that National Gas Transmission retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 40.

Expenses

40.—(1) Save where otherwise agreed in writing between National Gas Transmission and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas Transmission within 30 days of receipt of an itemised invoice or claim from National Gas Transmission all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas Transmission in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

(a) any costs reasonably and properly incurred by or compensation properly paid by National Gas Transmission in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas Transmission as a consequence of National Gas Transmission;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 37(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas Transmission;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 45 (Arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Gas Transmission by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas Transmission 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 Gas Transmission 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.

(6) Where in accordance with paragraph 40(1) the undertaker pays National Gas Transmission in respect of an itemised invoice or claim for charges, costs and expenses reasonably anticipated within the following three months, should there be any unspent funds after the expiry of such three month period, National Gas Transmission shall repay such unspent funds within 60 days of the total charges, costs and expenses actually reasonably and properly incurred being known, and include an itemised accounting of the charges, costs and expenses reasonably and properly incurred for the three months following the issue of the itemised invoice or claim.

Indemnity

41.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Gas Transmission, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas Transmission, or National Gas Transmission becomes liable to pay any amount to any third party, and provided that at all times National Gas Transmission will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

(a) bear and pay on demand accompanied by an appropriately detailed invoice or claim from National Gas Transmission the cost reasonably and properly incurred by National Gas Transmission in making good such damage or restoring the supply; and

(b) indemnify National Gas Transmission for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas Transmission, by reason or in consequence of any such damage or interruption or National Gas Transmission becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas Transmission.

(2) The fact that any act or thing may have been done by National Gas Transmission on behalf of the undertaker or in accordance with a plan approved by National Gas Transmission or in accordance with any requirement of National Gas Transmission or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Gas Transmission fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

(a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas Transmission, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas Transmission as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 41; and/or

(c) any indirect or consequential loss of National Gas Transmission or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(4) National Gas Transmission must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas Transmission must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas Transmission must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas Transmission's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is

outside of National Gas Transmission's control and if reasonably requested to do so by the undertaker National Gas Transmission must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Gas Transmission or in respect of which National Gas Transmission has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Gas Transmission's apparatus until the following conditions are satisfied:

(a) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same to the undertaker in writing; and

(b) unless and until National Gas Transmission is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Gas Transmission that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas Transmission has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with paragraph 41(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Gas Transmission from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

42. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas Transmission and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas Transmission in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

43.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas Transmission requires the removal of apparatus under paragraph 37(2) or National Gas Transmission makes requirements for the protection or alteration of apparatus under paragraph 39, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Gas Transmission's undertaking and National Gas Transmission must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas Transmission's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to National Gas Transmission acting reasonably.

Access

44. If in consequence of the agreement reached in accordance with paragraph 36(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas Transmission to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

45. Save for differences or disputes arising under paragraph 37(2), 37(4), 38(1) and 39 any difference or dispute arising between the undertaker and National Gas Transmission under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas Transmission, be determined by arbitration in accordance with article 49 (arbitration).

Notices

46. Notwithstanding article 46 (service of notices), any plans submitted to National Gas Transmission by the undertaker pursuant to this Part must be submitted to https://lsbud.co.uk/ or such other address as National Gas Transmission may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 5

For the protection of Cadent Gas Limited

Application

47. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

48. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance**"** means a third party liability insurance effected and maintained by the undertaker to a level of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance must be maintained for the construction and use period of the authorised development which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an "acceptable credit provider", such policy must include (but without limitation):

(a) a cross liabilities clause;

(b) a waiver of subrogation in favour of Cadent; and

(c) contractors' pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either:

(d) (a) evidence provided to Cadent's reasonable satisfaction that the Undertaker has a tangible net worth of not less than £50,000,000.00 (Fifty Million Pounds (or an equivalent financial measure); or

(e) (b) a bank bond or letter of credit from an acceptable credit provider in favour of Cadent Gas Limited to cover the undertaker's liability to Cadent for an amount of not less than £50,000,000 (fifty million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to Cadent);

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic reasonable protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as is given to the term “authorised development” in article 2(1) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” and “commencement” means carrying out a material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or for the purposes of the authorised development (including but not limited to) any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, and erection of construction plant and equipment, other than erection of fencing to site boundaries or marking out of site boundaries, installation of amphibian and reptile fencing, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if Cadent’s existing apparatus was authorised development and as if the term maintain includes protect and use;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"protective works" means the underpinning, strengthening and any other works the purpose of which is to prevent damage to or interference with Cadent's apparatus that may be caused by the carrying out, maintenance or use of the authorised development;

"rights" includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise; or

(c) include any of the activities that are referred to in CD/SP/SSW/22 Cadent's policies for safe working inproximity to gas apparatus Specification for safe working in the vicinity of Cadent Assets.

"undertaker" means the undertaker as defined in article 2 of this Order.

On Street apparatus

49.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) paragraphs 50, 55, and 57; and

(b) where sub-paragraph (2) applies, paragraphs 53 and 54.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Notwithstanding article 11 or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

(4) The Protective Provisions in this Part of this Schedule apply and take precedence over article 35 (statutory undertakers) and 36 (recovery of costs of new connections) of the Order which do not apply to Cadent.

Apparatus of Cadent in stopped up streets

50.—(1) Where any street is stopped up under articles 12 (temporary restriction of public rights of way), 13 (temporary restriction of use of streets), or Schedule 5 (public rights of way to be temporarily restricted), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 53.

(2) Subject to sub-paragraph (3) below, and notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 12 (temporary restriction of public rights of way), 13 (temporary restriction of use of streets), or Schedule 5 (public rights of way to be temporarily restricted), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street

as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

(3) In taking access pursuant to sub-paragraph (2) above, Cadent must:

(a) Comply with any plans produced by the undertaker pursuant to its obligations under the Construction (Design and Management) Regulations 2015; and

(b) Comply with all relevant health and safety legislation, guidance, protocols and procedures.

Protective works to buildings

51.—(1) The undertaker must exercise the powers conferred by article 21 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed) and if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in the view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall–

(a) (a) pay compensation to Cadent for any reasonable loss sustained by it; and

(b) (b) indemnify Cadent against all claims, demands, proceedings, reasonable costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption provided that at all times Cadent will be under an obligation to take all reasonable steps to mitigate its loss.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement, admission of liability or compromise thereof shall be made by Cadent, save in respect of any payment requirement under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

52.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure and/or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights,

agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 55 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ to the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 53 do not apply, the undertaker must—

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

53.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 53, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 54(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such position as may be agreed between Cadent and the undertaker or settled by arbitration.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

54.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent (in Cadent's reasonable opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent (in Cadent's reasonable opintion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's reasonable opinion), then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 14 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

55.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would:

(a) cause interference with or risk of damage to its apparatus; or

(b) prevent access to its apparatus at any time.

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent reasonably requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's reasonable satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 49 and 52 to 54 apply as if the removal of the apparatus had been required by the undertaker under paragraph 53(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent retains the right to carry out any further necessary protective works (in Cadent's reasonable opinion) for the safeguarding of its apparatus and can recover any such costs associated with the further protective works in line with paragraph 56.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) Sub-paragraph (14) at all times.

(13) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent Assets CAD//SP/SSW/22" and HSE's "HS(~G)47 Avoiding Danger from underground services.

Expenses

56.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, all charges, costs and expenses reasonably anticipated or reasonably and properly incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all reasonable costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 53(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

(g) any watching brief pursuant to sub-paragraph 55(6).

Indemnity

57.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party and provided that at all times Cadent will be under an obligation to take reasonable steps to mitigate its loss, the undertaker will—

(a) bear and pay on demand accompanied by an appropriately detailed invoice or claim from Cadent the cost reasonably and properly incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of sub-paragraph (1) unless

Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent Gas, its officers, servants, contractors or agents;

(b) any authorised development carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the Order) of the Order and subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Cadent must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) Cadent must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Cadent's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Cadent's control and if reasonably requested to do so by the undertaker Cadent must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker must not commence construction (and must not permit the commencement of such construction) of the authorised development on any land owned by Cadent or in respect of which Cadent has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres in any direction of Cadent's apparatus until the following condition are satisfied:

(a) unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and Cadent has confirmed the same to the undertaker in writing; and

(b) unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to Cadent that it shall maintain such acceptable insurance for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and Cadent has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 57(7) of this Part of this Schedule, nothing in this Part of this Schedule prevents Cadent from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

58. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

59.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 53(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 56, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

60. If in consequence of any agreement reached in accordance with paragraph 52(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction (in Cadent's reasonable opinion)..

Arbitration

61. Save for differences or disputes arising under sub-paragraphs 53(2) and 53(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 49 (arbitration).

Notices

62. Notwithstanding article 46 (service of notices) any plans submitted to Cadent by the undertaker pursuant to sub-paragraph 55(1) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 6

For protection of Railway Interests

63. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 77 of this Part of this Schedule, any other person on whom rights or obligations are conferred by that paragraph.

64. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (Licences) of the Railways Act l993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated

company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006 the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(a) the Railways Act 1993

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development; and

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

65.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

66.—(1) The undertaker must not exercise the powers conferred by—

(a) article 3 (Development consent etc. granted by the Order);

(b) article 5 (Power to maintain the authorised development);

(c) article 18 (Discharge of water);

(d) article 20 (Authority to survey and investigate the land);

(e) article 23 (Compulsory acquisition of land);

(f) article 25 (Compulsory acquisition of rights and restrictive covenants);

(g) article 26 (Statutory authority to override easements and other rights);

(h) article 27 (private rights)

(i) article 33 (Temporary use of land for carrying out the authorised development);

(j) article 34 (Temporary use of land for maintaining the authorised development);

(k) article 35 (Statutory undertakers);

(l) article 40 (Felling or lopping of trees and removal of hedgerows);

(m) article 41 (Trees subject to Tree Preservation Orders);

(n) the powers conferred by section 11(3) (power of entry) of the Compulsory Purchase Act 1965;

(o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

(q) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 35 (Statutory undertakers), article 26 (Statutory authority to override easements and other rights) or article 28 (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.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

67.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 49 (Arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of their disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(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, subject to Network Rail seeking consent from the undertaker (such matters to be in the undertaker's absolute discretion) and 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.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the reasonable expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

68.—(1) Any specified work and any protective works to be constructed by virtue of paragraphs 5(3) and 5(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 67;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(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 reasonable compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker in respect of-

(a) any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its employees, contractors or agents;

(b) any indirect or consequential loss of Network Rail or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interference, which is not reasonably foreseeable.

69. The undertaker must-

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

70. Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

71.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction or completion of a 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 (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 and 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.

(2) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 72(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(3) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

72. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 67(3) or in constructing any protective works under the provisions of paragraph 67(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

73.—(1) In this paragraph-

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 67(1) for

the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)-

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 67(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 67(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorized development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred –

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6) –

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 68.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 77(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the

implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 72(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 49 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

PART 7

For the protection of the Environment Agency

74.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

"Agency" means the Environment Agency;

"construction" includes execution, placing, altering, replacing, relaying and removal and excavation and "construct" and "constructed" is construed accordingly;

"drainage work" means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

"fishery" means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

"main river" has the same meaning given in section 113 of the Water Resources Act 1991;

"plans" includes sections, drawings, specifications, calculations and method statements;

"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

"sea defence" means any bank, wall, embankment (any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artifical, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority;

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within;

(a) 16 metres of the base of a sea defence and which is likely to –

(i) endanger the stability of, cause damage or reduce the effectiveness of that sea defence, or

(ii) interfere with the Agency's access to or along that sea defence;

(b) 8 metres of the base of a remote defence and which is likely to –

(i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or

(ii) interfere with the Agency's access to or along that remote defence;

(c) 8 metres of a drainage work or is otherwise likely to—

(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(ii) affect the flow, purity or quality of water in any watercourse or other surface waters

(iii) cause obstruction to the free passage of fish or damage to any fishery;

(iv) affect the conservation, distribution or use of water resources; or

(v) affect the conservation value of the main river and habitats in its immediate vicinity;

(d) or which involves:

(e) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(f) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work;

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

Submission and approval of plans

75.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 95.

(3) Any approval of the Agency required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and

(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b)

(5) In the case of a refusal, if requested to do so the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

76. Without limiting paragraph 85 the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

(a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

77.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 86, must be constructed—

(a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and

(b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Schedule

78.—(1) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(2) Subject to sub-paragraph (3) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph (1) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with paragraph 95.

Maintenance of works

79.—(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 95.

(6) This paragraph does not apply to-

(a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and

(b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

80. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency access

81. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

Free passage of fish

82.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

(a) the construction of any specified work; or

(b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so

doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

83. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may incur —

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and

(c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

84.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

(a) the authorised development; or

(b) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or

(c) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (1)—

"costs" includes—

(i) expenses and charges;

(ii) staff costs and overheads;

(iii) legal costs;

"losses" includes physical damage.

"claims" and "demands" include as applicable—

(iv) costs (within the meaning of sub-paragraph ((2)(i)) incurred in connection with any claim or demand;

(v) any interest element of sums claimed or demanded;

"liabilities" includes—

(vi) contractual liabilities;

(vii) tortious liabilities (including liabilities for negligence or nuisance);

(viii) liabilities to pay statutory compensation or for breach of statutory duty;

(ix) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

(6) Nothing in this paragraph shall impose any liability on the undertaker in respect of-

(a) any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents;

(b) any indirect or consequential loss of the Agency or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption).

Disputes

85. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 49 (arbitration), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 8

For the protection of Northern Powergrid (Yorkshire) Plc

86. For the protection of Northern Powergrid (Yorkshire) Plc the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid (Yorkshire) Plc.

87. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Northern Powergrid to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by Northern Powergrid and includes any structure in which apparatus is or is to be lodged or which gives or will give access to Northern Powergrid to such apparatus;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed and shall include any measures proposed by the undertaker to ensure the grant of sufficient land or rights in land necessary to mitigate the impacts of the works on the apparatus or Northern Powergrid's undertaking within the Order Limits and

"Northern Powergrid" means Northern Powergrid (Yorkshire) Plc (Company number 04112320) whose registered office is at Lloyds Court, 78 Grey Street, Newcastle Upon Tyne, NE1 6AF.

88. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northern Power grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

89. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 13 (temporary restriction of use of streets), Northern Powergrid is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

90. Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference, the undertaker must not acquire any apparatus or override any easement or other interest of Northern Powergrid or acquire any other interest of Northern Powergrid or create any new rights over the same otherwise than by agreement of Northern Powergrid such agreement

not to be unreasonably withheld or delayed (having regard to Northern Powergrid's existing and known future requirements for such land or interests).

91. Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not interfere with any communications cables or equipment used by Northern Powergrid in relation to its apparatus or acquire or interfere with rights or interest supporting the use, maintenance or renewal of such equipment other than by agreement of Northern Powergrid (such agreement not to be unreasonably withheld or delayed) .

92.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided pursuant to a completed easement which shall include rights to retain and subsequently maintain the apparatus being replaced or diverted and any access rights to it for the lifetime of that alternative apparatus all to the reasonable satisfaction of Northern Powergrid in accordance with sub- paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by the Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed:

(a) the undertaker must in the first instance use reasonable endeavours to acquire all necessary land interests or rights as Northern Powergrid may reasonably require for the relocation and construction of alternative apparatus and must use reasonable endeavours to procure all necessary rights to access and maintain Northern Powergrid's apparatus and alternative apparatus thereafter the terms of such access and maintenance to be agreed by Northern Powergrid (acting reasonably); and

(b) In the event that the undertaker is not able to procure the necessary land interest or rights referred to in the sub-paragraph (3)(a)Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Northern Powergrid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with the Order.

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with the Order, and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

93.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with Order.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

94.—(1) Not less than 90 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under the Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 102(2), the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed and any such information as Northern Powergrid reasonably requires relating to those works.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Northern Powergrid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Northern Powergrid is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Northern Powergrid under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If Northern Powergrid in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 96 to 104 apply as if the removal of the apparatus had been required by the undertaker under paragraph (2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 35 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Northern Powergrid notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

95.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within 50 days of receipt of an itemised invoice or claim the reasonable expenses incurred by Northern Powergrid—

(a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 105(2); and

(b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all, provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 105(1) having first decommissioned such apparatus.

(2) Where any payment falls due pursuant to paragraph 105(1), NPG shall:

(i) provide an itemised invoice or reasonable expenses claim to the Undertaker; and

(ii) provide ‘reminder letters’ to the undertaker for payment to be made within the 50 days on the following days after the invoice or reasonable expenses claim to the undertaker:

(aa) 15 days (‘reminder letter 1’)

(bb) 29 days (‘reminder letter 2’)

(cc) 43 days (‘reminder letter 3’)

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with the Order to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which would be payable to Northern Powergrid by virtue of sub-paragraph (1) will reflect a reasonable price based on appropriate and proportionate apparatus being obtained.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 105(2); and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

96.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction use maintenance or failure of any of the works referred to in paragraph 105(2) by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker or Northern Powergrid under this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party, and provided that at all times Northern Powergrid will be under an obligation to take reasonable steps to mitigate its loss, the undertaker must—

(a) bear and pay on demand accompanied by an appropriately detailed invoice or claim from Northern Powergrid the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and

(b) indemnify Northern Powergrid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Northern Powergrid, by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, employees, servants, contractors or agents; or

(b) any authorised development and/or other works authorised by this Part of this Schedule carried out by Northern Powergrid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7

(Benefit of this Order) subject to the proviso that once such works become apparatus ("new apparatus") any works yet to be executed by the undertaker and not falling within this paragraph will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such new apparatus; and/or

(c) any indirect or consequential loss of Northern Powergrid or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(3) Northern Powergrid must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Northern Powergrid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(5) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 105 applies. If requested to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1). The undertaker shall only be liable under this paragraph 106 for claims reasonably incurred by Northern Powergrid.

(6) The fact that any act or thing may have been done by Northern Powergrid on behalf of the undertaker or in accordance with a plan approved by Northern Powergrid or in accordance with any requirement of Northern Powergrid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (2) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skillful and workman like manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and the Northern Powergrid.

97. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which the Order is made.

98. Any difference or dispute arising between the undertaker and Northern Powergrid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Northern Powergrid Transmission, be determined by arbitration in accordance with article 49 (arbitration).

99.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 102 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 104, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid's apparatus taking into account the undertakers desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use best endeavours to cooperate with each other for these purposes.

(2) For the avoidance of doubt whenever Northern Powergrid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed and any action, decision, cost and/or expense which may be claimed under this Part of this Schedule shall at all times be subject to Northern Powergrid acting reasonably

100. The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at property@northernpowergrid.com or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

101. Prior to carrying out any works within the Order Limits (as defined in the Order) Northern Powergrid must give written notice of the proposed works to the undertaker, such notice to include full details of the location of the proposed works, their anticipated duration, access arrangements, depths of the works, and any other information that may impact upon the works consented by the Order.

102. Where practicable, the Undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction operation and maintenance of the authorised development. Such liaison shall be carried out where any works are:

(a) within 15m of any above ground apparatus and / or

(b) are to a depth of between 0 – 4m below ground level.

PART 9

For the protection of National Highways Limited

Application etc.

103.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 which shall continue to apply in respect of the exercise of all National Highways' statutory functions.

Interpretation

104.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

"acceptable credit provider" means a United Kingdom based bank or financial institution that transacts under the law of England and Wales with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard and Poor's Ratings Group or Fitch Ratings, or (ii) "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable security" means a bank bond or letter of credit from an acceptable credit provider in favour of National Highways to cover the undertaker's liability to National Highways for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to National Highways).

"as built information" means one electronic copy of the following information as applicable:—

(a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;

(b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);

(c) product data sheets and technical specifications for all materials used;

(d) as constructed information for any utilities discovered or moved during the works;

(e) method statements for the works carried out;

(f) organisation and methods manuals for all products used;

(g) as constructed programme;

(h) test results and records as required by the detailed design information and during construction phase of the project;

(i) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways; and

(j) the health and safety file; and

(k) such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highways' Data Management Manual as is in operation at the relevant time, insofar as the undertaker has all necessary rights to provide the same;

"condition survey" means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

"contractor" means any contractor or subcontractor appointed by the undertaker to carry out the specified;

"detailed design information" means such of the following drawings specifications and calculations as are relevant to the specified works:—

(l) site clearance details;

(m) boundary, environmental and mitigation fencing;

(n) road restraints systems and supporting road restraint risk appraisal process assessment;

(o) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways;

(p) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;

(q) highway structures and any required structural approval in principle;

(r) landscaping;

(s) proposed departures from DMRB standards;

(t) walking, cycling and horse-riding assessment and review report;

(u) stage 1 and stage 2 road safety audits and exceptions agreed;

(v) utilities diversions;

(w) topographical survey;

(x) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;

(y) health and safety information including any asbestos survey required by GG105 or any successor document; and

(z) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

"defects period" means a period of twelve months commencing from the date of completion of a specific work.

"DMRB" means the Design Manual for Roads and Bridges or any replacement or modification of it;

"the health and safety file" means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

"nominated persons" means the undertaker's representatives or the contractor's representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

"programme of works" means a document setting out the sequence and timetabling of the specified works;

"road safety audit" means an audit carried out in accordance with the road safety audit standard;

"road safety audit standard" means DMRB Standard HD GG119 or any replacement or modification of it;

"road space booking" means road space bookings in accordance with National Highways' Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

"specified works" means so much of any work, including highway works, authorised by this Order including any maintenance of that work, as is undertaken on, in, under or over the strategic road network for which National Highways is the highway authority;

"Specification for Highways Works" means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

"strategic road network" means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway for which National Highways is the highway authority; and

"utilities" means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991.

General

105.—(1) References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

(2) No works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road network at a distance within 4 metres of the lowest point of any services and/or drainage under the highway.

(3) All works associated with the construction and installation of the pipeline pursuant to Work No.03 and Work No.08 shall, in so far as those works cross the strategic road network, be carried out by trenchless methods unless otherwise agreed by National Highways.

Prior approvals

106.—(1) The specified works must not commence until:—

(a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;

(b) the programme of works has been approved by National Highways;

(c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—

(i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);

(ii) details of the proposed road space bookings;

(iii) the identity and suitability of the contractor and nominated persons;

(iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker; and

(v) information demonstrating that the walking, cycling and horse-riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding;

(d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;

(e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(iv) above; and

(f) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways.

(2) Except where an approval has otherwise been provided under this Part, the undertaker must not exercise:—

(a) article 5 (power to maintain the authorised development);

(b) article 9 (street works);

(c) article 10 (power to alter layout, etc. of streets)

(d) article 12 (temporary restriction of public rights of way);

(e) article 13 (temporary restriction of use of streets);

(f) article 14 (access to works);

(g) article 17 (traffic regulation);

(h) article 18 (discharge of water);

(i) article 20 (authority to survey and investigate land);

(j) article 21 (protective works to buildings);

(k) article 23 (compulsory acquisition of land);

(l) article 25 (compulsory acquisition of rights);

(m) article 32 (rights under or over streets);

(n) article 33 (temporary use of land for carrying out the authorised project);

(o) article 34 (temporary use of land for maintaining the authorised project); or

(p) article 40 (felling or lopping trees or removal of hedgerows) of this Order,

over any part of the strategic road network.

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraphs (1) or (2).

(4) National Highways must within 56 days of the undertaker requesting National Highways' approval pursuant to sub-paragraphs (1) and (2):—

(a) intimate their approval;

(b) intimate their refusal together with reasons for refusal; or

(c) request more time to intimate approval or refusal pursuant to sub-paragraphs (a) or (b).

(5) In the event National Highways requests more time pursuant to sub-paragraph (4)(c), the undertaker may:—

(a) approve that request; or

(b) require that the person identified to the undertaker pursuant to sub-paragraph (3) meets with the undertaker's project director to discuss the request for approval.

(6) Any approval of National Highways required under this paragraph 196:—

(a) must be given in writing; and

(b) may be subject to any conditions as National Highways considers reasonably necessary.

(7) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways as soon as reasonably practicable and in any event within 7 days and details of their suitability to deliver the specified works will be provided on request.

(8) Any change to the detailed design of the specified works must be approved by National Highways in accordance with sub-paragraph 196(4) of this Part.

Construction of the specified works

107.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the satisfaction of National Highways in accordance with—

(a) the relevant detailed design information and programme of works approved pursuant to paragraph 196(1) above or as subsequently varied by agreement between the undertaker and National Highways;

(b) in so far as it may be applicable, the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as may reasonably be required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual, and the Traffic Signs Regulations and General Directions 2016, save to the extent that exceptions from those standards apply which have been approved by National Highways; and

(c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of National Highways.

(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(5) If any part of the specified works is constructed-

(a) other than in accordance with the requirements of this Part of this Schedule; or

(b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways, National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways acting reasonably.

(6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may carry out steps required to remedy the damage and may recover any expenditure reasonably incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(7) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior

notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing. Notwithstanding the foregoing, National Highways will inform the undertaker of any such works or action as soon as reasonably practicable.

(8) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities (where required to prevent unreasonable interference or damage) and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the satisfaction of National Highways acting reasonably.

(9) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to paragraph 196(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

(10) Powers granted to National Highways to undertake any works under this paragraph include works to make safe an area but do not include powers to undertake any works to, the pipeline or any works which could conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

Payments

108.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways reasonably incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works, including:—

(a) the checking and approval of the information required under this Part;

(b) the supervision of the specified works;

(c) all legal and administrative costs and disbursements incurred by National Highways in connection with the specified works and sub-paragraphs (a) and (b); and

(d) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs;

together comprising "the NH costs".

(2) National Highways must within 14 days of receipt of the information pursuant to sub-paragraph 196(1) provide the undertaker with a schedule showing its estimate of the NH costs.

(3) The undertaker must within 30 days of receipt of the notice pursuant to sub-paragraph (2) pay to National Highways the estimate of the NH costs.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs notified pursuant to sub-paragraph (2) it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate (the "excess").

(5) The undertaker must within 30 days of receipt of the notification pursuant to sub-paragraph (4) pay to National Highways an amount equal to the excess.

(6) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above as a fully itemised invoice within 30 days of the undertaker notifying to National Highways that a specified work has been completed.

(7) Within 30 days of the issue of the final account:

(a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; and

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(8) The undertaker must pay to National Highways within 30 days of receipt and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the specified works.

Completion of a specified work

109.—(1) The undertaker must within 28 days of completion of a specified work arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed including a renewed geotechnical assessment required by DMRB CD622 and must submit the re-survey to National Highways for its approval.

(2) If the re-surveys carried out pursuant to sub-paragraph 199(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing, which must not be unreasonably withheld or delayed, and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph 199(1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(6) The undertaker must within 28 days of completion of any specified works submit to National Highways the as built information in relation to those works.

(7) A defects period shall commence following completion of a specified work during which time the undertaker must, at its own expense, remedy any defects in the SRN as are reasonably required by National Highways. All identified defects must be remedied in accordance with the following timescales—

(a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);

(b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and

(c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

Security

110. No specified work shall commence until the undertaker has first provided the acceptable security in favour of National Highways, and provided evidence (to the reasonable satisfaction of National Highways) that it shall maintain such acceptable security for the construction period of the specified works from the proposed date of commencement of the specified works until no earlier than the end of the defects period.

Insurance

111. Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £10,000,000 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of the specified works.

Indemnity

112.—(1) The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any loss arising out of or in consequence of any negligent act or default of National Highways or its officers servants agents or contractors or any person or body for which it is responsible; or

(b) any indirect or consequential loss of National Highways or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption).

Maintenance of the specified works

113.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days in advance of the planned commencement date of the maintenance works.

Land

114.—(1) The undertaker must not under the powers of this Order:

(a) acquire or use land forming part of;

(b) acquire new or existing rights over; or

(c) seek to impose or extinguish any restrictive covenants over;

any of the strategic road network, or extinguish any existing rights of National Highways in respect of any third-party property, except with the consent of National Highways such not to be unreasonably withheld or delayed by written request to legalservicesteam@nationalhighways.co.uk.

Expert Determination

115.—(1) Subject to the provisions of this paragraph, article 49 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Co-operation

116.—(1) Where in consequence of the proposed construction of any part of the authorised development, National Highways makes requirements for the protection of the SRN under paragraph 198, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety of the authorised development and taking into account the need to ensure the safety of National Highways' undertaking and National Highways must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Highways' consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

PART 10

For the protection of Anglian Water

Application

117. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

118. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited;

"apparatus" means:

(a) any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

On street apparatus

119. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

120. Regardless of the temporary stopping up or diversion of any highway under the powers conferred by articles 12 (temporary restriction of public rights of way) and 13 (temporary restriction of use of streets), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

121. The undertaker, in the case of the powers conferred by article 2 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

122. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

123.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 134.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are

mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

124.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations (England and Wales) 2016 or other legislation.

Retained apparatus

125.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 133(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 127 to 129 and 165 to 135 apply as if the removal of the apparatus had been required by the undertaker under paragraph 133(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres and

(c) a distance to be agreed on a case by case basis and before the submission of the plan submitted under sub-paragraph (1) (but which distance, for the avoidance of doubt, shall not exceed 7 metres) where the diameter of the pipe exceeds 400 millimetres..

Expenses and costs

126.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Anglian Water in respect of works by virtue of sub-paragraph (1), 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 Anglian Water any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

Indemnity

127.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 128 or 130(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, penalties and costs to which the provisions of this Schedule 9 Part 10 apply. If requested to do so by the undertaker, Anglian Water must provide an explanation of how any claim has been minimised. The undertaker shall not be liable under paragraph 137 for claims unreasonably incurred by Anglian Water

(4) Nothing in this paragraph imposes any liability on the undertaker with respect to:

(a) (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents; or

(b) any indirect or consequential loss of Anglian Water or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(5) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

128. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 133(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 135, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

129. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

130. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 11

For the protection of Phillips 66 Limited

Application

131. For the protection of P66 (as referred to in this Part of this Schedule) the following provisions have effect, unless otherwise agreed in writing between the undertaker and P66.

Interpretation

132.—(1) In this Part of this Schedule—

"affected assets" means apparatus owned or operated by P66 on or above ground which in the reasonable opinion of P66 would have the potential to be physically affected by the relevant works;

"apparatus" means any part of the pipelines and includes-

(a) any structure existing at the time when a particular action is to be taken under this Part of this Schedule in which apparatus is or is to be lodged or which will give access to apparatus;

(b) any cathodic protection, coating or special wrapping of the apparatus; and

(c) all ancillary apparatus properly appurtenant to the pipelines, that would be treated as being associated with a pipe or systems of pipes under section 65(2) of the Pipe-Lines Act 1962, as if the pipelines were a "pipe-line" in section 65(1) of that Act;

"damage" includes all damage including in relation to a pipeline leakage and the weakening of the mechanical strength of a pipeline;

"engineer" means an engineer appointed by P66 for the purposes of this Order;

"HOR" means the Humber Oil Refinery which at the date of this Order is owned and operated by P66;

"P66" means Phillips 66 Limited (Company number 00529086) and any subsequent owner of the pipelines or HOR;

"P66 address" means the postal address details to be provided pursuant to paragraph 240;

"P66 email" means the email address details to be provided pursuant to paragraph 240;

"pipelines" means the pipelines owned and operated by P66 located within the multi-pipeline rack on the north side of A1173 Manby Road and all ancillary apparatus including such works and apparatus properly appurtenant to the pipelines as are specified by section 65(2) of the Pipe-lines Act 1962;

"protected land" means such parts of the Order land as is within 30 metres of the pipelines;

"relevant work" means a work which may have an effect on the operation, maintenance, abandonment of or access to any of the pipelines; and

"works details" means the following-

(a) a description of the proposed works together with plans and sections of the proposed works where such plans and sections are reasonably required to describe the works concerned or their location;

(b) details of the undertaker and their principal contractors management of change procedures;

(c) details of the traffic management plan, which plan must include details of vehicle access routes for construction and operational traffic and which must assess the risk from vehicle movements and include safeguards to address identified risks;

(d) details of the electrical design of the authorised works in sufficient detail to allow an independent specialist to assess whether AC interference from the authorised development may cause damage to any of the pipelines;

(e) details of the means by which the pipelines can be properly inspected and if necessary repaired during the construction and operation of the authorised development;

(f) details of the assessment and monitoring work to be undertaken both prior to the construction of the authorised development and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system and the proposed remedial works;

(g) any further particulars provided in accordance with paragraph 223(3);

Authorisation of works details affecting pipelines or protected crossings

133.—(1) Before commencing any part of a relevant work the undertaker must submit the works details to P66 in accordance with paragraph 224.

(2) The works details submitted under sub-paragraph (1) will be treated as having been received by P66 on the date-

(a) that the undertaker obtains written acknowledgement of receipt from P66; or

(b) two clear working days following the date that the work details were submitted under sub paragraph (1),

whichever is earliest.

(3) The undertaker must as soon as reasonably practicable provide such further particulars as P66 may, within 30 days from the receipt of the works details under sub-paragraph (2), reasonably require.

134. No part of a relevant work is to be commenced until one of the following conditions has been satisfied-

(a) the works details supplied in respect of that relevant work under paragraph 223 have been authorised by P66; or

(b) the works details supplied in respect of that relevant work under paragraph 223 have been authorised by an expert under paragraph 226(2).

135.—(1) Any authorisation by P66 required under paragraph 224(a) must not be unreasonably withheld but may be given subject to such reasonable conditions as P66 may require to be made for-

(a) the continuing safety and operation or viability of the affected asset; and

(b) the requirement for P66 to have-

(i) uninterrupted and unimpeded emergency access with or without vehicles to the affected asset at all times; and

(ii) reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operation or viability of the affected asset.

(2) Where P66 can reasonably demonstrate that the authorised development will significantly adversely affect the safety of the pipelines it is entitled to withhold its authorisation until the undertaker can demonstrate to the reasonable satisfaction of P66 that the authorised development will not significantly adversely affect the safety of the pipelines.

(3) The authorised development must be carried out in accordance with the works details authorised under paragraph 224 and any conditions imposed on the authorisation under sub-paragraph (1).

(4) Where there has been a reference to an expert in accordance with paragraph 226 and the expert gives authorisation, the authorised development must be carried out in accordance with the authorisation and conditions contained in the award of the expert under paragraph 226(2).

136.—(1) In the event that-

(a) the undertaker considers that P66 has unreasonably withheld its authorisation under paragraph 225(1); or

(b) the undertaker considers that P66 has given its authorisation under paragraph 225(1) subject to unreasonable conditions,

the undertaker may refer the matter to an expert for determination under paragraph 239.

(2) Where the matter is referred to an expert under paragraph 6(1) the expert is to determine whether or not authorisation should be given and, if so, the conditions which should reasonably be attached to the authorisation under sub-paragraphs (a) and (b) of paragraph 225(1).

(3) Where the undertaker considers that P66 has unreasonably withheld its authorisation under paragraph 225(2) then the matter may be referred to an expert on the application of either party (after giving notice in writing to each other) appointed by the secretary of the United Kingdom Onshore Pipeline Association for determination under paragraph 239.

Notice of works

137. The undertaker must provide to P66 a minimum of 28 days notice prior to commencing any relevant work in order that an engineer can be made available to observe the relevant works and, when required, advise on the necessary safety precautions.

Further provisions about works

138.—(1) Before carrying out a relevant work the undertaker must

(a) Provide P66 with baseline data for any existing cathodic protection of the affected asset; and

(b) Carry out a pipeline settlement and stress analysis to demonstrate any potential pipeline movement will not present an integrity risk to the affected asset.

(2) A minimum clearance of 1500 millimetres must be maintained between any part of the authorised development and any affected asset unless otherwise agreed with P66.

Monitoring for damage to pipelines

139.—(1) When carrying out the relevant work the undertaker must monitor the relevant affected assets to establish whether damage has occurred.

(2) Where any damage occurs to an affected asset as a result of the relevant work, the undertaker must immediately cease all work in the vicinity of the damage and must notify P66 to enable repairs to be carried out to the reasonable satisfaction of P66.

(3) If damage has occurred to an affected asset as a result of relevant work the undertaker will, at the request and election of P66-

(a) afford P66 all reasonable facilities to enable it to fully and properly repair and test the affected asset and pay to P66 its costs incurred in doing so including the costs of testing the effectiveness of the repairs and cathodic protection and any further works or testing shown by that testing to be reasonably necessary; or

(b) fully and properly repair the affected asset as soon as reasonably practicable, in which case the repairs must be properly tested by the undertaker and be shown to the satisfaction of P66 to have effectively repaired the affected asset before any backfilling takes place.

(4) If in the course of carrying out repairs under sub-paragraph (3)(a) or (3)(b) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement is not determined by arbitration to be necessary, then, if it involves cost in the execution of the repairs exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which would be payable to P66 under sub-paragraph (3)(a), or incurred by the undertaker under sub-paragraph (3)(b), by virtue of paragraph (3) will be reduced by the amount of that excess.

(5) Where testing has taken place under sub-paragraph (3)(b), the undertaker must (except where P66 agrees otherwise in writing) provide it with a copy of the results of such testing prior to any backfilling.

(6) Following the completion of a relevant work if damage is found to have occurred to an affected asset as a result of the relevant work, sub-paragraphs (2) to (4) of this paragraph apply to that damage.

(7) In relation to the approved assessment and monitoring work to be undertaken both prior to the construction of the authorised development and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system, the undertaker must undertake any necessary remedial work.

(8) In the event that the undertaker does not carry out necessary remedial work in a timely manner then P66 is entitled, but not obliged, to undertake the necessary remedial work and recover the cost of doing so from the undertaker.

140.—(1) If any damage occurs to a pipeline causing a leakage or escape from a pipeline, all work in the vicinity must cease and P66 must be notified immediately.

(2) Where there is leakage or escape of gas, the undertaker must immediately

(a) remove all personnel from the immediate vicinity of the leak;

(b) inform P66;

(c) prevent any approach by the public, extinguish all naked flames and other sources of ignition for at least 350 metres from the leakage; and

(d) assist emergency services as may be requested.

Compliance with requirements etc applying to the protected land

141.—(1) Subject to sub-paragraph (2), in undertaking any works in relation to the protected land or exercising any rights relating to or affecting owners of the protected land, the undertaker must comply with such conditions, requirements or regulations relating to health, safety, security and welfare as are operated in relation to access to or activities in the relevant land including without limitation Appendix K - Code of Practice for Safe Working in the vicinity or crossing of Phillips 66 Ltd's Pipelines and associated installations .

(2) The undertaker is not bound by any condition, requirement or regulation that is—

(a) introduced after the date on which notice of the works was given under paragraph 223; or

(b) determined by the expert following a determination under paragraph 239 to unreasonably—

(c) create significant engineering, technical or programming difficulties; or

(d) materially increase the cost of carrying out the works.

(e) Sub-paragraph (2) does not apply if the condition, requirement or regulation was introduced by way of legislation, direction or policy of the government, a relevant government agency, a local authority (exercising its public functions) or the police.

Restriction on exercising powers

142. The undertaker must in the exercise of the powers conferred by this Order at all times act so as to minimise, as far as reasonably practicable, any detrimental effects on P66, including any disruption to access and supplies of utilities and other services that are required by P66 in order to carry out its operations.

Insurance

143.—(1) Before carrying out any part of the authorised development on the protected land, the undertaker must put in place a policy of insurance with a reputable insurer against its liabilities under paragraph 235 subject to a minimum level of £200,000,000.00 (two hundred million pounds) per occurrence or series of occurrences arising out of one event, and evidence of that insurance must be provided on request to P66.

(2) The undertaker must maintain insurance in relation to the authorised development affecting P66 during the construction, operation, maintenance, repair and decommissioning of the authorised development.

Costs

144. The undertaker must repay to P66 all reasonable fees, costs, charges and expenses reasonably incurred by them in relation to these protective provisions in respect of-

(a) authorisation of works details submitted by the undertaker under paragraph 223 and the imposition of conditions under paragraph 224;

(b) the engagement of an engineer and their observation of the authorised works affecting the pipelines and the provision of safety advice under paragraph 227; and

(c) the repair and testing of a pipeline or protected crossing under paragraph 229;

(d) including the reasonable costs incurred by P66 in engaging and retaining such external experts, consultants and contractors as may be reasonably necessary to P66 to carry out its functions under these protective provisions.

Indemnity

145.—(1) The undertaker must indemnify and keep P66 indemnified against all reasonable costs, charges, damages and expenses-

(a) by reason of the construction, operation, maintenance, repair and decommissioning of the authorised development or the failure of it; 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 the construction, operation, maintenance, repair and decommissioning of the authorised development,

(2) The fact that any act or thing may have been done by P66 on behalf of the undertaker or in accordance with a plan approved by P66 or in accordance with any requirement of P66 or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless P66 fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

(a) any damage or interruption to the extent that it is attributable to the neglect or default of P66, its officers, servants, contractors or agents; and/or

(b) any indirect or consequential loss of P66 or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption.

(4) P66 must give the undertaker reasonable notice of any claim or demand under sub-paragraph (1) and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

(5) P66 must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) P66 must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within P66's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of P66's control and if reasonably requested to do so by the undertaker P66 must provide an explanation of how the claim has been minimised, where relevant.

(7) P66 must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule

Further protection in relation to the exercise of powers under the Order

146. The undertaker must give written notice to P66 if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 7 (benefit of the 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)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

147. The undertaker must, when requested to do so by P66, provide it with a complete set of the documents submitted to and certified by the Secretary of State in accordance with article 39 (certification of plans etc.) in the form of a computer disc with read only memory or such other format as may be agreed between the relevant parties.

148. Prior to the commencement of the authorised development the undertaker must prepare an emergency response plan following consultation with the local emergency services and provide a copy of that plan to P66.

Expert Determination

149.—(1) Except as provided in sub-paragraph (7), article 48 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must-

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the experts appointment;

(b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;

(c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant-

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;

(e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;

(f) the effects of the undertakers proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;

(g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;

(h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and

(i) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

Notices

150.—(1) P66 must as soon as reasonably practicable following a written request from the undertaker provide details of the P66 address and P66 email.

(2) A notice or other document required or authorised to be served on P66 under this Part of the Schedule must be served-

(a) by post to the P66 address; and

(b) by electronic transmission to the P66 email,

or to such other postal or electronic mail address which P66 may from time to time notify to the undertaker.

(3) In the event that P66 does not provide the P66 address and P66 email within 14 days of the undertaker's request pursuant to sub-paragraph (1) then sub-paragraph (2) does not apply and the undertaker must—

(a) serve any notice or document on P66 at its registered office; and

(b) send a copy of such notice or document to the HOR marked for the attention of the refinery manager.

PART 12

For the protection of Immingham Oil Terminal operators

Application

151. For the protection of the IOT Operators as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and IOT Operators.

Interpretation

152. In this Part of this Schedule—

"affected assets" means apparatus owned or operated by the IOT Operators on or above ground which in the reasonable opinion of the IOT Operators would have the potential to be physically affected by a relevant work;

"alternative apparatus" means alternative apparatus adequate to enable the IOT Operators to fulfil its functions in a manner not less efficient than previously;

"alternative rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of alternative apparatus including any restrictions on the landowner and occupiers for the protection of the alternative apparatus and to allow the IOT Operators to perform its functions;

"apparatus" means any part of the pipelines and includes—

(a) any structure existing at the time when a particular action is to be taken under this Part of this Schedule in which apparatus is or is to be lodged or which will give access to apparatus;

(b) any cathodic protection, coating or special wrapping of the apparatus; and

(c) all ancillary apparatus properly appurtenant to the pipelines, that would be treated as being associated with a pipe or systems of pipes under section 65(2) of the Pipe-Lines Act 1962, as if the pipelines were a "pipe-line" in section 65(1) of that Act;

(d) such legal interest, and benefit of property rights and covenants as are vested in respect of these items

"APT" means Associated Petroleum Terminals (Immingham) Limited (company number 00564394), whose registered office is at Queens Road, Immingham, Grimsby, North East Lincolnshire, DN40 2PN, and in all cases any successor in title;

"authorised development" has the same meaning as that given in article 2 (interpretation) and for the purposes of this Part of this Schedule;

"commence" has the same meaning as that given in article 2 of the Order (and "commencing" must be construed accordingly);

"damage" includes all and any damage including in relation to a pipeline leakage and the weakening of the mechanical strength of a pipeline;

"deed(s) of consent" means any deed of consent, crossing agreement, deed of variation or new deed agreed between the parties acting reasonably in order to vary or replace existing easements, leases, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain and operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"engineer" means an engineer appointed by the IOT Operators for the purposes of this Part of this Schedule;

"functions" includes powers and duties and commercial undertaking;

"HOTT" means Humber Oil Terminals Trustee Limited (company number 00874993), whose registered office is at Queens Road, Immingham, Grimsby, North East Lincolnshire, DN40 2PN, and in all cases any successor in title;

"IOT" means the pipe-line and storage system associated with the Immingham Oil Terminal;

"IOT Operators" means APT and HOTT, acting in their capacity as operators and owners of the IOT, and any subsequent owner(s) and operator(s) of the pipelines or IOT;

"IOT Operators address" means the postal address details to be provided pursuant to paragraph 258;

"IOT Operators email" means the email address details to be provided pursuant to paragraph 258;

"party" means the undertaker and the IOT Operators and "party" is to be construed accordingly;

"pipelines" means the whole or any part of the pipelines belonging to or maintained or operated by the IOT Operators located within the multi-pipeline rack on the north side of A1173 Manby Road and all ancillary apparatus including such works and apparatus properly appurtenant to the pipelines as are specified by section 65(2) of the Pipe-Lines Act 1962;

"plans" includes all designs, drawings, sections, specifications, method statement, soil reports, programmes, calculations, risks assessment and other documents that are reasonably necessary to allow the IOT Operators to assess the relevant works to be executed properly and sufficiently and in in particular must describe:

(a) the exact position of the works;

(b) the level at which the works are proposed to be constructed or renewed;

(c) the manner of the works' construction or renewal including details of excavation, position of plant etc;

(d) the position of the affected apparatus and/or premises and any other apparatus belonging to another undertaker;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regime;

(g) details of the proposed method of working and timing of execution of works; and

(h) details of vehicle access routes for construction and operational traffic.

"premises" means land within the Order limits that that the IOT Operators owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties;

"relevant work" means any works that will or may be situated over, or within 15 metres measured in any direction of any of the apparatus and/premises, or will or which may have an effect on the operation, maintenance, abandonment of or access to any of the apparatus and/or premises or involves a physical connection or attachment to any apparatus; and

"works details" means the following—

(a) a description of the proposed works together with plans and sections of the proposed works where such plans and sections are reasonably required to describe the works concerned or their location;

(b) details of the undertaker and their principal contractors' management of change procedures;

(c) details of the traffic management plan, which plan must include details of vehicle access routes for construction and operational traffic and which must assess the risk from vehicle movements and include safeguards to address identified risks;

(d) details of the electrical design of the relevant work in sufficient detail to allow an independent specialist to assess whether AC interference from the authorised development may cause damage to any of the pipelines;

(e) details of the means by which the pipelines can be properly inspected and if necessary repaired during the construction and operation of the authorised development; and

(f) details of the assessment and monitoring work to be undertaken both prior to the construction of the relevant work and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system and the proposed remedial works.

Acquisition of apparatus

153.—(1) Regardless of any other provision in the Order or anything shown on the land plans or if the Order covers any premises or interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed-

(a) The undertaker must grant the IOT Operators upon reasonable notice either (i) during the carrying out of any relevant works and/or (ii) following completion of the relevant works and during the operation of the authorised development access to any apparatus and/or premises for the purposes of inspection, maintenance and repair of such apparatus and upon reasonable notice. For the purposes of this subparagraph (a), 'apparatus' includes any connection into pipelines or associated infrastructure operated by the IOT Operators and/or any successor pipeline operator.

(b) The undertaker must not, otherwise than by agreement with the IOT Operators, acquire any apparatus or the right of the IOT Operators in respect of the apparatus;

(c) Where the undertaker acquires the freehold of any land in which the IOT Operators holds an interest, the undertaker must afford to or secure for the IOT Operators such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). These replacement rights must be granted upon substantially the same terms and conditions as the right(s) to be extinguished, unless otherwise agreed between the undertaker and the IOT Operators, and must be granted or out in place contemporaneously with the extinguishment of the rights which they replace;

(d) The undertaker must not, otherwise in accordance with this part of this Schedule:

(i) Obstruct or render less convenient the access to any apparatus or premises;

(ii) Interfere with or affect the ability of the IOT Operators to carry out its functions as an oil pipeline operator;

(iii) Require that apparatus is relocated or diverted; or

(iv) Remove or require to be remove any apparatus

(e) Any right of the IOT Operators to maintain, repair, renew, adjust, alter or inspect apparatus may not be extinguished until any necessary Alternative Apparatus has been constructed, it is in in operation and the Alternative Rights have been granted, all to the reasonable satisfaction of the IOT Operators

(f) Any rights of the IOT Operators to access the apparatus and/or premises must not be extinguished until necessary alternative access has been provided to the reasonable satisfaction of the IOT Operators.

(2) Prior to the carrying out of any works that will or may be situated over, or within 15 metres measured in any direction of any apparatus and/or premises or may or will conflict with or breach the terms of any easement or other legal or land interest of the IOT Operators or affect the provisions of any enactment or agreement regulating the relations between the IOT Operators and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the parties must as the IOT Operators reasonably require enter into such deeds of consent upon such terms and conditions as may be agreed between the parties acting reasonably and which must be no less favourable on the whole to the IOT Operators than this Schedule, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variation by all other third parties with an interest in the land at that time who are affected by such works.

Authorisation of works details affecting pipelines or protected crossings

154. Before commencing any part of a relevant work the undertaker must submit the works details to the IOT Operators and any other information that the IOT Operators may reasonably require to allow it to assess the works.

155. No part of a relevant work is to be commenced until one of the following conditions has been satisfied—

(a) the works details supplied in respect of that relevant work under paragraph 244 have been approved by the IOT Operators; or

(b) the works details supplied in respect of that relevant work under paragraph 244 have been authorised by an expert under paragraph 247.

156.—(1) Any approval by the IOT Operators under paragraph 244(a) must not be unreasonably withheld or delayed, and the IOT Operators must communicate its approval or refusal of the works details within 56 days of the date of submission of the works details under paragraph 244(1) above and any approval may be given subject to such reasonable requirements as the IOT Operators may require to be made for—

(a) the continuing safety and operational viability of any apparatus and/or premises; and

(b) the requirement for the IOT Operators to have—

(i) uninterrupted and unimpeded emergency access with or without vehicles to any apparatus and/or premises at all times; and

(ii) reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operational viability of any apparatus and/or premises.

(2) The relevant work must be carried out in such manner and in such position or situation as may be agreed between the IOT Operators and the undertaker including any reasonable requirements imposed on the approval by the IOT Operators

(3) The undertaker must grant the IOT Operators at all times, upon reasonable notice (except in the case of emergencies when no prior notice is required) access (with or without vehicles) to any apparatus and/or premises during the carrying out of any relevant works for the purposes of inspection, maintenance and repair of such apparatus and/or premises.

157.—(1) In the event that—

(a) the undertaker considers that the IOT Operators have unreasonably withheld their authorisation under paragraph 245(1); or

(b) the undertaker considers that the IOT Operators have given their authorisation under paragraph 245(1) subject to unreasonable conditions,

the undertaker may refer the matter for determination under paragraph 257.

(2) Where the matter is referred to an expert under paragraph 247(1) the expert is to determine whether or not authorisation should be given and, if so, the conditions which should reasonably be attached to the authorisation under sub-paragraphs (a) and (b) of paragraph 247(1).

(3) Where the undertaker considers that the IOT Operators has unreasonably withheld its authorisation under paragraph 247(1) then the matter may be referred to an expert on the application of either party (after giving notice in writing to each other) appointed by the secretary of the United Kingdom Onshore Pipeline Association for determination under paragraph 257.

Notice of works

158. The undertaker must provide to the IOT Operators a minimum of 28 days' notice prior to commencing any relevant work in order that an engineer can be made available to observe the relevant works and, when required, advise on the necessary safety precautions. The IOT Operators will be entitled to watch and inspect the execution of the relevant works at any time.

Monitoring for damage to pipelines

159.—(1) When carrying out the relevant work the undertaker must monitor at all times the relevant apparatus and/or premises to establish whether any loss or damage has occurred.

(2) Where any loss or damage occurs to any apparatus and/or premises as a result of the relevant work, the undertaker must immediately cease all work in the vicinity of the damage and must immediately notify the IOT Operators to enable repairs to be carried out to the reasonable satisfaction of the IOT Operators and at no cost to the IOT operators.

(3) If loss or damage has occurred to any apparatus or premises as a result of the relevant work (arising from or caused by the carrying out of the relevant work) the undertaker will, at the request and election of the IOT Operators—

(a) afford the IOT Operators all reasonable facilities to enable it to fully and properly repair and make good any damage to any apparatus and to test the any apparatus and to pay to the IOT Operators

(i) all and any of their costs incurred in doing so including the costs of testing the effectiveness of the repairs and cathodic protection and any further works or testing shown by that testing to be reasonably necessary;

(ii) all and any of the costs reasonably incurred by the IOT Operators in stopping, suspending and restoring the supply through its pipeline and make reasonable compensation to the IOT Operators for any other expenses, losses, damages, penalty or costs incurred by the IOT Operators by reason of or in consequence of any such damage or interruption provided that the same arises in consequence of the carrying out of any relevant works; or—

(b) fully and properly repair any relevant apparatus as soon as reasonably practicable, in which case the repairs must be properly tested by the undertaker and be shown to the reasonable satisfaction of the IOT Operators to have effectively repaired the relevant apparatus asset before any backfilling takes place.

(4) If in the course of carrying out repairs under sub-paragraph (3)(a) or (3)(b) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement is not determined by arbitration to be necessary, then, if it involves cost in the execution of the repairs exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which would be payable to the IOT Operators under sub-paragraph (3)(a), or incurred by the undertaker under sub-paragraph (3)(b), by virtue of paragraph (3) will be reduced by the amount of that excess.

(5) Where testing has taken place under sub-paragraph (3)(b), the undertaker must (except where the IOT Operators agree otherwise in writing) provide it with a copy of the results of such testing prior to any backfilling.

(6) Following the completion of a relevant work if damage is found to have occurred to an affected asset as a result of the relevant work, sub-paragraphs (2) to (4) above of this paragraph apply to that damage.

(7) In relation to the approved assessment and monitoring work to be undertaken both prior to the construction of the relevant work and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system, the undertaker must undertake any necessary remedial work.

(8) In the event that the undertaker does not carry out necessary remedial work in a timely manner then the IOT Operators are entitled, but not obliged, to undertake the necessary remedial work and recover all of the costs of doing so from the undertaker.

160.—(1) If any damage occurs to a pipeline causing a leakage or escape from a pipeline, all work in the vicinity must cease and the IOT Operators must be notified immediately.

(2) Where there is leakage or escape of flammable liquids, the undertaker must immediately—

(a) remove all personnel from the immediate vicinity of the leak;

(b) inform the IOT Operators;

(c) prevent any approach by the public, extinguish all naked flames and other sources of ignition for at least 350 metres from the leakage; and

(d) assist emergency services as may be requested.

161. Irrespective of anything to the contrary elsewhere in this protective provision-

(a) The undertaker and the IOT Operators must at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers as a result of the other's negligence or breach of this Part of this Schedule; and

(b) Neither the undertaker nor the IOT Operators are liable for any loss, damage, liability, claim, cost or expense suffered or incurred by the other to the extent that the same are incurred as a result of or in connection with the sole, partial or complete breach of this protective provision or negligence arising out of an act, omission, default or works of the other, its officers, servants, contractors or agents.

Costs

162. The undertaker must repay to the IOT Operators all fees, costs, charges and expenses reasonably and properly incurred by them in relation to these protective provisions in respect of—

(a) approval of works details submitted by the undertaker under paragraph 244 and the imposition of reasonable requirements under paragraph 246;

(b) the engagement of an engineer and their observation of the relevant work affecting the pipelines and the provision of safety advice under paragraph 248; and

(c) the repair and testing of a pipeline or protected crossing, and the costs of stopping, suspending and restoring supply, under paragraph 249,

including the reasonable costs incurred by the IOT Operators in engaging and retaining such external experts, consultants and contractors as may be reasonably necessary to the IOT Operators to carry out their functions under these protective provisions.

Indemnity and other provisions

163.—(1) The undertaker must indemnify and keep the IOT Operators indemnified against all reasonable loss, costs, charges, damages, liability and expenses reasonably suffered or incurred by the IOT Operators by reason of—

(a) the construction, operation, maintenance, repair and decommissioning of any relevant work carried out under this Part of this Schedule or the failure of it;

(b) the carrying out of the authorised development;

(c) the use or occupation of land over or in the vicinity of any apparatus or in the vicinity of any premises in connection with the carrying out of the authorised development;

(d) any matters arising directly out of or in connection with the Order; and

(e) any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction, operation, maintenance, repair and decommissioning of any relevant work.

(2) The fact that any act or thing may have been done by the IOT Operators on behalf of the undertaker or in accordance with a plan approved by the IOT Operators or in accordance with any requirement of the IOT Operators or under their supervision will not (unless sub-paragraph (3) below applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless the IOT Operators fail to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of the IOT Operators, their officers, servants, contractors or agents; and/or

(b) any indirect or consequential loss of the IOT Operators or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(4) The undertaker and the IOT Operators must at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Schedule.

(5) The undertaker warrants that:

(a) The information it or any of its employees, agents or contractors provide to the IOT Operators about the relevant works or the authorised development and on which the IOT Operators relies in the design of and carrying out of any of the relevant works is accurate; and

(b) The undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care, and diligence to be expected of a qualified and experienced member of their respective profession.

(6) The IOT Operators must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as they would as if settling third party claims on their own behalf from their own funds.

(7) The IOT Operators must give the undertaker reasonable notice of any claim or demand under sub-paragraph (1) above.

(8) The undertaker must not commence any relevant works unless and until the IOT Operators has confirmed to the undertaker in writing that it is satisfied (acting reasonably but subject to all necessary regulatory constraints) that the undertaker has procured acceptable public liability insurance with a reputable insurer against its liabilities in accordance with the terms and level of cover notified under sub-paragraph (9) or, in the case of dispute, in accordance with the terms and level of cover determined by an expert under paragraph 257 and evidence of that insurance must be provided on request to the IOT Operators.

(9) Not less than 30 days before commencing any relevant works or before proposing to change the terms of the insurance policy, the undertaker must notify the IOT Operators of details of the terms of the insurance policy that it proposes to put in place, including the proposed level of the cover to be provided.

(10) The undertaker must maintain insurance in relation to the authorised development affecting the IOT Operators during the construction, operation, maintenance, repair and decommissioning of the authorised development.

(11) If the IOT Operators has a dispute about the proposed insurance (including the terms or level of cover) to be provided under sub-paragraph (8)—

(a) The IOT Operators may refer the matter to an expert for determination under paragraph 257 and

(b) the undertaker may put in place an insurance policy it considers to be appropriate and continue with the authorised development at its own risk whilst the determination under paragraph 257 is complete, following which the undertaker must adjust the insurance policy if necessary to accord with the determination

Further protection in relation to the exercise of powers under the Order

164. The undertaker must give written notice to the IOT Operators if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 7 (benefit of the 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)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

165. The undertaker must, when requested to do so by the IOT Operators, provide it with a complete set of the documents submitted to and certified by the Secretary of State in accordance with article 45 (certification of plans etc.) in the form of a computer disc with read only memory or such other format as may be agreed between the relevant parties.

166. Prior to the commencement of the authorised development the undertaker must prepare an emergency response plan following consultation with the local emergency services and provide a copy of that plan to the IOT Operators.

Expert Determination

167.—(1) Except as provided for in sub-paragraph (7), article 49 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;

(c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;

(e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;

(f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;

(g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;

(h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and

(i) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49 (arbitration).

Notices

168.—(1) The IOT Operators must as soon as reasonably practicable following a written request from the undertaker provide details of the IOT Operators address and IOT Operators email.

(2) A notice or other document required or authorised to be served on the IOT Operators under this Part of this Schedule must be served—

(a) by post to the IOT Operators address; and

(b) by electronic transmission to the IOT Operators email,

or to such other postal or electronic mail address which the IOT Operators may from time to time notify to the undertaker.

(3) In the event that the IOT Operators do not provide the IOT Operators address and IOT Operators email within 14 days of the undertaker's request pursuant to sub-paragraph (1) then sub-paragraph (2) does not apply and the undertaker must—

(a) serve any notice or document on the IOT Operators at their registered offices; and

(b) send a copy of such notice or document to Immingham Oil Terminal marked for the attention of the terminal manager.

PART 13

For the protection of Air Products (BR) Limited

Application

169. For the protection of Air Products as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Air Products.

Interpretation

170. In this Part of this Schedule—

"affected assets" means apparatus owned or operated by Air Products on under or above ground which in the reasonable opinion of Air Products would have the potential to be affected by a relevant work;

"alternative apparatus" means alternative apparatus adequate to enable Air Products to fulfil its contractual obligations in a manner not less efficient than previously;

"apparatus" means any part of the pipelines and includes—

(a) any structure existing at the time when a particular action is to be taken under this Part of this Schedule in which apparatus is or is to be lodged or which will give access to apparatus;

(b) any cathodic protection, coating or special wrapping of the apparatus; and

(c) all ancillary apparatus properly appurtenant to the pipelines, that would be treated as being associated with a pipe or systems of pipes under section 65(2) of the Pipe-Lines Act 1962, as if the pipelines were a "pipe-line" in section 65(1) of that Act;

"Air Products" means Air Products Public Limited Company (company number 00103881), Air Products (BR) Limited (company number 02532156) and any subsequent owner of the pipelines;

"Air Products address" means the postal address details to be provided pursuant to paragraph 274;

"Air Products email" means the email address details to be provided pursuant to paragraph 274;

"damage" includes all damage including in relation to a pipeline leakage and the weakening of the mechanical strength of a pipeline;

"engineer" means an engineer appointed by Air Products for the purposes of this Part of this Schedule;

"facilities and rights" for construction and for maintenance including any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"pipelines" means the pipelines owned and operated by Air Products located within the multi-pipeline rack on the north side of A1173 Manby Road and all ancillary apparatus including such works and apparatus properly appurtenant to the pipelines as are specified by section 65(2) of the Pipe-Lines Act 1962;

"relevant work" means a work which may have an effect on the operation, maintenance, abandonment of or access to any of the apparatus, the removal of which has not been required by the undertaker under paragraph 262(2) or otherwise; and

"works details" means the following—

(a) a description of the proposed works together with plans and sections of the proposed works where such plans and sections are reasonably required to describe the works concerned or their location;

(b) details of the undertaker and their principal contractors' management of change procedures;

(c) details of the traffic management plan, which plan must include details of vehicle access routes for construction and operational traffic and which must assess the risk from vehicle movements and include safeguards to address identified risks;

(d) details of the electrical design of the relevant work in sufficient detail to allow an independent specialist to assess whether AC interference from the authorised development may cause damage to any of the pipelines;

(e) details of the means by which the pipelines can be properly inspected and if necessary repaired during the construction and operation of the authorised development;

(f) details of the assessment and monitoring work to be undertaken both prior to the construction of the relevant work and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system and the proposed remedial works; and

(g) any further particulars provided in accordance with paragraph 264(3).

Acquisition of land

171. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

172.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Air Products' apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of Air Products to maintain that apparatus in that land and gain access to it must not be extinguished, until alternative apparatus has been constructed, and is in operation and access to it has been provided, to the reasonable satisfaction of Air Products in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Air Products written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Air Products reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to Air Products to its reasonable satisfaction the necessary facilities and rights for the construction of alternative apparatus in other land secured by the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Air Products must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Air Products and the undertaker or in default of agreement settled by expert in accordance with paragraph 273.

(5) Air Products must, after the alternative apparatus to be provided or constructed has been agreed or settled through expert determination in accordance with paragraph 273 and after the grant to Air Products of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

Facilities and rights for alternative apparatus

173.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to or secures for Air Products facilities and rights in land for the construction and maintenance of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Air Products or in default of agreement settled by expert determination in accordance with paragraph 273.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the expert less favourable on the whole to Air Products than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to Air Products as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Authorisation of works details affecting pipelines or protected crossings

174.—(1) Before commencing any part of a relevant work, the undertaker must submit the works details to Air Products in accordance with paragraph 274.

(2) The works details submitted under paragraph 264(1) will be treated as having been received by Air Products on the date—

(a) that the undertaker obtains written acknowledgement of receipt from Air Products; or

(b) two clear working days following the date that the work details were submitted under paragraph 184(1),

whichever is earliest.

(3) The undertaker must as soon as reasonably practicable provide such further particulars as Air Products may, within 30 days from receipt of the works details under paragraph 264(2), reasonably require.

175. No part of a relevant work is to be commenced until one of the following conditions has been satisfied—

(a) the works details supplied in respect of that relevant work under paragraph 264 have been authorised by Air Products; or

(b) the works details supplied in respect of that relevant work under paragraph 264 have been authorised by an expert under paragraph 266(5).

176.—(1) Any authorisation by Air Products under paragraph 265(1)(a) must not be unreasonably withheld or delayed, and Air Products must communicate its approval or refusal of the works details within 56 days of the date of submission of the works details under paragraph184(1), and any authorisation may be given subject to such reasonable conditions as Air Products may require to be made for the purpose of securing its affected apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any affected apparatus.

(2) Where Air Products can demonstrate that the relevant work will adversely affect the safety or operation of the pipelines it is entitled to withhold its authorisation until the undertaker can demonstrate to the reasonable satisfaction of Air Products that the relevant work will not adversely affect the safety or operation of the pipelines.

(3) The relevant work must be carried out in accordance with the works details authorised under paragraph 265 and any conditions imposed on the authorisation by Air Products under paragraph 186(1).

(4) Where there has been a reference to an expert in accordance with paragraph 266(5) and the expert gives authorisation, the relevant work must be carried out in accordance with the authorisation and conditions contained in the award of the expert under paragraph 266(6).

(5) In the event that—

(a) the undertaker considers that Air Products has unreasonably withheld its authorisation under paragraph 185(1); or

(b) the undertaker considers that Air Products has given its authorisation under paragraph 185(1) subject to unreasonable conditions,

the undertaker may refer the matter to an expert for determination under paragraph 273.

(6) Where the matter is referred to an expert under paragraph 266(5) the expert is to determine whether or not authorisation should be given and, if so, the conditions which should reasonably be attached to the authorisation.

Notice of works

177. The undertaker must provide to Air Products a minimum of 28 days' notice prior to commencing any relevant work in order that an engineer can be made available to observe the relevant works and, when required, advise on the necessary safety precautions.

Carrying out work and monitoring for damage to pipelines

178. When carrying out the relevant work the undertaker must undertake the work in accordance with any works details approved in accordance with paragraph 185(1) and in accordance with such requirements as may be made in accordance with paragraph 186(1).

179.—(1) When carrying out the relevant work the undertaker must monitor the relevant affected assets to establish whether damage has occurred.

(2) Where any damage occurs to any affected asset as a result of the relevant work, the undertaker must immediately cease all work in the vicinity of the damage and must notify Air Products to enable repairs to be carried out to the reasonable satisfaction of Air Products.

(3) If damage has occurred to an affected asset as a result of the relevant work the undertaker will, at the request and election of Air Products—

(a) afford Air Products all reasonable facilities to enable it to fully and properly repair and test the affected asset and pay to Air Products costs incurred in doing so including the costs of testing the effectiveness of the repairs and cathodic protection and any further works or testing shown by that testing to be reasonably necessary; or

(b) fully and properly repair the affected asset as soon as reasonably practicable, in which case the repairs must be properly tested by the undertaker and be shown to the reasonable satisfaction of Air Products to have effectively repaired the affected asset before any backfilling takes place.

(4) If in the course of carrying out repairs under paragraph 269(3)(a) or 269(3)(b) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement is not determined by arbitration to be necessary, then, if it involves cost in the execution of the repairs exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which would be payable to Air Products under paragraph 269(3)(a), or incurred by the undertaker under paragraph 269(3)(b), by virtue of paragraph (3) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(5) Where testing has taken place under paragraph 269(3)(b), the undertaker must (except where Air Products agree otherwise in writing) provide it with a copy of the results of such testing prior to any backfilling.

(6) Following the completion of a relevant work if damage is found to have occurred to an affected asset as a result of the relevant work, paragraphs 269(2) to 189(4) of this paragraph apply to that damage.

(7) In relation to the approved assessment and monitoring work to be undertaken both prior to the construction of the relevant work and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system, the undertaker must undertake any necessary remedial work.

(8) In the event that the undertaker does not carry out necessary remedial work in a timely manner then Air Products is entitled, but not obliged, to undertake the necessary remedial work and recover the cost of doing so from the undertaker.

180.—(1) If any damage occurs to an affected asset causing a leakage or escape from a pipeline, all work in the vicinity must cease and Air Products must be notified immediately.

(2) Where there is leakage or escape of gas, the undertaker must immediately—

(a) remove all personnel from the immediate vicinity of the leak;

(b) inform Air Products;

(c) prevent any approach by the public, extinguish all naked flames and other sources of ignition for at least 350 metres from the leakage; and

(d) assist emergency services as may be requested.

Costs

181. The undertaker must repay to Air Products all fees, costs, charges and expenses properly incurred by them on an indemnity basis in relation to these protective provisions in respect of—

(a) obtaining necessary facilities and rights in the land in which the alternative apparatus is to be constructed under paragraph 262(3);

(b) authorisation of works details submitted by the undertaker under paragraph 264 and the imposition of conditions under paragraph 265;

(c) the engagement of an engineer and their observation of the relevant work affecting the pipelines and the provision of safety advice under paragraph 267; and

(d) the repair and testing of a pipeline or protected crossing under paragraph 269,

including the costs incurred by Air Products in engaging and retaining such external experts, consultants and contractors as may be necessary to Air Products to comply with the obligations and requirements set out in these protective provisions.

Indemnity

182.—(1) The undertaker must indemnify and keep Air Products indemnified against all expenses, loss, demands, proceedings, damages, claims, penalty and reasonably foreseeable indirect or consequential loss (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) and costs incurred by or recovered from Air Products—

(a) by reason of the construction, operation, maintenance, repair and decommissioning of any relevant work or the failure of it; 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 the construction, operation, maintenance, repair and decommissioning of any relevant work.

(2) The fact that any act or thing may have been done by Air Products on behalf of the undertaker or in accordance with a plan approved by Air Products or in accordance with any requirement of Air Products or under its supervision will not (unless paragraph 272(3) applies), excuse the undertaker from liability under the provisions of paragraph 272(1) unless Air Products fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in paragraph 272(1) shall impose any liability on the undertaker in respect of

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Air Products, its officers, servants, contractors or agents; and/or

(b) any indirect or consequential loss of Air Products or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(4) Air Products must give the undertaker reasonable notice of any claim or demand under paragraph 272(1) and no settlement or compromise of such a claim or demand is to be made without first consulting the undertaker and considering their representations.

(5) Air Products must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, use reasonable endeavours to mitigate its loss.

(6) Air Products must use its reasonable endeavours to mitigate any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Air

Products' reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Air Products' control.

Expert Determination

183.—(1) Except as provided for in paragraph 273(7), article 49 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;

(c) issue a decision within 42 days of receipt of the submissions under paragraph 273(5)(b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;

(e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;

(f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;

(g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;

(h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and

(i) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 49 (arbitration).

Notices

184.—(1) Air Products must as soon as reasonably practicable following a written request from the undertaker provide details of the Air Products address and Air Products email.

(2) A notice or other document required or authorised to be served on Air Products under this Part of this Schedule must be served—

(a) by post to the Air Products address; and

(b) by electronic transmission to the Air Products email,

or to such other postal or electronic mail address which Air Products may from time to time notify to the undertaker.

(3) In the event that Air Products do not provide the Air Products address and Air Products email within 14 days of the undertaker's request pursuant to paragraph 194(1) then paragraph 274(2) does not apply and the undertaker must serve any notice or document on Air Products at its registered office.

PART 14

FOR THE PROTECTION OF UNIPER UK LIMITED

185. For the protection of Uniper as referred to in this Part of this Schedule, the following provisions will, unless otherwise agreed in writing between the undertaker and Uniper, have effect.

186. In this part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than:

(i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and

(ii) (ii) "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means a third party liability insurance effected and maintained by the undertaker or its contractor with a limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event or such lower amount as approved by Uniper, whether arising pursuant to the undertaker or any person on its behalf. Such insurance must be maintained for the construction and operational period of the authorised development which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an "acceptable credit provider" (including any replacement insurance pursuant to sub-paragraph 194(6)), such policy must include—

(b) a waiver of subrogation and an indemnity to principal clause in favour of Uniper;

(c) contractors' pollution liability for third party property damage and third party bodily damage arising from pollution, contamination or environmental harm with cover of £10,000,000 (ten million pounds) per event or £20,000,000 (twenty million pounds) in aggregate;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of Uniper to cover the undertaker's liability to Uniper to a cap of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £25,000,000 (twenty five million pounds) (in a form reasonably satisfactory to Uniper and where required by Uniper, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and

be bound by the terms of such guarantee) including any replacement parent company pursuant to sub-paragraph 227(6); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of Uniper to cover the undertaker's liability to Uniper for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £25,000,000 (twenty-five million pounds) (in a form reasonably satisfactory to Uniper) which includes any replacement bank bond or letter of credit pursuant to sub-paragraph 194(6);

"alternative apparatus" means alternative apparatus to the satisfaction of Uniper to enable Uniper to fulfil its functions in a manner no less efficient than previously;

"apparatus" means—

(a) any fixed and moveable items, which forms, or may form, part of Uniper's system, including cavities, chambers, pipelines, valves, ventilators, pumps, compressors, pumping or compression systems, control systems and any associated cables (including high voltage, low voltage and datacoms) and any equipment in which electrical conductors are used, supported, or otherwise form, or may form, part of the system, cathodic protection systems, roads, compounds and equipment owned by Uniper; or

(b) any other equipment or apparatus belonging to or maintained by Uniper or apparatus and such other equipment or apparatus constructed that becomes operational for the purposes of Uniper's functions including any structure in which equipment or apparatus is, or will be, lodged or which gives, or will give, access to apparatus; or

(c) any replacement equipment or apparatus as required or determined by Uniper;

"as-built" records" means each as-built record or document prepared by the undertaker or delivered to the undertaker by its subcontractors or any other person carrying out the specified works;

"authorised development" has the same meaning as in article 2 of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Part of this Schedule;

"commence " has the same meaning as in article 2 of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include site preparation works, remediation works, environmental (including archaeological) surveys and investigation, site, utility or soil survey, erection of temporary fencing to site boundaries or marking out of site boundaries, installation of temporary amphibian and reptile fencing, the diversion or laying of services or environmental mitigation measures and any such temporary accesses that may be required in association with these;

"confidential information" means information exchanged during the negotiation or performance of this Part of this Schedule, which is identified in writing by the furnishing party as being confidential at the time of disclosure to the other party;

"emergency works" has the meaning given to it in section 52 of the 1991 Act;

"good industry practice" means exercising the degree of skill, diligence, prudence, foresight and care reasonably expected of a skilled and experienced solar developer, which includes obtaining all necessary permits and compliance with any safety rules;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"insolvency related event" means, in respect of any person, any step, process, application, filing in court, order, proceeding, notice or appointment is taken or made by or in respect of such person in relation to the Insolvency Act 1986 special resolution regime or for a moratorium, composition, compromise or arrangement with creditors, administration, liquidation (other than for the purposes of amalgamation or reconstruction), dissolution, receivership (administrative or otherwise), distress (or the taking control of goods procedure set out in the Tribunals, Courts and Enforcement Act 2007) or execution in any jurisdiction or such person becomes insolvent or is unable or is

deemed unable to pay its debts, suspends making payments on its debts, as they fall due in accordance with the law of any application jurisdiction;

"maintain" and "maintenance" includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Uniper including retain, lay, construct, use, maintain, repair, protect, access, alter, inspect, renew, replace, enlarge, decommission or remove the apparatus or alternative apparatus;

"parent company" means—

(a) a parent company of the undertaker acceptable to and which must have been approved by Uniper acting reasonably; or

(b) where a parent company is subject to an insolvency related event, a replacement parent company approved by Uniper acting reasonably;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and mitigation measures (including but not limited to integrity reports), earthing philosophies, proposed land and road crossings and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"representative" means Uniper's directors, officers, employees, agents, consultants and advisers;

"specified works" means any of the authorised development or activities undertaken in association with the authorised development which—

(a) will or may be situated over, under, across, along, upon or within 15 metres measured in any direction of any apparatus, excluding any high pressure pipelines to which paragraph (b) below shall apply;

(b) will or may be situated over, under, across, along, upon or within 50 metres measured in any direction of any high pressure pipeline; or

(c) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 225 or otherwise.

"Uniper" means Uniper UK Limited incorporated in England with company number 2796628 and Uniper UK Gas Limited incorporated in England with company number 02436332 and whose registered office is at Compton House 2300 The Crescent, Birmingham Business Park, Birmingham, England, B37 7YE.

187. Except for paragraphs 188 (apparatus of Uniper in stopped up streets), 191 (retained apparatus), 192 (removal or replacement of apparatus), 193 (expenses) and 197 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Uniper, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Uniper are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of Uniper in temporarily closed, altered or diverted streets

188. Regardless of the temporary closure, alteration or diversion of any street under the powers of article 12 (temporary restriction of use of streets), Uniper is at liberty at all times to take all necessary access across any such temporarily closed, altered or diverted street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary closure, alteration or diversion in respect of any apparatus which at the time of the temporary closure, alteration or diversion was in that street.

Protective works to buildings

189. The undertaker, in the case of the powers conferred by article 20 (protective works to buildings), must exercise those powers in accordance with paragraph 191 of this Part of this Schedule, so as not to obstruct or render less convenient the access to any apparatus or alternative apparatus.

Acquisition of land

190. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement with Uniper.

Retained apparatus

191.—(1) (1) Not less than 56 days before the commencement of the execution of any specified works the undertaker must submit to Uniper at the address stated in paragraph 199, a plan in respect of those works.

(2) The plan to be submitted to Uniper under sub-paragraph (1) must include all comprehensive risk assessments (including any quantitative risk assessments) and any method statement describing—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any changes to the land drainage systems, temporary crossing designs, traffic management plans, health and safety management plans, emergency response plans, planned changes or rerouting of any assets and their corresponding design codes, earth schedules and earthing risk assessments;

(g) any recommendations or mitigation measures to avoid interference with, or loss or damage to the apparatus (including damage caused by passing over the apparatus by heavy construction machinery) and related remedies should such mitigation measures fail;

(h) any intended maintenance regimes; and

(i) a programme of the works, including any proposed start dates and the anticipated duration of the works.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Uniper has given written approval of the plan so submitted and the undertaker and Uniper have used reasonable endeavours to carry out a joint site walk in the period 4 weeks before commencement of the works. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by Uniper, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

(4) Any approval of Uniper required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in subparagraphs (5) or (8); and

(b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraphs (1) or (2) apply, the undertaker must provide any additional information or documentation as reasonably requested by Uniper and Uniper may require modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (4) and (5), as approved or as amended from time to time by agreement between the undertaker and Uniper and in accordance with all conditions imposed under sub-paragraph 4(a) by Uniper for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Uniper (or its representative) is

entitled to attend any meetings related to the specified works and watch, monitor and inspect the execution of those works.

(7) If, during the carrying out of the authorised development, any aspect of it poses a risk of interference with or loss or damage to the apparatus, the undertaker must immediately notify Uniper, in writing, and submit a revised plan in respect of the affected works to Uniper for approval, and the provisions of this paragraph 191 (Retained Apparatus) will apply to, and in respect of, the revised plan. If Uniper (or its representative) identifies a potential risk of interference with or loss or damage to the apparatus while watching, monitoring or inspecting the execution of the specified works, then Uniper (or its representative) may request suspension of such works. The undertaker must then submit a revised plan in respect of the affected works to Uniper for approval, and the provisions of this paragraph 191 (Retained Apparatus) will apply to, and in respect of, the revised plan. Uniper's (or its representative's) failure or delay in exercising this right, or the undertaker's failure to suspend the specified works upon request by Uniper (or its representative), will not relieve the undertaker of its responsibility for any interference with, loss of, or damage to the apparatus.

(8) Where Uniper requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Uniper's satisfaction (acting reasonably).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works, provided that—

(a) in respect of danger to persons it must give to Uniper notice as soon as is reasonably practicable by calling Uniper's emergency telephone line on 0800 389 4795 or such other telephone number notified by Uniper to the undertaker in writing; and

(b) in respect of danger to property it must notify Uniper in accordance with sub-paragraph (10)(a) above, before any emergency works are commenced by or on behalf of the undertaker, and, in each case, as soon as is reasonably practicable give to Uniper a plan of those works and must—

(i) comply with sub-paragraphs (5), (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and

(ii) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with, and use reasonable endeavours to procure compliance by any party acting on its behalf with, all applicable law and good industry practice. The undertaker must procure that any party carrying out any works on the land on its behalf has knowledge of the apparatus, its location (including as illustrated by a site map) and procure that the obligations contained in this Part of this Schedule are adhered to by such parties working on the land on its behalf.

(12) The undertaker must prepare, and keep up-to-date, a complete set of red-lined "as-built" records of the execution of the specified works, showing the exact as-built locations, sizes and details of such works as executed. The undertaker must submit to Uniper, no later than twenty (20) business days after the completion of the specified works, all "as-built" records. Uniper may specify the number of copies of any "as built" records acting reasonably.

Removal or replacement of apparatus

192.—(1) The undertaker is not permitted to remove, move or replace any apparatus in land without the prior written consent of Uniper (such consent not to be unreasonably withheld or delayed).

(2) If, in the exercise of the powers conferred by the Order, the undertaker has exercised its compulsory purchase powers to acquire any interest in or possesses temporarily any Order land in which any apparatus is placed and has the power to move, replace or remove that apparatus, it

must not do so under this Part of this Schedule and any right of Uniper to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of Uniper in accordance with sub-paragraphs (3) to (6) inclusive.

(3) If, for the purpose of executing any specified works in, on, under or over any land held, appropriated or used under this Order pursuant to exercising its compulsory purchase powers the undertaker requires the replacement or removal of any apparatus placed in that land it must give to Uniper no less than 56 days advance written notice of that requirement, together with a plan of the work proposed, and where applicable, the proposed replacement apparatus or the position of any alternative apparatus to be provided or constructed and in that case provided that where—

(a) the undertaker requires the replacement of any apparatus placed in that land, it must be replaced with identical apparatus, provided that if identical apparatus is not available, it must be either—

(i) replaced with apparatus on a similar or equivalent basis (i.e. like-for-like basis); or

(ii) where it cannot be replaced on a similar or equivalent basis, then it must be replaced with enhanced apparatus. For the avoidance of doubt, no apparatus may be replaced with anything less advanced than the apparatus being replaced;

(b) the undertaker requires the removal of any apparatus placed in that land (or if in consequence of the exercise of any of the powers conferred by this Order Uniper reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (4), secure any necessary consents for the alternative apparatus and afford to Uniper to its satisfaction the necessary facilities and rights for the construction of alternative apparatus in other land of or land secured by the undertaker and subsequently for the maintenance of that apparatus, and prior to any removal or any replacement of the apparatus pursuant to this paragraph 192, the parties must agree the value attributable to such apparatus or alternative apparatus, prior to any replacement or removal. If such value cannot be agreed between the parties, such value will be determined in accordance with paragraph 198 (arbitration).

(4) If alternative apparatus or any part of such apparatus is to be constructed elsewhere other than in land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (3), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker must take all steps required in the circumstances to assist Uniper to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(5) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker and Uniper.

(6) Uniper must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written agreement having been entered into between the parties and the grant to Uniper of any such facilities and rights as are referred to in sub-paragraph (3) or (4), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Expenses

193.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Uniper within 30 days of receipt of an invoice, all charges, costs and expenses reasonably anticipated or incurred by Uniper in, or in connection with, the inspection, removal, relaying or replacing, alteration, repair, remediation or restoration of or protection of any apparatus or alternative apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any powers conferred on the undertaker, pursuant to the Order (including in the execution of any authorised development as is referred to in this Part of this Schedule) including—

(a) in connection with the cost of the carrying out of any assessment of Uniper's apparatus under Pipelines Safety Regulations 1996 and Gas Safety (Management) Regulations 1996 reasonably necessary as a consequence of the authorised development;

(b) implementing any mitigation measures required as a result of any assessment referred to in sub-paragraph (a) reasonably necessary as a consequence of the authorised development;

(c) the approval of plans;

(d) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and

(e) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) For the purposes of calculating the sums payable pursuant to sub-paragraph (1) above, in the case of the replacement or removal of apparatus, the following applies—

(a) where apparatus is removed under the provisions of this Part of this Schedule and which will not re-used as part of the apparatus or alternative apparatus, there will be excluded from any sum payable under sub-paragraph (1) the value of the apparatus being removed; and

(b) subject to sub-paragraph 192(3)(a), when replacing existing apparatus, there will be deducted from any sum payable under sub-paragraph (1) the value of that apparatus being removed under the provisions of this Part of this Schedule and which is not re-used as part of the apparatus or alternative apparatus, except that the value of any apparatus or alternative apparatus used to replace the apparatus being removed will be included in the sum payable under sub-paragraph (1), such value being agreed between the parties (or as determined in accordance with paragraph 231 (arbitration) prior to any removal or replacement of the apparatus, provided that, in each case, all charges, costs and expenses reasonably incurred, or reasonably anticipated to be incurred, by Uniper in, or in connection with the works required for the removal or replacement of such apparatus will be included in the sum payable under sub-paragraph (1).

(3) If, in accordance with sub-paragraph 192(2) of this Part of this Schedule, any existing apparatus is replaced with enhanced apparatus where the undertaker's consent has not been obtained by Uniper (or where disputed in accordance with paragraph 198 (Arbitration), decided not to be necessary), then, if the construction expenses for this replacement surpass the construction expenses that would have been paid for similar or equivalent apparatus then any excess costs will be borne by Uniper, except where it is not possible to obtain similar or equivalent apparatus, full costs will be payable by the undertaker.

(4) Any amount which is payable to Uniper 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 Uniper 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.

Indemnity

194.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the authorised development or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by them) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any loss or damage is caused to any apparatus, alternative apparatus or property of Uniper, or there is any interruption in any services provided, or in the supply of any goods, or in the use of the apparatus or alternative apparatus (as applicable) by Uniper, the undertaker must—

(a) bear and pay the costs reasonably and properly incurred by Uniper in making good such loss or damage or in restoring the supply or its use;

(b) make compensation to Uniper for any other expenses, loss, damages, penalty or costs incurred by Uniper, by reason or in consequence of any such loss, damage or interruption; and

(c) indemnify Uniper for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Uniper, by reason or in consequence of any such damage or interruption or Uniper becoming liable to any third party (an "Indemnity Claim").

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Uniper or its representatives; or

(b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(3) Uniper must give the undertaker reasonable notice of an Indemnity Claim and no settlement or compromise is to be made that is prejudicial to the undertaker without the consent of the undertaker (not to be unreasonably withheld) which, if it withholds such consent, it will assume the sole conduct of the Indemnity Claim, provided that if the undertaker does not assume the sole conduct of the Indemnity Claim within 30 days of the Indemnified Claim being notified to it, Uniper, or a person designated by Uniper, may conduct the Indemnity Claim in such manner as it may deem appropriate and the undertaker will indemnify Uniper for any costs and expenses incurred in connection with defending any such Indemnity Claim.

(4) The undertaker must assist Uniper, as requested, in connection with an Indemnity Claim (including circumstances where Uniper reasonably believes may give rise to an action, claim or demand by a third party).

(5) The undertaker undertakes not to commence construction (and not to permit the commencement of such construction) of the authorised development on any land owned by Uniper or in respect of which Uniper has an easement, wayleave or lease for its apparatus or any other interest or to carry out any works within 15 metres of Uniper's apparatus (except in respect of any high pressure pipelines) or within 50 metres of Uniper's high pressure pipelines until the following conditions are satisfied—

(a) unless and until Uniper is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the authorised development from the proposed date of commencement of construction the authorised development) and Uniper has confirmed the same to the undertaker in writing; and

(b) unless and until Uniper is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to Uniper that it will maintain such acceptable insurance for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and Uniper has confirmed the same in writing to the undertaker.

(6) The undertaker agrees that if, at any time, the acceptable security or acceptable insurance expires or terminates, ceases to fulfil the criteria of acceptable security or acceptable insurance, ceases to be in full force and effect or becomes invalid or unenforceable for the purpose of this Part of this Schedule or an insolvency-related event occurs in respect of the undertaker, then the relevant security or insurance will no longer constitute acceptable security or acceptable insurance and will promptly be replaced by the undertaker with alternative acceptable security or acceptable insurance as approved by the undertaker, to the extent any acceptable insurance and acceptable security is still required under this Part of this Schedule.

(7) In the event that the undertaker fails to comply with sub-paragraph (4) nothing in this Part of this Schedule will prevent Uniper from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

(8) Uniper must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Uniper's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Uniper's control and if reasonably requested to do so by the undertaker Uniper must provide an explanation of how the claim has been minimised, where relevant.

Co-operation

195.—(1) Where in consequence of the proposed construction of any of the authorised development, Uniper makes requirements for the protection or alteration of apparatus under paragraphs 191(5) or 191(7), the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe, efficient and economic operation of Uniper's apparatus and Uniper must use its best endeavours to cooperate with the undertaker for that purpose.

(2) Where Uniper's consent, agreement or approval is required in relation to plans, documents or other information submitted by Uniper or the taking of action by Uniper, it must not be unreasonably withheld or delayed.

Access

196. If in consequence of the agreement reached in accordance with paragraph 190(1) of this Part or otherwise as granted by this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Uniper (or representative) in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Uniper (or its representative) to maintain or use the apparatus no less effectively than was possible before such obstruction. For the avoidance of doubt, Uniper (or its representative) will be entitled to access its apparatus in the land at all times.

Confidentiality

197.—(1) Each party must treat any confidential information as private and confidential. The party in receipt of any confidential information from the other party may not use it for a purpose other than for the performance of its obligations under this Part of this Schedule and must not disclose confidential information received from the other party to any person, provided that a party may disclose confidential information to any of its directors, other officers, employees, contractors, customers, affiliates, insurers, funders, advisers or consultants 17 to the extent that disclosure is reasonably necessary for the purposes of this Part of this Schedule.

(2) Sub-paragraph 197(1) does not apply to confidential information—

(a) which is at the date of commencement, or at any time after that date becomes, publicly known other than by breach of sub-paragraph 230(1);

(b) which was known by the receiving party before disclosure by the other party to the receiving party, provided that such confidential information was lawfully obtained; or

(c) to the extent disclosure of the confidential information is required by law, the instructions of a competent governmental authority or such competent authority acting on behalf of such governmental authority, or the rules of a relevant and recognised stock exchange.

Arbitration

198. Any difference or dispute arising between the undertaker and Uniper under this Part of this Schedule must be determined by arbitration in accordance with article 48 (arbitration) unless otherwise agreed between those parties acting reasonably.

Notices

199. Any notice, statement, request, plan or any other written communication (including the plan to be provided at paragraph 191) to be given or made in respect of this Part of this Schedule by the undertaker must be given or made in writing to the address stated below or such other address as Uniper may have notified to the undertaker from time to time.

Name - Uniper Pipelines Team

Address - Pipelines Office, Uniper Killingholme Power Station, Chase Hill Road, Killingholme, North Lincolnshire, DN40 3LU

Contact - Lead Pipeline Engineer

SCHEDULE 10

Article 49

Arbitration rules

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 49 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party ("the Claimant") serves a written notice of arbitration on the other party ("the Respondent").

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which will be either—

(a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with—

(a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant's contentions as to those issues, and the remedy it is seeking; and

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant's statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with—

(a) a written Statement of Defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and

(c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

(a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the Respondent's submissions;

(c) any expert report in response to the Respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The Arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

(a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and

(c) the form and content of a joint report will be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator will take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the

substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(**a**), including the non-mandatory sections, save where modified by these Rules.

(2) There will be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

(a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration will include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be publicly disclosed where required by law or with the agreement of both parties.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of a pipeline for the transport of carbon dioxide from Immingham to Theddlethorpe. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 45 (certification of plans) may be inspected free of charge at the offices of Chrysaor Production (U.K.) Limited at 23 Lower Belgrave Street, London, England, SW1W 0NR.

APPENDIX E APPLICANT'S COMPULSORY ACQUISTION TRACKER

VikingCCS



Viking CCS Pipeline

3.5 Compulsory Acquisition Tracker – Revision G

Document Reference: EN070008/APP/3.5

Applicant: Chrysaor Production (U.K.) Limited,
a Harbour Energy Company
PINS Reference: EN070008
Planning Act 2008 (as amended)
The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(o)
Date: September 2024

Harbour Energy | AECOM

VIKING CCS: List of Affected Persons and Objections to Land Rights including Temporary Possession, Compulsory Acquisition, SUs and Special Land Cases

Interested Party /Affected Party Ref No[ii]	Objection. No.[i]	Name/ Organisation	Relevant Representation Ref No (iii)	Written Representation Ref No[iv]	Other Doc Ref No(v)	Relevant Interest [vi]	Duration Permanent/ Temporary [vii]	Plot(s)	CA[viii]	Special Category (Crown, Allotment, NT etc)	Special Category - other information including confirmation of status	Is the Affected Party a Statutory Undertaker and is the land operational	Protective Provision Status	Status of objection	Status of Negotiation	Agent Details	Last Updated
1	No Objection	Adrian Joseph Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/11, 33/12, 33/13, 34/1, 34/2, 34/3, 34/4, 34/5, 34/6, 34/7, 34/8, 34/9, 34/10, 34/12, 34/18, 34/19, 34/20, 34/21, 34/22, 34/23	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Frederick Winston Howell	30/08/2024
2	OB-1	Alan Willson	RR-004 Fully withdrawn via REP1-104	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	30/12, 30/17	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	18/09/2024
						Part 1 (Category 1 – Tenant)	Temporary possession and use	30/13, 30/14	No	N/A							
3	OB-2	Albert George Ronald Larder	RR-005 Fully withdrawn via Agent Confirmation	N/A	REP4-063	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	2/15, 2/16, 2/17	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
4	OB-3	Alexander Jonathan Hilton	RR-002 Fully withdrawn via Agent Confirmation	N/A	REP4-067	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	3/5, 3/6, 3/7, 3/8, 3/9, 5/1, 5/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
5	No Objection	Alistair Donald Harvey	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/3	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Ellie Allwood, Brown & Co	18/09/2024
						Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	32/2, 33/1, 33/2, 33/5	Yes								
6	OB-4	Andrew James Overton Brader	RR-099 Fully withdrawn via Agent Confirmation	N/A	REP4-084	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/4,23/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
8	OB-3	Andrew Jonathan Hilton	RR-002 Fully withdrawn via Agent Confirmation	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	3/5, 3/6, 3/7, 3/8, 3/9, 5/1, 5/2ll	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
~~9~~	~~OB-5~~	~~Andrew Paul Tempest~~	~~RR-008~~	~~N/A~~	~~N/A~~	~~Part 1~~	~~Permanent~~	~~35/11,35/9, 35/10~~	~~Yes~~	~~N/A~~	~~N/A~~	~~Not SU~~	~~Not required~~	~~Objection and agreement unlikely before close of Examination~~	~~The Affected Party's interest has been removed as a result of change request 2.~~ ~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant will continue to engage with the Affected Person and it hoped that an agreement can be reached with the Affected Person before the end of Examination.~~	~~N/A~~	22/08/2024
10	OB-6	Andrew Richard Cartwright	RR-007 Fully withdrawn via Agent Confirmation	N/A	REP4-064	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/4, 15/6, 15/7	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
11	OB-7	Andrew Teanby	RR-105 RR-106 RR-108 Withdrawal of Relevant Representations and submission	N/A	AS-056 AS-057 AS-058	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	26/14, 27/1, 27/2, 28/4, 28/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucie Muddiman, Savills	26/09/2024
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/7	No	N/A							
12	OB-8	Angela Hilary Cook	RR-102	N/A	REP4-086	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
13	No Objection	Anthony Roger Dinsdale	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Temporary	4/1, 4/2, 4/3	No	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to be close to agreement. Although these have not been formally agreed prior to close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Tony Dale, DDM Agriculture Ltd	26/09/2024
14	No Objection	Ascona Retail Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	5/3	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	22/08/2024

15	OB-9	Associated British Ports	RR-010	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/50, 1/51, 1/60, 1/61, 1/73, 1/74, 1/78, 1/79	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Since the latest re-issue of Heads of Terms, the Applicant has made multiple attempts to contact and agree terms with the Affected Person. Negotiations have not progressed as anticipated due to a lack of engagement from the Affected Person on the lands matters. The Applicant will continue to make attempts to engage and negotiate with a view to reaching a consensual agreement.	N/A	18/09/2024
16	OB-10	Aylesby Manor Farms Limited	RR-012 Fully withdrawn via Agent Confirmation	N/A	REP4-065	Part 1 (Category 1 – Owner)	Permanent acquisition	8/10, 8/11, 9/2, 9/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition	10/6	Yes									
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	9/4, 9/12, 10/1, 10/2, 10/3, 10/7	Yes									
17	No Objection	Barbara Marion Needham	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/3, 27/4, 27/5, 27/6, 27/8, 27/9, 27/10, 27/12, 28/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Chloe Greig, Brown & Co	22/08/2024
18	OB-11	Benjamin Joseph Unsworth	RR-088	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/5, 33/7, 33/8, 33/9, 33/10, 34/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
194	OB-12	Bessie Mary Somerscales	RR-093	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	7/3, 7/4, 7/5, 7/6, 7/7	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
19	OB-7	Betty Needham	RR-105 RR-106 RR-108 Withdrawal of Relevant Representations and submission	N/A	AS-056 AS-057 AS-058	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	26/14, 27/1, 27/2, 28/4, 28/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucie Muddiman, Savills	26/09/2024
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/7	No	N/A								
20	OB-13	Brenda Patricia Smith	RR-092 Fully withdrawn via Agent Confirmation	N/A	REP4-080	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/28, 20/29, 20/30, 21/1, 21/2, 21/3, 21/4, 21/5, 21/6, 21/7, 21/8	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
21	OB-14	Brian Mager Limited	RR-015 Fully Withdrawn via AS-060	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/22, 20/23, 20/24, 20/25, 20/26, 20/27	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	22/08/2024
22	OB-15	Calor Gas Limited	RR-021 Fully Withdrawn via RR-021	N/A	AS-057	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/73	Yes	N/A	N/A	SU and known operational	Draft under discussion	No objection, relevant representations withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Solicitors for both parties are liaising in respect of an appropriate form of agreement for their interests and the Applicant expects to reach an agreement before the end of Examination. The Applicant and Calor Gas Limited have entered into a form of agreement that addresses Calor Gas Limiteds' concerns, and they have withdrawn their representation.	James Cullingford, Lambert Smith Hampton	26/09/2024
23	OB-16	Charles Christian Nicholson BT	REP6-055	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/3, 23/4	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to now be agreed in principle. Although these have not been formally agreed prior to close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Molly Williams, Perkins George Mawer & Co	26/09/2024
24	No Objection	Charles Edward Nicholson	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	30/7, 30/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	18/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/13, 28/2, 28/3, 28/13, 28/14, 28/16	Yes	N/A								
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/11	No	N/A								
25	No Objection	Charles Edward Stubbs	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	31/22, 31/24, 31/25, 32/1	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
26	No Objection	Christine Margaret Wells	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/3, 27/4, 27/5, 27/9, 27/10, 27/12, 28/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Chloe Greig, Brown & Co	24/09/2024

196	No Objection	Christopher Borrill	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	6/15, 7/1, 7/2	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Unknown	22/08/2024
27	OB-17	Christopher Charles Waller (Deceased) Executors to Estate	RR-023 Fully withdrawn via REP1-107	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	22/5, 22/7, 23/1, 23/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
185	No Objection	Christopher Wilkinson	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	22/4	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
28	No Objection	Church Commissioners for England	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	3/1, 19/43, 19/44, 19/45, 20/1, 20/2, 20/3, 20/4, 20/5, 20/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Negotiations have been ongoing and have been progressing with the Appointed Agent. It is expected that an agreement with the Affected Person will be reached before the end of Examination. The Applicant has made multiple attempts to contact and agree terms with the Affected Person and Land Agent. Negotiations have not progressed as anticipated due to a lack of engagement from the Affected Person. Heads of Terms were re-issued in July 2024, and the Applicant will continue to make attempts to engage and negotiate with a view to reaching a consensual agreement.	William Bashall, William Bashall Associates	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	20/6	No	N/A							
29	No Objection	Dallas Charles Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/6, 34/18, 34/19, 34/20, 34/21, 34/22, 34/23	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Frederick Winston Howell	30/08/2024
30	OB-18	Darren Michael Joseph Howell	RR-026 Fully withdrawn via REP1-109	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	30/20, 30/21, 30/22, 35/12, ~~35/13, 35/14,~~ 35/15, 35/16	Yes	Commons	Plot 30/20 only - access track and drain	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	30/08/2024
31	OB-19	David Alwin Spetch	RR-025 Fully withdrawn via REP1-108	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	31/12, 31/14, 31/15, 31/16, 31/17, 31/18, 31/20, 31/21, 31/22, 31/23	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
32	OB-20	David Andrew John Spilman	RR-109 RR-121 Fully withdrawn via Agent Confirmation	N/A	AS-036 AS-086 REP4-067	Part 1 (Category 1 – Owner)	Permanent acquisition	10/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	9/7, 9/8, 9/10, 10/4	Yes	N/A							
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	10/8, 10/9	Yes	N/A							
						Part 1 (Category 1 – Owner)	Temporary possession and use	9/1, 9/13	No	N/A							
197	No Objection	David Ian Shucksmith	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition	25/7, 25/10, 26/2, 26/5, 26/6	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Gagie, AG Surveyors	30/08/2024
33	OB-21	David Laughton	RR-018 Fully withdrawn via REP1-097	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/11	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
34	OB-22	David Thomas Walter House	N/A	REP1-110	N/A	Part 1 (Category 1 – Owner)	Permanent rights and temporary use	36/3, 36/4, 36/5	Yes	N/A	N/A	Not SU	Not required	Objection and agreement unlikely before close of Examination	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person's objection does not relate specifically to compulsory acquisition. The Applicant is only seeking permanent rights of access and is not looking to acquire any land from the Affected Person. Vehicle movements granted by the rights provided will be minor and for a short a time as possible. Mobilisation will be 6 No. HGVs and Demobilisation 4 No. HGVs and the expected daily movements are expected to be in the order of 1 No. HGV, 6 No. to 8 No. LGVs during the construction period. Construction is expected to be a minimum of 3 weeks but to be completed	N/A	22/08/2024
35	OB-23	David Wrisdale	RR-027 Fully withdrawn via REP1-111	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/19, 20/20, 20/21, 20/22, 20/23, 20/24	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
36	OB-13	Diana Jean Smith	RR-092 Fully withdrawn via Agent Confirmation	N/A	REP4-080	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/28, 20/29, 20/30, 21/1, 21/2, 21/3, 21/4, 21/5, 21/6, 21/7, 21/8	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
37	No Objection	Diamond Transmission Partners Hornsea One Limited	N/A	N/A	N/A	Part 1 (Category 1 - Lessee)	Permanent acquisition of subsurface	6/3, 6/7, 6/9	Yes	N/A	N/A	SU and known operational	Draft under discussion	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person have been maintaing ongoing discussion regarding the Heads of Terms. Although terms have not yet been agreed, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person prior to the end of examination.	N/A	18/09/2024

						Part 1 (Category 1 - Lessee)	Temporary possession and use	4/2	No	N/A								
38	OB-24	Driver and Vehicle Standards Agency	RR-030	REP1-069 REP1-070 AS-087	REP5-054 REP5-055 REP6-056	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/50, 1/60, 1/67, 1/71	Yes	Crown Land	Plots 1/50, 1/60, 1/67, 1/71 - Public road, private road, scrubland and hedgerow	Not SU	Draft under discussion	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Heads of Terms have been agreed with the Affected Party. The Appicant is awaiting formal issue. Section 135 consent has now been given by the Affected Person.	Bethan Sykes, Veale Wasbrough Vizards LLP	26/09/2024
39	OB-25	Elizabeth Angela Greetham	RR-033 REP1-039 Fully withdrawn via Agent Confirmation	N/A	REP4-068	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	3/1, 26/10, 26/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	4/4, 4/8, 4/9, 4/12, 4/13, 4/14, 4/15	No	N/A								
40	OB-26	Environment Agency	RR-034	REP1-072 REP3-036	REP1-071 REP2-038 REP3-015 REP3-016	Part 1 (Category 1 Tenant)	Permanent acquisition of subsurface	14/6, 26/7, 26/10, 29/2, 31/12, 33/5	Yes	N/A	N/A	Not SU	Draft under discussion	Objection withdrawn, Heads of Terms agreed	Terms of protective provisions have been agreed and the Applicant expects this to be confirmed by Deadline 6 with the Affected Persons removal of their representation.	N/A	18/09/2024
						Part 1 (Category 1-Occupier)	Temporary possession and use	14/3, 29/4, 29/7	No	N/A								
186	No Objection	Forrester Boyd Trustees Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	11/5, 11/6	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Daniel Jobe, Brown & Co	22/08/2024
41	No Objection	Frederick Winston Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	30/9, 30/10, 30/11, 30/16, 30/18, 30/19, 30/20, 30/22, 30/23, 30/24, 30/25, 31/1, 31/2, 31/3, 31/4, 31/6, 31/7, 31/8, 33/5, 33/6, 34/13, 34/15, 34/16, 34/17	Yes	Commons	Plot 30/20 only - access track and drain	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	30/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	30/15	No	N/A								
42	OB-27	George Peter Strawson	RR-083 Fully withdrawn via Agent Confirmation	REP1-115	REP4-077	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/11, 14/1, 14/2, 14/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	14/3, 14/4	No	N/A								
43	OB-28	George Sanderson	RR-065 Fully withdrawn via Agent Confirmation	N/A	REP4-072	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	12/7	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
44	No Objection	Gillian Mary Wrisdale	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	20/19, 20/20, 20/21, 20/22, 20/23, 20/24	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
45	OB-16	Gordon Ernest Lee-Steere	RR-095	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/3, 23/4	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to now be agreed in principle. Although these have not been formally agreed prior to close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Molly Williams, Perkins George Mawer & Co	26/09/2024
46	OB-29	Grainsby Farms Limited	RR-037 Fully withdrawn via REP2-043	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	15/10, 16/1, 16/2, 16/3, 16/6	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, relevant representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Giles Johnston, DDM Agriculture Ltd	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	16/7, 16/8	Yes	N/A								
						Part 1 (Category 1 – Tenant)	Permanent acquisition	16/4, 16/5	Yes	N/A								
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	16/10, 17/1, 17/2, 18/1, 18/2, 18/5, 18/6, 18/8, 18/9, 18/10, 18/11, 19/1, 19/2, 19/3, 19/4, 19/5, 19/6, 19/7, 19/8, 19/10, 19/11, 19/14, 19/21	Yes	N/A								

						Part 1 (Category 1 – Tenant)	Temporary possession and use	16/9	No	N/A								
47	No Objection	Great Northern & East Lincolnshire Railway Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	21/10, 21/11, 21/12	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
48	No Objection	Hilda Mary House	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	36/3, 36/4, 36/5	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant has offered commercial terms for the rights sought but this has not been accepted by the House family. It is for that reason that we think agreement is unlikely before the close of Examination. The Applicant will of course continue to seek to agree terms on a consented basis.	N/A	18/09/2024
49	No Objection	Hugh Christopher Bourn	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	11/3, 11/4, 11/6, 12/3, 12/4, 12/7	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Kirsten Wright, Brown & Co	18/09/2024
							~~Temporary~~	~~11/10, 11/12~~	~~No~~	~~N/A~~								
50	OB-30	Ian Robinson	RR-107 Fully withdrawn via AS-062	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	14/6, 14/7, 14/8, 15/1, 15/2, 15/3	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	14/3, 14/5	No	N/A								
51	OB-11	Irene Unsworth	RR-088	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/5, 33/7, 33/8, 33/9, 33/10, 34/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
52	No Objection	J. and A Young (Leicester) Limited	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	19/33	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	N/A	26/09/2024
53	OB-7	J. W. Needham Limited	RR-105 RR-106 RR-108 Withdrawal of Relevant Representations and submission	N/A	AS-056 AS-057 AS-058	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	26/14, 27/1, 27/2, 28/4	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucie Muddiman, Savills	26/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	28/5	Yes	N/A								
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/7	No	N/A								
54	No Objection	J.G. Fisher Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	8/4, 8/7, 8/8	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Daniel Jobe, Brown & Co	22/08/2024
55	OB-31	J.R. Greenfield Limited	RR-043 Fully withdrawn via REP1-117	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	26/13	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	26/11	Yes	N/A								
56	No Objection	Jake Nicholson	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/13, 28/2, 28/3, 28/13, 28/14, 28/16	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Elton Moulds, Perkins George Mawer & Co	18/09/2024
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/11	No	N/A								
57	No Objection	James Arthur Fussey	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	12/9, 13/4, 13/5, 13/7, 13/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Mark Broadhurst, Leonards	26/09/2024

						Part 1 (Category 1 – Owner)	Temporary possession and use	12/6, 12/8, ~~13/1, 13/2, 13/3~~, 13/6	No	N/A									
58	No Objection	James Dixon	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	6/9, 6/12	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to now be agreed in principle. Although these have not been formally agreed prior to Deadline 6, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Will Whitaker, Whitaker Land Agency Ltd	26/09/2024
						Part 1 (Category 1 – Tenant)	Temporary possession and use	6/2	No	N/A									
59	OB-32	James Marshall Fenwick	RR-013 Fully withdrawn via Agent Confirmation	N/A	REP4-066	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/8, 13/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	12/9, 13/4, 13/5, 13/7	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	12/8, ~~13/2, 13/3~~	No	N/A									
60	OB-33	Jane Elizabeth Clayton	RR-101 Fully withdrawn via RE1-142	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	10/11, ~~10/12, 11/1, 11/2~~	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	18/09/2024
61	OB-34	Janet Mary Haigh	RR-040 Fully withdrawn via REP2-044	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	16/4, 16/5	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, relevant representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Giles Johnston, DDM Agriculture Ltd	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	16/3, 16/10, 17/1, 17/2, 18/1, 18/2, 18/3, 18/4, 18/5, 18/6, 18/8, 18/9, 18/10, 18/11, 19/1, 19/2, 19/3, 19/4, 19/5, 19/6, 19/7, 19/8, 19/9, 19/10, 19/11, 19/12, 19/13, 19/14, 19/16, 19/18, 19/20, 19/21	Yes	N/A									
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	16/8	Yes	N/A									
						Part 1 (Category 1 – Owner)	Temporary possession and use	16/9	No	N/A									
62	No Objection	Janet Mary Wallis	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/9, 23/10, 23/11, 23/12, 24/1, 24/2, 24/3	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	02/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	24/4, 24/5	No	N/A									
~~63~~	~~OB-35~~	~~Jeanette Louise Tempest~~	~~RR-044~~	~~N/A~~	~~N/A~~	~~Part 1~~	~~Temporary~~	~~35/9, 35/10, 35/11~~	~~No~~	~~N/A~~	~~N/A~~	~~Not SU~~	~~Not required~~	~~Objection and agreement unlikely before close of Examination~~	~~The Affected Party's interest has been removed as a result of change request 3.~~ ~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant will continue to engage with the Affected Person and it hoped that an agreement can be reached with the Affected Person before the end of Examination.~~	~~N/A~~	22/08/2024
64	No Objection	Jennifer Barbara Burt	RR-090	N/A	REP4-079	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	7/9, 7/10, 8/1, 8/2, 8/3, 8/5, 8/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have been maintaing ongoing discussion regarding the Heads of Terms. Although terms have not yet been agreed, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	18/09/2024
65	No Objection	Jill Lindsay Parker	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	19/13, 19/15	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
66	OB-20	Joanna Claire Spilman	RR-109 Fully withdrawn via Agent Confirmation	N/A	REP4-087	Part 1 (Category 1 – Owner)	Permanent acquisition	10/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	9/7, 9/8, 9/10, 10/4	Yes	N/A									

						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	10/8, 10/9	Yes	N/A								
						Part 1 (Category 1 – Owner)	Temporary possession and use	9/1, 9/13	No	N/A								
67	OB-36	Joanna House	N/A	REP1-119	N/A	Part 1 (Category 1 – Owner)	Permanent rights and temporary use	36/4, 36/6	Yes	N/A	N/A	Not SU	Not required	Objection and agreement unlikely before close of Examination	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person's objection does not relate specifically to compulsory acquisition. The Applicant is only seeking permanent rights of access and is not looking to acquire any land from the Affected Person. Vehicle movements granted by the rights provided will be minor and for a short a time as possible. Mobilisation will be 6 No. HGVs and Demobilisation 4 No. HGVs and the expected daily movements are expected to be in the order of 1 No. HGV, 6 No. to 8 No. LGVs during the construction period. Construction is expected to be a minimum of 3 weeks but to be completed	N/A	22/08/2024
187	No Objection	Joan Ward	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	35/31	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Robertson, Dalcour Maclaren	18/09/2024
68	OB-37	John Harold Pridgeon	RR-042 Fully withdrawn via REP1-116	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/3, 25/4, 25/5, 25/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	25/8	Yes	N/A								
69	No Objection	John Inniss	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Temporary	35/4, 35/6	No	N/A	N/A	Not SU	Not required	Licence agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Party has signed and returned the licence agreement.	N/A	22/08/2024
70	OB-20	David Andrew John Spilman (Executor)	RR-066 RR-109 Fully withdrawn via Agent Confirmation	N/A	REP4-073	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	10/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
195	No Objection	John Francis Pridgeon	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/3, 25/4	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
71	No Objection	John Leslie Wallis	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/9, 23/10, 23/11, 23/12, 24/1, 24/2, 24/3	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	02/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	24/4, 24/5	No	N/A								
72	OB-21	John Wilfred Laughton	RR-018 Fully withdrawn via REP1-097	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
188	No Objection	John William Farrow	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	35/22, 35/23	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms to be negotiated	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Heads of Terms have been agreed with the Freeholder. The Applicant is continuing to engage via the Freeholders' appointed Land Agent. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Robertson, Dalcour Maclaren	26/09/2024
							~~Temporary~~	~~35/28~~	~~No~~	~~N/A~~								
73	No Objection	Jonathan Arthur Durrant	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024
74	No Objection	Joseph Durrant	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024
75	OB-34	Joseph John Wootton	RR-040 Fully withdrawn via REP2-044	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	16/4, 16/5	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, relevant representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Giles Johnston, DDM Agriculture Ltd	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	16/3, 16/10, 17/1, 17/2, 18/1, 18/2, 18/3, 18/4, 18/5, 18/6, 18/8, 18/9, 18/10, 18/11, 19/1, 19/2, 19/3, 19/4, 19/5, 19/6, 19/7, 19/8, 19/9, 19/10, 19/11, 19/12, 19/13, 19/14, 19/16, 19/18, 19/20, 19/21	Yes	N/A							

						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	16/8	Yes	N/A									
						Part 1 (Category 1 – Owner)	Temporary possession and use	16/9	No	N/A									
76	OB-32	Joseph Ross Fenwick	RR-013 Fully withdrawn via Agent Confirmation	N/A	REP4-066	Part 1 (Category 1 – Occupier)	Permanent acquisition of subsurface	13/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	12/9, 13/4, 13/5, 13/7, 13/9	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	12/8, ~~13/2, 13/3~~	No	N/A									
193	No Objection	Julia Harvey	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	32/2, 33/1, 33/2, 33/3, 33/4	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Ellie Allwood, Brown & Co	18/09/2024
77	No Objection	Julian Clive Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/11, 33/12, 33/13, 34/1, 34/2, 34/3, 34/4, 34/5, 34/6, 34/7, 34/8, 34/9, 34/10, 34/12, 34/13, 34/15, 34/16, 34/17, 34/18, 34/19, 34/20, 34/21, 34/22, 34/23	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Frederick Winston Howell	30/08/2024
78	OB-4	Julie Denise Brader	RR-099 Fully withdrawn via Agent Confirmation	N/A	REP4-084	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/4, 23/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
79	OB-38	Julie Mary Hoyes	RR-081 Fully withdrawn via Agent Confirmation	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	8/9, 8/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
~~80~~	~~OB-39~~	~~Katherine Mary Barker~~	~~RR-046~~ ~~Fully withdrawn via REP1-120~~	~~N/A~~	~~N/A~~	~~Part 1~~	~~Temporary~~	~~35/9, 35/10, 35/11~~	~~No~~	~~N/A~~	~~N/A~~	~~Not SU~~	~~Not required~~	~~No objection, relevant representation withdrawn, Heads of Terms under negotiation~~	~~The Affected Party's interest has been removed as a result of change request 3.~~ ~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant will continue to engage with the Affected Person and it hoped that an agreement can be reached with the Affected Person before the end of Examination.~~	~~Lucy Turner, Masons and Partners~~	22/08/2024
81	No Objection	Kenneth Alan Wells	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/3, 27/4, 27/5, 27/9, 27/10, 27/12, 28/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Chloe Greig, Brown & Co	26/09/2024
82	OB-32	Leonard Ross Fenwick	RR-013 Fully withdrawn via Agent Confirmation	N/A	REP4-066	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/8, 13/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	12/8,12/9, 13/4, 13/5, 13/7	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	12/8, ~~13/2, 13/3~~	No	N/A									
83	No Objection	Lincoln Diocesan Trust and Board of Finance Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/13, 28/2, 28/3, 28/13, 28/14, 28/15, 28/16, 30/12	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucie Muddiman, Savills	18/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	28/9, 28/11, 30/13	No	N/A									
~~84~~	~~OB-40~~	~~Lincolnshire County Council~~	~~RR-050~~	~~N/A~~	~~AoC-005 REP1-058 REP1-059 REP1-060~~	~~Part 1 (Category 1 – Owner)~~	~~Permanent acquisition~~	~~26/3, 35/8 26/4~~	~~Yes~~	~~Commons~~	~~Plot 39/11, 39/13, 39/20 – embankment, hedgerow, access track and drains~~	~~Not SU~~	~~Not required~~	~~No objection, relevant representation made, Heads of Terms under negotiation~~	~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant has agreed with the Affected Person that Heads of Terms are no longer required in relation to the DCO. The Applicant will continue to engage with the Affected Person in relation to appropriate protections.~~	~~N/A~~	~~22/08/2024~~
						~~Part 1 (Category 1 – Owner)~~	~~Permanent acquisition of subsurface~~	~~8/10, 8/7, 18/3, 18/4, 19/13, 19/15, 19/18, 19/20, 20/12, 21/7, 21/14, 23/4, 23/9, 23/11, 24/9, 25/3, 26/4, 27/5, 27/8, 28/8, 28/15, 39/9, 39/11, 39/12, 39/13, 39/8, 30/20, 31/4, 31/8, 31/15, 34/17, 34/18, 35/2~~	~~Yes~~	~~N/A~~									

						~~Part 1 (Category 1 – Owner)~~	~~Permanent rights and temporary use~~	~~35/8, 35/9, 26/6, 35/40, 36/4~~	~~Yes~~	~~N/A~~								
						~~Part 1 (Category 1 – Owner)~~	~~Temporary possession and use~~	~~9/1, 9/3, 9/6, 20/9, 20/10, 24/5, 24/7, 28/9, 29/7, 30/3, 35/6, 35/9~~	~~No~~	~~N/A~~								
						~~Part 1 (Category 1 – Tenant)~~	~~Permanent acquisition of subsurface~~	~~10/33, 19/34, 19/39, 23/7, 24/2, 26/8, 26/9, 26/11, 31/33, 34/20, 34/23, 34/24~~	~~Yes~~	~~N/A~~								
						~~Part 1 (Category 1 – Tenant)~~	~~Permanent rights and temporary use~~	~~35/20, 35/27, 35/35~~	~~Yes~~	~~N/A~~								
85	OB-41	Linda Pickering	RR-051 Fully withdrawn via Agent Confirmation	N/A	REP4-069	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	5/8, 5/9, 5/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
~~86~~	~~OB-42~~	~~Lindsey Marsh Internal Drainage Board~~	~~RR-052~~	~~N/A~~	~~N/A~~	~~Part 1 (Category 1 – Tenant)~~	~~Permanent acquisition~~	~~25/38~~	~~Yes~~	~~Common~~	~~Plot 39/13 only, drain and hedgerow~~	~~Not SU~~	~~Not Required~~	~~No objection, relevant representation made, Heads of Terms under negotiation~~	~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant has agreed with the Affected Person that Heads of Terms are no longer required in relation to the DCO.~~ ~~The Applicant will continue to engage with the Affected Person in relation to appropriate protections.~~	N/A	22/08/2024
						~~Part 1 (Category 1 – Tenant)~~	~~Permanent acquisition of subsurface~~	~~35/5, 28/8, 29/13, 29/14, 30/7, 30/8, 30/9, 30/10, 30/17, 31/5, 31/9, 31/18, 31/22, 32/1, 32/2, 33/3, 33/8, 34/24, 34/25, 35/5, 35/17, 35/18, 35/25, 35/27, 35/30, 35/39~~	~~Yes~~	~~N/A~~								
						~~Part 1 (Category 1 – Tenant)~~	~~Permanent rights and temporary use~~	~~35/20, 35/27, 35/30, 35/39~~	~~Yes~~	~~N/A~~								
						~~Part 1 (Category 1 – Tenant)~~	~~Temporary possession and use~~	~~28/8, 28/10, 30/3, 30/4, 30/14, 35/3, 35/4, 35/11, 35/30, 35/27, 35/35, 35/39~~	~~No~~	~~N/A~~								
87	No Objection	Lisa Jane Howes	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	11/5, 11/6	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	22/08/2024
198	No Objection	L.J. Fairburn and Son Limited	N/A	N/A	PD-011	Part 1 (Category 1 – Occupier)	Permanent acquisition of subsurface	23/6, 23/7	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	This landowners interest has recently emerged and the Applicant has issued HOTs to the Affected Person and their Appointed Agent to secure the rights required to construct and operate the scheme. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
88	No Objection	Lunette Services Three Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	19/29, 19/33, 19/34, 19/36	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	N/A	26/09/2024
89	OB-43	Manby Farms Limited	RR-058 Fully withdrawn via Agent Confirmation	N/A	REP4-070	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/75, 1/76, 2/18, 2/19, 2/20, 2/21	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
90	OB-4	Margaret Anne Brader	RR-099 Fully withdrawn via Agent Confirmation	N/A	REP4-084	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/9, 23/10, 23/12, 24/1, 24/2, 23/11, 24/3	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	24/4, 24/5	No	N/A								
91	OB-44	Mark James Buckley	RR-017 Fully withdrawn via REP1-106	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	21/13,21/15,21/17,22/1,2 1/14,22/3,22/2,21/16,21/1 8,22/6,21/12,15/6,20/19,2 0/20,20/21	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
92	No Objection	Mark Needham Burt	RR-090	N/A	REP4-079	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	7/9, 7/10, 8/1, 8/2, 8/3, 8/5, 8/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have been maintaing ongoing discussion regarding the Heads of Terms. Although terms have not yet been agreed, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	18/09/2024
93	OB-45	Mark Robert Caswell	RR-061 Fully withdrawn via Agent Confirmation	REP1-123	REP4-071	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	18/7, 21/9, 21/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024

94	OB-46	Mark Stewart Pridgeon	RR-054 Fully withdrawn via REP1-121	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	24/9, 24/10, 24/11, 25/1, 25/2	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, relevant representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
95	No Objection	Mark William Fussey	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	12/9, 13/4, 13/5, 13/7, 13/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Mark Broadhurst, Leonards	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	12/6, 12/8, ~~13/1, 13/2, 13/3,~~ 13/6	No	N/A							
96	OB-16	Martha Rodmandon Nicholson	RR-095	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/3, 23/4	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to now be agreed in principle. Although these have not been formally agreed prior to close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Molly Williams, Perkins George Mawer & Co	26/09/2024
97	No Objection	Matthew Peter Durrant	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024
98	OB-47	Matthew Raymond Graves	RR-001 Fully withdrawn via REP1-104 Fully Withdrawn via REP1-096	N/A	AS-092	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	29/9, 29/10, 29/11, 29/12	Yes	Commons	Plot 29/11 only - embankment and hedgerow	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement by the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Lucy Turner, Masons and Partners	26/09/2024
99	OB-48	National Gas Transmission plc	RR-070	AS-090	AS-055 REP2-039	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	35/35, 35/37, 35/38, 36/8 35/19, 35/31, 35/21, 35/33, 35/18, 35/17, 35/23, 35/22, 35/26, 35/41, 36/2, 36/11, 35/34, 35/32, 35/40, 35/29, 35/24, 35/25, 35/27, 35/30, 35/20, 35/36, 35/39, 35/28	Yes	N/A	N/A	SU and disputed operational	Draft under discussion	Objection, but Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and NGT have reached agreement. The Applicant had anticipates that the Affected Person would remove their objection prior to the end of Examination, an update will be provided to the Secretary of State upon completion.	N/A	26/09/2024
							Temporary	35/42	No	N/A							
100	OB-49	National Highways Limited	RR-072	REP1-077	REP1-076 REP2-040	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/37, 1/41, 1/42, 1/45, 1/46, 1/47, 1/48, ~~1/49,~~ 1/53, ~~1/60,~~ 5/4, 5/5	Yes	N/A	N/A	SU and known operational	Draft under discussion	Objection, agreement unlikely before close of Examination	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Revised Heads of Terms were re-issued to the Affected Person in July 2024. The Affected Party's objection relates to various matters such as Protective Provisions and traffic management, and not to compulsory acquisition specifically. The Applicant has been working with the Affected Party to resolve the matters raised within the objection, and a Statement of Common Ground is to be agreed between the two parties and will be submitted as part of the DCO application process. Subject to the Affected Party's concerns being satisfied, it is anticipated that a voluntary agreement will be reached. The Applicant has included in the DCO a set of protective provisions for the protection of National Highways. As set out in the Applicants response to the rule 17 letter the Applicant consideres these are sufficient to prevent serious detriment to National Highways undertaking.	N/A	18/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	4/5, 4/6, 4/7, 4/10, 4/11, 4/12	No	N/A							
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	1/62, 1/63	Yes	N/A							
						Part 1 (Category 2 – Third Party Interest)	Permanent acquisition of subsurface	2/1, 2/2, 2/3, 2/5, 3/2, 3/4, 3/10, 3/11, 5/6, 6/3, 6/7, 6/8	Yes	N/A							
101	OB-50	Natural England	RR-073	REP1-079 REP1-080 AS-089	REP1-030 REP1-078 REP2-041	Part 1 (Category 1 – Owner)	Permanent rights and temporary use	36/12, 36/13	Yes	Open Space	Plots 36/13, 36/14 , 36/16 - shrubland and foreshore	Not SU	Draft under discussion	No objection, relevant representations made, agreement likely before close of Examination	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant has been maintaing ongoing discussions with the Affected Person. Although terms have not yet been agreed, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	N/A	18/09/2024
						Part 1 (Category 1 – Lessee)	Permanent rights and temporary use	36/14, 36/16	Yes	N/A							
						Part 1 (Category 2 – Third Party Interest)	Permanent acquisition of subsurface	11/11, 11/13, 12/1, 12/2, 12/3	Yes	N/A							
102	OB-51	Neil Tuxworth	RR-103 Fully withdrawn via REP1-143	N/A	N/A	~~Part 1 (Category 1 – Owner)~~	~~Permanent acquisition of subsurface~~	~~35/8, 35/13, 35/14~~	~~Yes~~	~~N/A~~	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	35/7, 35/12, 35/15, 35/16, 35/17, 35/18	Yes	N/A							
						~~Part 1 (Category 1 – Owner)~~	~~Temporary possesion and use~~	~~35/10~~	~~No~~	~~N/A~~							

103	No Objection	Nicholas Harvey	N/A	N/A	N/A	Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	32/2, 33/1, 33/2, 33/4	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Ellie Allwood, Brown & Co	18/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	33/3	Yes	N/A							
189	No Objection	Nick Wilkinson	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	22/4	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
104	OB-52	North East Lincolnshire Borough Council	RR-078	N/A	AoC-008 REP1-064 REP1-065	Part 1 (Category 1 – Owner)	Permanent acquisition	10/5, 16/4	Yes	Open Space	Plots 2/9 and 2/12 - woodland, public footpath and underground pipeline	Not SU	Not required	No objection, relevant representations made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person have maintained frequent dialogue and have progressed Heads of Terms negotiations. Although an agreement has not been reached by the close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	N/A	26/09/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/77, 1/78, 2/13, 2/14, 2/15, 3/5, 3/8, 5/8, 6/5, 7/3, 7/4, 8/3, 9/9, 9/10, 10/4, 11/5, 11/6, 11/8, 11/9, 12/4, 13/8, 15/4, 15/5, 15/9, 16/3	Yes	N/A							
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	10/8, 10/9, 10/13, 10/14, 10/15, 10/16, 16/8	Yes	N/A							
						Part 1 (Category 1 – Owner)	Temporary possession and use	6/1, 9/13, ~~11/12,~~ 12/6, ~~13/1,~~ 13/6	No	N/A							
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	2/2, 2/4, 2/5, 2/6, 2/7, 2/9, 2/12, 3/2, 3/3, 3/4, 3/10, 6/4, 6/5, 6/7, 7/8, 7/9, 7/10, 9/12, 10/10, 11/2, 11/13, 12/2, 13/9, 13/10, 15/6, 15/7, 15/8, 15/9, 15/10, 16/2, 17/1	Yes	N/A							
						Part 1 (Category 1 – Tenant)	Permanent rights and temporary use	10/13, 16/7, 16/8	Yes	N/A							
						Part 1 (Category 1 – Tenant)	Temporary possession and use	16/9	No	N/A							
105	OB-53	Nicolas James Denby	RR-097 Fully withdrawn via REP1-141	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	28/12, 28/17, 29/1, 29/2, 29/6, 29/8, 29/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	29/3, 29/4, 29/5, 29/7	No	N/A							
106	No Objection	North East Lindsey Drainage Board	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent rights and temporary use	1/55, 1/56, 1/65	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Party have signed and agreed to the Heads of Terms.	N/A	22/08/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	1/4, 1/5, 1/73, 1/74, 2/2, 2/6, 3/2, 7/9, 7/10, 1152/7	Yes	N/A							
						Part 1 (Category 1 – Tenant)	Permanent rights and temporary use	1/43, 1/52	Yes	N/A							
107	OB-54	North Lincolnshire Borough Council	RR-079	N/A	AoC-010 REP1-062 REP1-063	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/36, 1/40, 1/41, 1/42, 1/44, 1/45, 1/47, 1/48, 1/49, 1/50, 1/51, 1/53, 1/60, 1/61, 1/64, 1/72, 1/73 1/52, 1/55, 1/62, 1/63, 1/66	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations made, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Party have signed and agreed to the Heads of Terms.	N/A	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	4/4, 4/5, 4/6, 4/7, 4/8, 4/9, 4/10, 4/11, 4/12, 4/13, 4/14, 4/15	No	N/A							
108	OB-55	Northern Powergrid (Yorkshire) Plc	RR-080	N/A	N/A	Part 1 (Category 1 – Lessee)	Permanent acquisition	1/58	Yes	N/A	N/A	SU and known operational	Draft under discussion	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Terms of protective provisions have been agreed and the Applicant expects this to be confirmed by deadline 6 with the Affected Parties removal of their representation.	N/A	18/09/2024

190	No Objection	Optimus Wind Limited	N/A	N/A	N/A	Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	6/8	Yes	N/A	N/A	SU and known operational	Draft under discussion	No objection, Heads of Terms to be negotiated	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The applicant has included provisions in the DCO for the protection of statutory undertakers and will engage with them throughout the process. Optimus Wind Limited have not raised any concerns with the Applicant.	N/A	18/09/2024
191	No Objection	Peter Smith	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	35/19, 35/21	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Robertson, Dalcour MacLaren	18/09/2024
109	OB-56	Phillips 66 Limited	RR-084	REP1-093	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	1/32, 1/57, 1/59, 1/80	Yes	Open Space	Plots 2/7, 2/9 and 2/12 - woodland, public footpath and underground pipeline	SU and known operational	Draft under discussion	Objection withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	24/09/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/36, 1/37, 1/41, 1/50, 1/54, 1/58, 1/60, 2/7, 2/9, 2/12, 2/13	Yes	N/A							
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	1/43	Yes	N/A							
						Part 1 (Category 1 – Owner)	Temporary possession and use	1/25, 1/27, 1/29, 1/30	No	N/A							
110	No Objection	Oliver Stubbs	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	31/24, 31/25, 32/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
111	No Objection	Patricia Mary Sharpley	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
112	OB-57	Paul Davey	RR-067 Fully withdrawn via Agent Confirmation	N/A	REP4-074	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	10/11, 10/12, 11/1, 11/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
~~113~~	~~No Objection~~	Paul Jarvis	~~N/A~~	~~N/A~~	~~N/A~~	~~Part 1~~	~~Temporary~~	~~35/9, 35/10, 35/11~~	~~No~~	~~N/A~~	~~N/A~~	~~Not SU~~	~~Not required~~	~~No objection, Heads of Terms under negotiation~~	~~The Affected Party's interest has been removed as a result of change request 3.~~ ~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant will continue to engage with the Affected Person and it hoped that an agreement can be reached with the Affected Person before the end of Examination.~~	~~N/A~~	22/08/2024
114	OB-58	Paul Joseph Bennett	RR-019 Fully withdrawn via REP1-098	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	24/3, 24/8, 24/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	24/6, 24/7	No	N/A							
115	OB-27	Pauline Elizabeth Strawson	RR-083 Fully withdrawn via Agent Confirmation	REP1-115	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/11, 14/1, 14/2, 14/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	23/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	14/3, 14/4	No	N/A							
116	OB-7	Peter Alfred Teanby	RR-105 RR-106 RR-108 Withdrawal of Relevant Representations and submission	N/A	AS-056 AS-057 AS-058	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	28/5, 28/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucie Muddiman, Savills	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	28/7, 28/9	No	N/A							
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	26/14, 27/1, 27/2, 28/4	Yes	N/A							
118	OB-32	Philip Donald Fenwick	RR-013 Fully withdrawn via Agent Confirmation	N/A	REP4-066	Part 1 (Category 1 – Occupier)	Permanent acquisition of subsurface	13/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024

						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	12/9, 13/4, 13/5, 13/7, 13/9	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	12/8, ~~13/2, 13/3~~	No	N/A									
119	No Objection	Philip Henry Needham	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/3, 27/4, 27/5, 27/6, 27/8, 27/9, 27/10, 27/12, 28/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. . The Affected Person has signed and agreed to the Heads of Terms.	Chloe Greig, Brown & Co	22/08/2024
120	OB-38	Philip John Hoyes	RR-081 Fully withdrawn via Agent Confirmation	N/A	REP4-076	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	8/9, 8/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
121	OB-59	R & A Needham Farms Limited	RR-085 Fully withdrawn via REP1-099	N/A	REP1-099	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	27/6, 27/7, 27/8, 28/6, 28/8, 29/12, 29/13, 29/14, 29/15, 30/1, 30/2, 30/6, 30/8, 30/9	Yes	Commons	Plot 29/13 only - drain and hedgerow	Not SU	Not required	Heads of Terms agreed, representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	28/9, 28/10, 30/3, 30/4, 30/5	No	N/A									
122	OB-60	R.Caudwell (Produce) Limited	RR-086 Fully Withdrawn via REP1-100	N/A	AS-093	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	19/15, 19/17, 19/18, 19/22, 19/23, 19/24, 19/25, 19/26, 19/27, 19/28, 19/30, 19/31, 19/32, 19/35, 19/37, 19/39, 19/40, 19/41, 19/42, 19/43, 19/44, 19/45, 20/1, 20/2, 20/3, 20/4, 20/5, 20/8, 20/12, 20/16, 20/17, 20/18	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	25/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	20/6, 20/7, 20/9, 20/10, 20/11, 20/13, 20/14	No	N/A									
123	No Objection	R.M.Cottingham Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/7, 15/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tom Mason, T Mason Services	26/09/2024
199	No Objection	Richard Borrill	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	2/1, 2/3, 2/4, 2/5, 3/10, 3/11	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	23/09/2024
124	No Objection	Richard Christopher Parker	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	26/12	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Gagie, AG Surveyors	22/08/2024
						Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	26/9	Yes	N/A									
125	No Objection	Richard Larder	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	3/2, 3/3, 3/4, 5/6, 5/7, 6/3, 6/4, 6/6, 6/7, 6/8, 6/10, 6/11	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	23/09/2024
126	No Objection	Rick Howell Farms Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	31/4, 31/5, 31/8, 31/9, 31/10, 31/11, 31/12	Yes	Commons	Plot 30/20 only - access track and drain	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Frederick Winston Howell	30/08/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	30/10, 30/11, 30/16, 30/18, 30/19, 30/20, 30/21, 30/23, 30/24, 30/25, 31/1, 31/2, 31/6, 33/6, 34/13, 34/15, 34/16	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	30/15	No	N/A									
127	OB-33	Robert Edward Clayton	RR-101 Fully withdrawn via REP1-142	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	10/11, ~~10/12, 11/1, 11/3~~	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	18/09/2024
128	No Objection	Robert Greetham	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	3/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024

129	No Objection	Robert James Nicholson	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	30/7, 30/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Elton Moulds, Perkins George Mawer & Co	18/09/2024
						Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/13, 28/2, 28/3, 28/13, 28/14, 28/16	Yes	N/A								
						Part 1 (Category 1 – Tenant)	Temporary possession and use	28/11	No	N/A								
130	No Objection	Robert John Stubbs	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	31/22, 31/24, 31/25, 32/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
131	OB-4	Robert Michael Brader	RR-099 Fully withdrawn via Agent Confirmation	N/A	REP4-084	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/4, 23/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
132	OB-11	Robert Unsworth	RR-088	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/5, 33/7, 33/8, 33/9, 33/10, 34/11	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
133	OB-61	Robert William Mountain	RR-064	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	31/13, 31/19	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	22/08/2024
134	OB-33	Roger Clayton	RR-101 Fully withdrawn via REP1-142	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	10/11, 10/12, 11/1, 11/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	18/09/2024
135	No Objection	Roger Frank Henry Sharpley	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/8	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
136	No Objection	Roger George Pointon	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	32/2, 33/1, 33/2, 33/4, 33/5	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Ellie Allwood, Brown & Co	18/09/2024
137	OB-3	Ronald Hilton	RR-002 Fully withdrawn via Agent Confirmation	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	3/5, 3/6, 3/7, 3/8, 3/9, 5/1, 5/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
138	OB-7	Ronald Richard John Cook	RR-102	N/A	REP4-086	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	13/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
139	No Objection	Rowe Agricultural Limited	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/8	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Edward Dixon, Simmons and Sons	22/08/2024
140	OB-62	Roy Scaman	RR-087 Fully withdrawn via REP1-101	N/A	REP1-101	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	23/6, 23/7, 23/8, 23/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
141	OB-12	S.H. Somerscales Limited	RR-093	N/A	REP4-081	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	6/13, 6/14, 7/5, 7/6, 7/7, 7/8, 7/9	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations made, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
142	No Objection	Sally Wright	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024
143	No Objection	Salt & Foam Golf Courses Ltd	N/A	N/A	N/A	Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	2/14	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms offered but no response	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant will continue to attempt to engage with the Affected Person and it is hoped that an agreement can be reached with the Affected Person before the end of Examination. Given a lack of response from the Affected Person, the Applicant has been engaging with the Freehold Landowner of the subject land in order to come to a negotiated resolution. The Applicant will continue to try and engage with the Affected Person and underlying Freehold Landowner with a view to concluding a deal before the end of examination though to date has not received any	N/A	22/08/2024
144	No Objection	Saltfleetby Energy Limited	N/A	N/A	N/A	Part 1 (Category 1 – Lessee)	Permanent acquisition of subsurface	34/21	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	22/08/2024

~~Part 1 (Category 1 – Lessee)~~	~~Permanent rights and temporary use~~	~~35/26~~	~~Yes~~															
145	No Objection	Sarah Mabel Durrant	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/9	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	18/09/2024
~~146~~	~~No Objection~~	~~Sharon Jarvis~~	~~N/A~~	~~N/A~~	~~N/A~~	~~Part 1~~	~~Temporary~~	~~35/9, 35/10, 35/11~~	~~No~~	~~N/A~~	~~N/A~~	~~Not SU~~	~~Not required~~	~~No objection, Heads of Terms under negotiation~~	~~The Affected Party's interest has been removed as a result of change request 2.~~ ~~Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person.~~ ~~The Applicant will continue to engage with the Affected Person and it hoped that an agreement can be reached with the Affected Person before the end of Examination.~~	~~N/A~~	22/08/2024
147	No Objection	Simon Alan Wells	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	27/3, 27/4, 27/5, 27/9, 27/10, 27/12, 28/1	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	24/09/2024
148	No Objection	Simon Greville Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	33/11, 33/12, 33/13, 34/1, 34/2, 34/3, 34/4, 34/5, 34/6, 34/7, 34/8, 34/9,34/10, 34/12, 34/13, 34/14, 34/15, 34/16, 34/17, 34/18, 34/19, 34/20, 34/21, 34/22, 34/23, 34/24, 34/25, 34/26, 35/1, 35/5, 35/7	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Daniel Jobe, Brown & Co	30/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	35/2, 35/3, 35/6	No	N/A								
149	OB-63	Sir Francis George Windham Brooke	RR-100 Fully withdrawn via Agent Confirmation	N/A	REP4-085	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	2/1, 2/3, 2/4, 2/5, 3/2, 3/3, 3/4, 3/8, 3/10, 3/11, 5/6, 5/7, 5/8, 6/3, 6/4, 6/6, 6/7, 6/8, 6/9, 6/10, 6/11, 6/12	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	6/1, 6/2	No	N/A								
150	OB-64	Sir Richard Sutton Limited	RR-096 Fully withdrawn via Agent Confirmation	N/A	REP4-082	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	11/6, 11/7, 11/8, 11/9, 11/11, 11/13, 12/1, 12/2, 12/4, 12/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
151	No Objection	Spencer Frederick Howell	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	30/20, 30/21, 30/22	Yes	Commons	Plot 30/20 only - access track and drain	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tom Watson, Cundalls	30/08/2024
152	OB-44	Stephen Edward Buckley	RR-017 Fully withdrawn via REP1-106	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/6, 20/19, 20/20, 20/21, 21/12, 21/13, 21/14, 21/15, 21/16, 21/17, 21/18, 22/1, 22/2, 22/3, 22/6	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
153	OB-34	Steven Andrew Cornyj	RR-040 Fully withdrawn via REP2-044	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	16/4, 16/5	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, relevant representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Giles Johnston, DDM Agriculture Ltd	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	16/3, 16/10, 17/1, 17/2, 18/1, 18/2, 18/3, 18/4, 18/5, 18/6, 18/8, 18/9, 18/10, 18/11, 19/1, 19/2, 19/3, 19/4, 19/5, 19/6, 19/7, 19/8, 19/9, 19/10, 19/11, 19/12, 19/13, 19/14, 19/16, 19/18, 19/20, 19/21	Yes	N/A							
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	16/8	Yes	N/A								
						Part 1 (Category 1 – Owner)	Temporary possession and use	16/9	No	N/A								
154	OB-65	Steven Shepherd	RR-068 Fully withdrawn via Agent Confirmation	N/A	REP4-075	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	6/15, 7/1, 7/2, 7/3, 7/4	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. IThe Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
182	OB-12	Stuart Herbert Somerscales	RR-093	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	7/3, 7/4, 7/5, 7/6, 7/7	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. Although the Applicant has been in ongoing discussion with the Affected Person and their Land Agent, it has not been possible to reach an agreement before the end of examination. Nevertheless, the Applicant will continue to attempt to progress matters in an effort to reach a consented agreement with the Affected Person.	Tony Dale, DDM Agriculture Ltd	26/09/2024
155	OB-30	Susan Margaret Preston	RR-107 Fully withdrawn via AS-062	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	14/6, 14/7, 14/8, 15/1, 15/2	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representation withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	22/08/2024

						Part 1 (Category 1 – Owner)	Temporary possession and use	14/3, 14/5	No	N/A									
~~156~~	OB-66	Susan Mary House	N/A	REP1-140	N/A	~~Part 1 (Category 1 – Owner)~~	~~Permanent acquisition~~	~~36/8~~	~~Yes~~	~~N/A~~	N/A	Not SU	Not required	Objection and agreement unlikely before close of Examination	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person's objection does not relate specifically to compulsory acquisition. The Applicant is only seeking permanent rights of access and is not looking to acquire any land from the Affected Person. Vehicle movements granted by the rights provided will be minor and for a short a time as possible. Mobilisation will be 6 No. HGVs and Demobilisation 4 No. HGVs and the expected daily movements are expected to be in the order of 1 No. HGV, 6 No. to 8 No. LGVs during the construction period . Construction is expected to be a minimum of 3 weeks but to be completed in a short a time frame as possible. The Applicant will seek to minimise disruption as far as it is able to do so. Post construction access will be required for routine safety and maintenance inspection. The Applicant considers this will have minimal impact on the Affected Person. The Applicant has offered commercial terms for the rights sought but this has not been accepted by the House family. It is for that reason that we think agreement is unlikely before the close of Examination. The Applicant will of course continue to seek to agree terms on a consented basis.	Elizabeth Allen, EA Land Agents	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	36/3, 36/4, 36/5, 36/6	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Permanent rights and temporary use	35/39, 35/41, 36/2, 36/7, 36/8	Yes	N/A									
						Part 1 (Category 1 – Tenant)	Temporary possession and use	36/9, 36/10, 36/11	No	N/A									
157	OB-67	Tennants Consolidated Limited	RR-098 Fully withdrawn via Agent Confirmation	N/A	REP4-083	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	1/75, 1/76, 2/18, 2/19, 2/20, 2/21	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Clarke, Clarke Waightmans	26/09/2024
158	No Objection	The King's Most Excellent Majesty in Right of His Crown	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	36/12, 36/14, 36/15, 36/16	Yes	Crown Land	All plots - shrubland, hedgerow and foreshore	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Crown Estates solicitors have preparede a draft section 135 consent which the Applicant believes is with the Crown Estate for approval.	N/A	18/09/2024
159	OB-63	The Right Honourable Charles John Pelham Eighth Earl of Yarborough	RR-100 Fully withdrawn via Agent Confirmation	N/A	REP4-085	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	2/1, 2/3, 2/4, 2/5, 3/2, 3/3, 3/4, 3/8, 3/10, 3/11, 5/6, 5/7, 5/8, 6/3, 6/4, 6/6, 6/7, 6/8, 6/9, 6/10, 6/11, 6/12	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	6/1, 6/2	No	N/A									
160	No Objection	Theresa Waylett	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	35/4, 35/6	Yes	N/A	N/A	Not SU	Not required	Licence agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Party has signed and returned the licence agreement.	N/A	22/08/2024
161	OB-61	Thomas George Mountain	RR-064	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	31/12, 31/13, 31/18, 31/19	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Molly Williams, Perkins George Mawer & Co	22/08/2024
162	No Objection	Thomas Stuart Shucksmith	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition	~~25/18, 26/2, 26/3~~ 26/4, 26/5	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Andrew Gaskie, AG Surveyors	22/08/2024
						Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	25/5, 25/7, 25/10, 26/2, 26/3, ~~26/4, 26/5,~~ 26/6, ~~26/8~~	Yes	N/A									
						Part 1 (Category 1 – Owner)	Permanent rights and temporary use	25/8, 25/9, 26/1	Yes	N/A									
163	OB-38	Timothy James Hoyes	RR-081 Fully withdrawn via Agent Confirmation	N/A	N/A	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	8/9, 8/10	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
164	No Objection	V Wilkins & Sons Limited	N/A	N/A	N/A	Part 1 (Category 1 – Tenant)	Permanent acquisition of subsurface	5/9, 5/10	Yes	N/A	N/A	Not SU	Not required	No objection, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	02/09/2024
165	No Objection	Vivienne Patricia Dinsdale	N/A	N/A	N/A	Part 1 (Category 1 – Owner)	Temporary possession and use	4/1, 4/2, 4/3	No	N/A	N/A	Not SU	Not required	No objection, Heads of Terms under negotiation	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Applicant and the Affected Person and their Land Agent have maintained frequent dialogue and have progressed Heads of Terms negotiations, which are understood to now be close to agreement. Although these have not been formally agreed prior to close of examination, it is the Applicants' belief that the Heads of Terms will be signed and agreed in the near future.	Tony Dale, DDM Agriculture Ltd	26/09/2024
166	OB-63	The Right Honourable Kenneth Peter Lyle Earl of Inchcape	RR-100 Fully withdrawn via Agent Confirmation	N/A	REP4-085	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	2/1, 2/3, 2/4, 2/5, 3/2, 3/3, 3/4, 3/8, 3/10, 3/11, 5/6, 5/7, 5/8, 6/3, 6/4, 6/6, 6/7, 6/8, 6/9, 6/10 6/11, 6/12	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	N/A	26/09/2024

						Part 1 (Category 1 – Owner)	Temporary possession and use	6/1, 6/2	No	N/A								
168	OB-68	Wienerberger Limited	RR-118 Fully withdrawn via Agent Confirmation	N/A	REP4-088	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	15/4, 15/3, 15/5	Yes	N/A	N/A	Not SU	Not required	No objection, relevant representations withdrawn, Heads of Terms agreed	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Tony Dale, DDM Agriculture Ltd	26/09/2024
169	OB-69	William Tym Morgan	RR-116 Fully withdrawn via REP1-145	N/A		Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	30/17	Yes	N/A	N/A	Not SU	Not required	Heads of Terms agreed, representation withdrawn	Please refer to the Schedule of Negotiations EN070008/APP/3.4 for additional information in regard to the ongoing negotiations with the Affected Person. The Affected Person has signed and agreed to the Heads of Terms.	Lucy Turner, Masons and Partners	22/08/2024
						Part 1 (Category 1 – Owner)	Temporary possession and use	30/14	No	N/A								

200	OB-73	Air Products (BR) Limited	RR-003	REP1-084 REP1-085	REP4-089	Part 1 (Category 2)	Permanent acquisition of subsurface	1/32, 1/53, 1/59, 1/61, 1/67, 1/71, 1/72, 1/73, 1/74, 1/79, 1/80	Yes	N/A	N/A	SU and known operational	Draft under discussion	Objection made, agreement likely before close of Examination	The Affected Person's Category 2 interest has been added to the Compulsory Acquisition Tracker as requested. Protective provisions are agreed between the parties. The parties are agreeing a separate side agreement to manage future engagement and interactions, which has some minor points under discussion. Until that is agreed Air Products are maintaining their objection on a protective basis. An update will be submitted to the Secretary of State direct once agreement is reached.	N/A	26/09/2024
						Part 1 (Category 2)	Temporary possession and use	1/43, 1/57, 1/62	No									
170	OB-70	Anglian Water Services Limited	RR-009	N/A	REP1-086 REP1-087 REP1-088	Part 1 (Category 2)	Permanent acquisition of subsurface	26/7, 26/8, 26/9, 26/10	Yes	N/A	N/A	SU and known operational	Draft under discussion	No Objection, relevant representations made, agreements under negotiation.	The Applicant has agreed a form of provisions with the Affected Party and will continue to engage with them on this matter. In August 2024 the Applicant's Land Agent Gateley Hamer re-issued updated detailed Heads of Terms to the Affected Person's appointed Land Agent. Negotiations for the Heads of Terms and Lease Agreement have been progressing with the Appointed Agent and it is expected that an agreement with the Affected Person will be reached before the end of Examination.	Lewis Atton, Savills	26/09/2024
201	OB-74	Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited	RR-011	REP1-089	N/A	Part 1 (Category 2)	Permanent acquisition of subsurface	1/74	Yes	N/A	N/A	SU and known operational	Draft under discussion	Objection made, agreement likely before close of Examination	The Affected Person's Category 2 interest has been added to the Compulsory Acquisition Tracker as requested. Terms have now been agreed between the parties, but due to the requirements of respective internal approval processes it has not been possible for the agreement to be completed prior to Deadline 7. The Applicant expects this to complete shortly after the close of the Examination and intends to submit an update to the Secretary of State when that is the case. The IOT Operators are maintaining their objection until that agreement has completed.	N/A	26/09/2024
179	OB-71	Network Rail Limited	RR-074	REP1-081 REP1-082	N/A	Part 1 (Category 1 - Owner)	Permanent acquisition of subsurface	1/40, 1/44, 1/54, 6/5	Yes	N/A	N/A	SU and known operational	Draft under discussion	Objection but agreement likely before close of Examination	The Applicant has included provisions in the DCO for the protection of statutory undertakers and will engage with them throughout the process. The Affected Person's objection does not specifically mention compulsory acquisition and has raised an objection in relation to a protective provisions and operational matters. The Applicant and the Affected Person have been working together to close out the Affected Person's concerns. The two parties have already entered into a BAPA agreement and it is anticipated that the remaining items can be resolved. A Statement of Common Ground will be submitted as part of the DCO application process. The Applicant will continue to engage with regards to the Affected Person's land.	N/A	26/09/2024
181	No Objection	Prax Downstream UK Limited		N/A	N/A	Part 1 (Category 1 - Tenant)	Permanent acquisition of subsurface	2/4, 2/9, 3/3	Yes	Open Space	2/9 only	SU and known operational	Draft under discussion	No objection, agreement under negotiation	In April 2024 the Applicant's Land Agent Gateley Hamer issued detailed Heads of Terms to the Affected Person in relation to their Land ownership and is engaging with them in respect of provisions. The Applicant will continue to engage with the Affected Person with a view to concluding a deal before the end of Examination. The Affected Persons Solicitor has recently made contact to establish an undertaking and to commence the Heads of Terms negotiations.	N/A	18/09/2024
182	OB-72	Uniper UK Gas Limited	RR-114	N/A	REP1-094	Part 1 (Category 1 – Owner)	Permanent acquisition of subsurface	18/9, 19/2, 19/5, 19/9, 19/12, 19/16, 19/18, 19/19, 19/23, 19/27, 19/31, 19/34, 19/38, 19/41, 19/44, 20/3, 20/5, 20/17, 20/20, 20/23, 20/26, 20/29, 21/2, 21/5, 33/12, 34/2, 34/7, 34/9 35/23, 35/29, 35/30	Yes	N/A	N/A	SU and known operational	Draft under discussion	No objection, agreement under negotiation	Uniper have provieded the applicant with their prefreed form or protected provisions. The applicant has provided more detail in its response to the rule 17 letter.	N/A	18/09/2024
							Temporary possession and use	20/13	No	N/A								

Table 1-1: Status Key Status Key - Deadline 7	26/9/2024	
	Option Agreement signed	
	Heads of Terms agreed, Option Agreement in negotiation	142
	No objection* and Heads of Terms negotiations ongoing	30

	No objection* and Heads of Terms negotiations not commenced	
	No objection* but Heads of Terms negotiations unsuccessful	
	Objection* and agreement unlikely before close of Examination	7
	No Land Interest response so far to correspondence from the Applicant	1
		180

[i] Ob. no. = objection number.

[ii] Reference number assigned to each Interested Party (IP) and Affected Person (AP)

[iii] Reference number assigned to each Relevant Representation (RR) in the Examination library

[iv] Reference number assigned to each Written Representation (WR) in the Examination library

[v] Reference number assigned to any other document in the Examination library

[vi] This refers to parts 1 to 3 of the Book of Reference:

- Part 1, containing the names and addresses of the owners, lessees, tenants, and occupiers of, and others with an interest in, or power to sell and convey, or release, each parcel of Order land;
- Part 2, containing the names and addresses of any persons whose land is not directly affected under the Order, but who "would or might" be entitled to make a claim under section 10 of the Compulsory Purchase Act 1965, as a result of the Order being implemented, or Part 1 of the Land Compensation Act 1973, as a result of the use of the land once the Order has been implemented;
- Part 3, containing the names and addresses of any persons who are entitled to easements or other private rights over the Order land that may be extinguished, suspended or interfered with under the Order.

[vii] This column indicates whether then Applicant is seeking compulsory acquisition or temporary possession of land/ rights

[viii] CA = compulsory acquisition. The answer is 'yes' if the land is in parts 1 or 3 of the Book of Reference and the Applicant is seeking compulsory acquisition of land/ rights

APPENDIX F EXAMINING AUTHORITY LAND RIGHTS SUMMARY TABLE

CA, TP, Land and/ or Rights Objections Considered in Written and Written and Oral Processes

The Table below in this appendix records Affected Persons (APs) and other persons with relevant objections to aspects of the Applicant's Compulsory Acquisition (CA) / Temporary Possession (TP) of land or rights request whose objections were considered on the basis of written submissions only, or those made with written submissions and a separate request to be heard orally. It should be read in conjunction with the Applicant's final version of the CA Tracker submitted into the Examination at Deadline 7 [REP7-003] as supplemented by the Applicant's Schedule of Negotiations and Powers (SNP) [REP7-002], which under each unique reference number (URN) lists: the status of the objection; the plots for each land interest; identifies those subject to CA of land, CA of rights and TP or TP of land only (as shown on the Land Plans [REP5-011] in pink, orange, blue and green respectively); the proposed works on those plots and the status of negotiations at the end of the Examination.

There are some 201 Plot owners listed in the Table. A significant number have raised no objection to the Application. However, the ExA is satisfied that that these APs have been given adequate notification and opportunity to make representations, and this is evidenced in the SNP. Where no objection was received, the relevant plots have not been referred to in the table below although reference is included in the SNP. In each case where no objection has been made, the ExA concludes that there is a compelling case in the public interest for the grant of the powers sought.

There was a considerable number (approximately 47 out of a total of 121) of Relevant Representations submitted in a very similar format. They will be referred throughout in this Appendix as "A Summary Objection". As an example, the first Relevant Representation (RR) in the Examination Library [RR-001] is as follows:

"*My client wishes to raise the following concerns surrounding the project; • Failure to agree commercial terms due to a lack of meaningful consultation with the landowners and their agents. Have not ever met with the client either. • Failure to agree a method statement for the pipeline construction and failure to provide clarity regarding construction depth of the pipeline and assurances that the land can be farmed going forward • No consultation has taken place regarding potential future development of the pipeline corridor and compensation provision via a development clause • No consultation regarding the implementation of a haul road during the construction period Finally, my client has huge concerns over the drainage issues during and post construction as the land in this part of the country will never properly recover and would urge the scheme to be rerouted to avoid their field."*

The ExA did not consider in these instances that these submissions amounted to a formal objection, and, in any event, the significant majority have been withdrawn by the close of the Examination. Where the RR was not withdrawn, the ExA comments further on the relevant AP in the table below. Furthermore, if a RR specifically raised an issue relating to the CA of the land, then that comment is also considered below. For those that were withdrawn, the comment inserted below simply reads as "A Summary Objection" but in each of these cases, the ExA concludes

that a compelling case in the public interest has been made for the powers sought. For those where objections remain, these are summarised in the table below.

At the close of the Examination, the majority of outstanding objections were from Statutory Undertakers (SUs) and these were predominantly in relation to the Protective Provisions (PPs) being offered by the Applicant as opposed to principle of CA and TP. These differences are considered in detail in the DCO Chapter of this report. The Table refers to the Exam Library References for documents in [square brackets].

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1 Heads of Terms/ Agreement	Position With Regard to a Negotiated Agreement at the end of the Examination Heads of Terms/ Agreement	ExA's Consideration and Conclusions
2.	**Alan Wilson**	**Representation [RR-004]**	**Representation withdrawn at Deadline 1.**	This was one of a considerable number (approximately 47 out of a total of 121) of RRs submitted in a very similar format. They will be referred throughout in this Appendix as a "Standard Submission". The ExA did not consider that these submissions amounted to a formal objection, and, in any event, the significant majority had been withdrawn by the close of the Examination.
3.	**Albert George Ronald Larder**	**Representation [RR-005]**	**Representation withdrawn at Deadline 7 [AS-102]**	A Summary Objection.
4.	**Alexander Jonathan Hilton**	**Representation [RR-002]**	**Representation withdrawn at Deadline 7 [AS-101]**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
		submitted as A. J. Hilton		
6.	**Andrew James Overton Brader**	**Representation [RR-099] submitted as The Braders**	**Withdrawn at Deadline 7 [AS-117]**	A Summary Objection.
7.	**Andrew John Waller**	**No objection raised**	**There is no entry at "7" in the latest CA Tracker** **The Book of Reference submitted at [REP6-007] shows various Plots being numbered 22/5, 22/7, 23/1, 23/2, within this ownership.**	The entry in the BoR [REP6-007] states that these Plots of land are within the ownership of Jacqueline Wells who is the Executrix of Christopher Charles Waller c/o 7 Walnut Close Louth Lincolnshire LN11 7DN. No representation or objection was raised so no further consideration is necessary.
8.	**Andrew Jonathan Hilton**	**As the above Affected Party Reference**	**Withdrawn at Deadline 7 [AS-101]**	A Summary Objection.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
		Number 4. Representation [RR-002]		
9.	**Andrew Paul Tempest**	**[RR-008]**	**This land was no longer required following amendments to the Order limits made by the second Change Application.**	This submission was a clear objection which was not withdrawn but following the second Change Application, the relevant parcel of land was no longer required by the Applicant and therefore did not fall for consideration by the ExA
10.	**Andrew Richard Cartwright**	**Representation [RR-007]**	**Withdrawn at Deadline 7 [AS-103]**	A Summary Objection.
11.	**Andrew Teanby**	**Representations [RR-105] submitted from the Needham-Teanby family, [RR-106] submitted from the partners of J. W. Needham**	**Further submissions were received at [AS-056, AS-057 and AS-058]. The representations were withdrawn at Deadline 6 [REP6-067, REP6-068, and REP6-069].**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
		and Co., and [RR-108] submitted from the shareholders of J. W. Needham Limited.		
12.	**Angela Mary Cook**	**[RR-102] from the Cook family**	**No further submissions but not withdrawn**	A Summary Objection. This relates mainly to the lack of meaningful consultation prior to the Application being made (which was in October 2023) and in the view of the ExA did not amount to a formal objection. In any event, there has been no further representation.
15.	**Associated British Ports**	**[RR-010]**	**No further submission**	The Applicant says in the CA Tracker that it has made multiple efforts to engage with the AP, but negotiations have not progressed. This AP has itself been the Applicant on two recent DCO Applications being the Immingham Eastern Ro-Ro Terminal and the Immingham Green Energy Terminal. In its original RR [RR-010], Associated British Ports indicated that it "supports, in principle, the development of the Viking CCS project, and welcomes the potential both projects have towards furthering the goals of decarbonisation of the Humber industrial cluster."

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16.	**Aylesby Manor Farms Limited**	**[RR-012]**	**Representation withdrawn**	This AP was a company owned by the Spilman family [RR-066 and RR-109].and RR-021]. The RRs raised concerns of Statutory Blight and also the location of one of the Block Valve stations (BVS). There was a particular emphasis as to the lack of consultation on a variety of issues of importance to the APs. The ExA did visit the location of this BVS (Plot 10/6 on the Land Plans - REP5-011] on the occasion of our Unaccompanied Site Inspection EV1-001. The AP repeated concerns and emphasised the position in relation to the construction traffic to the BVS [AS-086] at the time of the Accompanied Site Inspection which the AP was unable to attend. However, this was not maintained and an update on negotiations was provided [REP4-065] which indicated that the parties had engaged constructively in negotiation and this was repeated in a separate RR [REP4-067]. The SNP submitted at the close of the Examination [REP7-002] indicated that the AP had signed and agreed to Heads of Terms and in the absence of any suggestion to the contrary, the ExA accepted this position.
18.	**Benjamin Joseph Unsworth**	**[RR-088] submitted on behalf of RAD Unsworth Limited**	**No further submissions but not withdrawn.**	A Summary Objection. This relates mainly to the lack of meaningful consultation prior to the Application being made (which was in October 2023) and in the view of the ExA did not amount to a formal objection. In any event, there has been no further representation. The agent for this AP appeared at CAH2 and raised

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
				concerns on behalf of his client that the activity was close to the AP's home. The Applicant responded at the Hearing saying that the distance was in fact approximately 100 metres and they would know more when borehole surveys were undertaken. The ExA accepted this position.
19.	**Betty Needham**	**[RR-105, RR-106, and RR-108]**	**Updates provided at [AS-056, AS-057 and AS-058] but all representations were withdrawn at Deadline 6 [REP6-067. REP6-068, and REP6-069]**	The concerns were mainly around the depth of the pipeline, and this was specifically raised by the ExA at both ISH1 and ISH2.
20.	**Brenda Patricia Smith**	**[RR-092] submitted as S. G. Smith and Partners**	**Representation withdrawn at Deadline 7 [AS-113]**	A Summary Objection although also mentioned the impact of the introduction of a haul road.
21.	**Brian Mager Limited**	**[RR-015]**	**Representation withdrawn [AS-060]**	A Summary Objection but emphasising the lack of consultation
22.	**Calor Gas Limited**	**[RR-021]**	**Representation withdrawn at**	In its RR, Calor Gas have a site in the Manby Road close to the Immingham facility at the northern end of the Proposed

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
			Deadline 6 [REP6-055]	Development. Calor submitted that the Option 1 proposed in this area could have an adverse impact on its operations during the construction phase given the proximity of the proposed pipeline and DCO boundary to its site and the site access. Calor considered that the Option 2 would be unlikely to have any adverse impacts on the operations of its site. The concerns from Calor were consequently allayed by the selection of Option 2 by the Applicant at the time of second Change Request and Calor confirmed that it had entered into an agreement with the Applicant which ensured adequate protection for its assets.
23.	**Sir Charles Christian Nicholson**	**[RR-095] (not as listed in the CA Tracker)**	**No further submission but not withdrawn.**	The concern from the AP was for the land to be returned to agricultural productivity as soon as possible after completion of the works. The Applicant confirms in the CA Tracker that Heads of Terms had been agreed in principle by the close of the Examination and the ExA accepts this position.
27.	**Executors of Christopher Charles Waller**	**[RR-023]**	**Representation withdrawn at Deadline 1 [REP1-107]**	A Summary Objection
30.	**Darren Michal Joseph Howell**	**[RR-026]**	**Representation withdrawn at**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
			Deadline 1 [REP1-109]	
31.	**David Alwin Spetch**	**[RR-RR-025]**	**Representation withdrawn at Deadline 1 [REP1-108]**	A Summary Objection
32.	**David Andrew John Spilman**	**[RR-109] (from the Spilman family) and [RR-121]**	**The AP made further representations [AS-036, AS-086, and REP4-067]**	This is already referenced in respect of this AP in the entry number 16 above. This was initially A Summary Objection, but various additional issues were raised in the later representation [AS-036] which clearly amounted to an objection to the Application. An update on negotiations was provided [REP4-067] and the Applicant states in the CA Tracker that the objection was withdrawn and Heads of Terms between the parties signed. However, there does not appear to be a submission from the AP or his agent to this effect. It is clear from the previous representation [REP4-067] that negotiations had progressed and the ExA accepts this position and recommends that the CA and TP powers are confirmed.
33.	**David Laughton**	**[RR-018]**	**Representation withdrawn at Deadline 1 [REP1-097]**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
34.	**David Thomas Walter House**	**[REP-110]**	**This objection was not withdrawn**	This representation was lodged by Alice House on behalf of herself and her father, David House. They are both partners in the business of Swallow Park Caravan Site and mentioned the possible impact on the shower block next to the road and entrance at Bleak House Farm and also the proposal to widen the entrance to provide better visibility for the proposed access road. The ExA looked closely at both the shower block and the visibility splay during the Accompanied Site Inspection [EV5-001]. The Applicant emphasised that it was not looking to acquire any land and was only seeking permanent rights of access. The ExA concludes that there is a compelling case in the public interest for the powers sought for the land and interests which are for a legitimate purpose.
35.	**David Wrisdale**	**[RR-027]**	**Representation withdrawn at Deadline 1 [REP1-111]**	A Summary Objection
36.	**Diana Jean Smith**	**[RR-092] submitted as S. G. Smith and Partners**	**Representation withdrawn Deadline 7 [AS-113]**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
38.	**Driver and Vehicle Standards Agency (DVSA)**	**[RR-030]**	**[REP1-069, REP1-070, and AS-087]**	The DVSA owned a large site which adjoined the Manby Road, South Killingholme. The Applicant sought permanent acquisition of the subsurface and the DVSA raised a series of objections on the basis that this could disrupt the operation of its site to such an extent that it would need to move to an alternative site but the search for somewhere suitable was not successful and therefore the objection was maintained. The ExA sought an update to negotiations in our ExQ2 [PD-021] and also our Rule 17 request [PD-023]. The DVSA plots held an added significance as they are Crown Land and as such consent was required under section 135 PA2008. The DVSA clearly obtained the reassurance it was seeking as it confirmed on 24 September 2024 just prior to the close of the Examination that it granted consent for the inclusion of the Plots within the DCO. This therefore amounted to the formal section 135 consent.
39.	**Elizabeth Angela Greetham**	**[RR-033]**	**Withdrawn at Deadline 7 [AS-105]**	A Summary Objection
40.	**Environment Agency (EA)**	**[RR-034]**	**[REP1-071, REP1-072, and REP3-036]**	The EA made detailed submissions and particularly in relation to the DCO. However, considerable progress was made in discussions and a Statement of Common Ground agreed between the parties [REP6-023]. The Applicant is seeking permanent

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
				acquisition of the subsurface and temporary possession and use and reports that Protective Provisions have been agreed. The representations from the EA did not relate to the proposals for CA and TP and the ExA concludes that there is a compelling case in the public interest for CA and TP of the land.
42.	**George Peter Strawson**	**[RR-083]**	**[REP1-115]. Withdrawn at Deadline 7.**	This AP spoke at CAH2 and mentioned concerns about the depth of the pipeline and the future use of the land for agricultural purposes. However, he was later satisfied, and his objection withdrawn [AS-112]
43.	**George Sanderson**	**[RR-065]**	**Representation withdrawn at Deadline 7 [AS-106]**	A Summary Objection
45.	**Gordon Ernest Lee-Steere**	**[RR-095]**	**No further representation but not formally withdrawn**	The concern from the AP was for the land to be returned to agricultural productivity as soon as possible after completion of the works. The Applicant confirms in the CA Tracker that Heads of Terms had been agreed in principle by the close of the Examination. The Applicant is seeking the permanent acquisition of the subsurface and the ExA concludes that there is a compelling case in the public interest for the CA of the subsurface.

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46.	**Grainsby Farms Limited**	**[RR-037]**	**Representation withdrawn at Deadline 2 [REP2-043]**	This was a wide-ranging objection with concerns over the siting of a block valve station. However, matters were resolved by the close of the Examination.
48.	**Hilda Mary House**	**No objection**	**No objection**	Not necessary although it should be noted that other members of the House family have continued to object, and their concerns were not satisfied by the close of the Examination.
50.	**Ian Robinson**	**[RR-107] submitted on behalf of the Robinson-Preston family**	**Representation withdrawn at Deadline 7 [AS-062]**	A Summary Objection
51.	**Irene Unsworth**	**[RR-088] submitted on behalf of R A D Unsworth**	**No further representation.**	The representation centred mainly on the lack of meaningful consultation before the Examination commenced. This AP was represented by agents at CAH2. He stated that his clients were concerned about the construction activity so close to their home. The Applicant explained that the works were approximately 100 metres away from the property and the Applicant would know more once the borehole surveys were undertaken. Since there had been no formal objection, the ExA accepted the explanation provided and found that the seeking of CA of land and rights is justified in this instance.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
53.	**J. W. Needham Limited**	**[RR-105] submitted on behalf of the Needham-Teanby family, [RR-106] on behalf of the partners of J. W. Needham and, [RR-108] submitted on behalf of the shareholders of J. W. Needham Limited**	**Further representations were made at [AS-056, AS-057, AS-058] but all representations were withdrawn at Deadline 6 [REP6-067. REP6-068, and REP6-069]**	The legal estate for most of the relevant plots was held by the company, J.W. Needham Limited although Plot 28/5 was according to the Book of Reference owned by Peter Alfred Teanby. The concerns were around the depth of the pipeline, and this was specifically raised by the ExA at both ISH1 and ISH2.
55.	**J. R. Greenfield Limited**	**[RR-043]**	**Representation withdrawn at Deadline 1 [REP1-117]**	A Summary Objection
59.	**James Marshall Fenwick**	**[RR-013] submitted on behalf of**	**Representation withdrawn at Deadline 7 [AS-104]**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
		Beelsby Farming		
60.	**Jane Elizabeth Clayton**	**[RR-101] submitted on behalf of the Clayton family**	**Representation withdrawn at Deadline 1 [REP1-142]**	A Summary Objection
61.	**Janet Mary Haigh**	**[RR-040] submitted on behalf of the Haigh 1st Estate Settlement**	**Representation withdrawn at Deadline 2 [REP2-044]**	This was a wide-ranging submission since there was a significant area of land involved, and this included the site of a BVS. Central to the concerns was the direction of movement for the required construction traffic. Members of the family attended the Accompanied Site Inspection [EV5-001] on 26 June 2024. The ExA was pleased to see that agreement was reached at an early stage for Plots which had a particular significance for the Proposed Development.
63.	**Jeannette Louise Termpest**	**[RR-044]**	**No longer included within the Order Limits**	No agreement was reached with the AP, but their land was omitted from the Proposed Development as a result of the Change Request 2 and their objection therefore no longer needed to be considered by the ExA.
66.	**Joanne Claire Spilman**	**[RR-109] on behalf of the Spilman family**	**An update was provided [REP4-087]**	A Summary Objection. The agent for the AP indicated {REP4-087] that he was "hopeful that the current discussions will lead to concluding of voluntary agreements before the close of the

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
			Representation withdrawn	examination period. I will update you further in due course and wherever possible, remove the representations as the heads of terms are entered into". No further contact was received although the Applicant indicated in the CA Tracker that Heads of Terms had been agreed and signed. The ExA accepted this and determined that there is a compelling case in the public interest for CA and TP of the land.
67.	**Joanna House**	**No objection at this stage**	**[REP1-119]**	This AP attended the Accompanied Site Inspection {EV5-001] in June and the ExA was able to inspect and consider the extent of the land affected. This objection was outstanding at the close of the Examination. The Applicant emphasised [REP7-003] that it was not seeking to acquire any land from the AP but was looking for permanent rights for access and temporary use during a construction period which it expected to last for around 3 weeks. The ExA accepted this position and concludes that there is a compelling case in the public interest for the grant of the permanent rights and temporary use which are sought.
68.	**John Harold Pridgeon**	**[RR-042]**	**Representation withdrawn at Deadline 1 [REP1-116]**	A Summary Objection

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70.	**David Andrew John Spilman**	**[RR-066; RR-109]**	**Update at [REP4-073]**	This AP is connected with the previous Reference Numbers above 32 and 66. The original submission mentioned the possibility of Statutory Blight. The agent for the AP indicated {REP4-073] that he was "hopeful that the current discussions will lead to concluding of voluntary agreements before the close of the examination period. I will update you further in due course and wherever possible, remove the representations as the heads of terms are entered into". No further contact was received although the Applicant indicated in the CA Tracker that Heads of Terms had been agreed and signed. The ExA accepted this and found that the seeking of CA of land and rights is justified in this instance.
72.	**John Wilfred Laughton**	**[RR-018]**	**Representation withdrawn at Deadline 1 [REP1-097]**	A Summary Objection
75.	**Joseph John Wootton**	**[RR-040]**	**Representation withdrawn at Deadline 2 [REP2-044]**	This AP is one of the Trustees of the Haigh 1st Estate Settlement (see Reference number 61 above) and the same comment applies.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
76.	**Joseph Ross Fenwick**	**[RR-013] submitted as Beelsby Farming Company**	**Representation withdrawn at Deadline 7 [AS-104]**	A Summary Objection
78.	**Julia Denise Brader**	**[RR-099] submitted on behalf of the Braders**	**Representation withdrawn at Deadline 7 [AS-117]**	A Summary Objection
79.	**Julie Mary Hoyes**	**[RR-081]**	**Representation withdrawn at Deadline 7 [AS-110]**	A Summary Objection
80.	**Katherine Mary Barker**	**[RR-046]**	**Representation withdrawn at Deadline 1 [REP1-120]**	Although this representation was withdrawn, the Plots were removed from the Order Limits as a result of Change Request 2.
82.	**Leonard Ross Fenwick**	**[RR-013] submitted as Beelsby Farming Company**	**Representation withdrawn at Deadline 7 [AS-104]**	This is the same submission as reference number 76 above.

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84.	**Lincolnshire County Council**	**[RR-050]**	**[REP1-058, REP1-059, and REP1-060]**	This entry relates to a number of relatively small plots of land adjacent to highways. All of these plots have been deleted from the CA Tracker and it would seem from the Schedule of Negotiations [REP7-002] that is due to the Applicant reaching a voluntary agreement with Lincolnshire County Council and the various Plots therefore no longer being the subject of Compulsory Acquisition. This is not a position reflected in the final version of the Book of Reference [REP6-007] or the final version of the Land Plans submitted [REP5-011]. The Statement of Common Ground [REP6-015] with Lincolnshire County Council makes no reference. The ExA assumes this voluntary agreement has been reached, but the SoS may wish to investigate this matter further (see Chapter 6). In any event, given the lack of representation and objection, the plots owned by Lincolnshire County Council are essential for the delivery of the Proposed Development and therefore the seeking of CA of land and rights is justified in this instance and the ExA concludes that there is a compelling case for this in the public interest.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
85.	**Linda Pickering**	**[RR-051]**	**Representation withdrawn at Deadline 7 [AS-107]**	A Summary Objection
86.	**Lindsey Marsh Internal Drainage Board**	**[RR-052]**		The Drainage Board has a number of Plots which will be affected by the pipeline route. As with Lincolnshire County Council (see Reference Number 84 above), reference to all these plots have all been deleted from the CA Tracker but again the Book of Reference and Land Plans still include many of these plots. The SNP [REP7-002] refers to the negotiation of a voluntary agreement but the Statement of Common Ground [REP6-030] gives no further information. The ExA assumes this voluntary agreement has been reached, but the SoS may wish to investigate this matter further (see Chapter 6). In any event, given the lack of representation and objection, the plots owned by the Lindsey Marsh Internal Drainage Board are essential for the delivery of the Proposed Development and therefore the seeking of CA of land and rights is justified in this instance and the ExA concludes that there is a compelling case for this in the public interest

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
89.	**Manby Farms Limited**	**[RR-058]**	**Update provided [REP4-084] but representation withdrawn at Deadline 7 [AS-108]**	A Summary Objection
90.	**Margaret Anne Brader**	**[RR-099] submitted on behalf of the Braders**	**Representation withdrawn at Deadline 7 [AS-117]**	A Summary Objection
91.	**Mark James Buckley**	**[RR-017] submitted on behalf of the Buckley Brothers**	**Representation withdrawn at Deadline 1 [REP1-106]**	A Summary Objection
93.	**Mark Robert Casswell**	**[RR-061]**	**[REP1-123] with a further update at [REP4-071]. The representation was withdrawn at Deadline 7 [AS-109]**	This AP had rather different concerns than many of the submissions as he was intending to get planning permission for a pig unit on part of his land and he was therefore looking for reassurance that the two projects could co-exist. The ExA raised this at Q2.5.25 of ExQ2 [PD-021]. The agent for this AP appeared at CAH2 and confirmed that no formal objection had been lodged and also that the AP appreciated the need for a 100 metre Order Limit corridor allowing the Applicant flexibility but was looking for further detail from the Applicant. Clearly this was provided in the

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
				remaining period of the Examination allowing the representation to be withdrawn.
94.	**Mark Stewart Pridgeon**	**[RR-054]**	**Representation withdrawn at Deadline 1 [REP1-121]**	A Summary Objection
96.	**Martha Rodmandon Nicholson**	**[RR-095]**	**No further submissions but the representation was not withdrawn.**	As with Reference Number 23 above, the concern from the AP was for the land to be returned to agricultural productivity as soon as possible after completion of the works. The Applicant confirms in the CA Tracker that Heads of Terms had been agreed in principle by the close of the Examination and the ExA accepts this.
98.	**Matthew Raymond Graves**	**[RR-001]**	**Representation was withdrawn at Deadline 1 [REP1-096] but a concern was raised later [AS-092]**	This was A Summary Objection which was withdrawn early in the Examination. However, later the AP raised concerns again concerning a possible alternative route for the proposed pipeline. The ExA did not consider that this matter which was raised relatively late in the Examination raised any doubts as to the recommendation for CA powers for the permanent acquisition of subsurface at Plots 29/9, 29/10, 29/11, and 29/12. The ExA therefore concludes that there is a compelling case for the permanent acquisition of the subsurface.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
99.	**National Gas Transmissions**	**[RR-070]**	**[AS-090]**	This was a major consideration in the Examination and is covered extensively in both the CA and DCO Chapters of the report. In summary, the ExA found that the land owned by National Gas Transmissions did indeed fall within the definition in the PA2008 of Statutory Undertaker's (SU) land and the ExA therefore needed to consider whether CA powers were appropriate in accordance with s.127 PA2008. The Applicant confirmed at the close of the Examination [REP7-003] that the parties had reached agreement, but the objection was not withdrawn. The ExA concludes that there is a compelling case in the public interest for temporary rights and the permanent acquisition of subsurface and also that this would not cause serious detriment to the SU's operation.
100.	**National Highways Limited**	**[RR-072]**	**[REP1-077 and REP6-061]**	As might be expected for a 55 km pipeline route, there were a number of instances where this passed beneath roads which came within the responsibility of National Highways. NH objected to the proposal and since agreement was not reached by the close of the Examination, the objection still subsisted although this related to the PPs in the DCO as opposed to CA. The ExA has considered these matters in detail in the DCO Chapter of this report and agrees that there is a compelling case in the public interest for the CA powers sought to be provided.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
101.	**Natural England**	**[RR-073]**	**Further submissions at [REP1-079, REP1-080 and AS-089].**	There was no objection raised in respect of the permanent rights and temporary use sought and also the CA of the subsurface. These plots of land which were categorised as Open Space comprised a small area of shrubland and foreshore and the ExA concludes that there is a compelling case in the public interest for the powers sought.
102.	**Neil Tuxworth**	**[RR-103] submitted by the Executors of the late D Tuxworth**	**Representation withdrawn at Deadline 1 [REP1-143]**	A Summary Objection
104.	**North East Lincolnshire Borough Council**	**[RR-078]**		There was no formal objection from the Council for these plots which did include Open Space at Plots 10/5 and 16/4 and otherwise mainly woodland. The Applicant confirmed that there had been frequent dialogue and that the parties were close to agreeing Heads of Terms. As there is no objection, the ExA agrees that the CA powers sought should be provided and that there is a compelling case in the public interest for this.
105.	**Nicolas James Denby**	**[RR-097]**	**Representation withdrawn at**	A Summary Objection

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
			Deadline 1 [REP1-141]	
107.	**North Lincolnshire Borough Council**	**[RR-079]**	**No objection**	There is no formal objection, and the Applicant confirms that Heads of Terms have been agreed and signed. The ExA concludes that there is a compelling case in the public interest for the CA and TP of the land.
108.	**Northern Powergrid (Yorkshire) Plc**	**[RR-080]**	**No objection**	This relates to a single Plot 1/58 which is alongside a railway line. The Statutory Undertaker initially raised concerns in connection with its overhead lines and underground cables, but the Applicant confirms that PPs have been agreed. There has been no formal objection.
109.	**Phillips 66 Limited**	**[RR-084]**	**[REP1-093]** **Representation withdrawn at Deadline 6 [REP6-070]**	Phillips 66 were very active throughout the Examination being represented at each Hearing and making regular submissions. The Application as lodged originally led to serious objections and since Phillips were anticipated to be a major user of the completed pipeline, it came as no surprise to the ExA when Change Request 1 removed much of the proposed route from this AP's land. Detailed negotiations continued and the parties eventually agreed a settlement which allowed the AP to withdraw their objection. Accordingly, the ExA confirms that the CA powers sought can be confirmed.

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
112.	**Paul Davey**	**[RR-067]**	**Representation withdrawn at Deadline 7 [AS-111]**	A Summary Objection
113.	**Paul Jarvis**	**No objection**		This land was removed from the Order Limits as a result of the Change Request 2.
114.	**Paul Joseph Bennett**	**[RR-019] submitted on behalf of C R H Bennett and Co**	**Representation withdrawn at deadline 1 [REP1-098]**	A Summary Objection
115.	**Pauline Elizabeth Strawson**	**[RR-083] submitted by Peter Strawson Limited**	**[REP1-115] but representation withdrawn at Deadline 7 [AS-112]**	The submissions raised concerns about the depth of the pipeline and the future use of the land for agricultural purposes. However, the AP was later satisfied, and her objection withdrawn [AS-112]
116.	**Peter Alfred Teanby**	**[RR-105]** **[RR-106]** **[RR-108]**	**Further representations were made at [AS-056, AS-057, AS-058] but all representations were withdrawn at Deadline 6 [REP6-**	See Reference Numbers 11,19, and 53 above. The concerns were around the depth of the pipeline, and this was specifically raised by the ExA at both ISH1 and ISH2.

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			067. REP6-068, and REP6-069]	
118.	**Philip Donald Fenwick**	**[RR-013] submitted on behalf of Beelsby Farming**	**Representation withdrawn at Deadline 7 [AS-104]**	A Summary Objection
120.	**Philip John Hoyes**	**[RR-081]**	**Representation withdrawn at Deadline 7 [AS-110]**	A Summary Objection
121.	**R & A Needham Farms Limited**	**[RR-085]**	**Representation withdrawn at Deadline 1 [REP1-099]**	A Summary Objection
122.	**R Caudwell (Produce) Limited**	**[RR-086]**	**Representation only partly withdrawn at Deadline 1 [REP1-100]. Updated provided [AS-093] before**	The AP made reference in their original submission to the plans for a large solar park and indicated that an option agreement had been entered into for this. The ExA raised this at Q1.15.5 of ExQ1[PD-010] and the Applicant confirmed in its response [REP1-045] that it was aware through meetings with the AP and their agent of the potential existence of an option for solar on parts of the AP's land. At this stage, the Applicant did not know the details of the third

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			representation fully withdrawn [AS-094]	party, but it confirmed that it would continue to engage with the landowner and solar developer (once known) with an aspiration to allow for both developments to proceed. Matters finally became clearer very late in the Examination with the representation from Bluestone Ludborough 2 Ltd [REP6-054] who submitted details of its option agreement which had yet to be registered with the Land Registry and the ExA took the view that whilst the company was an Interested Party, it did not have an interest in land in accordance with the PA2008. Bluestone's request for Protective Provisions (PPs) is considered in the DCO Chapter.
127.	**Robert Edward Clayton**	**[RR-101] submitted on behalf of the Clayton family**	**Representation withdrawn at Deadline 1 [REP1-142]**	A Summary Objection
131.	**Robert Michael Brader**	**[RR-099] submitted on behalf of the Braders**	**Representation withdrawn at Deadline 7 [AS-117]**	A Summary Objection
132.	**Robert Unsworth**	**[RR-088]**	**Representation not withdrawn**	The representation centred mainly on the lack of meaningful consultation before the Examination commenced. This AP was represented by agents at CAH2. He stated that his clients were concerned about the construction activity so close to their home.

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				The Applicant explained that the works were approximately 100 metres away from the property and the Applicant would know more once the borehole surveys were undertaken. Since there had been no formal objection, the ExA accepted the explanation provided and found that there was a compelling case in the public interest for the CA of land and rights sought.
133.	**Robert William Mountain**	**[RR-064] submitted on behalf of the Mountain family**	**Representation withdrawn at Deadline 3 [REP3-041]**	A Summary Objection
134.	**Roger Clayton**	**[RR-101] submitted on behalf of the Clayton family**	**Representation withdrawn at Deadline 1 [REP1-142]**	A Summary Objection
137.	**Ronald Hilton**	**[RR-002]**	**Representation withdrawn at Deadline 7 [AS-101]**	A Summary Objection
138.	**Ronald Richard John Cook**	**[RR-102] submitted on behalf of the Cook family**	**An update was provided on negotiations [REP4-086] but the**	A Summary Objection which mentioned the lack of consultation, the depth of the proposed pipeline and the possibility of alternative future uses for the agricultural land. The agent confirmed at Deadline 4 that there had been constructive negotiations, and it

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			representation was not withdrawn	was not considered by the ExA that the original Submission amounted to an objection. The ExA noted that negotiations had progressed and found that the seeking of CA of land and rights is justified in this instance and that there is a compelling case in the public interest for the powers sought.
140.	**Roy Scaman**	**[RR-087]**	**Representation withdrawn at Deadline 1 [REP1-101]**	A Summary Objection
141.	**S.H. Somerscales Limited**	**[RR-093]**	**An update was provided at Deadline 4 [REP4-081] but the representation was not withdrawn**	A Summary Objection which mentioned the lack of consultation, and the implementation of a haul road. The agent confirmed at Deadline 4 that there had been constructive negotiations, and it was not considered by the ExA that the original Submission amounted to an objection. There was no further representation received after Deadline 4. The ExA noted that negotiations had progressed and found that the seeking of CA of land and rights is justified in this instance and that there is a compelling case in the public interest for the powers sought.
149.	**Sir Francis George**	**[RR-100] submitted on**	**An update was provided at Deadline**	A Summary Objection

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	Windham Brooke	**behalf of the Brocklesby Estate**	**4 [REP4-085] and the representation withdrawn at Deadline 7 [AS-118]**	
150.	**Sir Richard Sutton Limited**	**[RR-RR-096]**	**An update was provided at Deadline 4 [REP4-082] and the representation withdrawn at Deadline 7 [AS-114]**	A Summary Objection
152.	**Stephen Edward Buckley**	**[RR-017] submitted on behalf of Buckley Brothers**	**Representation withdrawn at Deadline 1 [REP1-106]**	A Summary Objection
153.	**Steven Andrew Czornyj**	**[RR-040] submitted on behalf of the Haigh 1st Estate Settlement**	**Representation withdrawn at Deadline 2 [REP2-044]**	As indicated earlier at Reference Number 61, this was a wide-ranging submission since there was a significant area of land involved, and this included the site of a BVS. Central to the concerns was the direction of movement for the required construction traffic. Members of the family attended the ASI [EV5-001] on 26 June 2024.

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154.	**Steven Shepherd**	**[RR-068]**	**Representation withdrawn at Deadline 7 [AS-115]**	A Summary Objection
155.	**Susan Margaret Preston**	**[RR-107] submitted on behalf of the Robinson-Preston family**	**Representation withdrawn [AS-062]**	A Summary Objection
156.	**Susan Mary House**	**Initially no objection**	**An objection was lodged at Deadline 1 [REP1-140] but not withdrawn**	This is the same position as shown under Reference Number 67. This AP attended the Accompanied Site Inspection {EV5-001] in June and the ExA was able to inspect and consider the extent of the land affected. This objection was outstanding at the close of the Examination. The Applicant emphasised [REP7-003] that it was not seeking to acquire any land from the AP but was looking for permanent rights for access and temporary use during a construction period which it expected to last for around 3 weeks. The ExA accepted this position and concludes that there is a compelling case in the public interest for the grant of the permanent rights and temporary use which are sought.

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157.	**Tennants Consolidation Limited**	**[RR-098]**	**Representation withdrawn at Deadline 7 [AS-116]**	A Summary Objection
158.	**The King's Most Excellent Majesty**	**No objection**	**No objection**	These are four Plots close to the Theddlethorpe installation and sited on the foreshore. The Applicant confirms that Heads of Terms have been under negotiation and say that a draft section 135 consent has been prepared. However, this was not available by the close of the Examination. The lack of this consent is dealt with in detail in the CA Chapter and the SoS is asked to confirm with the Crown Estate whether or not the consent is now available.
159.	**Charles John Pelham Eighth Earl of Yarborough**	**[RR-100]** **Submitted on behalf of the Brocklesby Estate**	**Update provided [REP4-085]. Representation withdrawn at Deadline 7 [AS-118]**	A Summary Objection
161.	**Thomas George Mountain**	**[RR-064] submitted on behalf of the Mountain family**	**Representation withdrawn at Deadline 3 [REP3-041]**	A Summary Objection
162.	**Thomas Stuart Shucksmith**	**No objection**	**[REP4-033]**	Whilst this AP did not raise an objection, they had a significant interest as some of their Plots were the intended site of the third

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				BVS sited on the Louth Road. There were clearly discussions with the Applicant as the Change Application 2 included a proposal to move the site of the BVS from the initial position to Plots 26/4 and 26/5. Since these Plots were already within the ownership of the AP and also included within the Order limits, this change did not engage the CA Regulations. The ExA was satisfied that this change did not result in a materially different project. The proposal was discussed at CAH2 and the ExA asked for confirmation to be signed by the landowner rather than his agent in order to satisfy the requirement in Regulation 4 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010. This confirmation was duly provided [REP4-033] and the ExA had sight of the original signature which was quite properly later redacted and the ExA was therefore satisfied that powers of permanent acquisition for Plots 26/4 and 26/5 were justified together with permanent acquisition of the subsurface and permanent rights and TP of the other Plots belonging to this AP as set out in the CA Tracker.
163.	**Timothy James Hoyes**	**[RR-081]**	**Representation withdrawn at Deadline 7 [AS-110]**	A Summary Objection
166.	**Kenneth Peter Lyle, Earl of Inchcape**	**[RR-100] submitted on behalf of the**	**An update was provided [REP4-085] and the representation was**	A Summary Objection

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		Brocklesby Estate	**then withdrawn at Deadline 7 [AS-118]**	
168.	**Wienerberger Limited**	**[RR-118]**	**Representation withdrawn at Deadline 7 [AS-119]**	A Summary Objection
169.	**William Tym Morgan**	**[RR-116]**	**Representation withdrawn at Deadline 1 [REP1-145]**	A Summary Objection
170.	**Air Products (BR) Limited**	**[RR-003]**	**[REP1-084, REP1-085 and REP4-089**	This AP owned oxygen and nitrogen pipelines within land owned by another AP, Phillips 66. The concerns raised in the original objection [RR-003} were considerably eased by the proposals contained within the Change Application 1 as this resulted in the substantial reduction of land from the Order limits in which Air Products has an interest. However, the AP maintained its objection to the close of the Examination as a final agreement on the required PPs had not been reached. The AP updated its position at Deadline 4 [REP4-089]. The Applicant indicated [REP7-003] that whilst PPs had been finalised between the parties, there was a side agreement detailing future engagement and interactions which still had some minor points outstanding. The Applicant therefore suggested, and the ExA concurred with this, that the SoS should

LRT URN	Name	Position With Regard to a Negotiated Agreement Prior to CAH1	Position With Regard to a Negotiated Agreement at the end of the Examination	ExA's Consideration and Conclusions
				seek clarification as to whether the agreement had been finalised and therefore the objection satisfied.
170.	**Anglian Water Services Limited (AW)**	**[RR-009]**	**[REP1-086, REP1-087, and 1REP1-088]**	AW made no objection to the application but wanted to negotiate acceptable Protective Provisions. The ExA initially had concerns at the proposal as the width sought for the pipeline route over AW's land was 200 metres where elsewhere in the Application, the width sought was 100 metres. The ExA visited the AW site during their USI [EV1-001] and also raised Q1.5.16 at ExQ1 [PD-010]. The Applicant responded [REP1-045] that the width of the Order limits adjacent to the AW facility is approximately 200m to allow a Horizontal Directional Drilling crossing to be made at either the eastern or western extent of the land owned by the AW and providing flexibility so as not to unduly restrict the future expansion of their facility. The position was clarified in the Change Request 2 {AS-063 to AS-083} with the Applicant explaining that following ongoing engagement with AW, a preference has been expressed for the pipeline to be located as far to the east as possible, whilst avoiding other infrastructure. This change would result in alterations to the Order limits with the area of land within the Order limits being reduced and this change would not engage any new land interests. In the light of this update and since no objection had been lodged, the ExA was reassured that CA powers for permanent acquisition of subsurface Plots was justified.

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179.	**Network Rail Limited (NR)**	**[RR-074]**	**[REP1-081 and REP1-082]. The representations were withdrawn at Deadline 6 [REP6-064] but NR made a later later representation [AS-100] with a version of the Protective Provisions which it believed had been agreed**	Whilst NR had withdrawn their objection, this was on the understanding that the PPs were in an agreed form. However, as commented in paragraphs 10.7.32 to 10.7.35 of the CA Chapter, this was clearly not the case as there were discrepancies between the version of the PPs submitted by NR and the version produced by the Applicant [REP6-064]. The ExA is of the opinion that the NR version of the PPs should be accepted but in view of the confusion, suggest that the SoS check with both parties to ascertain the actual position with the discussions. In any event, the ExA concludes that there is a compelling case in the public interest for the permanent acquisition of subsurface under the roads identified.
182.	**Uniper UK Gas Limited**	**[RR-114]**	**[REP1-094 and AS-120]**	The parties were extremely close to agreeing all the provisions of the PPs with just two points left outstanding as explained in the closing submission from Uniper [AS-120]. The Applicant had previously responded to this position [REP6-046] but in each case the ExA found that the Applicant had not provided any compelling justification to deny Uniper's two amendments and therefore the ExA recommended that these were included in the dDCO. Subject to this, the ExA concludes that there is a compelling case in the public interest for the CA and TP powers requested.

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194.	**Betty Mary Somerscales**	**[RR-093]**	**Representation not withdrawn**	A Summary Objection. This relates mainly to the lack of meaningful consultation prior to the Application being made (which was in October 2023) and in the view of the ExA did not amount to a formal objection. In any event, there has been no further representation.
201.	**Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited**	**[RR-011]**	**[REP1-089 and REP4-060]**	These companies are subsidiaries of Phillips 66 (see reference number 109) and made separate representations regularly throughout the Examination and were also represented at a number of the Hearings. An update on the progress with the negotiations was provided at Deadline 4 [REP4-060]. Whilst the objection from Phillips 66 was withdrawn, negotiations with the subsidiary companies did not progress quite as far although the Applicant stated in the CA Tracker and the SNP [REP7-002] that completion was expected imminently and that an update would be submitted to the Secretary of State. The negotiations centred around the PPs, and comment is made by the ExA at paragraph 10.7.53 of the CPO Chapter. In the light of this finding, the ExA concludes that there is a compelling case in the public interest for the CA powers sought.

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