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Introduction

1.1 My name is Richard John Scriven BSc (Hons) MRICS FAAV.

1.2 I am a member of the Royal Institution of Chartered Surveyors (MRICS) and a Fellow of the Association of Agricultural Valuers (FAAV). I also hold a Bachelor of Science Honours Degree (BSc (Hons)) in Rural Enterprise and Land Management. I have over 20 years' experience in the property and surveying profession.

1.3 I have been involved throughout my career in infrastructure schemes involving compulsory purchase, acting either for affected parties or for acquiring authorities.

1.4 I am a partner in the firm of Fisher German LLP, the company that was formed in 1990 following the merger of two well established businesses with roots dating back to the 1840's. Fisher German LLP is a nationwide firm of surveyors and property consultants dealing with all aspects of the property market in the United Kingdom.

1.5 Fisher German LLP provide estate and property support to the Environment Agency and we are retained to deal with all land and property matters relating to the proposed Boston Barrier Scheme. I am the partner in Fisher German LLP responsible for the Boston Barrier Scheme and my role includes consultation with affected parties, negotiation of rights and legal agreements, together with land and property advice to the project team. I have been involved with the Boston Barrier Scheme for about two and a half years and have worked closely with the project team throughout that time.

1.6 Whilst the land referencing work and Book of Reference (A/15) have been produced by Mott McDonald Limited, I have worked closely with them to identify and minimise the impact of the Scheme on individual landowners, occupiers and other users, whilst ensuring that there is sufficient land available for construction and operation of the proposed Boston Barrier Scheme. My work has included consideration of working areas, identification of and liaison with affected parties, and advice on the nature of the land interests required by the Environment Agency for the project.

1.7 Fisher German LLP is appointed to deal with ongoing consultation and land matters and details of my liaison and the current position with regard to negotiation with the affected parties is set out in my Proof of Evidence in Section 6.

Scope Of Evidence

2.1 My Proof of Evidence deals with the impact on property and those who enjoy interests in land as part of the proposed Boston Barrier Scheme and in particular provides details of the following:

2.1.1 Identification and details of Landowners and interested parties

2.1.2 Interests in land sought by the Order

2.1.3 Liaison with landowners and occupiers of affected property and land

2.1.4 Other interested parties
2.1.5 Compensation

2.1.6 Summary

2.2 In respect of the details provided of negotiation with landowners and interested parties, the position reported in my Proof of Evidence is that as of the time of writing. The Environment Agency is continuing to work with these parties towards mitigating their concerns and/or reaching agreement with the parties. Dialogue will continue in order to try to resolve matters where possible and the Inquiry will be kept informed of progress of those discussions and negotiations.

2.3 Of the matters about which the Secretary of State particularly wishes to be informed, my evidence addresses the following points:

Matter 11(a) whether there is a compelling case in the public interest to justify conferring on the Environment Agency powers to compulsorily acquire and use land for the purposes of the scheme:

Matter 11b whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to Article 1 of the First Protocol to the European Convention on Human Rights

Matter 11c whether there are likely to be any impediments to the Environment Agency exercising the powers contained within the Order, including availability of funding;

Matter 11(d) whether all the land and rights in land over which the Environment Agency has applied for such powers is necessary to implement the scheme;

Matter 14(b) issues around relocation of the fishing fleet to the operational quays downstream of the barrier which are currently used by larger shipping using the Port of Boston;

Matter 14(c) whether the Order (A/2) provides adequate protection for Frontier Agriculture and its continued operations with particular reference to rights over land, access and relocation of parts of their operations to another area of the Port;

Matter 15 whether exercising the powers of the Order, in particular Schedule 8, could severely disrupt the ability of the harbour Authority to ensure it manages the Port of Boston in accordance with its statutory responsibilities;

Matter 16 the likely impacts of constructing and operating the scheme on statutory utility providers in the area, with particular reference to their apparatus, networks and existing sub-surface assets
Identification and Details of Landowners and Interested Parties

3.1 A comprehensive land referencing exercise has been undertaken by Mott McDonald Limited and notices have been served upon all identified parties. Where enquiries have failed to identify persons with an interest in land, notices have been served on the land by way of erection of notices on site.

3.2 I am satisfied that all reasonable efforts have been made to try to identify all affected landowners and occupiers. The Book of Reference (A/15) read in conjunction with the Order plans (A/14) detail all interests in land.

3.3 For those parcels of land where interests have not been identified, these mainly relate to small areas of river bank or grassland and one small area of public road and verge. Notices have been posted on the land and it is hoped that owners and/or occupiers will be identified and enquiries of local landowners are ongoing. The parcels are as follows:

- Plot 23 - grassland and embankment
- Plot 28 - river bed and banks
- Plot 29 - grassland and embankment
- Plot 32 - grassland and embankment
- Plot 34 - grassland and embankment
- Plot 41 - grassland and embankment
- Plot 42 - grassland and embankment
- Plot 70 - part of public road and verge

3.4 The Environment Agency has sought to consult with all affected parties by way of meetings, correspondence, telephone contact and public events. The Environment Agency has approached all affected landowners and occupiers who have lodged formal objections to the application to the Secretary of State and these are dealt with in my Proof of Evidence.

Interests in Land sought by the Order

4.1 The Order plans (A/14) submitted with the Transport and Works Act Order application identify six different categories of land or interests in land required for the Scheme. These categories of interest are identified by separate colouring on the land plans and are described below:

4.1.1 Acquisition of land (shaded pink): This category of land is required to be acquired permanently for the purpose of the works associated with the Boston Barrier Scheme. These parcels of land include areas required for permanent structures, for instance the proposed control building, flood prevention walls, piling and associated development.

4.1.2 Acquisition of land within the river channel (shaded pink and hatched red): This category of land is required to be acquired permanently for the scheduled works themselves. The areas identified within this category are the area required for the
flood barrier itself and associated structures within the river channel and the areas immediately upstream and downstream of the barrier location required for associated works.

4.1.3 **Permanent Rights (shaded yellow):** In respect of areas identified for permanent rights, these mainly relate to rights of access to the scheduled works after completion of construction. The main areas identified are a permanent access route across the Port of Boston to the proposed new barrier control building, permanent rights of access to maintain flood defence structures around the Port of Boston, permanent rights of access to maintain flood defence works on the south side of the river, permanent rights of access to the wet dock entrance at the Port of Boston to maintain the wet dock gates and permanent rights of access to land adjacent to the Black Sluice pumping station for maintenance purposes.

4.1.4 **Temporary possession of land (shown shaded brown):** Whilst the Order would confer powers on the Agency to take temporary possession of all land lying within the Order limits shown on the Order plans, this category of land identifies areas of land where a temporary interest only is required for construction purposes. No permanent interests are required for operation of the works proposed to be authorised by the Order. Temporary possession is required to facilitate enabling works such as the diversion of utility services. In respect of Wyberton Low Road, the public highway has been identified to allow for relocation of electricity cables. In respect of land off Marsh Road this is the Boston Hub site which is already within a lease to the Environment Agency. In respect of the land at the Port of Boston this is required for construction of the Scheme and for land on the south side of the river this is required to enable construction of the proposed new flood defence walls and to provide construction working space required to deliver the Boston barrier Scheme.

4.1.5 **Temporary possession within the river channel (shown shaded brown and hatched black):** Whilst the Order would confer powers on the Environment Agency to take temporary possession of all land lying within the Order limits shown on the Order Plans, this category of land identifies areas of land where a temporary interest only is required for construction purposes. No permanent rights are required in these areas of land for operation of the works proposed to be authorised by the Order. The areas identified are both upstream and downstream of the proposed barrier location to allow for the construction works to be undertaken.

4.1.6 **Power to carry out protective works to buildings (shown shaded green):** This category of interest in land is also a temporary interest and is required to allow protective works to be undertaken to buildings. The buildings identified are all located on Wyberton Low Road and comprise residential properties and garages. The protective works powers are being sought to allow work to remedy any damage to buildings as a result of construction works. The intention is for the Environment Agency to agree with the building owners and occupier’s appropriate access for surveys and, if necessary, protective works. However, in the event that agreement is not possible it is proposed that the Environment Agency will rely on the powers sought within the Order to undertake surveys and, if necessary, the protective works to relevant buildings.

4.2 The Environment Agency intends to undertake condition surveys on all the buildings within the Order limits and, where necessary, to undertake protective works during and after completion.
of the authorised works. Owners and occupiers of properties where condition surveys are required will be contacted in advance to arrange access and the surveys will be undertaken at the Environment Agency’s own expense and any damage caused will also be remedied at the Environment Agency’s expense. In relation to remedial works, the owners and occupiers of the affected properties will be consulted before these works are undertaken.

5 Statutory Undertakers

5.1 Apparatus belonging to Statutory Undertakers will be affected by the proposed Boston Barrier Scheme, in particular equipment belonging to Western Power Distribution and Anglian Water Services Limited will be the subject of either protective or diversionary works.

5.2 In detail, the Environment Agency has identified three existing 11kV electricity cables owned by Western Power Distribution (OBJ/11-OBJ/13) currently installed on the right bank of the Haven. Due to the proposed installation of new flood defence walls in this location, it is proposed that these cables be diverted along Wyberton Low Road.

5.3 The Environment Agency has also identified both sewerage and fresh water pipes belonging to Anglian Water Services Limited (REP/7) crossing the river Witham to the south of the barrier, adjacent to the site for the proposed temporary pontoons and facilities for Witham Sailing Club.

5.4 In respect of all of the utility apparatus identified above, the proposed protective provisions contained within Schedule 7 to the proposed Order (A2) provide adequate protection for Western Power Distribution and Anglian Water Services Limited. These provisions require the Agency to protect any apparatus that might be affected by the works to construct the Boston Barrier Scheme or, where it is necessary to relocate any apparatus, to ensure that replacement apparatus is provided to the satisfaction of the undertaker. As such, appropriate protections would be provided to ensure the continuity of these respective utility networks during construction or from operation of the proposed barrier. The detailed design of the Boston Barrier Scheme will ensure that all utility networks are protected during construction.

5.5 The Environment Agency has been in discussions with both parties in order to address the concerns they have raised in their letters of objection and it is hoped that all matters will shortly be agreed.

5.6 Anglian Water Services Limited has submitted representations in respect of alleged impacts upon its water and waste assets which may be affected by the scheme. In particular, Anglian Water Services Limited have requested that the proposed protective provisions be revised to include standard protective widths, notification in the event of disturbance of any private sewers and compensation matters. Our enquiries have revealed only one sewerage pipe and clean water pipe as being potentially affected by the proposed scheme. These pipes are located south of the main construction area, immediately adjacent to the proposed location of the temporary pontoon and other temporary facilities to be provided for Witham Sailing Club. It is understood that these pipes are installed at considerable depth and the works in the locality are being designed to ensure that they do not interfere with the pipes.

5.7 Royal Mail Group Limited also raised an objection in respect of the impact on their statutory duties resulting from any potential closure of Wyberton Low Road as a result of works on the Scheme (OBJ/9). The works proposed to Wyberton Low Road relate to diversion of existing 11kV cables which are currently located in the south bank of the river and which need to be
diverted to allow for installation of the new flood defence walls. Whilst the full extent of works to the public highway are identified in the Transport and Works Act Order plans (A14), it is anticipated that disturbance can be minimised both to residents of Wyberton Low Road and also to Royal Mail Group Limited, in exercise of their statutory duties, by means of only a partial closure of the public highway either on the north or south side.

5.8 Whilst the full extent of the work proposed to the public highway are identified in the Order, it is anticipated that disturbance can be minimised both to residents of Wyberton Low Road and also to Royal Mail Group Limited, in exercise of their statutory duties. Pedestrian access along Wyberton Low Road will be retained throughout the proposed temporary closure, which is anticipated to take approximately 10 weeks. The Environment Agency does not therefore envisage any detrimental impact arising in respect of Royal Mail Group Limited’s statutory obligations. Emma Lunt also addresses this matter in her proof of evidence (EA8/1).

5.9 The Environment Agency has provided clarification to Royal Mail Group Limited in respect of the nature of the temporary impacts on Wyberton Low Road and explained that no further closures of the public highway are envisaged to be necessary to deliver the scheme. By correspondence dated 15 March 2017, Royal Mail Group Limited confirmed that it wished to withdraw its objections to the proposed Boston Barrier Scheme.

6 Liaison with Landowners and Occupiers of Affected Property and Land

6.1 The Environment Agency has gained an extensive understanding of the interests enjoyed in respect of the land affected by the proposed Boston Barrier Scheme throughout development of the proposed works and following extensive consultation. It has therefore been possible to identify almost all owners, occupiers and interests in property that would be affected by the proposed Scheme.

6.2 Throughout the development of the Scheme the Environment Agency has sought to consult with all affected persons with an interest in land. Consultation has been undertaken through various means including meetings, telephone contact, correspondence, public events and meetings. The Environment Agency has established the Boston Hub in premises off Marsh Lane as a visitor centre for interested parties to obtain further information and has provided regular commentary to the local press and stakeholders as to the progress of the Scheme. The Environment Agency has sought to engage with all parties who have expressed an interest in the Scheme and with all landowners who have raised objections. A summary of the outstanding objections and the current position with regard to negotiations with those parties and other affected landowners is detailed below. It is intended that any adverse impacts on land owners, occupiers and users from the Scheme will be compensated by the Environment Agency.

6.3 Frontier Agriculture Limited (Obj/5)

6.3.1 The Environment Agency has been in discussions with Frontier Agriculture Limited about the provision of new grain handling facilities to replace those that would be lost as part of the Scheme. The Environment Agency has secured an option agreement with the Port of Boston allowing them to take a lease of land required for the new conveyor tower and associated equipment. The lease is assignable to Frontier Agriculture Limited and reflects the terms of the existing leasehold interest Frontier enjoys in relation to its existing conveyor. The lease together with the powers contained within the Order will allow the Environment Agency to deliver the proposed
mitigation works for the benefit of Frontier. Further information relating to the detailed design of the mitigation proposed for Frontier Agriculture Limited, and the ways in which the Environment Agency is seeking to involve Frontier in the detailed design of the proposed mitigation is provided in the evidence of Peter Mallin (EA/3/1).

6.3.2 Frontier Agriculture have raised concerns about future ship berthing arrangements, as they currently enjoy sole use of their existing berth but in future may have to share the adjacent downstream berth with others. The Environment Agency is discussing arrangements with both Frontier Agriculture Limited the Port of Boston Limited to see whether priority berthing arrangements could be agreed, to ensure that Frontier Agriculture would not be adversely affected by the new berthing arrangements.

6.4 Port of Boston Limited (Obj/4)

6.4.1 The majority of the land in respect of which interests are required to deliver the Boston Barrier Scheme is owned by the Port of Boston Limited. It is the Port who will be most affected by the proposed construction work, including temporary closure of the Port’s wet dock and temporary relocation of ships to the Port’s riverside quays. In view of this, the Agency has been working in close collaboration with the Port throughout development of the scheme.

6.4.2 The Environment Agency and the Port of Boston have entered into a legal agreement which makes provision for a package of works and compensation for the Port in respect of loss of land, injurious affection and disturbance resulting from the proposed Scheme. The Port has agreed to grant a long leasehold interest in the land required for the proposed barrier control building; a long leasehold interest in land upon which it is proposed to construct flood prevention walls; and interests in land across the Port including rights of access to the proposed control building, to the proposed flood prevention walls and the wet dock entrance for maintenance and repair purposes. By letter dated 13 March 2017, the Port of Boston Limited wrote to the Secretary of State to confirm that it wished to withdraw the objections it had lodged in respect of the Scheme and to express its full support for the Scheme.

6.4.3 Objections have been received in respect of the proposed accommodation works on the Port of Boston’s property and in respect of proposed compensation. Objections were received from Councillor David Brown (OBJ/7) and Howard M Smith (OBJ/21). I have been involved in all of the discussions and negotiations with the Port of Boston Limited and confirm that the proposed accommodation works and compensation are both fair and reasonable, taking into account the extent of works required on the Port Estate and the effects on the Port.

6.5 G W Padley Limited

6.5.1 GW Padley Limited own land downstream of the proposed barrier location on the south bank of the River. Whilst no objection was received from GW Padley Limited, negotiations for a legal agreement have been conducted and Heads of Terms for a legal agreement have been agreed. The Heads of Terms allow for permanent acquisition of two plots of land and also for temporary rights over other parcels of land also identified in the Book of Reference (A/15). It is expected that a legal agreement will be completed in the near future.
6.5.2 I have been in contact with the occupiers of the land owned by G W Padley Limited, who graze horses on the land. It will be necessary to temporarily displace the occupiers and the Environment Agency will compensate them for the cost of alternative grazing facilities during the construction works.

6.6 Pinguin Foods Limited

6.6.1 Pinguin Foods have an outfall drain which crosses the existing flood bank on the south side of the river, downstream of the proposed barrier location. The outfall is undocumented but has apparently been in existence for some time. Whilst no objection was received from Pinguin Foods Limited, Heads of Terms are under negotiation with Pinguin Foods Limited in respect of retention of the existing storm water outfall pipe. The pipe has been constructed over the Environment Agency’s land without consent, but as part of the Scheme it is intended that the Environment Agency will provide a discharge consent and easement in respect of this drainage pipe.

6.7 Crown Estate

6.7.1 The Crown Estate owns the majority of the bed of the River. Whilst no objection was received from the Crown Estate, discussions and negotiations are ongoing with agents on behalf of the Crown Estate in respect of both temporary and permanent interests in land required for the Scheme and identified in the book of reference (A/15). Negotiations and Heads of Terms are well advanced and it is anticipated that a legal agreement will be completed in the near future.

7 Other Interested Parties

Recreational River Users including Witham Sailing Club and the Royal Yachting Association

7.1 The Environment Agency has been in contact with both the Witham Sailing Club (Rep/4) and the Royal Yachting Association (Rep/5) in respect of their representations these parties have made to the Secretary of State in response to the Transport and Works Act Order application by the Environment Agency. It is anticipated that there will be some potential disruption to their normal activities arising during construction of the proposed Scheme and therefore temporary mitigation works have been proposed by the Environment Agency including provision of a temporary slipway, temporary pontoon mooring, temporary classroom, stores and other facilities on land to the south of the main construction areas accessed off River Way. The land is identified in the Book of Reference (A/15) and the Order plans (A/14) as plots 22, 23 and 23a.

7.2 The Environment Agency is currently seeking to agree a full specification of the proposed works of mitigation with both the Witham Sailing Club and the Royal Yacht Association and thereafter it is hoped that both a Statement of Common Ground and a legal agreement can be negotiated and concluded in the near future. The proposals put forward by the Environment Agency mean that sufficient mitigation would be provided. Accordingly, no residual impacts are expected to arise during construction of the Scheme.

7.3 Witham Sailing Club has indicated that it would like to retain use of the temporary slipway after completion of construction of the Boston Barrier Scheme, as this would provide a useful facility
for them. Additionally, Witham Sailing Club believe that the slipway would be of benefit for navigational safety of small craft which would avoid them having to pass through the barrier and they believe would offer additional safety benefits for young or inexperienced sailors. The Environment Agency has consulted with the Harbour Authority who do not wish to see the slipway to be used, except for emergency craft, due to navigational safety reasons.

7.4 In light of the simulations and other work undertaken by the Environment Agency and the facilities for temporary moorings, I believe there are no residual safety impacts on Witham Sailing Club or recreational river users. There is therefore no justification for retaining the facilities in the manner desired by the Club and there will be no harm arising from not doing so.

**Boston Belle (Obj/14)**

7.5 The Environment Agency has been in contact with the operators of the Boston Belle, a leisure craft used for commercial purposes, moored adjacent to the Grand Sluice. The Environment Agency acknowledges that during construction works there may be some impact upon the business of the Boston Belle as navigation through the works area may be at times restricted. Evidence provided by Gillian Watson (EA/4/1) on navigational impact and by Captain McArthur (EA/5/1) on boat handling addresses this point in more detail. The navigational simulation undertaken by the Environment Agency and H R Wallingford and referred to in the proof of evidence of Gillian Watson (EA/4/1) concludes that there are no residual navigational impacts post construction. The Agency has been in contact with the owners and operators of the vessel and have offered compensation. The proposed compensation would address any losses arising from the Boston Belle being unable to navigate through the barrier during the construction of the Scheme.

7.6 It is hoped that a legal agreement can be reached with the owners and operators of the Boston Belle in the near future.

**Boston Fishing Fleet**

7.7 The Environment Agency has been in regular contact with the Boston Fishing Fleet, all of whom we are advised are members of the Boston and District Fishing Association (BDFA). It is anticipated that there may be some disruption to the normal fishing activities of the Association and its members during construction of the Scheme. Evidence provided by Gillian Watson (EA/4/1) and Captain McArthur (EA/5/1) on navigational impacts during construction and Patrick Franklin (EA/6/1) in respect of impacts on the fishing fleet address this point in more detail.

7.8 The Boston Fishing Fleet currently moors primarily at London Road on moorings and a quay owned mainly by the Environment Agency and let to the fishermen. In addition, about 5 boats are currently moored off South Terrace, which is located slightly further upstream of the London Road quays. Whilst it will be possible for the fishing fleet to navigate through the Boston Barrier construction site, it is intended that this would be limited to certain tide conditions and it is expected that this would disrupt the normal fishing activities of the BDFA if they remained at London Road. Detailed mitigation proposals for any impacts which might arise during construction have been discussed with members of BDFA and those proposals are detailed below.

7.9 The Environment Agency has secured an Option Agreement with the Port of Boston Limited that would allow it to lease a riverside quay within the Port of Boston. This quay would be made
available to the fishermen for the duration of the work on the barrier within the river, expected to be no longer than fourteen months. This quay would then be fitted out and made suitable for the fishing fleet at the Environment Agency's expense to include facilities such as appropriate mooring rings and access ladders, electricity and water supplies, toilet facilities, loading and unloading areas, car parking and lorry loading areas. The facilities provided will be either better than or similar to those that the fishermen already have at their existing quays. Patrick Franklin's proof of evidence (EA/6/1) considers the proposed mitigation works and advises that the facilities and equipment to be provided are suitable for the Boston Fishing Fleet.

7.10 It is acknowledged that there may be some temporary disruption to the fishermen due to temporary relocation to the Port and therefore Environment Agency is seeking a legal agreement with the BDFA providing for compensation in respect of business losses arising during construction of the Boston Barrier Scheme. Regardless of whether a legal agreement is completed with the members of BDFA, the Environment Agency is committed to compensating members of the fishing fleet in respect of any business losses arising from construction of the Barrier Scheme, in accordance with the Compensation Code.

7.11 Discussions with the BDFA have included the possibility of a novel compensation package, proposed by the Environment Agency in response to concerns from the Boston fishermen as to their long term security. As the majority of the existing moorings are owned by the Environment Agency and leased to the fishermen it is proposed that the freehold of this quay be transferred to the fishermen, together with a sum of money to undertake improvement works and repairs to the facilities, in order for the fishing fleet to have a modern and well maintained facility for the future. The proposed compensation package includes the contribution to quay improvements in lieu of disturbance compensation, but offers have also been made in the alternative based upon the principles which underpin the Compensation Code.

7.12 The Agency continues to work towards reaching agreement with the BDFA as regards Heads of Terms and a Statement of Common Ground with the BDFA in respect of the proposed mitigation facilities. In the event that agreement cannot be reached, the Environment Agency would still compensate the fishermen for losses reasonably incurred due to the construction work, in accordance with the Compensation Code. It is my opinion that the proposed mitigation works during construction, together with compensation in respect of any business losses will ensure there are no adverse impacts upon the fishermen.

7.13 The fishermen have also expressed ongoing concerns about navigational safety post construction and this is dealt with in detail in the evidence of Gillian Watson (EA/4/1) and Captain McArthur (EA/5/1). The Environment Agency does not believe that there are any residual navigational safety problems once construction works have been completed and I have seen no evidence to show otherwise.

7.14 In objections to the TWAO application received from Mr Shane Bagley (OBJ/17) reference was made to previous discussions between the Environment Agency and the Boston Fishing Fleet regarding the possibility of permanent relocation of the fleet to a location downstream of the proposed Barrier, as part of a scheme incorporating water level management. As water level management is no longer part of the Boston Barrier Scheme, the permanent acquisition of a freehold or long leasehold interest over land owned by the Port of Boston Limited cannot be justified, as impacts on the Boston Fishing Fleet are temporary in nature during construction works only.
Residents of Wyberton Low Road

7.15 The Environment Agency has identified that the proposed construction works adjacent to the residential properties on Wyberton Low Road may impact upon the residential amenity of these properties. Further details of these impacts are provided in Max Forni’s proof of evidence (EA/10/1) and details of the mitigation measures proposed by the Environment Agency are set out in the proposed Noise and Vibration Management Plan which accompanies his evidence (Appendix 1 of EA/10/1). It is proposed that low impact construction methods including a variety of measures including temporary noise barriers, low noise piling and the installation, where necessary, of noise insulation will be employed.

7.16 However, it is acknowledged that the works may still affect residents who are in occupation during the daytime during the normal working week, for instance mothers with young children, shift workers, retired and elderly people or those with health problems. The works adjacent to these properties will be undertaken as efficiently as possible in order to minimise the timescale for construction and hence any temporary disturbance. I am confident that with the noise mitigation measures set out within the Noise and Vibration Management Plan, which includes the possibility of temporarily relocation of local residents if necessary, there will be no residual unacceptable effects on the residents of Wyberton Low Road.

8 Compensation

Introduction

8.1 Whilst it is acknowledged that compensation is not a matter for the Public Inquiry, I confirm that compensation to those with an interest in land affected by the Scheme will be assessed based on the market value of land and interests in property, together with any disturbance losses and the claimants’ associated professional costs. Settlement of any disputes will be via the Lands Chamber of the Upper Tribunal, in accordance with part 4 of the provisions of the draft Order (A/2), or by alternative dispute resolution if agreed between the parties.

8.2 Where land or interests in land are proposed to be permanently acquired, compensation for affected parties will be assessed in accordance with the usual Compulsory Purchase Compensation Code. The Compulsory Purchase Compensation Code is a very well established basis of assessing compensation and is made up of a number of statutes including the Land Compensation Act 1961, the Compulsory Purchase Act 1965 (B/8), the Land and Compensation Act 1973 (B/24), the Acquisition of Land Act 1981 (B/5) and the Planning and Compulsory Purchase Act 2004 (B/25). In addition to the legislation, the Compensation Code has been developed and has evolved over a period of many decades as a result of case law.

8.3 In respect of both permanent and temporary interests in land and acquisition of land, it is hoped that the Environment Agency will reach agreement by negotiation with all of the affected parties. As detailed in this Proof of Evidence, these negotiations are being actively pursued.

8.4 It is envisaged that there could be some temporary disruption to business users of the river including the fishermen (BDFA), the Boston Belle and the Port of Boston. The Environment Agency has agreed to pay disturbance compensation for business losses incurred as a result of construction of the Scheme to any affected parties in accordance with the principles underpinning the Compensation Code.

Severance and Injurious Affection Compensation
It is anticipated that the Port of Boston Limited is the only landowner with a potential claim in respect of compensation for severance or injurious affection resulting from the proposed works. Representations to the Secretary of State regarding long term navigational safety, post construction of the barrier, have been made by a number of parties. It is the Environment Agency’s position that there will be no longer term impacts on navigational safety following completion of construction works and therefore I do not envisage any injurious affection or Section 10 claims arising as a result of use of the works.

**Crichel Down Rules**

It is likely that there will be only very limited areas of land permanently acquired on a freehold basis (as it is envisaged that the majority of the land to be acquired from the Crown Estate will be on a long leasehold arrangement and also that interests acquired from the Port Estate will also be on a long leasehold basis). The Environment Agency proposes to only acquire interests in land as required for construction and operation of the Boston Barrier Scheme and therefore it is not envisaged that there will be any surplus interests acquired as part of the Scheme. In the event that surplus freehold land is to be disposed of the Environment Agency will comply with the Crichel Down Rules.

**Compensation Process**

If the Secretary of State authorises the Transport of Works Act Order and associated compulsory purchase powers, interests in land will be acquired (where they have not already been acquired by agreement) by means of Notice to Treat and Notice to Enter or by General Vesting Declaration. The valuation date for compensation purposes will be the date that the Environment Agency or their contractors or agents take physical entry to the property or interest in land. It is expected that in respect of any interests in land or land acquired by compulsory purchase that advanced payments of compensation will be made by the Environment Agency pending any formal settlement. Advanced payments will normally be based on 90% of the Environment Agency’s estimate of compensation and will be made in accordance with compulsory purchase legislation.

**Part I Claimants**

Part 1 of the Land Compensation Act 1973 (B/24) provides for compensation to landowners affected by the operation of the works as a result of physical factors such as noise, dust, lighting and fumes. The Environment Agency do not envisage any substantial impact resulting from physical factors arising as a result of operation of the works. The proposed barrier will only be operated occasionally (either for flood defence purposes or for the uses detailed in the Transport and Works Act Order) and therefore we do not anticipate any substantial disturbance arising from operation of the works. For this reason we do not believe that there will be any substantial depreciation in value of adjoining land or property as a result of operation of the works. In the event that the works are found to harm adjacent land or property then the Environment Agency will compensate the affected parties in accordance with the Provisions of Part 1.

**Issues raised in Statement of Matters**

Matter 11 (b) – Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest
in land affected (having regard to article 1 of the First Protocol to the European Convention of Human Rights (B/23)).

9.1 The Boston Barrier Scheme will provide significantly improved levels of flood risk management for the town of Boston, including its residents and businesses, and this point is dealt with in detail in the Proof of Evidence of Mr James Anderson (EA/1/1). In my opinion the purposes are more than sufficient to justify the relatively limited interference which the Barrier Scheme would cause.

Matter 11 (d) – Whether all of the land and rights of land over which the Environment Agency has applied for such powers is necessary to implement the Scheme.

9.2 In my opinion all of the interests in land and rights over land included within the Boston Barrier Scheme are necessary in order to implement the proposed Scheme, including its construction and future operation. This is dealt with in detail in section 4 of this proof of evidence.

Matter 14 (b) - Issues around the relocation of the fishing fleet to operational quays downstream of the barrier which are currently used by larger shipping using the Port of Boston.

9.3 A detailed specification of works to adapt the existing quay at the Port of Boston to be suitable for use by the fishing fleet has been provided to the fishermen and it is hoped that an agreement will be shortly reached with them. The Proof of Evidence of Patrick Franklin (EA/6/A) confirms that what is proposed is reasonable and appropriate, even if agreement is not reached with the fishing fleet. This is dealt with in detail in section 7 of this proof of evidence.

Point 14. (c) - Whether the Order provides adequate protection for Frontier Agriculture and its continued operations with particular reference to rights over land access and relocation of parts of their operations to another part of the Port.

9.4 The Environment Agency has secured an option agreement to facilitate construction and future use of the proposed conveyor support tower and associated facilities and the powers contained in the Order are sufficient to allow operation and construction of these mitigation works. I am therefore confident that the Order provides adequate protection for Frontier Agriculture. This is covered in more detail in section 6 of this proof of evidence and in the evidence of Peter Mallin (EA/3/1).

Point 15 – Whether exercising the powers of the Order, in particular Schedule 8, could severely disrupt the ability of the Harbour Authority to ensure it manages the Port of Boston in accordance with its statutory responsibilities.

9.5 The Port of Boston Limited has withdrawn all objections to the Scheme and expressed its full support for the Boston Barrier Scheme. I am confident that the Scheme will not disrupt their duty as Harbour Authority.

Point 16 – The likely impacts of constructing and operating the Scheme on statutory utility providers in area, with particular reference to their apparatus, networks and existing surface and sub-surface assets.

9.6 The current position with respect to statutory undertakers is covered in detail in section 5 of my proof of evidence. I believe that statutory utility networks will be adequately protected during the works.
10 Conclusions

10.1 The Environment Agency has sought to minimise the impact of the proposed Boston Barrier Scheme on private property. For those parties that are impacted, the Environment Agency has sought to negotiate Heads of Terms and legal agreements in respect of compensation and/or mitigation measures in order to minimise any impacts. The land identified on the Order plans (A/14) and the six categories of land detailed within those plans are in my opinion the minimum that would reasonably be required for the Scheme to be constructed and thereafter operated. Demolition of property is limited to one existing storage building on the Port of Boston’s property and a derelict grain tower on the south bank of the River.

10.2 As detailed in this Proof of Evidence, liaison with land and property owners and objectors has been extensive and is ongoing. Where there are opportunities to conclude agreements or to minimise the impact of the proposed Scheme through mitigation works or other reasonable measures, these will be sought and where possible agreed between the Environment Agency and the affected parties.

10.3 Where land or interests in land are affected by the scheme, the Environment Agency will compensate affected landowners in accordance with the Compensation Code. It is the Environment Agency’s opinion that no business will be made unviable due to the Scheme and that upon conclusion of the construction works there will be no long term detriment to business users of the river.

10.4 Having reviewed the evidence provided by the Environment Agency, and in particular the evidence of James Anderson (EA/1/1) who explains the need for the Scheme, I am of the opinion that there is a compelling case in the public interest to justify the powers sought under the Order including the compulsory acquisition of land and rights over land and any resulting interference with the human rights (in particular rights under article 1 of the First Protocol of the European Convention on Human Rights (B/23)) of those affected. I am also satisfied that the Environment Agency has adopted a proportionate approach to identifying the extent of the land interests required and in seeking to reach agreement with affected landowners.

11 Statement of Truth

11.1 I confirm that in so far as the facts stated in my report are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

11.2 I confirm that my Report includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.

11.3 I confirm that my duty to the Inquiry as an Expert Witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.