



CLEVE HILL SOLAR PARK

THE APPLICANT'S RESPONSES TO THE EXA'S SECOND WRITTEN QUESTIONS - EXQ2

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Revision A

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CLEVE HILL
SOLAR PARK

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List of Abbreviations

AHLV	Area of High Landscape Value
ALC	Agricultural Land Classification
AOD	Above Ordnance Datum
AR HMA	Arable Reversion Habitat Management Area
CEMP	Construction Environment Management Plan
CHSP	Cleve Hill Solar Park
CHSPL	Cleve Hill Solar Park Limited
CL:AIRE	Contaminated Land: Application in Real Environments
CLS Area	Core Landscape Study Area
CNMP	Construction Noise Management Plan
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEFRA	Department for Environment Food and Rural Affairs
EA	Environment Agency
ECOW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
ExA	Examining Authority
ExQ	Examining Authority's Question
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
FGM HMA	Freshwater Grazing Marsh Habitat Management Area
FRA	Flood Risk Assessment
Ha	Hectares
HGV	Heavy Goods Vehicle
HMA	Habitat Management Area
HMSG	Habitat Management Steering Group
HRA	Habitat Regulations Assessment
IDB	Internal Drainage Board
kV	Kilovolt
KWT	Kent Wildlife Trust
LBMP	Landscape and Biodiversity Management Plan
LGM HMA	Lowland Grassland Meadow Habitat Management Area
LI	Landscape Institute
LNR	Local Nature Reserve
LVIA	Landscape and Visual Impact Assessment
MAFF	Ministry of Agriculture, Fisheries and Food
MEASS	Medway Estuary and Swale Strategy
MHWS	Mean High Water Springs
MR	Managed Realignment
MW	Megawatt
MWh	Megawatt hour
MWp	Megawatt-peak
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
PRoW	Public Rights of Way
PV	Photovoltaic
RIAA	Report to Inform an Appropriate Assessment
RR	Relevant Representations
RSPB	Royal Society for the Protection of Birds
RVAA	Residential Visual Amenity Assessment
SCOA	Seasalter Chalet Owners Association
SNH	Scottish Natural Heritage

SoCG	Statement of Common Ground
SPA	Special Protection Area
SPA CNMP	Special Protection Area Construction Noise Management Plan
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Urban Drainage Systems
TCPA	Town and Country Planning Act
UKCP18	United Kingdom Climate Change Projections 2018
UXO	Unexploded Ordnance
WeBS	Wetland Bird Survey
WR	Written Representation
WWII	World War Two
ZTV	Zone of Theoretical Visibility

1 INTRODUCTION

1. This document provides Cleve Hill Solar Park Ltd's (the Applicant's) response to the Further Written Questions (ExQ2) published by the Planning Inspectorate (PINS) on 9 August 2019, relating to the Development Consent Order Application (the DCO Application) for Cleve Hill Solar Park (the Development).
2. Table 1.1 lists the topics covered. The Applicant has responded to each of the relevant questions in Section 2 of this document.
3. References to the Application documentation are provided where necessary according to the reference system set out in the [Cleve Hill Solar Park Examination Library](#).

Table 1.1: List of Topics

PINS Reference	Topic
2.0	General, Cross-topic and Miscellaneous Questions
2.1	Biodiversity and Nature Conservation (including HRA)
2.2	Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations
2.3	Cultural Heritage
2.4	Draft Development Consent Order
2.5	Environmental Statement, General
2.6	Landscape and Visual Impact Assessment (LVIA), including RVAA and Glint and Glare
2.7	Noise
2.8	Socio-economics
2.9	Traffic and Transport
2.10	Water, Flooding and Coastal Defence

1.1 Appendices

4. This response is supported by the following appendices.

Table 1.2: List of Appendices

Appendix	Title
Appendix 1	HMSG Meeting Notes - 23 August 2019
Appendix 2	Carrying Capacity of the Development Site for Small Mammals
Appendix 3	Northern edge array spacings
Appendix 4	LPA Meeting Notes - 22 August 2019
Appendix 5	Nagden Bump - Faversham.org webpage article
Appendix 6	Buglife and Suffolk Wildlife Trust information on soil mounds
Appendix 7	Reptile Habitat Management Handbook
Appendix 8	Kent Fire and Rescue Service Meeting Notes - 20 August 2019
Appendix 9	Additional cross section from the western bank of Faversham Creek and from the churchyard of the Church of St Thomas the Apostle, Harty (ES Viewpoint 14)
Appendix 10	Representative cross sections showing separation between solar PV module arrays across ditches
Appendix 11	Screened areas of the Development site from the churchyard of the Church of St Thomas the Apostle, Harty (ES Viewpoint 14)
Appendix 12	Allianz Risk Consulting - Tech Talk Volume 26: BESS
Appendix 13	Cross section drawing of the flood protection bund
Appendix 14	Missing ALC Records
Appendix 15	Overall Drainage Features Map

2 EXAMINING AUTHORITY'S SECOND WRITTEN QUESTIONS AND THE APPLICANT'S RESPONSES

2.0 General, Cross-topic and Miscellaneous Questions

Table 2.0: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.0.1	The Applicant	When updating documents, including the Mitigation Schedule, please can the Applicant provide 'tracked changes' and 'clean' versions?	<p>The Applicant has submitted track change versions of the latest amendments of documents at Deadline 4. These versions show all amendments since the submitted versions. The following track change documents are provided:</p> <ul style="list-style-type: none"> • Draft DCO (document reference 3.1, Revision D) • Book of Reference (document reference 4.3, Revision C) • Outline Landscape and Biodiversity Management Plan (document reference 6.4.5.2, Revision C) • Outline Construction Environmental Management Plan (document reference 6.4.5.4, Revision C) • Outline Written Scheme of Investigation (document reference 6.4.11.4, Revision C) • Outline Special Protection Area Construction Noise Management Plan (document reference 6.4.12.10, Revision B) • Outline Construction Traffic Management Plan (document reference 6.4.14.1, Revision C) • Outline Design Principles (document reference 7.1, Revision C) • Mitigation Schedule (document reference 7.2, Revision D) <p>The Applicant confirms that it will submit track changed versions of updated documents for future deadlines.</p>
2.0.2	The Applicant	At 4.31 of its Local Impact Report [REP1-004], Kent County Council requests a Minerals Assessment to assess the safeguarding issues of the economic geologies and the impact that the scheme will have. The Applicant's response [REP2-034] suggested that Kent County Council has requested a separate document and that this can be dealt with procedurally by converting the comments set out in the Planning Statement [APP-254], Appendix A, Section 6.1.10 into	<p>The Applicant has prepared a draft Minerals Assessment as a separate document and provided this to KCC for comment. Consultation with KCC's minerals team is ongoing regarding this. The Applicant is confident an agreed form of Minerals Assessment will be achieved and this will be included in a Statement of Common Ground (SoCG) between the Applicant and KCC submitted at Deadline 5.</p>

Ref.	Question to:	Question	Applicant's Response
		a separate document. Please can the Applicant provide an update that considers the Scoping Opinion requirement for the document to describe the impacts on mineral resources and a prediction on whether any significant effects are likely? Is the Applicant able to confirm that Deadline 4 submissions will provide a conclusion to this issue?	
2.0.3	Kent County Council	At 4.31 of its Local Impact Report [REP1-004], Kent County Council requests a Minerals Assessment to assess the safeguarding issues of the economic geologies and the impact that the scheme will have. How relevant is this if the Project was limited to a 40-year time limit? Would the MEASS managed realignment proposals ultimately facilitate mineral extraction or potentially cause a permanent sterilisation?	The Applicant has prepared a draft Minerals Assessment as a separate document and provided this to KCC for comment. Consultation with KCC's minerals team is ongoing regarding this. The Applicant is confident an agreed form of Minerals Assessment will be achieved and this will be included in a Statement of Common Ground (SoCG) between the Applicant and KCC submitted at Deadline 5.
2.0.4	The Applicant Kent County Council	A minor difference between Kent County Council and the Applicant is reported in the Applicant's response to Kent County Council's Local Impact Report at paragraph 4.29 [REP2-034] in relation to the Flood Risk Assessment and areas with a concentration of flow. Has this difference been resolved and, if so, where is the agreement set out?	The Applicant is confident this minor difference will be resolved in a Statement of Common Ground (SoCG) between the Applicant and KCC to be submitted at Deadline 5.
2.0.5	The Applicant	We heard representations at the Open Floor Hearing from Dr Bruno Erasin that he felt there are flaws in the ALC survey and report. He was supported by the representation from A Bowles. The Applicant's response stated that it stands by the conclusions of the report and that a more detailed response to the specific points raised by Dr Erasin will be provided by Deadline 4. Could the Applicant provide an interim update and confirm that the detailed issues raised by Dr Erasin will be addressed fully at Deadline 4.	The Applicant's responses to Dr Erasin's Deadline 2 Written Representation on ALC [REP2-060], and written summary of oral submission presented at Open Floor Hearing 1 [REP3-058] are provided in section 3.2 of the Applicant's responses to Deadline 3 submissions (document reference 12.3.1). Dr Erasin highlighted that there were missing records in the submitted version of the report, this was a collation error and the missing pages are provided as Appendix 14 to this submission.
2.0.6	National Grid	Is the Applicant's assertion correct, that by entering into a connection agreement for the Cleve Hill Solar Park, National Grid has assessed that "connection is possible without detriment to the rights of other users	Consultee response.

Ref.	Question to:	Question	Applicant's Response
		of the system" [REP3-030 - section 8.2] having regard to the National Grid ESO/UK Power Networks project which aims to create a new reactive power market for distributed energy resources and generate additional capacity on the network? Also, could the connection of the Cleve Hill Solar Park to the NETS at Cleve Hill substation adversely affect the potential for any local community energy projects to be brought forward at the local distribution level [REP3-030 - section 8.6]?	
2.0.7	The Applicant	In its response to ExQ1.0.9 [REP2-056], Swale Borough Council suggested that it would be sensible for the CEMP to include a need for the Applicant or its contractor to notify the Council of any exceptional situations or breaches of approved working hours within 48 hours of these occurring. Has this been considered, and will the next version of the Outline CEMP be updated accordingly?	The Outline CEMP (Deadline 4 submission document reference 6.4.5.4, Revision C) has been updated to incorporate this suggestion at section 1.1.
2.0.8	The Applicant	In its response to ExQ1.0.10 [REP2-006], the Applicant said that Appendix A of the Outline CEMP (Site Waste Management Plan) will be updated to include reference to the CL:AIRE Code of Practice, in response to issues raised by the Environment Agency. Could the Applicant advise if this has been done?	The Outline CEMP (Deadline 4 submission document reference 6.4.5.4, Revision C) was updated at Deadline 3 to incorporate reference to CL:AIRE CoP at section 7.1 and additional text has been added to section 11.1.
2.0.9	The Applicant	The ExA has previously questioned and heard responses from the Applicant about the extent and nature of works likely to be undertaken and for which powers are sought in relation to the existing coastal defences; the provision of a permissive path; the Freshwater Grazing Marsh Habitat Management Area; and the Lowland Grassland Habitat Management Area. During the Accompanied Site Inspection, we were shown a concrete sluice of the type that the Applicant may install in the Freshwater Grazing Marsh Habitat Management Area and, potentially, the Arable Reversion Habitat Management Area. Nonetheless, the ExA invites the Applicant to provide additional, more detailed information about the extent and nature of the works, and the reasoning behind their inclusion in the	<p>In responding to this question the Applicant has considered the relevant statutory provisions, case law and the Encyclopedia of Planning Law and Practice.</p> <p>Section 55 of the Town and Country Planning Act 1990 defines development as the carrying out of any building, engineering, mining or other operations in, on, over or under land or the making of a material change in the use of any buildings or other land:</p> <ul style="list-style-type: none"> Building operations refers to any a building, structure or erection and case law has established that the three primary factors that are relevant as to whether the works constitute development are size, permanence and physical attachment. The carrying out of works for the maintenance, improvement or other alteration of any building of works does not constitute development unless it will materially affect the external appearance of the building, structure or erection.

Ref.	Question to:	Question	Applicant's Response
		dDCO, to assist our consideration and recommendation as to whether or not the intended works are 'development', 'Associated Development' and if they satisfy the Compulsory Acquisition tests.	<ul style="list-style-type: none"> Engineering operations includes the formation or laying out of means of access to highways and case law has established it includes any operation which would generally be supervised by an engineer (including traffic engineers as well as civil engineers) but that it was unnecessary that it should actually be so supervised. The scope of works that could constitute an engineering operation is very broad. Works carried out by statutory undertakers for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose does not constitute development. However, this exemption does not apply to the construction of new sewers, pipes or other apparatus. Other operations is not defined and will typically apply to very small operations that for which deemed permission is conferred by the Town and Country Planning (General Permitted Development) (England) Order 2015. <p>It is noted that the Town and Country Planning (General Permitted Development) (England) Order 2015 refers to permitted development rights being granted in respect of works relating to improvement, maintenance or repair and it is therefore clearly anticipated that there are maintenance activities that could otherwise require planning permission. However, permitted development rights are not available in respect of the construction of the Development as it is EIA development (regulation 3(10)).</p> <p>The Applicant wishes to ensure that there is no ambiguity, delay or impediment to the delivery of the Development and has therefore included all potential building and engineering and other operations that it considers may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement in Schedule 1 of the dDCO.</p> <p>The Applicant refers to its response to written question 1.2.5 [REP2-006] which sets out the tests for associated development.</p> <p>The Applicant refers to paragraphs 7.1 to 7.3 of the Statement of Reasons [APP-019] which sets out the tests for compulsory acquisition.</p>

Ref.	Question to:	Question	Applicant's Response
			<p>The Applicant maintains its position that the works relating to the maintenance of the existing coastal defence, the construction of the permissive path, the freshwater grazing marsh habitat management area and the lowland grassland habitat management area constitute development and associated development, and the compulsory acquisition of land, and rights and restrictions over land, to carry out such works satisfies the compulsory acquisition tests.</p> <p>In the event that the Secretary of State disagrees with the Applicant's position and determines that the works proposed do not constitute development and/or associated development, the Applicant considers that the compulsory acquisition of land, and rights and restrictions over land, is required to facilitate, or are incidental to, Work No. 1 and Work No. 2 and the compulsory acquisition tests are still therefore satisfied.</p> <p>Existing Coastal Defences</p> <p>For the reasons set out at the Compulsory Acquisition Hearing [REP3-013], the Applicant considers that the works listed in Work No. 9 of Schedule 1 of the dDCO which relate to the maintenance of the existing flood defence constitute development as they would involve engineering operations that would otherwise require planning permission.</p> <p>The Applicant maintains its position that the works constitute associated development for the reasons set out in its response to written question 1.2.5 [REP2-006] as the works are require to protect Work No. 1 and Work No. 2.</p> <p>It is noted that the Environment Agency has the benefit of a number of permitted development rights pursuant to Class D of Part 13 of the Town and Country Planning (General Permitted Development) (England) Order 2015 that could apply to their current maintenance activities. However, the Applicant would not have the benefit of these permitted development rights.</p> <p>In the event that the Secretary of State disagrees with the Applicant's position and determines that the flood defence works do not constitute development and/or associated development, the Applicant needs to compulsory acquire the necessary property rights to access the flood defence and carry out the maintenance activities as it does not have the statutory powers of access that are available to the Environment Agency pursuant to s165(6) and s169-172 of the Water Resources Act 1991. The Applicant considers that such rights are required to facilitate, or are incidental to, Work No. 1 and Work No. 2 and the compulsory acquisition tests are still therefore satisfied.</p>

Ref.	Question to:	Question	Applicant's Response
			<p>Permissive Path</p> <p>The Applicant refers to its response to written question 1.4.52 [REP2-006] which confirmed that the construction of the permissive path constituted an engineering operation. The laying out of access is a form of development often accepted as evidence of lawful implementation of planning permission. The laying out, surfacing, signage, information boards and potential drainage of the Permissive Path falls within the meaning of development under the Section 55 of the Town and Country Planning Act 1990.</p> <p>For the reasons set out at the Compulsory Acquisition Hearing [REP3-013], the Applicant maintains its position that the works constitute associated development as the permissive path is part of a suite of mitigation to address the landscape and visual impacts of the Development.</p> <p>In the event that the Secretary of State disagrees with the Applicant's position and determines that the works relating to the permissive path do not constitute development and/or associated development, the Applicant still requires the ability to compulsorily acquire the land for this purpose. The Applicant considers that such land is required to facilitate, or is incidental to, Work No. 1 and Work No. 2 as it is required to mitigate the impacts of the Development and the compulsory acquisition tests are still therefore satisfied.</p> <p>Freshwater Grazing Marsh Habitat Management Area</p> <p>For the reasons set out at the Compulsory Acquisition Hearing [REP3-013], the Applicant considers that the works listed in Work No. 8 of Schedule 1 of the dDCO which relate to the habitat management areas constitute development as they may involve engineering operations or building operations that would otherwise require planning permission. Those operations may include earthworks, landscaping, means of enclosure and the laying/construction of drainage infrastructure, such as the sluice.</p> <p>The Applicant maintains its position that the works constitute associated development for the reasons set out in its response to written question 1.2.5 [REP2-006] due to the functional link between the Freshwater Grazing Marsh Habitat Management Area and the Arable Reversion Habitat Management Area.</p> <p>In the event that the Secretary of State disagrees with the Applicant's position and</p>

Ref.	Question to:	Question	Applicant's Response
			<p>determines that the works relating to the Freshwater Grazing Marsh Habitat Management Area do not constitute development and/or associated development, the Applicant still requires the ability to compulsorily acquire the land for this purpose. The Applicant needs to be able to control and manage this land in order to ensure the functionality of Arable Reversion Habitat Management Area which is necessary to mitigate the impacts of the Development. The Applicant considers that such land is required to facilitate, or is incidental to, Work No. 1 and Work No. 2 and the compulsory acquisition tests are still therefore satisfied.</p> <p>Lowland Grassland Meadow Habitat Management Area</p> <p>For the reasons set out at the Compulsory Acquisition Hearing [REP3-013], the Applicant considers that the works listed in Work No. 8 of Schedule 1 of the dDCO which relate to the habitat management areas constitute development as they may involve engineering operations that would otherwise require planning permission. Those operations may include earthworks, landscaping, means of enclosure and the laying/construction of drainage infrastructure.</p> <p>The Applicant maintains its position that the works constitute associated development for the reasons set out in its response to written question 1.2.5 [REP2-006] as the lowland meadow is being provided in order to mitigate landscape and visual impacts of the Development.</p> <p>In the event that the Secretary of State disagrees with the Applicant's position and determines that the works relating to the Lowland Grassland Habitat Management Area do not constitute development and/or associated development, the Applicant still requires the ability to compulsorily acquire the land for this purpose. The Applicant considers that such land is required to facilitate, or is incidental to, Work No. 1 and Work No. 2 as it is required to mitigate the impacts of the Development and the compulsory acquisition tests are still therefore satisfied.</p>
2.0.10	Defra The Applicant	The site of the proposed NSIP is located within an area of land proposed for managed realignment within the consultation draft of the Medway Estuary and Swale flood and coastal risk management strategy (MEASS). It is understood that the strategy will be finalised and published 'during summer 2019'. Could Defra update the ExA on the progress towards approval of the	<p>The Applicant understands from dialogue with the EA that it has recently received approval and sign off from DEFRA on MEASS reports in late August 2019. The EA is currently making final amendments to the MEASS and estimates that the final version will be published by DEFRA by the end of September 2019.</p> <p>The Applicant therefore understands that the adopted MEASS will be available prior to the end of the Examination. The Applicant will provide comments on the MEASS as soon as</p>

Ref.	Question to:	Question	Applicant's Response
		<p>MEASS and confirm whether or not the anticipated publication timescale remains current.</p> <p>https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-managementstrategy The Applicant is requested to continue to liaise with Defra.</p>	<p>practicable after it is received.</p> <p>The Applicant has not spoken with DEFRA in relation to this question or the MEASS generally. In the event that DEFRA does not respond to this question directly, the Applicant would ask that the ExA writes to DEFRA seeking a response.</p>

2.1 Biodiversity and Nature Conservation (including HRA)

Table 2.1: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.1.1	Swale Borough Council The Applicant	<p>At Deadline 3, Swale Borough Council submitted an email representation [REP3-056] following up its oral submission at the Biodiversity Issue Specific Hearing on Thursday 25th July. This relates to the updated guidance on environmental net gain in the Natural Environment section of Planning Practice Guidance released on the 21st July 2019. Could Swale Borough Council and the Applicant provide an opinion on the weight that the ExA and Secretary of State should place on this given the Government response to net gain set out in "Net gain: Summary of responses and government response" (Defra, July 2019): "Consultation proposals for a mandatory requirement did not include nationally significant infrastructure or marine projects. Whilst many respondents told us that these types of development should be in scope of the mandatory requirement, following careful consideration the government believes that further work and engagement with industry and conservation bodies is required to establish approaches to biodiversity net gain for both marine and nationally significant infrastructure projects, which can have fundamentally different characteristics to other development types. Government will continue to work on exploring potential net gain approaches for these types of development, but nationally significant infrastructure and net gain for marine development will remain out of scope of the mandatory requirement in the Environment Bill."</p> <p>https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planningrequirements?utm_source=ea420b59-d39c-4214-8490-0d39d5c8768a&utm_medium=email&utm_campaign=govuknotifications&utm_content=immediate</p>	<p>The Applicant notes that NSIP development is outside of the scope of the consultation referred to, but agrees with the principle of seeking biodiversity and wider environmental net gain in relation to development proposals. The Applicant is therefore of the opinion that substantial weight should be attributed to the Development's biodiversity and wider environmental net gain.</p> <p>A more detailed response to SBC's submission [REP3-056] setting out the biodiversity and wider environmental net gain provided by the Development is set out in section 2.5 of the Applicant's Responses to Deadline 3 Submissions (Deadline 4 submission document reference 12.3.1).</p>

Ref.	Question to:	Question	Applicant's Response
2.1.2	Canterbury City Council	In its Local Impact Report [REP1-002], Canterbury City Council reserves its position in relation to possible impacts on ecology and designated nature conservation sites pending the outcome of a review by Natural England and Kent County Council. The ExA notes that Canterbury City Council was not present at the Biodiversity Issue Specific Hearing, so could an update on its position be provided please.	Consultee response.
2.1.3	The Applicant	Could the Applicant provide an update on discussions with the Habitat Management Steering Group and especially its proposals to provide further detail on monitoring the key mitigation measures and the triggers for remedial actions where inadequate performance is identified? For example, paragraph 351 of the Deadline 3 Outline LBMP [REP3-005] states that wintering bird surveys will take place between September and March in years 1, 2, 3, 5, 10 and 20 to review the efficacy of the implemented measures and adaptive management. Can the Applicant explain the triggers for establishing whether the implemented measures are sufficient for Brent geese, lapwing and golden plover?	<p>Monitoring and triggers for remedial actions were discussed at the HMSG meeting on 23 August 2019.</p> <p>It was agreed that there are too many permutations and potential variables to set out specific triggers at the outset. The outline LBMP has been updated at Deadline 4 to include the mechanism by which monitoring results can be reviewed by the HMSG, with subsequent discussions held by the HMSG to determine whether or not remedial actions are necessary based on the results of the monitoring in combination with analysis of WeBS counts for The Swale. Primary considerations will include the development of the target grassland sward structure in the management areas, the consistent absence of key species from the management areas and evidence of decline in populations within The Swale.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.4	The Applicant	Can the Applicant explain where in the Deadline 3 Outline CEMP [REP3-006] or Outline LBMP [REP3-005] the mitigation measure listed at paragraph 144 (section 10.5.1.2) of Chapter 10 of the ES [APP-040] which includes pre-construction sowing is secured? Can the Applicant provide a plan showing the affected areas?	<p>Outline LBMP – Table 2, row 1, Grazing Marsh Grassland, Timing column specifies: <i>"To be implemented starting with ground preparation at the Pre-construction phase, but with activities throughout the construction and post-construction phases."</i></p> <p>Pre-construction seeding/grassland establishment is contained within the Outline LBMP [REP3-005] at section 16 Grassland Implementation Timing.</p> <p>The areas subject to solar panel development, marked on the updated Figure A5.1 of the Outline LBMP [REP3-005] as "Proposed Coastal and Floodplain Grazing Marsh Based on Priority Habitat Inventory - under and around solar panels".</p> <p>The updated version of the Outline LBMP submitted at Deadline 4 (document reference 6.4.5.2, Revision C) more explicitly ties the pre-construction sowing to the areas shown on Figure A5.1 at section 6.3.2.</p>

Ref.	Question to:	Question	Applicant's Response
2.1.5	Natural England Kent Wildlife Trust	The Applicant has provided a schedule for the sowing and establishment of the Arable Reversion Habitat Management Area grassland at section 16 of the Deadline 3 Outline LBMP [REP3-005]. Does the Outline LBMP now include sufficient information about methods, monitoring, triggers and adaptive management to satisfy your previous concerns over this, and does the Outline LBMP now properly secure the early sowing of grass that was considered necessary to avoid an adverse effect on integrity of The Swale SPA and Ramsar site [REP3-082]?	<p>Consultee response.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.6	Natural England Kent Wildlife Trust	The Applicant has provided more information about grazing management in the Arable Reversion Habitat Management Area and the inter-array grassland in the Deadline 3 Outline LBMP [REP3-005]. Does this allay your previous concerns over the lack of detail about this?	<p>Consultee response.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.7	Natural England Kent Wildlife Trust	In the Deadline 3 Outline LBMP [REP3-005], the Applicant has provided more information about how the establishment and condition of the Arable Reversion Habitat Management Area and the inter-array grassland will be monitored. Do you believe there is sufficient detail about monitoring, triggers and adaptive management now, and that the outline monitoring proposals are sufficient?	<p>Consultee response.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.8	Natural England Kent Wildlife Trust	Overall, does your view remain that the LBMP could be an appropriate means of securing the monitoring of the Habitat Management Areas and any adaptive management necessary? Considering the Deadline 3 updated version of the Outline LBMP [REP3-005], do you believe that there is now sufficient detail in relation to the monitoring, targets and triggers for remedial action? Is there now sufficient detail about water level management across the whole site, wetland management, and on the SSSI enhancement proposals?	<p>Consultee response.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>

Ref.	Question to:	Question	Applicant's Response
2.1.9	The Applicant	Further to ExQ1.1.9 and the response [REP2-006], is the Applicant able to provide an update on discussions around the approach to the assessment and mitigation of noise effects on birds from the 23 August Habitat Management Steering Group meeting and confirm a timescale for incorporation of the outcome in the relevant Statements of Common Ground and outline management plans?	<p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p> <p>It was agreed during the meeting that the mitigation of noise effects has been addressed through the updates to the documentation submitted at Deadline 3 which addressed comments raised previously.</p> <p>Prior to the HMSG meeting, Natural England, Kent Wildlife Trust, RSPB and EA were asked to review the updated documentation submitted at Deadline 3. During the meeting, the updated documents submitted were discussed and no further comments were raised in relation to the Outline CEMP [REP3-006] (including Breeding Bird Protection Plan) and the Outline SPA CNMP [REP3-008].</p>
2.1.10	Natural England	Does the Deadline 3 revised SPA CNMP [REP3-008] provide the additional information that you were seeking in relation to the 55dB contour, and do you have any other comments about the Deadline 3 Outline SPA CNMP?	<p>Consultee response.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.11	Natural England The Applicant	Natural England's Deadline 3 letter dated 31st July 2019 [REP3-082] followed up discussions at the Biodiversity Issue Specific Hearing about avoiding the use of fertiliser within 10m of the ditch system, and if this has any effect on the carrying capacity of the Arable Reversion Habitat Management Area for Brent geese. The Applicant suggested at the Hearing that non-application of fertiliser close to the ditches makes a difference of 300 goose-days. Natural England wished to receive the supporting calculations in writing: given this was set out at Table 2.17 of the Applicant's responses to Written Representations [REP3-020], is there any progress on agreement, and will it be included in the Statement of Common Ground?	<p>The non-application of fertiliser within 10 m of ditches in the AR HMA results in a difference (reduction) of 3,477 bird-days. The recalculation results in a capacity of the AR HMA at 101,580 goose-days based on the Vickery et al. figures, versus 101,940 measured as the average peak-mean during the baseline surveys of the site.</p> <p>During the HMSG meeting on 23 August 2019, Natural England were content that this was sufficiently near the target capacity. This has been confirmed in the Statement of Common Ground between the Applicant and Natural England (Deadline 4 submission document reference 12.2.4) at point 29 in Table 4 under section 5.</p> <p>The meeting notes from the HMSG meeting on 23 August 2019 are provided as Appendix 1 to this submission (Deadline 4 document reference 12.1.2).</p>
2.1.12	The Applicant Natural England	At Table 2.17 (refs 32 and 33) of the Applicant's responses to Written Representations [REP3-020] there is additional information about combining golden plover and lapwing days in response to questions, including one from Natural England in its Written	The Applicant is seeking written confirmation from Dr Gillings regarding his position on the transferability of golden plover and lapwing bird-days. This has not been possible for Deadline 4 but will be submitted to the Examination as soon as possible.

Ref.	Question to:	Question	Applicant's Response
		Representation [REP2-096] and Deadline 3 submission. Could Natural England please comment on whether this resolves any of the uncertainties regarding lapwing and golden plover, as set out? Can the Applicant please submit to the Examination the communication with Dr Gillings that confirms he considers it appropriate to combine the lapwing and golden-plover days?	
2.1.13	The Applicant	Could the Applicant clarify the reason for references to inter-array grassland and triggers associated with marsh harrier monitoring within Appendix J of the Deadline 3 version of the Outline LBMP [REP3-005]?	<p>The paragraphs relating to marsh harrier were included in Section J in error.</p> <p>The outline LBMP submitted at Deadline 4 (document reference 6.4.5.2, Revision C) has been amended with corrections and updates.</p>
2.1.14	The Applicant	At paragraph 51 of the Deadline 3 Outline LBMP [REP3-005], the Applicant states that an ecologist will visit the site in late spring (May) in Years 2, 3, 5, 10 and 20. The same paragraph states that use of the inter-array grassland by marsh harriers will be monitored, though the frequency of the monitoring (monthly) appears to be incompatible with this single visit a year in late spring. Can the Applicant expand on the commitment to monitoring marsh harrier behaviours within the Grazing Marsh Grassland Habitat Management Area?	<p>The outline LBMP submitted at Deadline 4 (document reference 6.4.5.2, Revision C) has been amended with corrections and updates.</p> <p>As set out in section 6.10 of the Outline LBMP, the site will be visited at least monthly in each of the monitoring years by an ecologist to fulfil the monitoring requirements set out.</p>
2.1.15	The Applicant	Can the Applicant provide a calculation for the carrying capacity of the Order area for marsh harriers before and after the implementation of the proposal, and define the amount of prey is likely to be provided by the different parts of the Order area, with a view to demonstrating how the change in habitat quality across the site will influence how much food will be provided in the different parts? Can the Applicant also confirm the width of the corridors through the solar array along ditches and paths at the northern part of the site and comment on whether they would be sufficiently wide that marsh harriers would not be deterred from entering the solar array from the existing favoured habitat along the borrow dyke?	<p>The South Swale Nature Reserve and adjacent habitats have historically supported nesting marsh harrier, although not at a consistent level since 2004, with data showing single nest attempts each year between 2013 and 2018 following between 3 and 8 pairs attempting to nest each year from 2004 to 2012 (see paragraph 351 of Chapter 9 - Ornithology of the ES [APP-039]). The data on nesting attempts is helpful in quantification of the carrying capacity of the Order area available, although it is known that other marsh harriers from a wider area also forage at the site.</p> <p>Small mammals are likely to form a proportion of the available prey species for marsh harrier within the Order area. An analysis of the carrying capacity of the Development site in the arable baseline, compared to the with Development scenario for small mammals is provided at Appendix 2 (Deadline 4 submission document reference 12.1.3).</p> <p>Small passerine birds, waterbirds, nestlings and amphibians also form a proportion of the available prey within the Order area. With the exception of skylark, the habitat enhancements at the site are likely to improve conditions for many of these species, but</p>

Ref.	Question to:	Question	Applicant's Response
			<p>an accurate quantification of this is not feasible.</p> <p>The provision of additional favourable habitat, associated increase in prey species and the more sympathetic management of water levels within the Development site are all factors that are expected to have beneficial effects for marsh harrier. Whilst it is acknowledged that individual birds may be dissuaded from utilising the site by the presence of the Development, the greater availability of prey and the more favourable habitat created is expected to at least maintain the carrying capacity of the Order area at a population level.</p> <p>Appendix 3 provides the information requested on the separation between arrays along the northern edge of the Development site. The Applicant is confident that the separations achieved are sufficiently wide that marsh harriers would not be deterred from entering the solar array area from the borrow dyke.</p> <p>Representative cross sections through ditches are provided in Appendix 10 (Deadline 4 submission document reference 12.1.11).</p>
2.1.16	The Applicant	In its answer to ExQ1.1.42 [REP2-006], the Applicant noted that measures may need to be put in place to protect new hedgerows and trees that have been planted from construction activities, and that this would be secured and controlled through the LBMP, under Requirement 4 of the dDCO. Could the Applicant clarify where and how this is achieved in the Deadline 3 Outline LBMP [REP3-005]?	<p>The construction of the perimeter fence is one of the first activities to be undertaken during construction and will be completed prior to the planting of hedgerows and trees.</p> <p>All hedgerows and trees planted outside the perimeter fence will therefore be separated from construction activities and protected by the presence of the perimeter fence.</p> <p>There are two exceptions to this:</p> <ol style="list-style-type: none"> 1. Hedgerows and trees planted along the route of the existing 11 kV overhead line and the proposed underground route of the line (e.g., northwest of Warm House) will be planted after the undergrounding has been completed. The undergrounding of the line will be required to take place in advance of the construction of solar arrays in fields along the southern boundary of the Development. 2. Hedgerows within the perimeter fence adjacent to fields V and X. These hedgerows will be planted after the construction of solar arrays in these fields. <p>The Outline LBMP submitted at Deadline 4 (document reference 6.4.5.2, Revision C) incorporates additional text at section 8.5 to make this clear.</p>
2.1.17	Natural	At paragraph 3.2.6 of its Written Representation [REP2-	Consultee response.

Ref.	Question to:	Question	Applicant's Response
	England	096], Natural England raised concern that the Outline Breeding Bird Protection Plan stated that construction in the areas near the Swale SPA will be avoided "where practicable" during the bird breeding season and that "This may not be fully achievable". After further discussions, Natural England acknowledged that the Applicant's intention around 'where practicable' was to avoid restricting construction activities that do not exceed the threshold. Now that the Deadline 3 Outline Breeding Bird Protection Plan [REP3-006] has been provided, is Natural England content that the revised wording provides greater clarity and certainty?	
2.1.18	Natural England	In its Relevant Representation [RR-826], Natural England sought the addition of measures to the LBMP to promote more extensive reedbed development. The Deadline 3 Outline LBMP [REP3- 005] includes measures for the creation of reedbeds at 13.6.1. Is Natural England content with these proposals?	Consultee response.
2.1.19	The Applicant	During the Biodiversity Issue Specific Hearing on 25th July 2019, an Interested Party raised the question of whether noise disturbance from construction traffic using the northern access route had been factored into the assessments undertaken for the EIA and RIAA. The Applicant stated that this would be addressed in the Deadline 3 updates to the SPA CNMP. Please could the Applicant confirm that this is the case, that the noise from construction traffic has been taken into account on all access roads and haul routes and indicate where in the Deadline 3 updated Outline SPA CNMP [REP3-008] this is evidenced?	<p>Noise levels from construction activities is calculated based on the closest point at which construction activities (including the haul road) takes place to each ecological receptor, as discussed in section 12.5.1.3 (paragraph 143) of Chapter 12 - Noise of the ES [APP-042]. Both the northern and southern access route were accounted for when measuring the distance to the haul road.</p> <p>Regarding noise from the haul road in isolation, Figure 5 of the RIAA [APP-026] presents the Haul Road Zone of Noise Influence. As can be seen, the northern access route runs directly adjacent to the AR HMA. As shown in Figure 5, the distance at which the 70 dBA threshold is exceeded is 35 m.</p> <p>As discussed in section 6.1.2 of the RIAA, the functionally available grassland area is 50 m from the panel arrays and haul road, taking into account an avoidance zone in which there may be a reduced density of birds. As such, the noise threshold will not be exceeded within the functional area of the AR HMA.</p>
2.1.20	The Applicant	The Applicant has stated an intention to design the culverts needed to cross watercourses in accordance with the Environment Agency guidance on elver and eel passes that was previously submitted into the	<p>Inclusion of mammal/eel and elver friendly box culverts is included within Table 2 of the Outline LBMP [REP3-005].</p> <p>The final detailed design of the drainage design is not yet known, however Table 2 of the</p>

Ref.	Question to:	Question	Applicant's Response
		Examination [REP2-016]. Could the Applicant explain how this intent is demonstrated in the Outline LBMP and the Outline CEMP, and how it could be secured through any DCO?	<p>Outline LBMP secures their eel and elver friendly nature.</p> <p>The text in the updated version of the Outline LBMP submitted at Deadline 4 (document reference 6.2.5.2, Revision C) refers to eel and elver passes to ensure all life stages of eels are captured.</p> <p>These measures are secured in the dDCO as Requirement 4 requires that the final LBMP complies with the Outline LBMP, and that this final LBMP is carried out as approved.</p>
2.1.21	Environment Agency Matthew Hatchwell	Do the Environment Agency and Mr Hatchwell believe that any additional information is required in the Outline LBMP or Outline CEMP to ensure that the necessary mitigation for European eel can be secured through any DCO?	<p>The Applicant confirms that box culverts will ensure ongoing passage remains viable where culverts are constructed or upgraded. Elver/eel passes will also be incorporated into other drainage interventions where necessary to control water levels to again ensure free movement for European eel.</p> <p>The Applicant does not consider that it is necessary to secure a particular type of design, as in some cases, it may not be necessary to secure an eel/elver passage, due to the nature of the structure, and how water levels are proposed to be managed. This approach is supported by the EA guidance [REP2-016], e.g., on page 77 where an initial assessment is referred to in order to determine whether, and what type of intervention may be required.</p> <p>Additional text has been incorporated into paragraph 289 of Appendix H of the Outline LBMP (Deadline 4 document reference 6.2.5.2, Revision C) in order to secure the process for determination and implementation of the eel/elver friendly nature of watercourse interventions.</p>
2.1.22	The Applicant	Please could the Applicant provide an update on discussions with CPRE Kent in relation to its records for hazel dormouse at the site, and if there is an intention to explore licensing requirements with Natural England. If so, please provide an update on the projected schedule for a draft licence and letter of no impediment. Is there an intention to add corresponding actions and controls to the Outline LBMP for this species as is included for other protected species?	<p>The Applicant is not in agreement that the nest identified is categorically that created by hazel dormice. This is due to the lack of suitable habitat present at both Cleve Hill and the immediate surrounds, as per the original assessment and as detailed in the response to CPRE Kent's submission in section 2.6 of the Applicant's Responses to Deadline 3 Submissions (Deadline 4 submission document reference 12.3.1). The photograph of the identified nest is similar in appearance with that associated with winter wren and other small mammals including harvest mice, which are associated with cornfields, hedgerows, reed-beds, brambles, long grass and sometimes open field habitat. Most of which are located at Cleve Hill. As this nest was reported in January 2019 (PTES reference 31366) the nest would likely have been a winter nest, and harvest mice are known to stay close to the ground during the winter period for warmth and insulation. The Applicant will continue to attempt to contact CPRE Kent to obtain additional evidence.</p>

Ref.	Question to:	Question	Applicant's Response
2.1.23	The Applicant	At the Biodiversity Issue Specific Hearing held on 25th July 2019, an issue around possible misidentification of native amphibians and unintentional harm by site staff looking for marsh frog was discussed. The Applicant agreed to mitigate this through the role of the Ecological Clerk of Works. Could the Applicant please add this proposed mitigation to the list of specific roles of the Ecological Clerk of Works to the next version of the Outline LBMP?	Additional information has been included within the Outline LBMP (Deadline 4 document reference 6.2.5.2, Revision C) at Table 1 to ensure this mitigation is captured and therefore secured.
2.1.24	The Applicant	In the Applicant's submission [REP2-006] in relation to ditch and culvert maintenance, the Applicant refers to the Outline LBMP, Appendix H, section 13.9 [APP-203] and predicts no significant effects. However, the timing of management of vegetation is not defined at 13.9 of Appendix H of Outline LBMP [APP-203]. Could the Applicant confirm that it would be in accordance with 13.5.2 of the Deadline 3 Outline LBMP [REP3-005]?	<p>Section 13.5.2 of the Outline LBMP submitted at Deadline 3 [REP3-005] specifically relates to activities associated with licenced activities associated with water vole. All licenced activities including vegetation management will only be undertaken between the dates stated within the applicable licence documents and as per section 13.5.2 of the Outline LBMP.</p> <p>Ongoing management requirements in Appendix H of the Outline LBMP will also only be undertaken during appropriate times of the year as per section 13.5.2.</p>

2.2 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations

Table 2.2: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.2.1	The Applicant	Please could the Applicant provide an update on negotiations with land and rights owners in relation to the alternative options for the southern or northern access route, your intentions going forward with the dDCO and Book of Reference, and a timescale to complete any decision?	<p>The Applicant has provided an update to Appendix A of the Statement of Reasons which details the progress of negotiations with Affected Parties (Deadline 4 document reference 12.4.1).</p> <p>In respect of the southern and northern access routes, The Applicant has agreed Heads of Terms with the owners of parcel 3/06A (the Attwood Family) which is required for the southern access and has progressed to drafting a legal agreement.</p> <p>The Applicant is engaged in negotiations with London Array Limited (as detailed in the updated Appendix A to the Statement of Reasons) with regards to rights needed for access (and other rights required for the Development).</p> <p>The Applicant is also engaged in negotiations with Blue Transmission London Array Limited as owner of the cables and tenant to London Array Limited of plot 3/05 to agree the rights to needed to construct and operate the Development.</p> <p>Additional Submissions were made by BTLAL and LAL for Deadline 4 that were agreed with the Applicant in advance. These state that agreement is expected to be reached by the end of September 2019 and the Applicant will provide an update at the hearings schedule for w/c 9 September 2019. Until agreement is reached the Applicant needs to include the rights and powers for both access options within the dDCO. There is nothing to suggest that agreement will not be reached by the end of the Examination.</p>
2.2.2		In our first round of Written Questions (ExQ1:1.2.3) [REP2-006], and at the Compulsory Acquisition Hearing, the ExA asked the Applicant to provide an update on efforts and enquiries to establish interests identified in the Book of Reference as 'unknown'. The Applicant is asked to provide a further update. The ExA would also appreciate an update to ExQ1:1.2.7 – 1.2.9 [REP2-006] in relation to the negotiations to agree the acquisition of land or rights over land outside the optioned area; in relation to engagement with The Crown Estate; and around negotiations for Protective Provisions.	<p>Update to ExQ1:1.2.3</p> <p>The Applicant has engaged with the relevant landowners to determine the ownership of land that is unregistered and identified as 'Unknown' in the Book of Reference. Further to those enquiries, it has now been confirmed to the Applicant's land agents that in respect of plots 1/03, 2/02, 2/03, 3/03, 3/03A, 3/03B, 5/02, the land is owned by the Goodman family.) In respect of plot 3/12, investigations are ongoing. However, both the Seasalter Chalet Owners Association and Natural England have now confirmed that they do not believe plot 3/12 to be in their ownership.</p> <p>The Applicant has updated the Book of Reference submitted for Deadline 4 accordingly (Deadline 4 document reference 4.3, Revision C). In the event that the ownership of plot 3/12 is confirmed prior to the end of the Examination, the Applicant will update the Book of Reference. In the meantime, the Applicant considers that it is appropriate to refer to</p>

Ref.	Question to:	Question	Applicant's Response
			<p>the interests in plot 3/12 as "Unknown".</p> <p>Update to ExQ1:1.2.7 The Applicant has provided a revision to Statement of Reasons 'Appendix A' submitted for Deadline 4 which provides an update in respect of negotiations with Affected Parties.</p> <p>Update to ExQ1:1.2.8 An update on negotiations with The Crown Estate for the land rights required for the Development is provided in the revised Statement of Reasons 'Appendix A' submitted for Deadline 4. Negotiations in respect of securing S.135 consent are continuing in parallel, and consent is anticipated to be obtained prior to the close of the Examination.</p> <p>Update to ExQ1:1.2.8 An update on progress with Protective Provisions is set out below:</p> <p>BTLAL and LAL - the Applicant refers to the agreed submission submitted by BTLAL and LAL for Deadline 4 which provides an update on the status of negotiations.</p> <p>National Grid Electricity Transmission plc – The Applicant has received National Grid's preferred Protective Provisions and incorporated the majority of these into the draft DCO submitted at Deadline 4 (document reference 3.1, Revision D). Discussions are ongoing over this and a side agreement.</p>

2.3 Cultural Heritage

Table 2.3: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.3.1	Kent County Council	In its Deadline 3 updated Outline LBMP [REP3-005], the Applicant has modified the proposals for the use of the World War II pill box on the Proposed Development site as a bat roost. Are Kent County Council's concerns around the cultural heritage impacts of these proposals now satisfied?	<p>Consultee response.</p> <p>The meeting notes from the LPA meeting on 22 August 2019 are provided as Appendix 4 to this submission (Deadline 4 document reference 12.1.5). KCC confirmed in that meeting that the revised proposals were generally acceptable, but that some further vegetation management may be requested to be included to improve the management from the existing baseline.</p>
2.3.2	The Applicant	We heard from Dr Paul Wilkinson and others about the archaeological potential around the former Nagden Hill, its possible use for burial and the claim that a watching brief is not sufficient and that it needs pre-determination evaluation (i.e. trenching and risk assessment). Could the Applicant comment on such likelihood and the alleged need for further evaluation and investigative field work?	<p>The approach to archaeology has been informed by the Desk-Based Assessment [APP-230], as well as sub-surface modelling and purposive coring to establish the paleoenvironmental potential of the former marshland, as well as site visits. The approach has been discussed with and supported by HE and KCC.</p> <p>The Applicant used data available from the Kent Historic Environment Record (KHER) to inform the Desk-Based Assessment (DBA) in 2017. There are several references to the historic feature known as Nagden Bump in the DBA at section 4.4.5 and in the Gazetteer at section 8.3 which states: "KHER also makes reference to 'Nagden Bump now removed'". No evidence of any mound/bump was noted on the site visit. The Applicant is aware of sources such as the Faversham.org website which state that the Nagden Bump was removed to provide material for the construction of the coastal sea defences after flooding in 1953 (see Appendix 5, Deadline 4 submission document reference 12.1.6).</p> <p>Fieldwalking within the western part of the development in 1996 produced some sherds of Iron Age and Roman Pottery from the "Nagden Bump". Whilst surface finds may be indicative of general activity in the area, it is not certain that this represents a specific deposit or "site".</p> <p>It may be that any prime contexts including specific occupational evidence that may have previously survived at this location have since been truncated by recent farming activities etc. Nothing in the KCC HER at the date the data was collected suggested a significant concentration of finds/features indicative of a settlement within the site and available evidence did not suggest a strong likelihood for any burials within this part of the site. Whilst there is archaeological evidence along the adjacent creek, the evidence from within the site is limited. It is likely that the area was marshy and not suitable for occupation during the prehistoric period other than on drier/higher ground such as the former "Nagden Bump" - as this is now no longer a feature in the landscape, it is quite probable</p>

Ref.	Question to:	Question	Applicant's Response
			<p>that any occupational evidence (if it existed) has now been destroyed. Background scatters of material of various periods may be expected to survive in the topsoil, reflecting a more general utilisation of the landscape over time. However, surface finds do not always correspond to sub-surface buried features, and in fact may represent simple chance drops or losses, and may have come into the site from elsewhere (either as chance drops by visitors or as part of soil imports etc.).</p> <p>Given the low likelihood that significant archaeological remains survive to be disturbed, and given the limited nature of the anticipated impacts due to the construction type for the panel supports, it is considered that a watching brief on principal ground works activities (such as track formation) remains appropriate. This approach is set out in the WSI and the Applicant understand this to be supported by KCC following the meeting on 22 August 2019 (notes included as Appendix 4, Deadline 4 submission document reference 12.1.5) and will be confirmed in their answer to ExQ2.3.4.</p> <p>Notwithstanding the Applicant's view that the likelihood for undiscovered archaeological remains being encountered is low, NPS EN-1 (at para 5.8.22) can allow the development to proceed even where as yet undiscovered archaeological remains may be suspected - "Where the IPC considers there to be a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the IPC should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction". The Applicant considers that the current WSI approach fulfils this requirement.</p>
2.3.3	The Applicant	In our previous Written Questions (ExQ1.3.2) [REP2-006] the ExA asked what plans there were to identify and deal with Unexploded Ordnance (UXO) on the Application Site and how this would integrate with the proposed archaeological Written Scheme of Investigation. Although the update to the Outline Written Scheme of Investigation for a Programme of Archaeological Works indicates that all staff will be provided with a UXO briefing, could the Applicant clarify the form that the pre-construction UXO risk review will take and how it will be secured?	<p>An initial overview has already been undertaken which has indicated a low UXO risk for the Development site, as reported in section 5.0 of the Phase 1 Preliminary Site Assessment [APP-229]. This land has been exploited for agriculture with related excavation and drainage activity for over 60 years since World War II without incident.</p> <p>The Outline CEMP (Deadline 4 submission document reference 6.2.5.4, Revision C) has been updated to incorporate the pre-construction UXO risk review (desk-based assessment) and UXO briefing at section 1.6.</p> <p>The measures in the outline CEMP are secured through dDCO Requirement 10 - Construction Environmental Management Plan (Deadline 4 submission document reference 3.1, Revision D) which states that the CEMP must accord with the outline CEMP.</p>
2.3.4	Kent County Council	Historic England [REP2-087] indicates that: "The site of the proposed development has	Consultee response.

Ref.	Question to:	Question	Applicant's Response
		archaeological potential for a range of non-designated assets of different periods and deposits/site types but they are unlikely to be of national significance, such that they might have a level of significance comparable to a scheduled monument. Therefore, Historic England does not wish to engage with non-designated archaeological matters and we defer to Kent Council's Heritage Conservation Team". The Applicant's Responses to Written Representations received at Deadline 2 [REP3-020] indicates that it will continue to engage with Kent County Council (page 104). Is Kent County Council satisfied with the terms of the updated Outline Written Scheme of Investigation for a Programme of Archaeological Works [REP3-007] and the manner in which it is intended to be secured through Requirement 9 of the updated dDCO [REP3-003], and does it have any outstanding concerns around archaeology?	<p>The meeting notes from the LPA meeting on 22 August 2019 are provided as Appendix 4 to this submission (Deadline 4 document reference 12.1.5).</p> <p>KCC confirmed in that meeting that the outline WSI is agreed.</p>

2.4 Draft Development Consent Order

Table 2.4: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.4.1	The Applicant	Please could the Applicant further review and clarify the drafting of Articles 5, 35, 36 and 39 of the dDCO [REP3-003] and the proposed provisions for arbitration and resolution of disputes. This was discussed at the dDCO Issue Specific Hearing, when the Applicant suggested similar circumstances arose at the Hornsea DCO Examination, and that the approach would not fetter the Secretary of State. Nonetheless, in relation to Article 5, could the Applicant explain why the exercise of the Secretary of State's powers to determine an application for consent to transfer benefits of the DCO to another party should, if consent is refused, or if the Secretary of State fails to make a decision, be subject to arbitration rather than recourse to public law?	Please see the Applicant's Written Representation on Arbitration (Deadline 4 submission document reference 12.5.2).
2.4.2	The Applicant	Article 35 (1) states "Any difference under any provision of this Order, unless otherwise provided for, (ExA underlining) shall be referred to and settled in arbitration in accordance with the rules at Schedule 9 of this Order". Could the Applicant clarify the circumstances in which the mechanism for arbitration would be triggered given that Article 36 contains express appeal provisions? Could the Applicant also explain why Article 39 does not have any equivalent provision and, if there were to be a dispute in this regard, which procedure would apply? Overall, is it correct that the arbitration provision is intended to apply solely for Article 5 or is it intended to have wider application?	<p>It is <u>not</u> correct that the arbitration provision is intended to apply solely for Article 5. It does have wider application.</p> <p>The arbitration provisions of Article 35, in general, would apply to any dispute arising from any provision of the DCO. This is not limited to Article 5. For example, Article 35 could apply to a dispute between the undertaker and a third party on a matter of a technical nature arising from consultation in respect of a requirement, or the terms of protective provisions. Article 35 is meant to apply to a dispute arising under Article 39.</p> <p>Regarding the circumstances for use of the Article 35, reference is made in a number of provisions of the DCO specifically mention this providing arbitration where a dispute may arise. These include: Article 14 (Protective work to buildings) on the question of whether it is necessary or expedient to carry out the works proposed; Requirement 16 (Decommissioning) regarding a decision on timing of managed realignment by the Environment Agency; and Schedule 7, Part 1, (protective provisions for electricity, gas, water and sewerage undertakers) paragraph 5, regarding the location of alternative apparatus. The nature of these provisions should give the ExA a flavour of the anticipated use of Article 35. However, the ExA is correct that there is some inconsistency in approach because Article 35 is not meant to apply only to those other Articles that make reference to it. Therefore, the Applicant has undertaken an audit of the dDCO and removed</p>

Ref.	Question to:	Question	Applicant's Response
			reference to Article 35 in other Articles as these references are not necessary given the general application of Article 35. The dDCO submitted at DL4 reflects these amendments.
2.4.3	The Applicant	Article 36 provides that any refusal, non-determination or grant subject to (unacceptable) conditions should be dealt with using the s78 procedure. So, in addition to the question of whether it is appropriate for the Secretary of State's decision to be subject to arbitration, it is unclear where the arbitration provision would actually apply (other than in draft Article 5 where it is specifically applied). In relation to the review and clarification of draft Article 39, this, in essence, requires the Secretary of State to approve funding or guarantees for compensation provisions – it is not clear whether that is also intended to be subject to arbitration; and if it is, then the wording appears inconsistent with that in draft Article 5 where there is an express provision. Could the Applicant provide clarification?	<p>The Applicant can clarify that the terms of Article 36 would apply where a discharge of a requirement is either refused or does not determine an application for such a discharge, to use the existing provisions for appeal under the Town and Country Planning Act 1990 for such situations. This is alongside and supplemental to the arbitration provisions, which are intended to apply where any dispute arises between parties under the DCO over an issue between them, rather than specifically in relation to the decision of the relevant planning authority to refuse or not to determine a discharge application. Indeed, it may prove expeditious for parties to refer a matter to arbitration before an application to discharge a requirement is determined in order to obviate the need for an appeal. The two sets of provisions are not mutually exclusive.</p> <p>The Applicant would refer to the provisions within the dDCO outside of Article 5 listed in response to ExQ2.4.2 that specifically refer to Article 35 for resolution of disputes.</p> <p>Regarding the Examining Authority's question on Article 39, as per the wording of Article 35, arbitration could be used to settle "<i>Any difference under any provision of this Order, unless otherwise provided for...</i>". Therefore the Applicant considers that arbitration could be used to settle disputes under Article 39.</p>
2.4.4	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to review Article 36(1), which seeks to require a different Secretary of State to decide an appeal other than the Secretary of State who made the appealed decision. It was highlighted that this could lead to the decision of a Secretary of State with competence in a particular area being over-ruled by a Secretary of State with no competence in that area, and it was therefore unlikely to be acceptable. Could the Applicant provide the outcome of that review, as no change appears to have been made to the Deadline 3 dDCO? If no change is intended, could the Applicant explain how other Secretaries of State might deal with DCO matters in the absence of any organisational and procedural framework. Further, could the Applicant explain why remedy should not be sought by recourse to public law?	The drafting of Article 36(1) is consistent with other made DCOs. Indeed, it is the intention in those Orders for an appeal in relation to the decision of one Secretary of State to be determined by another. However, the Applicant as further considered Article 36 and decided that it is not necessary for it to apply to the Secretary of State.

Ref.	Question to:	Question	Applicant's Response
2.4.5	The Applicant	Article 36(1) also seeks to apply s78 of the 1990 Act to the local planning authority and the Secretary of State but does not change s78(1)(b) to apply to refusals/grants subject to conditions by the Secretary of State – it only refers to 'any consent, agreement or approval of that authority' (i.e. the local planning authority). While this issue was discussed at the dDCO Hearing, please could the Applicant further clarify the intention and indicate whether a revised form of words is required. The Applicant is asked to review the drafting of Article 36 in that it would appear that at 'c' (1) A should be (1A); the 'or' after (b) appears misplaced; and the inserted text should be identified as a new sub-section '(ba)'. The ExA wonders whether Article 36 would benefit from redrafting to include the wording of s78 as amended rather than having to refer to s78 to understand the amendments?	The Applicant has further considered Article 36 and decided that it is not necessary for Article 36 to apply to the Secretary of State. This and the other amendments referred to have been incorporated into the dDCO submitted at Deadline 4 (document reference 3.1, Revision D).
2.4.6	The Applicant	In answer to our previous question ExQ1.4.6 [REP2-006], the Applicant agreed to review the references to Regulations 40 and 44 in draft Requirement 13 and to determine whether these should now be to Regulations 42 and 46. What was the outcome of this review as there is no apparent change to the Deadline 3 dDCO?	These have been updated for the dDCO submitted at Deadline 4 (document reference 3.1, Revision D).
2.4.7	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to review Article 33(1) in relation to Tree Preservation Orders. While the agreed change has been made, the ExA notes that the new proposed wording now relates to Tree Preservation Orders made before, on or after 16 November 2018 - in other words, all Tree Preservation Orders. Could the Applicant therefore remove the wording "which was made on, before, or after 16 November 2018", as it is superfluous	This has been updated for the dDCO submitted at Deadline 4 (document reference 3.1, Revision D).
2.4.8	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to review draft Requirements 7, 9 and 13 to determine whether specific terms such as	This has been updated for the dDCO submitted at Deadline 4 (document reference 3.1, Revision D).

Ref.	Question to:	Question	Applicant's Response
		'commence' in the phrase 'The term commence' should be in quotes. Could the Applicant explain why only one of several potential changes has been made to the Deadline 3 dDCO?	
2.4.9	The Applicant	At the dDCO Issue Specific Hearing, the Applicant agreed to undertake a full review of the draft DCO for the use of the word 'shall'. The ExA notes that this is contrary to drafting guidance issued by the Office of the Parliamentary Counsel which applies to statutory instruments, including DCOs. It should generally be replaced by 'must', 'is/are to', or just the present tense. Could the Applicant explain why only one of numerous potential changes has been made to the Deadline 3 dDCO?	This has been updated for the dDCO submitted at Deadline 4 (document reference 3.1, Revision D).
2.4.10	Swale Borough Council Environment Agency	The Applicant has proposed a revised Requirement 16 [REP3-003] relating to the mechanism and timescales for decommissioning of the development insofar as it relates to land required for managed realignment. Are the relevant parties content with the Requirement as drafted subject to the comments below at ExQ2.4.12? In particular, could the Environment Agency confirm whether or not the proposed arrangements would provide sufficient flexibility, yet certainty, and adequately safeguard and facilitate managed realignment?	The Applicant confirms that it has been in detailed discussions with both the Environment Agency and Swale Borough Council and agreed wording revised version of Requirement 16 as set out in the joint position paper submitted to the examination on 21 August 2019 [AS-039] and included in the draft DCO submitted at Deadline 4 (document reference 3.1, Revision D). The ExA will note that this is an updated version since the previous dDCO submitted at Deadline 3 [REP3-003] to take in suggested amendments by Swale Borough Council.
2.4.11	Environment Agency	Requirement 16 (12)(c) of the dDCO [REP3-003] sets out that the decommissioning and restoration plan to be submitted in accordance with Requirement 16 (11) must not require the undertaker to decommission the flood defence located within the Order limits (i.e. the area intended for energy storage or solar panels). Would the retention of the flood defence bund be acceptable to the Agency?	The Environment Agency has confirmed that this drafting is acceptable as set out in the joint position paper dated 21 August 2019 [AS-039].
2.4.12	The Applicant	Could the Applicant review the following drafting from draft Requirement 16 (Decommissioning) in the Deadline 3 update to the dDCO [REP3-003]: • Requirement 16(2) has an 'and' between (b) and	The Applicant refers to the joint position paper 21 August 2019 [AS-039] and latest dDCO submitted at DL4 (document reference 3.1, Revision D) in which these points have been addressed.

Ref.	Question to:	Question	Applicant's Response
		(c), and an 'or' between (a) and (b). This is recommended against in the Office of Parliamentary Counsel's guidance on the drafting of SIs. • Requirement 16(11) needs to be expressed as 'within 3 months of the earlier of' the following options, to avoid confusion where several apply.	
2.4.13	The Applicant	The Applicant previously undertook to add the Environment Agency as a consultee for the discharge of the final Decommissioning and Restoration Plan and to amend draft Requirement 15 accordingly [REP2-006]. This is now part of draft Requirement 16 after amendments at Deadlines 2 and 3. Could the Applicant please advise where in the dDCO this undertaking is captured and secured.	The Applicant refers to the joint position paper dated 21 August 2019 [AS-039] and latest dDCO submitted at DL4 in which this point has been addressed.
2.4.14	The Applicant	Further to the Applicant's responses to ExQ1.5.8, ExQ1.4.32, ExQ1.4.33, ExQ1.4.36, ExQ1.4.37, ExQ1.4.39 and ExQ1.4.40 [REP2-006], and the updated Outline Design Principles provided at Deadline 3 [REP3-010], please could the Applicant advise how the ExA and Secretary of State can be sure that any made DCO could not authorise a development that had not been fully assessed in the ES and RIAA? Given the approach taken, is it not the case that the Outline Design Principles need to reflect what has been assessed in the ES (i.e. the Candidate Design), and that the applicable parameters need to be included in to the Outline Design Principles document if draft Requirement 2 is to provide effective control? Could the Applicant use the proposed flood protection bund to provide a detailed, worked example that demonstrates how the full process would work in practice should a DCO be made, showing how the dimensions of the bund could be properly secured in accordance with those that were used in the impact assessments. In doing so, and for this specific example, could the Applicant identify how an	<p>It is not the case that the Outline Design Principles need to reflect all aspects of what has been assessed in the ES (i.e. the Candidate Design). Not all of the design parameters adopted to facilitate that assessment need to be secured to prevent the Development exceeding the worst case scenario, so they do not need to be included in to the Outline Design Principles document for draft Requirement 2 to provide effective control.</p> <p>The Applicant has included design parameters in the Outline Design Principles to constrain those aspects of the Development where a change, for example and increase or decrease in dimensions, may have the potential to introduce effects which may present a worse-case than that assessed in the ES.</p> <p>This can be illustrated by the specific arrangement of solar PV modules. It is not necessary to limit the number or rows of modules, or their precise dimensions or gradient, because these parameters do not influence the worst case scenario for assessment purposes. Overtime, technological advancements may have the effect that a greater or smaller number of modules may fit within the same layout with no different impacts on the environment. However, in contrast, it is necessary to control the key factors that constrain the worst case, in this example, those being the maximum height, the separation between the arrays, and the maximum area of the solar PV modules within the fixed field areas set out. These parameters have been selected in dialogue with technical specialists to ensure that the worst-case is captured by the Rochdale Envelope and the Outline Design Principles.</p>

Ref.	Question to:	Question	Applicant's Response
		upper limit on the height of the bund has been secured, and in turn an upper limit for the height of the energy storage facility?	<p>In respect of the flood protection bund which forms part of the electrical compound, the key parameter to secure was considered to be the ability of the bund to protect against a catastrophic flood event, and the Outline Design Principles were updated at Deadline 3 to set the bund height as a minimum rather than a specific height (which is given to the nearest millimetre) in part to account for construction tolerances, but also to accommodate potential future updates to flood modelling (such as any that may be derived from UK Climate Projections 2018 data).</p> <p>The maximum height of the bund was not secured, because it would be indirectly limited by the construction timescales, maximum construction traffic volume and the finite area of the electrical compound, as well as the additional cost of constructing the bund larger than it needs to be.</p> <p>The Applicant is confident that a worse-case would not be introduced by the theoretical magnitude of changes to the dimensions of the bund that would be likely to arise. However, on reflection, the Applicant also recognises that if this was taken to an extreme, there is a point at which an increase in the dimensions of the bund could result in a worse-case than that assessed in the ES. To mitigate that theoretical risk the Applicant considers it appropriate to constrain the maximum height of the bund.</p> <p>The Applicant has therefore updated the Outline Design Principles submitted at Deadline 4 to limit the height of the flood protection bund to not greater than the height of the existing coastal flood defence, which was measured by topographic survey in 2017 to be 6.28 m AOD. A flood protection bund of this maximum height would have no greater significance of impact than the bund of 5.316 m AOD assessed in the ES. Although in respect of landscape and visual effects, this would represent a slightly higher feature in the landscape, it would be viewed within the context of surrounding higher ground and would be balanced by the fact that a greater proportion of the Development substation infrastructure would be screened. Other environmental aspects would be unaffected by the change, or are limited though other design principles such as that controlling such as maximum daily construction traffic volumes and the duration of the construction phase.</p> <p>The energy storage component of the electrical compound is limited to the height of the bund to avoid visibility of the containers over the bund. This is considered to remain an appropriate design principle following the update to the Outline Design Principles document as set out above.</p> <p>Assuming for the purposes of answering this ExQ that the DCO is granted subject to the Outline Design Principles in their updated form, they would become the basis for details</p>

Ref.	Question to:	Question	Applicant's Response
			<p>submitted to the relevant planning authority to discharge Requirement 2. In its submission to the relevant planning authority, the undertaker would need to demonstrate, with evidence, how it's proposed detailed design in respect of the solar arrays, bund, or any other aspect of design, accorded with the Outline Design Principles and ES.</p> <p>The evidence required would likely comprise a schedule comparing the design parameters against the Outline Design Principles and a statement of professional judgement about how those detailed designs compared against the assessment in the ES. It would be for the relevant planning authority to also form a judgement and grant or refuse approval accordingly, with the burden of proof on the undertaker to show compliance with the Outline Design Principles and ES.</p> <p>For completeness, it should be noted that Requirement 18 (amendments to approved details) would permit the relevant planning authority discretion to approve immaterial changes where it has been demonstrated to its satisfaction that the change would be unlikely to give rise to any materially new or materially different environmental effects from those assessed in the ES. This could be factored into the professional judgement exercised under Requirement 2.</p> <p>The Applicant hopes that this response assists the ExA and would welcome further discussion of it in the DCO hearing scheduled for 10 September 2019. It may assist that discussion if the ExA could identify additional parameters (if any) it would wish to see adopted in the Outline Design Principles, if indeed that is the case.</p>
2.4.15	The Applicant	Additional parameters have been added to the Outline Design Principles [REP3-010] in respect of the solar PV mounting structures and piles for Work No 1, but not for the corresponding option for Work No 2. Could the Applicant explain why and make any necessary changes to the next version of the Outline Design Principles?	<p>The Outline Design Principles [REP3-010] did not include updated principles for the solar PV extension in Work No. 2. This was an accidental omission.</p> <p>The Outline Design Principles have been updated at Deadline 4 to rectify this error (document reference 7.1, Revision C).</p>
2.4.16	The Applicant	The Applicant responded to ExQ1.4.37 about the proposed mounds of site-won materials in the Deadline 3 Outline LBMP [REP3-005] through minor additions to the Lowland Meadow Grassland Habitat Management Area management plan. Please can the Applicant confirm that such mounds will be restricted to the proposed Lowland Meadow Grassland Habitat Management Area and add the	<p>The Applicant confirms that the maximum dimensions would be 3 m x 3 m x 1.5 m (length x width x height) and, they would be located within vacant areas of the "Proposed Coastal and Floodplain Grazing Marsh Based on Priority Habitat Inventory" and " Proposed Coastal and Floodplain Grazing Marsh Based on Priority Habitat Inventory - under and around solar panels" anywhere within the perimeter fence, as such, specific locations are not provided on Figure A5.1.</p> <p>The wildlife that will benefit from the soil mounds will include invertebrates due to the</p>

Ref.	Question to:	Question	Applicant's Response
		<p>proposed locations to Figure A1.5, as they appear to be missing? Could the Applicant additionally confirm that the maximum dimensions set for these mounds are 3m x 3m x 1.5m (length x height x width) as they do not appear in the Outline Design Principles [REP3-010]. The Applicant suggests that these grassed mounds of surplus soil will provide effective hibernacula for wildlife. Could the Applicant explain the range of species that would benefit and provide a source reference relating to this design that would support this assertion.</p>	<p>burrowing opportunities they would provide. Further benefit would also be provided via food sources/foraging given the grassland habitat that would establish across them. The importance of varied topography, soil variations, structural variety of grassland sward for invertebrates would all be created through these soil mounds. Evidence of their importance has been shown through Buglife and Suffolk Wildlife Trust which are provided as Appendix 6 to this document (Deadline 4 submission document reference 12.1.7).</p> <p>Further benefit would also be provided to herptiles (reptiles and amphibians) as the mounds would provide sheltering, foraging and basking opportunities during spring and summer where they would act as large basking banks. Particularly where logs/rubble are also incorporated into the mounds. Evidence for this is provided in the Reptile Habitat Management Handbook provided as Appendix 7 to this document (Deadline 4 submission document reference 12.1.8).</p>
2.4.17	Natural England	<p>At the Biodiversity Issue Specific Hearing, the ExA asked Natural England whether it believed that draft Requirement 13 in the dDCO was necessary, given the existence of the statutory protection and licensing schemes for European protected species, or whether it was considered duplication. As a follow-up question, the ExA asked that, if Natural England considered such a Requirement to be necessary, whether it should be extended to species protected under domestic legislation. Natural England offered to take these questions away and to respond at Deadline 3. This does not seem to form part of Natural England's Deadline 3 response, so could an opinion be provided please?</p>	<p>Consultee response.</p>

2.5 Environmental Statement, General

Table 2.5: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.5.1	The Applicant	In previous Written Questions (ExQ1.5.5) and during Issue Specific Hearings, the ExA has stressed the importance of a comprehensive and transparent mitigation route map. The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] still appears to be missing some measures that are included in the ES and on which the assessment therefore relies. Some examples are provided in the following questions. In addition, please could the Applicant review the Mitigation Schedule again and ensure that the route map for each individual mitigation measure relied upon in the ES is listed and that, in each case, a clear route to securing each measure is set out? (For example, the single line entry 'Hydrology' and 'Implementation of the CEMP, via the Outline CEMP' does not set out each of the measures that are relied upon in relation to hydrology and water quality, and, as such, it would not therefore be possible for any party with responsibility for ensuring that all necessary measures are properly secured at discharge of Requirements to do so without recourse to a detailed examination of the ES).	<p>Following a review of the Mitigation no modifications have been made. The Applicant is confident that all mitigation measures relied upon are included, with specific examples relating to ExQ2.5.2 to ExQ2.5.5 detailed below:</p> <ul style="list-style-type: none"> - The CEMP includes a Pollution Prevention Plan in that specific pollution prevention measures are already set out in the Outline CEMP [REP3-006], as required in order to mitigate identified adverse effects. Other than these specific measures, any elements typically included in a PPP are not relied on in the ES to mitigate adverse effects (Chapter 10: [APP-040]), but comprise general good practice. Inclusion of other good practice measures that may be in a Pollution Prevention Plan and Incident Plan are secured by requirement to produce these documents via the Outline CEMP [REP3-006], through DCO Requirement 10 [REP2-003]. - Battery leakage is identified as a potential source of pollution in the event that the electrical compound floods in a catastrophic event. The mitigation for this is to avoid flooding of the electrical compound in the event of a catastrophic flood, which has been secured through the Design Principles [REP3-010] via the maintenance of the sea wall and the construction of a bund around the electrical compound. - The 5 m and 8 m set-backs from non-IDB and IDB drainage ditches, respectively, are included in the Outline CEMP at paragraph 19 of the version submitted at Deadline 4 (document reference 6.2.5.4, Revision C). These are then secured via DCO Requirement 10 [REP3-003]. <p>To address the ExA's specific example, the Outline CEMP [REP3-006] contains multiple measures that address multiple potential hydrological effects (in a "many-to-many" mapping, i.e., there are not individual measures to address specific individual effects). These measures are treated as being embedded in the Development, in that the Development would not proceed without them. All measures set out in the Outline CEMP are required to be implemented in a CEMP, post-consent, according to DCO Requirement 10 [REP3-003], which states that the CEMP, "must accord with the outline construction environmental management plan". Any CEMP that omits a measure set out in the Outline CEMP would not accord with Requirement 10, and would therefore be in breach of the DCO.</p> <p>The Outline CEMP goes beyond the requirements of EIA, in that it encompasses best</p>

Ref.	Question to:	Question	Applicant's Response
			<p>practice, mitigating potential effects that did not have the potential to be significant, and were therefore not assessed in the ES. Such measures include "general good practice measures" and "disposal of waste materials", for example, such as those in the Site Waste Management Plan at Section 7, which although not required by law, contains useful construction good practice. Including such measures in the Mitigation Schedule will identify that mitigation measures have been proposed in certain cases even where no effects were assessed, and would not assist in demonstrating the route map approach requested.</p> <p>Typically, each measure in the Outline CEMP helps mitigate a range of potential hydrological effects, and each effect is mitigated by a range of measures set out in the Outline CEMP, for example, measures to prevent pollution events provide mitigation for most water related receptors, and there are several forms of mitigation for pollution events, such as set back distances, bunding and restrictions on certain activities (like refuelling) in particular areas of the site. For this reason, the route map approach would not be effective at capturing succinctly or concisely the desired effect-mitigation-security approach, with many effects repeating the same mitigation measures.</p> <p>The Applicant is confident that the Outline CEMP captures the mitigation required and is the most concise and effective way of setting out these measures, including for compliance purposes, and that their effective implementation is secured via DCO Requirement 10.</p>
2.5.2	The Applicant	In its answer to ExQ1.1.31 [REP2-006], the Applicant agreed to produce a clear diagram in each of the relevant documents such as the Outline CEMP and the Outline LBMP to demonstrate the hierarchy between the mitigation plans that support the ES and the route map for ensuring that mitigation measures are translated from the ES into DCO Requirements and implementation. Could the Applicant please indicate where these are?	<p>Following the review of the outline LBMP and outline CEMP at Deadline 3, the Applicant addressed ExQ1.1.31 by adding text at section 1.4 to ensure that Appendix E of the outline CEMP which covers construction mitigation and best practice for ecological receptors is identical to section 3 of the outline LBMP and that this is always the case.</p> <p>The Applicant has also reviewed the Mitigation Schedule (section 2) (Deadline 4 submission document reference 7.2, Revision D) against the ES to ensure that all mitigation is captured, and is confident that the table in section 2 provides a clear route map to ensure that mitigation measures are translated from the ES into DCO requirements. The Applicant will continue to seek options to address this request and add further clarity to the Mitigation Schedule through the use of appropriate diagrams as suggested.</p>
2.5.3	The Applicant	In its answer to ExQ1.10.3 [REP2-006], the Applicant suggested that the CEMP will include a Pollution Prevention Plan that sets out measures to	Paragraph 4 of the Outline CEMP [REP3-006] includes reference to a Pollution Prevention Plan at paragraph 4.

Ref.	Question to:	Question	Applicant's Response
		be employed to avoid or mitigate potential pollution and an Incident Plan to be followed should a pollution event occur. The Environmental Statement suggests that the proposed measures have been relied upon in the assessment to ensure no adverse effects. However, the Deadline 3 Outline CEMP [REP3-006] still has no reference to a Pollution Prevention Plan or an Incident Plan. Could the Applicant advise how the inclusion of these in the final CEMP can be guaranteed if they are not included at least in principle and scope in the Outline CEMP?	The CEMP includes a Pollution Prevention Plan in that specific pollution prevention measures are already set out in the Outline CEMP [REP3-006], as required in order to mitigate identified adverse effects. Other than these specific measures, any elements typically included in a PPP are not relied on in the ES to mitigate adverse effects [APP-040], but comprise general good practice. Inclusion of other good practice measures that may be in a Pollution Prevention Plan and Incident Plan are secured by requirement to produce these documents via the Outline CEMP, through DCO Requirement 10 [REP3-003].
2.5.4	The Applicant	Further to its answer to ExQ1.10.9 [REP2-006], the Applicant suggested at the dDCO Issue Specific Hearing held on 18th July 2019 that the route map for securing mitigation measures to prevent any battery leakage or failure polluting the land and groundwater would be clarified in the Deadline 3 updates to the various outline management plans. In the absence of a Pollution Prevention Plan or any apparent detail in the Deadline 3 Outline CEMP [REP3-006], could the Applicant advise further?	<p>A pathway for battery leakage to land or groundwater is highly unlikely. Individual lithium-ion battery cells are enclosed and housed in cabinets which would contain any leaks due to failure of a cell. It is extremely unlikely that multiple cells would fail and therefore leak concurrently at the same time, in the same location to generate a volume of liquid electrolyte that would not be contained within the battery housing, the battery cabinets or the energy storage containers.</p> <p>The fire risk is mitigated through multiple layers of safety controls, including the energy storage control and management system and as a failsafe, the fire detection and suppression measures set out in Table 3.1 of the Outline Battery Fire Safety Management Plan (Deadline 4 submission document reference 12.5.1). The residual risk is therefore very low, and the measures proposed are designed to contain any fire to ensure that it does not spread.</p> <p>A fire which requires suppression by water could occur if the fire detection, and/or suppression measures failed. This could lead to potential pollution pathways to land and groundwater. Borehole logs from the Ground Investigation, appended to Chapter 10 of the ES [APP-228] shows that the development is underlain by clays with gravel and sand to depths of between 7.5 m and 10.0 m BGL, which would act as a barrier to the downward movement of contaminants on the event of any water from fire suppression not being contained within the energy storage containers and subsequently pumped out for treatment offsite.</p> <p>Additionally, the Development lies outside the EA's source protection zones for groundwater abstraction and a minor area classed as the North Kent Tertiaries groundwater unit it is sufficiently distant from the wider groundwater unit as it is separated by Faversham Creek to remain unaffected in the event of fire suppression by</p>

Ref.	Question to:	Question	Applicant's Response
			<p>water. Kent Fire and Rescue Service confirmed that it liaises with the Environment Agency when there is potential to create pollution pathways, and the key consideration is usually whether the location falls within a ground water source protection zone (meeting notes included as Appendix 8, Deadline 4 submission document reference 12.1.9)</p> <p>The electrical compound is bunded, and the nature of the drainage system would allow the electrical compound to be hydrologically isolated in the event of an emergency situation occurring. The outline procedures to be developed and subsequently followed in the event of fire are covered in Table 4.1 of the Outline Battery Fire Safety Management Plan.</p> <p>The electrical compound would be protected by the flood defence bund which would prevent flooding of the electrical compound in the event of a catastrophic flood. This mitigation is secured through the Outline Design Principles [REP3-010] via the maintenance of the sea wall and the construction of a flood defence bund around the electrical compound.</p>
2.5.5	The Applicant	The ES suggests that buffer zones between the built development and watercourses have been assumed in the assessment (5m for non-IDB maintained ditches and 8m for IDB maintained ditches). In its answer to ExQ1.10.6 [REP2-006], the Applicant suggested that these buffers will form part of the Pollution Prevention Plan in the Outline CEMP and will be secured through Requirement 10 of the dDCO. In the absence of a Pollution Prevention Plan in the updated Outline CEMP [REP3-006], could the Applicant advise how adherence to these buffers can be secured?	<p>The 8 m buffer of IDB is in accordance with the Lower Medway Internal Drainage Board Land Drainage Byelaws¹, specifically Byelaw 10. Therefore, the applicant would be required to apply for Land Drainage Consent for any structure within 8 metres of an IDB maintained asset.</p> <p>Similarly works near ordinary watercourses (non-IDB assets) require Ordinary Watercourse Consent from KCC, as per the Ordinary Watercourse Land Drainage Consent Guidance Notes Land Drainage Act 1991².</p> <p>The 5 m and 8 m set-backs from non-IDB and IDB drainage ditches, respectively, will be included in the Outline CEMP, in a version to be revised and submitted at Deadline 4. These are then secured via DCO Requirement 10 [REP3-003].</p>

¹ <http://www.medwayidb.co.uk/consents/byelaws/>

² https://www.kent.gov.uk/__data/assets/pdf_file/0016/5191/Land-drainage-consent-guidance-notes.pdf

2.6 Landscape and Visual Impact Assessment (LVIA), including RVAA and Glint and Glare

Table 2.6: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.6.1	The Applicant	At Appendix 1 to Deadline 3 document 11.1.5 [REP3-016], the Applicant has provided some information about the issue of scale and cropping discussed at the LVIA Issue Specific Hearing on 23rd July 2019. This seems to acknowledge that the baseline photographs and the photomontages are at different scales but does not say why, and how this relates to the SNH guidance that was followed. The conclusion that "All existing viewpoints for the suite of photomontages are produced at the same scale to ensure accurate comparison of baseline view and proposed views as set out above" seems to contradict this acknowledgement. Please could the Applicant clarify further?	<p>The Applicant has presented two different scales of images for baseline photography and photomontages for the following reasons:</p> <p>The visualisations are to be used for two distinctly separate purposes with baseline photography produced to capture and understand the existing baseline context, and photomontages produced to illustrate the effects of the development within the receiving landscape where the detail of the proposed development needs to be as clear as possible. This was deemed to be particularly relevant here given the nature of the low lying, flat and expansive site, and the scale of the Development relative to it. It was therefore assessed that photomontages should be illustrated at a larger scale to allow the viewer to better understand the detail of the proposed development and to identify the impact upon the landscape.</p> <p>There is no specific guidance for the preparation of non-wind farm development visualisations. In order to offer some transparency and clarity, the visualisations for the Cleve Hill Solar Farm Environmental Statement were therefore prepared by Arcus Consultancy Services ('Arcus') in line with the current Scottish Natural Heritage (SNH) Guidance, 'Visual Representation of Wind Farms – Version 2.2 February 2017', which is the current 'best-practice'. This guidance was developed to help assessors and industry professionals standardise the approach to how visualisations for Landscape and Visual Impact Assessments (LVIA) were produced. It offers guidance on how viewpoints should be selected, how they should be photographed and how they should be displayed or visualised. The guidance incorporates elements from both the Landscape Institute and the Highland Council, two entities who also offer guidance on the preparation of visualisations.</p> <p>Because the SNH guidance relates specifically to wind farm developments, there are certain elements of it that are not relevant or suitable to be used for Cleve Hill Solar Park. These include the use of cumulative wirelines; computer generated wireframe images that show the proposed site together with any other developments currently in the planning system – These were not required on Cleve Hill because of the low nature of the development and that of surrounding sites, and the lack of inter visibility between sites.</p> <p>The guidance stipulates any included baseline panoramas use 90 degree field of view (4 sections in total to cover a full 360 degree view) and photomontages use a 53.5 degree field of view – Due to the size of the Cleve Hill Solar Farm site, the applicant proceeded as presented at the scoping stage to utilise Scottish Natural Heritage (SNH) Guidance, 'Visual</p>

Ref.	Question to:	Question	Applicant's Response
			<p>Representation of Wind Farms – Version 2.2 February 2017'. As such it was determined that such small fields of view would not be suitable as several of the viewpoints used within the Cleve Hill Solar Farm Environmental Statement would have large portions of the site excluded from view. A 180 degree field of view was deemed suitable as the whole Cleve Hill Site would be captured at each viewpoint.</p> <p>To display the images Arcus adopted the SNH figure template for a baseline panorama and matching wireline³. This figure template is described in the aforementioned SNH 'Visual Representation of Wind Farms – Version 2.2 February 2017' guidance on pages 28-30.</p> <p>As a result of the above elements not being deemed suitable, the wireline image was omitted and the baseline panorama increased in both height (to show more context) and field of view (to show the whole Cleve Hill site). Aside from those two differences, the figure template used by Arcus followed the SNH example.</p> <p>Two main sets of images were shown in the Cleve Hill Solar Farm Environmental Statement Volume 3 'Visualisations':</p> <p>Volumes 6.3.1 [APP-063 to APP-084] and 6.3.2 [APP-085 to APP-108] show 180 degree field of view images from each of the 21 agreed LVIA viewpoints. These viewpoint locations were each described and assessed in detail within the LVIA chapter text. The images in volumes 6.3.1 and 6.3.2 were produced to support the chapter text and give the assessor/reader an impression of the views out from the viewpoint location towards the Development site. As the images themselves did not show the Development and were included to show context and baseline, it was not deemed necessary to print them at the same scale as the photomontages. The SNH stipulated size of 820 mm wide was deemed suitable for the intended purpose of the imagery.</p> <p>Volumes 6.3.3 through to 6.3.10 [APP-109 to APP-196] show 180 degree field of view images from each of the 9 photomontage viewpoints. These 9 viewpoints were selected from within the original suite of 21 LVIA viewpoints. These images are what can be called 'verifiable' meaning that the methodology used to prepare them from initial photography through to final output is structured, follows stringent criteria and is replicable, therefore verifiable.</p> <p>The images within volumes 6.3.3 through to 6.3.10 include photomontages showing</p>

³ <https://www.nature.scot/sites/default/files/2017-07/A1135300%20-%20Figure%201%2090%C2%BA%20Baseline%20panorama%20and%20matching%20wireline.pdf>

Ref.	Question to:	Question	Applicant's Response
			<p>computer generated views of the Cleve Hill Solar Farm proposal in different scenarios; summer and winter imagery showing the proposed development at year 1, year 5 and year 10. Photomontages are provided to aid assessment. These images form an important part of the LVIA as they show how the landscape has changed following the introduction of the Development at various points in time from existing baseline to post construction.</p> <p>As a large amount of detail is shown within the photomontages it was decided that to clearly show these 180 degree field of view images and their detail, the pages needed to be larger than the 820mm used in the LVIA viewpoint figures (volumes 6.3.1 and 6.3.2). Whilst the pages were larger, the 9 viewpoints showed the same field of view and view direction as the imagery used within the 21 LVIA viewpoint figures (volumes 6.3.1 and 6.3.2). Every matching set of images in volumes 6.3.3 through to 6.3.10 is identical in printed size, field of view, and view direction (the direction to the centre of the image) meaning the images are instantly comparable for assessment and appraisal purposes.</p> <p>Volume 6.3.3 shows the existing views for the 9 viewpoints. These are larger than the images shown in Volumes 6.3.1 and 6.3.2 for the reasons mentioned above, but show the same view.</p>
2.6.2	The Applicant	<p>During the LVIA Issue Specific Hearing the ExA requested, and the Applicant agreed to provide into the Examination, cross-sectional drawings to show in detail the extent of screening that would be provided by the existing coastal defences from certain key viewpoints. The Applicant has provided Deadline 3 document 11.4.7 [REP3-027] in response. The ExA notes that one of the requested views has been excluded, that being one from the west of the Proposed Development site. Please could an additional cross-section drawing be provided from a suitable location, such as the existing coastal defences on the western bank of the Faversham Creek due east of Harty Ferry Cottages? Further, the ExA notes that the cross-section provided from Harty Church is inadequate for a full appreciation of the potential views of the Proposed Development from that viewpoint. Please could the cross-section be realigned to run from the Church to a point 250m due east of Nagden</p>	<p>The requested sections, and a plan have been produced and are shown on drawing 11.4.7.1 (Appendix 9, document reference 12.1.10) and Figure 2238-PUB-103 (Appendix 11, document reference 12.1.12) titled Theoretical Site Visibility from Viewpoint 14.</p> <p>The Theoretical Site Visibility plan suggests that the area of the development screened is relatively limited, due to the very flat nature of the Development site and the relatively low elevation of the viewpoint (17 m AOD).</p> <p>However, the north-south extents of the Development are compressed into a very narrow vertical field of view, which is demonstrated in the existing viewpoint photographs and in the cross section drawing referred to above, where the Development site occupies a very narrow band across the image, above the sea wall.</p> <p>The screening that the sea wall offers to the front of the arrays reduces the contrast that would be experienced if the view was not screened by the seawall. The transition is generally one from the concrete blockwork apron of the seawall, with the concrete wall above, to the upper surface of the solar PV modules beyond in a narrow band (as opposed to a more dynamic view of vegetation transitioning to mounting structures then solar PV modules).</p> <p>Given that:</p>

Ref.	Question to:	Question	Applicant's Response
		<p>Cottages and be extended to the full extent of the Proposed Development at its southern boundary? In addition, paragraph 174 of Chapter 11 of the Environmental Statement (Cultural Heritage and Archaeology) [APP-041] states: "At 1.8 km from the Church to the nearest point of the Core ASA boundary, the Development (at least largely screened as it will be behind the sea wall) is not considered to cause a significant change in how the wider landscape is read from the Church": could the Applicant indicate, in plan form, the areas of the development which it believes will be screened by the sea wall and those parts of the site which will not be so screened?</p>	<p>(a) the vertical extents of the first rows of solar PV modules (when viewed from the north) are largely screened; and</p> <p>(b) the foreshortening of the view of the Development site itself, means that at a distance of 1.8 km from the Development site, the difference between the level of screening described in paragraph 174 of Chapter 11, as quoted in ExQ2.6.2, and the actual level of screening demonstrated in the plan makes a negligible difference to the proportion of the view occupied by the Development from this location.</p> <p>The Applicant remains of the opinion that the presence of the Development in this view is not considered to cause a significant change in how the wider landscape is read from the church.</p>
2.6.3	The Applicant	<p>Could the Applicant comment on the independent review of the LVIA commissioned by Kent County Council and submitted to the Examination at Deadline 3 [REP3-054], and in particular the following statements from section 2.15: i) "Assessment of magnitude of change in the LVIA text appears to be focussed on the extent of the landscape receptor that the development would cover rather than effect on character and susceptible characteristics. In our opinion this has the effect of underestimating impacts." ii) "Simply because the development only affects a small proportion of these large areas is not a reason to state that effects are not significant. It is not the extent of the national area that covers but effect on its character." iii) "It is not clear why the sensitivity is high for the CLS area and low for the majority of the AHLV. The sensitivity should be the same for the entire AHLV – although the effects may vary with distance from the development."</p>	<p>The Applicant welcomes the independent review by LUC on behalf of the Councils and notes its findings. The Applicant has provided a full response in section 2.3 of the Applicant's response to Deadline 3 Submissions (Deadline 4 submission document reference 12.3.1). The three questions are commented on below:</p> <p>(i) A balanced judgement relating to the magnitude of change has been made within the LVIA which considers a number of factors contributing to magnitude as set out in the methodology in the Chapter 7 – Landscape and Visual Impact Assessment of the ES [APP-037] at section 7.2.8. Of particular relevance is section 7.2.8.1 Size and Scale which sets out in paragraph 53:</p> <p><i>'Judgements are needed about the size or scale of change in the landscape that is likely to be experienced as a result of each effect. GLIVIA 3 states that 'judgements should, for example, take account of:</i></p> <p><i>The extent of the existing landscape elements that will be lost, the proportion of the total extent that this represents and the contribution of that element to the character of the landscape – in some cases this may be quantified;</i></p> <p><i>The degree to which aesthetic and perceptual aspects of the landscape are altered either for example, removal of existing components of the landscape or by addition of new ones – for example, removal of hedges may change a small scale, intimate landscape into a large-scale, open one, or introduction of new buildings or tall structures may alter open skylines; and</i></p>

Ref.	Question to:	Question	Applicant's Response
			<p><i>Whether the effect changes the key characteristics of the landscape, which are critical to its distinctive character'.</i></p> <p>The above is considered alongside the geographical area over which the landscape effects will be felt, the duration and the reversibility of the effects. The applicant has assessed the effect on character and susceptible characteristics of the landscape receptor and therefore the applicant considers that the impacts are correctly assessed and not underestimated.</p> <p>(ii) The Applicant has not drawn the conclusion referred to here. The effects are considered on the basis of the above, and not simply the extent of the national area that covers but effect on its character and distinctiveness.</p> <p>(iii) The sensitivity for the CLS area was assessed as high due to the open nature of the landscape of the CLS area the site has limited ability to accommodate development (other than scale) without such development changing the landscape character.</p> <p>The sensitivity of the AHLV is assessed as low due to the limited wider extent of effects upon the AHLV and the ability of landscape features such as the sea walls to the east and west of Faversham Creek, along Oare Creek and to the north of the CLS area which compartmentalise the landscape and limit inter visibility and wider effects upon character the susceptibility is assessed as being low, resulting in a low sensitivity.</p>
2.6.4	The Applicant	<p>Could the Applicant comment on the Deadline 3 submission dated 31st July 2019 from Kent County Council relating to the recent updates to the Natural Environment section of Planning Practice Guidance released on 21st July 2019 [REP3-054]? The Council suggests that the new guidance reflects a change of emphasis with regard to local landscape designations, and that this has importance for this Examination.</p>	<p>The Natural Environment section of Planning Practice Guidance("PPG") released on 21st July 2019, paragraph 036 Reference ID: 8-036-20190721⁴ states:</p> <p><i>'The National Planning Policy Framework is clear that plans should recognise the intrinsic character and beauty of the countryside, and that strategic policies should provide for the conservation and enhancement of landscapes. This can include nationally and locally-designated landscapes but also the wider countryside.</i></p> <p><i>Where landscapes have a particular local value, it is important for policies to identify their special characteristics and be supported by proportionate evidence'.</i></p> <p>This policy therefore relates to the need to consider the value of landscapes, whether they are of national or local designation, or not designated at all. This brings the NPPF in line with The European Landscape Convention in terms of the need to take account of all landscapes, with more recognition that ordinary landscapes, such as community landscapes</p>

⁴ <https://www.gov.uk/guidance/natural-environment>

Ref.	Question to:	Question	Applicant's Response
			<p>have their own value. The emphasis is on the value of the landscape rather than whether or not it is designated. This has been recognised within paragraph 49 of the LVIA chapter 7 of the ES [APP-037]. The applicant therefore agrees with KCC that there is now more emphasis on ordinary landscapes, but that we have addressed this in the LVIA chapter 7 of the ES [APP-037] and no review of that assessment is required in light of the update to the PPG.</p> <p>The Applicant is confident in the accuracy of the assessment that while the CLS area is functionally linked to the AHLV the effects on the AHLV as a whole would be Minor, and those within the CLS area (part of the AHLV) would be Major/Moderate. This is based on our explanation of assessment contained above in respect of ExQ2.6.3.</p>
2.6.5	The Applicant	In its Deadline 3 submission [REP3-063], CPRE Kent questions whether any expert opinion has been obtained by the Applicant in relation to glare from the solar arrays affecting aircraft and airports. Does the Applicant have anything further to add to the Glint and Glare Study report [APP-246] in this respect?	The Applicant has fully responded to the CPRE Kent Submission at section 2.7 of the Applicant's response to Deadline 3 submissions (Deadline 4 document reference 12.3.1) and does not have anything further to add to the Glint and Glare Study report [APP-246] in this respect.

2.7 Noise

Table 2.7: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.7.1	The Applicant	The response by the Applicant to ExQ1.0.7 is noted [REP2-006]. It would appear that the worst case would be the operation of three gensets for up to one hour, at or near full load, once a month, and that the likely emissions have not been included in the noise and air quality assessments. Could the Applicant support its claim that the emissions from the three gensets would not result in any significant effects beyond those assessed in the Environmental Statement and the RIAA with particular reference to noise emissions of other operational plant within the electrical compound?	<p>As a worst case, noise sources associated with the operation of the electrical compound have been assessed assuming continuous (i.e. 24 hour) operation, as discussed in section 12.6.2.1 of Chapter 12 - Noise and Vibration of the ES [APP-042].</p> <p>Short-term noise sources, such as visiting personnel, occasional maintenance work, or the operation of gensets for up to one hour, once per month, would have a negligible effect on the overall noise level, because the predictions are based on the worst-case emissions of continuous sources of noise (see paragraph 251 of Chapter 12 - Noise of the ES) and therefore short-term noise sources would not result in any significant effects beyond those assessed in the ES and RIAA.</p>
2.7.2	Swale Borough Council	In our Written Questions the Applicant was asked to explain how the operational noise mitigation commitments would be secured in the dDCO and to explain the confidence that could be placed in the delivery of proposed noise mitigation measures given the use of qualifying terms in the Environmental Statement. Could the Council confirm whether or not the responses by the Applicant would provide the Council with appropriate controls with particular reference to precision, reasonableness, necessity and enforceability.	<p>Consultee response.</p> <p>The meeting notes from the LPA meeting on 22 August 2019 are provided as Appendix 4 to this submission (Deadline 4 document reference 12.1.5).</p> <p>A SOCG has been agreed between the Applicant and SBC (Deadline 4 submission document reference 12.2.2) which confirms that the Applicant and SBC are fully in agreement on noise matters at section 1.2.</p>

2.8 Socio-economics

Table 2.8: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.8.1	Kent County Council	At paragraph 4.22 of the Local Impact Report [REP1-004], the Council suggests that the Public Right of Way network connectivity relies on roads to provide connections in places and that the increase in Heavy Goods Vehicles during construction introduces safety concerns and may deter people from using the Public Right of Way network. Please could the Council highlight the particular stretches of road where this concern exists?	<p>Consultee response.</p> <p>The meeting notes from the LPA meeting on 22 August 2019 are provided as Appendix 4 to this submission (Deadline 4 document reference 12.1.5).</p>
2.8.2	The Applicant	At paragraph 4.25 of its Local Impact Report [REP1-004], Kent County Council states that its request for a new off-road footpath between Public Footpaths CW90 and CW55 has not been included. It is said that this new path would be a valuable off-road walking route for the public, providing an alternative to the Faversham Road and addressing safety concerns. In the Applicant's response [REP2-034], it is noted that the landowner was amenable in principle to the idea. Please can the Applicant provide an update and an indication of the course of action and timetable in relation to this?	<p>The dedication and adoption of a new off-road footpath between Public Footpaths CW90 and CW55 has not been identified as a means of mitigation necessary to make the proposed development acceptable in planning terms. Rather, it has been identified as being a possible means of enhancing the local footpath network generally, i.e. a form of public benefit, not mitigation of a particular significant environmental impact.</p> <p>The land in question is in multiple ownership and subject of rights of access to the foreshore and residential chalets in that location. At the time of application, the Applicant did not consider that a strong case for compulsory acquisition of that land existed, given the purpose of acquisition would be to create a public benefit unrelated to the development rather than mitigate a significant impact.</p> <p>For those reasons, the Applicant wishes to make clear that the potential provision of a new PRoW falls outside the remit of this DCO application.</p> <p>However, the Applicant does recognise the potential benefit of a PRoW in this location. Through its consultation and negotiations with relevant landowners, Seasalter Chalet Owners Association and Natural England, it has discussed the potential for dedication and adoption of the land needed. The Applicant has also discussed this with Kent County Council's PRoW Officer.</p> <p>The Applicant believes that the landowners are amenable to the creation of a PRoW but discussions between those landowners continue. The Applicant continues to facilitate those discussions and recently wrote to the relevant landowners (19/08/19) reiterating this. However, ultimately the dedication of the land to create a PRoW is a matter for the landowners, not the Applicant, KCC, the ExA or the SoS. If there is a willingness to</p>

Ref.	Question to:	Question	Applicant's Response
			<p>dedicate, then adoption of a PRoW becomes a matter for KCC to administer.</p> <p>The Applicant would welcome KCC's support in trying to persuade the landowners to dedicate the land for a PRoW, and is willing to continue effort in this regard, but it is difficult to provide a definitive timescale as it, and KCC, are in the hands of the landowners.</p>
2.8.3	The Applicant	<p>During the July Issue Specific Hearings, the Applicant agreed to submit an Outline Safety Management Plan as part of the suite of management plans to ensure adequate mitigation is secured through draft requirement 2 of the dDCO. While 'safety management' has been added to the list of plans under draft Requirement 2, no outline plan seems to have been submitted at Deadline 3. Could the Applicant advise? In addition, the Deadline 3 Outline Design Principles [REP3-010] specify (under Work No.2) that "the energy storage facility will incorporate fire suppression measures", but there is no mention of the fire detection measures described in ES Chapter 17 [APP-047] at paragraph 168. Could the Applicant clarify and make any necessary additions to the next version of the Outline Design Principles?</p>	<p>An Outline Battery Fire Safety Management Plan has been submitted at Deadline 4 (document reference 12.5.1).</p> <p>The Outline Design Principles document has been updated and submitted at Deadline 4 (document reference 7.1, Revision C).</p>
2.8.4	The Applicant	<p>The Faversham Society in the second Open Floor Hearing on 22nd July 2019, and in its related summary [REP3-071], drew attention to guidance for the Insurance industry (Technical Guidance Note from Allianz Risk Consultancy entitled Battery Energy Storage Systems (BESS) Using Li-ion Batteries) with reference to incidences of 'thermal runaway' and the lack of guidelines, gaps in knowledge, and associated hazards. The Faversham Society notes that the Applicant has not responded to such concerns about safety and the management and protection of such assets. Could the Applicant provide further evidence in this regard? Representations were also made by Dr Bruno Erasin around the modelled release and</p>	<p>An Outline Battery Fire Safety Management Plan has been submitted at Deadline 4 (document reference 12.5.1) which addresses the safety considerations raised in the Allianz Risk Consultancy document which is appended to this response as Appendix 12 (Deadline 4 submission document reference 12.1.13).</p> <p>Dr Erasin's Deadline 3 submission which refers to the potential release and dispersion of toxic gases is addressed in a Written Representation by the Applicant - Air Quality Impact Assessment - Battery Fire (Deadline 4 submission document reference 12.5.7). This response identifies several incorrect assumptions in Dr Erasin's modelling, and sets out the results of the Applicant's modelling which shows that even in a worst-case scenario, a fire would not exceed applicable limits for emissions at the closest human receptors.</p> <p>The Applicant has contacted the Health and Safety Executive (HSE) team responsible for the Energy Storage shared research programme. The programme was shelved before it began and therefore no results will be published. However, the team remain active in the</p>

Ref.	Question to:	Question	Applicant's Response
		dispersion of toxic gases including hydrogen fluoride. Could the Applicant clarify whether it has considered the potential implications of an outbreak of fire in the energy storage compound and the predicted effects of water suppression measures and the likely effects on air quality and related health and safety impacts? Additionally, The Faversham Society refers to the 3-year "HSE Shared Research Programme: Energy Storage" [REP3-071]. Is the Applicant able to obtain further detail on the progress of this study and how its outcome might inform the design and management of the proposed energy storage facility?	<p>field of energy storage, undertaking testing and analysis.</p> <p>The HSE has undertaken a review of the Outline Battery Fire Safety Management Plan and the Applicant has incorporated their comments into the submitted document. Kent Fire and Rescue Service (KFRS) was also asked to review the document but did not have availability ahead of its submission at Deadline 4. The Applicant has requested that KFRS review the Outline Battery Fire Safety Management Plan and provide comment in time for comments to be addressed ahead of Deadline 5. If an updated version of the plan is required following KFRS's review, this will be submitted at that deadline.</p>
2.8.5	The Applicant	During the Accompanied Site Inspection, concerns were raised that Figure 13.1 of the ES [APP-060] might not accurately represent the detailed disposition of Public Rights of Way and the National Cycle Route on the ground in the area around Nagden. Please could the Applicant check Figure 13.1, as to whether the actual routes marked on the ground reflect the definitive rights of way map and provide an update if necessary?	<p>The Applicant visited Kent County Council on Wednesday 21 August 2019 to view the definitive map and can confirm that the actual routes as marked on the ground reflect the definitive rights of way map.</p> <p>The only exception to this is where ZR 484 departs from ZR 485 immediately to the north of Nagden Barn. On the definitive map, ZR484 is shown crossing through what is on the ground a lawned area of garden to the north of Nagden Barn. On the ground, ZR 484 leaves ZR 485 and heads west approximately 10-15 m further north and follows the route of the boundary hedge north of Nagden Barn onto the flood defence before turning north onto the alignment of ZR484 on the definitive map.</p> <p>This can be clearly seen on the Rights of Way Plan submitted with the Application [APP-008] where the definitive map alignment is shown outside the Application site boundary but on the ground the route runs inside the boundary, in the vicinity of points A and B as marked on the Rights of Way Plan. The Applicant is satisfied that the Rights of Way Plan and Fig 13.1 [APP-060] of the ES are correct.</p> <p>The National Cycle Network is not marked on the KCC definitive rights of way map.</p> <p>The Applicant understood the issue raised during the ASI to relate to the depiction of National Cycle Network Route 1 on Ordnance Survey basemapping where the route of the 'traffic-free cycle route' appears to be incorrectly depicted on 1:25,000 Explorer mapping, running north towards Nagden then east via Sandbanks Lane, rather than via the route on</p>

Ref.	Question to:	Question	Applicant's Response
			the ground which runs offroad through the woodland between TR 03381 62842 and TR 03501 62983. The correct route, as marked on the ground and promoted by Sustrans ⁵ is shown as a 'traffic-free cycle route' on 1:50,000 Landranger mapping.
2.8.6	The Applicant Kent County Council	The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] states the mechanism for securing the proposed permissive path, however this is yet to be determined. It is noted that this is 'mitigation' but rather an enhancement. Nevertheless, please can the Applicant confirm the proposed route to securing this? Can Kent County Council also provide comment as to whether a 'Permissive Path Agreement' would be their preferred option?	<p>The permissive path is secured through the Outline Design Principles document (Deadline 4 submission document reference 7.1, Revision C) which is a requirement of Requirement 2 of the dDCO [REP3-003]. KCC has a standard form Permissive Path Agreement, which is drafted from the perspective of being entered at the time the path is available for use, i.e. post-construction. Such an agreement is not strictly necessary given the inclusion of the Permissive Path in the ODPs document which is secured by (and therefore enforceable) by Requirement 2.</p> <p>The Mitigation Schedule has been updated to reflect this position (Deadline 4 submission document reference 7.2, Revision D).</p>
2.8.7	The Applicant	Following up on the Applicant's response to ExQ1.8.2 [REP2-006] and with regard to the Outline Public Rights of Way Management Plan contained within the Outline CTMP, will the operation of the gates across the spine road (both during construction of the spine road itself and during transportation of solar panels etc to sites to the west of the path) provide priority for users of the path rather than users of the spine road?	<p>At this location, priority will be given to users of the PRoW and construction vehicles will be held until it is safe to cross. During the use of the central access track in this location during construction the PRoW crossing will be manned by a traffic marshal. Gates will be provided across the spine road (either side of the PRoW) to secure the development site when not in use.</p> <p>This matter is dealt with in paragraph 3.1.6 of Appendix G - PROW Management Plan of the outline CTMP submitted at Deadline 4 (document reference 6.2.14.1, Revision C).</p>
2.8.8	The Applicant	In its Written Representation at Deadline 2 [REP2-052], Kent County Council requested a "hierarchy of intervention" in terms of closure of Public Rights of Way. Please can the Applicant confirm how this is to be implemented?	The Public Rights of Way Management Plan (Appendix G of the Outline CTMP) has been updated to include a hierarchy of intervention with regards to the closure of public rights of way. The Public Rights of Way Management Plan has been updated to reflect this and a new version has been submitted at Deadline 4 (document reference 6.2.14.1, Revision C). This will be implemented through ongoing discussions with the KCC PRoW Officers and secured through the CTMP which forms Requirement 11 of the Draft DCO.
2.8.9	The Applicant	The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] states that information will be provided to the public where construction is taking place within the site and this will be updated on a month to month basis and that this would be secured by dDCO Requirement 11.	This matter is dealt with in paragraph 3.1.17 of Appendix G - PROW Management Plan of the outline CTMP submitted at Deadline 4 (document reference 6.2.14.1, Revision C).

⁵ <https://osmaps.ordnancesurvey.co.uk/ncn>

Ref.	Question to:	Question	Applicant's Response
		Please can the Applicant confirm where in the Outline CTMP this matter is dealt with?	
2.8.10	The Applicant	Appendix G of the updated Outline CTMP submitted at Deadline 3 [REP3-009] refers to a Public Rights of Way Management Plan. However, the content of Appendix G is the Outline Travel Planning Statement. Please can the Applicant advise whether any amendments have been made to the Public Rights of Way Management Plan following the submission of the initial Outline CTMP [APP-245] with the application documents?	This was a formatting error and the Outline CTMP (including the correct Appendix G) has been resubmitted for Deadline 4 (document reference 6.2.14.1, Revision C). This includes minor amendments to the Public Rights of Way Management Plan as shown in the track changed version.
2.8.11	The Applicant	Please can the Applicant advise how the Travel Planning Statement and Traffic Incident Management Plan detailed within the updated Outline CTMP, submitted at Deadline 3 [REP3-009], would be secured within the dDCO?	The Travel Planning Statement and Traffic Incident Management Plan are to stay appended to the CTMP and are, therefore, secured through Requirement 11 in the draft DCO.
2.8.12	The Applicant Kent County Council	Paragraph 2.1.1 of the Outline CTMP submitted at Deadline 3 [REP3-009] states that "during peak construction activity up to 400 members of staff could be working on site". Please can the Applicant confirm whether this is a maximum daily figure, or will the figure vary due to factors such as shift patterns for example? Please can Kent County Council also provide an opinion on this matter? In addition, Kent County Council, in their Local Impact Report [REP1-004], state "no figures have been provided to give an indication of the traffic profile associated with staff movements throughout the construction period". Please can the Applicant provide an estimation of such movements during construction?	<p>The expectation that 400 members of staff could be working on-site is considered to be a worst case, maximum daily figure.</p> <p>Worker numbers for the construction of both the solar array and the electrical fit out stages of development have been provided by specialist consultants within that particular industry.</p> <p>For construction of the solar array, up to 200 workers are expected on site per day at its peak.</p> <p>For the electrical fit out of the compound, it is expected that up to 186 workers will present on-site per day during the peak.</p> <p>To ensure a robust assessment, it has been assumed that both the peak of workers associated with the solar array construction and the electrical fit out occur at the same time.</p> <p>Within the construction programme, these elements are expected to overlap for only a three week window. After this time, the number of workers on site would reduce up to a peak of up to 200.</p> <p>Core working hours are proposed to be between 07.00 until 19.00, Monday to Friday and 07.00 until 13.00 on a Saturday (unless in exceptional circumstances where need arises to protect plant, personnel or the environment).</p>

Ref.	Question to:	Question	Applicant's Response
			<p>To maximise productivity within core hours, CHSP staff and contractors would require a period of up to one hour before and up to one hour after core working hours for start-up and closedown of activities.</p> <p>As such, the majority of staff traffic movements are expected to occur before 07.00 and after 19.00 on a weekday, and before 07.00 and after 13.00 on a Saturday.</p>
2.8.13	The Applicant	During the Issue Specific Hearing on Need on 17th July 2019, the Applicant confirmed that they are liaising with Kent Fire & Rescue Service and would share battery installation designs with them. This was later confirmed within the Written Summaries of Oral Submissions Issue Specific Hearing on Need submitted at Deadline 3 [REP3-014]. Please can the Applicant provide an update regarding the discussion with Kent Fire & Rescue Service and also how the sharing of battery installation designs would be secured within the dDCO?	<p>The Applicant discussed the Development with Kent Fire and Rescue Service (KFRS) on 20/08/2019. Meeting notes from that discussion have been provided as Appendix 8 to this document (Deadline 4 submission document reference 12.1.9).</p> <p>The Outline Battery Fire Safety Management Plan has been submitted at Deadline 4 (document reference 12.5.1).</p> <p>KFRS did not have availability to review the Outline Safety Management Plan ahead of Deadline 4. The Applicant has requested that KFRS review the Outline Safety Management Plan and provide comment in time for comments to be addressed ahead of Deadline 5. If necessary, an updated version of the plan will be submitted at that deadline.</p> <p>The sharing of battery installation designs is secured through the Outline Battery Fire Safety Management Plan which is a requirement of Requirement 2 of the dDCO (Deadline 4 submission document reference 3.1, Revision D).</p>
2.8.14	The Applicant	Paragraph 49 of Environmental Statement Chapter 13 [APP-043] states that the South East Local Enterprise Partnership is in the process of updating its Strategic Economic Plan with a preliminary release date scheduled for early 2018. Please can the Applicant give an update on the progress of this plan and, if published, whether the update has any implications for the Project?	<p>The South East Local Enterprise Partnership (SELEP) published a refresh of their Strategic Economic Plan in December 2018 (South East LEP, Smarter Faster Together, December 2018)⁶. Although the refresh doesn't provide specific figures for future employment growth and investment (p24), there is a renewed commitment to supporting economic growth and Low Carbon & Environment is identified as a key sector (p14, p30). In 2018, Government mandated that every Local Enterprise Partnership (LEP) should produce a Local Industrial Strategy. SELEP sees the refresh of the Strategic Economic Plan as the path toward developing the Local Industrial Strategy. As such, the refresh reiterates many of the policy priorities of the Governments Industrial Strategy such as Clean Growth (see p19, SEP Refresh). SELEP plans to publish their Local Industrial Strategy between January and March 2020⁷.</p>

⁶ https://www.southeastlep.com/app/uploads/2019/03/SELEP_StratEconState_singles.pdf

⁷ <https://www.southeastlep.com/our-strategy/local-industrial-strategy/>

Ref.	Question to:	Question	Applicant's Response																																				
			<p>The refreshed Strategic Economic Plan and commitment to developing a Local Industrial Strategy demonstrate that economic activity and employment remain high on the list of priorities locally and as such do not influence the original assessment.</p>																																				
2.8.15	The Applicant	Paragraph 86 of Environmental Statement Chapter 13 [APP-043] provides 2017 visitor figures from Visit Kent, End of Year Barometer Report. Please can the Applicant confirm whether the 2018 figures have been released and, if so, how these compare to the 2016 and 2017 figures?	<p>The End of Year Barometer for 2018 has now been released (Visit Kent, Business Barometer - Annual Report, 2018)⁸. The figures show a decrease in visitor numbers nationally and now provides annual visitor estimates for Kent. These are as follows:</p> <table><tr><th colspan="4">Change in Annual Visitor Numbers, 2017-2018</th></tr><tr><th>Area</th><th>2017</th><th>2018</th><th>Change</th></tr><tr><td>Kent</td><td>6 million</td><td>5.8 million</td><td>-3.5%</td></tr><tr><td>England</td><td>39 million</td><td>37.5 million</td><td>-4%</td></tr></table> <p>A fall in visitor numbers nationally and locally could suggest a higher sensitivity for the Tourism Economy receptor, however, this receptor is already assessed as High as set out in paragraph 155 of ES Chapter 13 - Socio-Economics, Tourism, Recreation and Land Use [APP-042] and the updated visitor numbers do not influence the assessment.</p>	Change in Annual Visitor Numbers, 2017-2018				Area	2017	2018	Change	Kent	6 million	5.8 million	-3.5%	England	39 million	37.5 million	-4%																				
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Area	2017	2018	Change																																				
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2.8.16	The Applicant	Paragraphs 87 and 88 of Environmental Statement Chapter 13 [APP-043] provide 2015 figures relating to day trips to both Swale and Canterbury. Please can the Applicant advise if more up to date figures are available and, if so, how these compare to the 2013 and 2015 figures.	<p>Visit Kent has now published the 2018 studies⁹ (using 2017 data). Although, overnight, visits have remained relatively flat, day visits and value of visits have both risen over the period. In the round, this present a similar picture to the 2015 figures.</p> <table><tr><th colspan="5">Change in Visits and Economic Impact of Tourism 2015-17</th></tr><tr><th>Area</th><th>Measure</th><th>2015</th><th>2017</th><th>Change</th></tr><tr><td rowspan="3">Swale</td><td>Day Visits</td><td>4.6 million</td><td>4.7 million</td><td>2.4%</td></tr><tr><td>Staying Visits</td><td>399,000</td><td>398,000</td><td>-0.3%</td></tr><tr><td>Value</td><td>£228 million</td><td>£236 million</td><td>3.9%</td></tr><tr><td rowspan="3">Canterbury</td><td>Day Visits</td><td>6.6 million</td><td>7.1 million</td><td>8.3%</td></tr><tr><td>Staying Visits</td><td>649,000</td><td>647,000</td><td>-0.3%</td></tr><tr><td>Value</td><td>£454 million</td><td>£490 million</td><td>8.1%</td></tr></table> <p>The updated visitor numbers do not warrant a change in the sensitivity of the Tourism Economy receptor which is already assessed as High as set out in paragraph 155 of ES Chapter 13 - Socio-Economics, Tourism, Recreation and Land Use [APP-042] and therefore</p>	Change in Visits and Economic Impact of Tourism 2015-17					Area	Measure	2015	2017	Change	Swale	Day Visits	4.6 million	4.7 million	2.4%	Staying Visits	399,000	398,000	-0.3%	Value	£228 million	£236 million	3.9%	Canterbury	Day Visits	6.6 million	7.1 million	8.3%	Staying Visits	649,000	647,000	-0.3%	Value	£454 million	£490 million	8.1%
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⁸ https://www.visitkentbusiness.co.uk/library/Business_Barometers/2018/Visit_Kent_Annual_Business_Barometer_2018.pdf

⁹ <https://www.visitkentbusiness.co.uk/tourism-business-support-and-advice/opportunities/economic-impact-of-tourism-in-kent>

Ref.	Question to:	Question	Applicant's Response
			do not influence the assessment.
2.8.17	Natural England	Please can the Applicant provide an update regarding the progress of the proposed England Coast Path?	Consultee response.
2.8.18	The Applicant	Requirement 15 in the dDCO [REP3-003] refers to a Skills, Supply Chain and Employment Plan. Please can the Applicant provide a fully scoped, Outline Skills, Supply Chain and Employment Plan?	A fully scoped Outline Skills Supply Chain and Employment Plan (OSSCEP) forms part of the Deadline 4 submission (document reference 12.5.3).

2.9 Traffic and Transport

Table 2.9: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.9.1	Kent County Council	Following up on the Applicant's response to ExA1.9.1 [REP2-006], could the Council please confirm that they are content that the spread of vehicles arriving at the site following ferry arrivals can be controlled through the proposed CTMP in accordance with the Applicant's response that: "The equipment will be off-loaded from the cargo vessel(s) either into a holding area at the port or directly onto vehicles for onward transport to the site. It is envisaged that multiple vehicles can be loaded simultaneously and released from the port in a controlled manner. The remaining goods/equipment will be held at the port until collected and transported to the site in a similar manner at a later stage. It is expected that the routing, timing and management of vehicles to/from the site will be controlled via the Construction Traffic Management Plan which is required by Requirement 11 of the draft DCO."	Consultee response.
2.9.2	The Applicant	Further to the Applicant's response to question ExQ1.9.2 [REP2-006], please can the Applicant highlight where on the Works Plan the ExA can see the parking area designated within the site for those arriving by vehicle? Also, the previous question requested the assumptions that were made about the numbers of staff and visitor cars in the construction traffic assessment in Environmental Statement Chapter14 [APP-044]. Please could the Applicant provide the data that were used and the contribution these make to the overall construction traffic figures and assessment?	<p>During the construction of the development, an area within the electrical compound will be set aside for parking for staff and visitors. (Works area No 2 and 3 as shown on the Works Plan [APP-007]). The specific location for this will be settled within the final design.</p> <p>Staff numbers for the construction of both the solar array and the electrical fit out stages of development have been provided by specialist consultants within that particular industry and are referenced in paragraph 201 of Chapter 14 - Access and Traffic of the ES [APP-044].</p> <p>For construction of the solar array, at its peak up to 200 workers are expected on site per day. These are expected to stay locally and arrive at the site by mini-bus. As such, 40 daily, two-way, LGV movements have been included in the traffic generation figures to allow for staff transport for this element.</p> <p>For the electrical fit out of the compound, it is expected that up to 186 workers will present on-site per day during the peak and these will arrive by mini-bus, vans and cars. For the assessment undertaken within the Environmental Statement, the 186 has been rounded up</p>

Ref.	Question to:	Question	Applicant's Response
			<p>to 200. Cars have been treated as an LGV and an average vehicle occupancy of four people per vehicle has been applied. This equates to 96, two-way, LGV movements per day which have been accounted for within the construction traffic assessment.</p> <p>There is a short window in the construction programme of three weeks where construction of the solar array and the electrical fit out overlap. During this time a worst case has been adopted where the maximum number of workers for each element has been assessed. This equates to a peak of 136 daily two-way LGV movements associated with worker transport.</p> <p>In addition to the worst case, daily two-way LGV movements associated with staff transport, an additional 26 two-way miscellaneous, LGV movements have been applied to give an overall daily peak of 162 two-way LGV movements.</p>
2.9.3	The Applicant	<p>In its Local Impact Report at paragraph 6.5.4, Swale Borough Council [REP1-005] mentions the Heavy Goods Vehicle delivery route in relation to cycling: "The fact that the route is relatively flat, and that it acts as a safe route between Faversham and Whitstable and is connected with the National Cycle Route means that it is very, very popular with cyclists. It does not appear that this issue has been recognised by the applicant in the CTMP, and there is a real danger that the additional traffic will affect either the attractiveness of the route to, or the safety of, the increasing number of cyclists using this route. There can be no doubt that use of this route by such a volume of construction traffic over an extended period on the proposed access route will be nothing but harmful to road traffic, road safety and amenity considerations." Does the Applicant believe that the Outline CTMP [REP3-009] has sufficient regard for cyclists, and are any further mitigation measures necessary to reduce any safety or amenity impacts for cyclists along the route?</p>	<p>The Applicant believes that appropriate mitigation measures have been proposed for the distance that the construction traffic route and the National Cycle Route 1 both use Seasalter Road (circa one mile).</p> <p>The route is currently used by HGVs and agricultural vehicles (albeit not at the same frequency as the proposed construction traffic) and there is not considered to be an existing safety issue.</p> <p>Construction traffic speeds will be low and drivers will be briefed as to the potential for cyclists to be using the construction traffic route, as set out in Table 4.1 of the Outline CTMP (Deadline 4 submission document reference 6.2.14.1, Revision C).</p> <p>In addition, construction signage will also be positioned along the route, a traffic marshal will be located at the site access and wheel washing facilities provided at the site (see section 6.12 of the Outline CTMP) to ensure no mud or debris is deposited on the highway.</p> <p>The remedial works proposed to be undertaken by the Applicant along the construction traffic route will also benefit cyclists by improving the condition of the road surface.</p>
2.9.4	The Applicant Kent County Council	At the second Open Floor Hearing on 22nd July 2019, Mr Tom King [REP3-087] raised a concern relating to Table 14.6 of Chapter 14 of the ES	The Applicant is confident that the data provided in Table 14.6 in Chapter 14 - Access and Traffic of the ES [APP-044] forms a robust basis for assessment.

Ref.	Question to:	Question	Applicant's Response
		<p>[APP-044], which sets out 2018 Baseline Annual Average Daily Traffic Flows. Mr King suggested that Table 14.6 overestimated Heavy Goods Vehicle flows and, as such, Kent County Council may have based its views on unreliable data. Could the Applicant comment on this suggestion and clarify whether the difference between the parties relates to the incorporation of growth factors and translation of counts into future scenarios? We note that the Applicant provided the relevant raw traffic data at Deadline 3 [REP3-024]. Please could Kent County Council confirm whether the Highway Authority is satisfied that Table 14.6 of Chapter 14 of the ES [APP-044] provides an accurate picture of HGV flows?</p>	<p>Automatic traffic counts were undertaken in May 2017 and uplifted to provide a 2018 baseline (year of application) using a TEMPRO growth factor.</p> <p>These were then uplifted again using TEMPRO to calculate a future year scenario to be assessed. This being 2022 when the greatest level of traffic is expected to be generated by the construction of the development.</p> <p>TEMPro is a software package published by the Department for Transport (DfT) which allows users to generate growth factors, which can be applied to observed traffic data in order to establish forecast future year scenarios. The software produces growth factors based on various input parameters which can be tailored to suit the needs of a particular geographical locations and road type.</p> <p>To collate the data presented in Table 14.6, all vehicles over 6.5m have been treated as being a HGV.</p> <p>These figures are validated by the data presented within the London Array Environmental Statement. This reported HGV percentages of 5% on Head Hill Road and 4% on Seasalter Road. This is the same percentage of HGVs as presented in Table 14.6.</p> <p>The Institute of Environmental Assessment's (IEA) 'Guidelines for Environmental Assessment of Road Traffic' (1993) (the 'IEA Guidelines') states the following with regards to variations in road traffic.</p> <p>"It should also be noted that the day-to-day variations of traffic on a road is frequently at least some + or – 10%. At a basic level, it should therefore be assumed that projected changes in traffic of less than 10% create no discernible environmental impact."</p> <p>Within Chapter 14, it is acknowledged that there will be a substantial increase in HGV traffic along Head Hill Road and Seasalter Road.</p>
2.9.5	The Applicant	<p>In its Local Impact Report Kent County Council [REP1-004] states that it may be appropriate for the proposed highway condition surveys to be secured as a Requirement within the dDCO, to ensure that the surveys are not omitted from the final CTMP. Please can the Applicant provide comment on this suggestion?</p>	<p>The Applicant has made a firm commitment to undertake highway condition surveys and appropriate remedial highway works within section 6.13 of the Outline CTMP (Deadline 4 submission document reference 6.2.14.1, Revision C).</p> <p>Agreement on the content of the final CTMP is the subject of Requirement 11 in the draft DCO which states that the document will accord with the outline CTMP. This will ensure that the commitment to undertake highway condition surveys is not removed from the final CTMP.</p>

Ref.	Question to:	Question	Applicant's Response
2.9.6	The Applicant	Paragraph 224 of ES Chapter 14 [APP-044] states that "HGV drivers travelling to and from the site will be instructed to give priority to oncoming traffic to reduce delay". Please can the Applicant confirm how this will be enforced, with reference to the Outline CTMP or other mechanism?	<p>This strategy will be communicated to HGV drivers through information packs and briefing sessions as set out in Table 4.1 of the Outline CTMP (Deadline 4 submission document reference 6.2.14.1, Revision C).</p> <p>As set out in paragraph 6.2.1 within the CTMP, it is proposed that all HGVs travelling to/from the site will be identifiable.</p> <p>This will then ensure that the HGVs are accountable if any specific measures set out within the CTMP are not adhered to.</p> <p>A Traffic Management Group will be established and a Traffic Coordination Officer will be appointed prior to construction, to oversee the implementation and monitoring of the final CTMP in line with the agreed requirements.</p> <p>Furthermore, the contractor will undertake monitoring as necessary to ensure compliance with the requirements of the final CTMP, which will include the maintenance of records and traffic management measures.</p> <p>CHSP will ensure that a qualified member of staff is employed to conduct surveys and monitor construction vehicle activity at specific locations on the construction route network to ensure contractors' obligations are met as well as adherence to the CTMP.</p>

2.10 Water, Flooding and Coastal Defence

Table 2.10: Applicant's responses

Ref.	Question to:	Question	Applicant's Response
2.10.1	The Applicant	<p>The Applicant's answers to ExQ1.10.1 and ExQ1.10.2 [REP2-006] refer the ExA to its Statement of Common Ground with the Lower Medway Inland Drainage Board for answers to the questions. This Statement of Common Ground had not been submitted into the Examination at this time, and indeed the Applicant's Statement of Common Ground Tracker submitted at Deadline 3 [REP3-018] suggests that this Statement of Common Ground is not now expected to be submitted until Deadline 4 at the earliest. Please could the Applicant supply any answers to these ExQ1 questions that are not fully addressed in the Deadline 3 submissions without the ExA needing recourse to a document that is not yet completed or submitted. The ExA has seen Appendices C and D to the Deadline 3 Outline CEMP but notes that there is no overall map of the Proposed Development site to show the location of the drains and other surface water management features such as culverts and sluices, as requested. The identity of the Inland Drainage Board managed watercourses remains unclear. While the updates to Appendices C and D provide some information, can the Applicant plot these on the overall map requested above and clarify: why crossings at the locations that are not on the access road or spine road are required; if the intention is to provide a single new box culvert for crossings C11 and C12 (one being noted in the figure title box as an Inland Drainage Board drain and the other not); why the nature and construction of the existing crossings C5, C15, C20, C21, C22 and C23 is not provided; at what</p>	<p>An overall map showing the location of the drains and other surface water management features such as culverts and sluices is included as Appendix 15 (Deadline 4 submission document reference 12.1.16).</p> <p>A Statement of Common Ground with the Lower Medway Inland Drainage Board has been submitted at Deadline 4 (document reference 12.2.5).</p> <p>In addition, as requested, an overall map (map reference 2238-PUB-095) which identifies the location of the Lower Medway Inland Drainage Board maintained drains and other surface water management features such as culverts and sluices, has been provided as Appendix 15 (Deadline 4 submission document reference 12.1.16).</p> <p>The Applicant can confirm that culverts located in the north of the Core Study Area, not located on the main spine road or an access track, are required due to the installation of the perimeter fence over agricultural drains, meaning new culverts are required to ensure that the fence is flush to the ground (new culvert).</p> <p>Other crossings not located on access tracks are required to safely access all fields of the Development.</p> <p>The Applicant can confirm that there is a requirement for two separate culverts (C11 and C12) on two separate drains; Cleve Cottage Drain (Lower Medway Inland Drainage Board asset ID 56¹⁰) and an unnamed agricultural drain, which are separated by an existing access track, which runs south to north.</p> <p>Regarding construction of the existing crossings C5, C15, C21 and C23, all crossings identified are pipe culverts, with the exception of C5 and C22 which also have concrete headwalls. C20 will require a new crossing, as identified on Figure 2238-PUB-088 and this will likely be a box culvert.</p> <p>Regarding the decision to upgrade or keep the existing crossing infrastructure, this will be evaluated by an engineer prior to the commencement of the construction phase and is secured through Requirements 2 (h), 8 and 10 of the dDCO [REP3-003].</p>

¹⁰ <http://www.medwayidb.co.uk/wp-content/uploads/2019/04/LM-2017-Programme.pdf>

Ref.	Question to:	Question	Applicant's Response
		stage it is intended to make a decision on whether each of the 14 existing crossings in Appendix D will be upgraded through the Works, as each is currently allocated as 'possible' or 'not likely'?	
2.10.2	The Applicant	ExQ1.10.4 asked the Applicant if the Proposed Development could affect existing abstractions in the vicinity. In response [REP2-006], the Applicant re-states that they have been identified, but does not provide an opinion about whether the proposal will affect these abstractions. Could the Applicant clarify please?	<p>The effect of the Development on private water supplies is set out in section 10.5.1.12 of Chapter 10 - Hydrology, Hydrogeology, Flood Risk & Ground Conditions [APP-040] of the ES.</p> <p>The Applicant can confirm that due to the reasons outlined in the response to ExQ1.10.4 [REP2-006] there is unlikely to be an effect on abstractions in the vicinity of the Development.</p>
2.10.3	The Applicant	In response to ExQ1.10.5 [REP2-006], the Applicant suggests that Figure 5.8 [APP-053] shows a cross section of the proposed flood protection bund including the access track as it rises diagonally across the bund. In fact, Figure 5.8 appears to show an indicative design rather than an accurate cross section. Could the Applicant provide clarification, including a scaled plan that indicates where the cross-section is aligned? The Applicant's response also states that the road will cross over the top of the flood protection bund. This does not appear to be reflected in Figure 5.8. Please could the Applicant provide further clarification?	Appendix 13 (Deadline 4 document reference 12.1.14) provides the cross-section drawings requested. These drawing include a series of cross sections through the bund, including a scaled plan drawing.

Cleve Hill Solar Park Ltd

August 2019

Arcus Consultancy Services Ltd