



# CLEVE HILL SOLAR PARK

## THE APPLICANT'S COMMENTS ON RESPONSES TO THE EXA'S SECOND WRITTEN QUESTIONS – EXQ2

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**CLEVE HILL**  
SOLAR PARK

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## List of Abbreviations

AOD	Above Ordnance Datum
AR HMA	Arable Reversion Habitat Management Area
CA	Compulsory Acquisition
CEMP	Construction Environment Management Plan
CHSP	Cleve Hill Solar Park
CHSPL	Cleve Hill Solar Park Limited
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
DL	Deadline
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
ISH	Issue Specific Hearing
kV	Kilovolt
KWT	Kent Wildlife Trust
KMWLP	Kent Minerals and Waste Local Plan
LBMP	Landscape and Biodiversity Management Plan
LGM HMA	Lowland Grassland Meadow Habitat Management Area
LVIA	Landscape and Visual Impact Assessment
MEASS	Medway Estuary and Swale Strategy
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
ODP	Outline Design Principles
OFH	Open Floor Hearing
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
SoCG	Statement of Common Ground
SPA	Special Protection Area
SPA CNMP	Special Protection Area Construction Noise Management Plan
SSSI	Site of Special Scientific Interest

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) comments on responses to the Further Written Questions (ExQ2) submitted by interested parties for Deadline 4 (30 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 commented each of the responses received 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

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

### 2.0 General, Cross-topic and Miscellaneous Questions

**Table 2.0: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.0.3	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?	Kent County Council	As the Minerals and Waste Planning Authority, the County Council is responsible for ensuring that mineral resources and minerals infrastructure are not needlessly sterilised by other forms of development thus ensuring that a steady and adequate supply of minerals is maintained into the future to facilitate sustainable development. This safeguarding approach is supported by national planning policy guidance in the National Planning Policy Framework (NPPF) and locally in the adopted Kent Minerals and Waste Local Plan 2013-30 (KMWLP). The NPPF requires that development proposals should not be permitted within mineral safeguarding areas where they might constrain potential future use of the economic mineral resource. As such, the policies within the KMWLP aim to prevent the sterilisation of Kent's potentially economic mineral assets. Having carefully assessed the application and information provided by the applicant, the following matters appear to be relevant: It is clear that the proposed development is of a temporary nature and the siting of the solar farm will not result in any loss of the underlying mineral deposits that may be of economic value directly. However, the development is for 40 years. This makes the timespan of the development incompatible with the relevant exemption criterion of	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 document. 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 which is now expected to be submitted at Deadline 6.

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>Policy DM 7 (4) of the KMLWP. It is not necessarily the case, as put forward by the Mineral Assessment provided to KCC by the applicant on 16 August 2019, that any of the Brickearth or Sub-Alluvial River Terrace Deposits (that would be temporarily sterilised) will not be needed over this period with any certainty. The available current landbank for Brickearth is 22 years - three years short of the NPPF requirements, in addition, the land-won sand and the gravel landbank is now well below the 7-year minimum. It may be that 'windfall' sites of Brickearth may potentially come forward by reason of the fact that several (12) development sites identified in the adopted Swale Borough Council Local Plan have Brickearth deposits to provide overall a sufficient supply to meet requirements. However, this is not a certainty for a 40 year timescale. Moreover, the site has potentially substantial sand and gravel reserves, that could be argued are required at this time to ensure a steady and adequate level of supply, as landbank levels are below the NPPF 'at least 7-year' requirement. Therefore, exemption criterion 4 of Policy DM 7 cannot reasonably be invoked with regard to the safeguarded Brickearth Sub-Alluvial River Terrace Deposits as the timescale proposed is arguably too long. The criterion states: Policy DM 7 Safeguarding Mineral Resources Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that [either]: 4. the incompatible development is of a temporary nature that can be completed</p>	

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or The Minerals Assessment does state that without the proposed solar park development the safeguarded minerals will be lost to the marine environment as a consequence of a process of coastal managed realignment within 20 years. This may be the case, though it does not have a direct bearing on whether or not mineral sterilisation is arguably occurring and over a timescale that satisfies criterion 4 of Policy DM 7. Alternatively, if the applicant however were to advance the proposed prior extraction of the mineral deposits Policy DM 9 (Prior Extraction of Minerals in Advance of Surface Development), there is, arguably, a significant environmental impact that has not been explored. The area lies within the Medway and Swale Special Protection Area (SPA) and any large-scale mineral extraction as an act of enabling development prior to the siting of the solar farm development is unlikely to be compatible with the SPA designation, although it is noted that evidence has not been submitted to demonstrate this either way. The requirements of Policy DM 9 have not been explored by the Minerals Assessment. This policy requires any prior extraction to be able to be completed without unacceptable impacts to the environment or communities. In order to be satisfied on mineral safeguarding matters, further clarification should be sought to consider the implications of Policy DM 9 or whether any of the other exemption criteria of Policy DM 7 may apply. KCC has sought to make</p>	



Ref.	Question	Respondent	Response	Applicant's Comments
			applicant aware of these comments on the Minerals Assessment and will work with the applicant to resolve these queries.	
2.0.4	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?	Kent County Council	<p>The County Council would like to ensure that reference is made to the requirement to seed the area beneath the panels to ensure that surface water run off from the panels does not create an erosion hazard. KCC would like to clarify that reference is being made to the areas below the panels, including the concentration from rain hitting the solar panels and the increase in velocity in leaving the panels, as opposed to the concentrations from topography. The County Council requests a Drainage Strategy which would provide details of any specific requirements. This Drainage Strategy should be submitted either during this Examination stage, or during detailed design. The County Council does not consider that sufficient information has been provided by the applicant to resolve this matter.</p>	<p>The potential hydrological impact associated with drip line erosion, concentrated flow and runoff channel creation is the potential for sediment to become suspended in surface water run-off and adversely affect surface water quality. This is addressed in Section 6 of the Flood Risk Assessment (FRA) submitted with the Application [APP-227].</p> <p>The Applicant has been in dialogue with KCC to provide them with further clarity on this point, and has discussed the pre-construction seeding of the fields to reduce the potential for drip line erosion.</p> <p>Not all water from an array table would run off to the end of the table, there would be a drip line from the end of each module within an array table as there are small gaps between modules for fixings. Whilst drip line erosion may still occur, this will not result in adverse hydrological impacts. The overriding mitigating factor is the flat topography of the land with no potential for surface water flow velocities to result in rilling, and the separations between any watercourse and the solar arrays, further reducing the likelihood of any erosion issue.</p> <p>Requirement 8, Surface and Foul Water Drainage requires that the detailed drainage design is provided prior to the commencement of construction, the appropriate time to do this is when the</p>

Ref.	Question	Respondent	Response	Applicant's Comments
				<p>detailed design is known.</p> <p>The Applicant will continue to discuss these matters and will seek agreement to be documented in a SoCG to be submitted by Deadline 6.</p>
2.0.6	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 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]?	National Grid	<p>As evidenced by the relevant entry on the TEC register published on NGESO's website (see link below for the page on which the latest version is to be found), Cleve Hill Solar Park Limited (CHSPL) have a signed connection agreement in place with National Grid Electricity System Operator Limited for connection of the Cleve Hill Solar Park (CHSP) to the National Electricity Transmission System (NETS) at Cleve Hill 400kV substation with a connection date of 1 April 2024. This connection agreement allows for the export to the NETS and import from the NETS of up to 350MW of power.</p> <p><a href="https://www.nationalgrideso.com/connections/registers-reports-and-guidance">https://www.nationalgrideso.com/connections/registers-reports-and-guidance</a></p> <p>CHSPL's application for a connection to the NETS, received in 2018, was properly assessed by the System Operator (SO) and Transmission Owner (TO) functions within National Grid Electricity Transmission plc* in accordance with the Grid Code (GC), the Security and Quality of Supply Standards (SQSS), the Connection and Use of System Code (CUSC) (see link below to access these codes) and National Grid's licence obligations with respect to applications for connection to the NETS.</p> <p><a href="https://www.nationalgrideso.com/codes">https://www.nationalgrideso.com/codes</a></p>	<p>The Applicant welcomes National Grid's response.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>As well as CHSPL's offer for connection to the NETS having to be generally compliant with the GC, SQSS and CUSC, specifically, clause 13.2.4.7 of Section 13 of the CUSC includes an obligation to "avoid any adverse impact on other Users". In practice, this means a new applicant's connection offer cannot adversely affect existing connectees or parties already contracted to connect, but connection applications from parties who are yet to apply for a connection are not considered when an applicant's new connection application is assessed, i.e. applications are dealt with on a 'first come first serve' basis.</p> <p>For information, the generation background that is considered when a new transmission connection application such as Cleve Hill Solar Park is assessed takes into account, amongst other things, existing users and contracted customers not yet connected to the NETS, including DNO demand, other demand connections and embedded generation. In general, DNOs connection agreements can include a headroom allowance to allow for projected future embedded generation behind the DNO connection although this is usually quite a low value, e.g. 50MW. Allowances in specific DNO connection agreements are commercially-sensitive, confidential information.</p> <p>In terms of the potential impact a new transmission-connected generator may have on DNOs or other transmission or distribution-connected parties, National Grid</p>	

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			<p>typically recommends to the new connectee that they engage directly with those third parties to discuss any impact they might have on those third parties' network/connections.</p> <p>In terms of the impact of Cleve Hill Solar Park on the operability of the electricity system, NGESO has the following comments:</p> <ol style="list-style-type: none"> <li>1. All generation on the network is positive in so far as it serves to meet GB demand</li> <li>2. CHSP's solar generation and battery storage, like other new connections of this type to the NETS, will positively contribute to the aims of decarbonisation and a more diverse generation mix which are now part of GB Energy Policy and which are themes in the Future Energy Scenarios 2019 publication (<a href="http://fes.nationalgrid.com/fes-document/">http://fes.nationalgrid.com/fes-document/</a>) and the System Operability Framework 2019 publication (<a href="https://www.nationalgrideso.com/insights/systemoperability-framework-sof">https://www.nationalgrideso.com/insights/systemoperability-framework-sof</a>)</li> <li>3. CHSP's solar generation and battery storage, like other new connections to the NETS, increases the potential number of providers of balancing services to NGESO which supports the meeting of system needs (as outlined in the System Needs and Product Strategy (SNaPS) National Grid publication from 2017 (<a href="https://www.nationalgrideso.com/documents/84261/download">https://www.nationalgrideso.com/documents/84261/download</a>) which highlighted the growing need for new providers of balancing services) and in so doing helps to</li> </ol>	

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>expand these markets to enable NGESO to obtain better prices for those services for the ultimate benefit of the GB consumer.</p> <p>* Since CHSPL's connection agreement for CHSP was signed in 2018, the SO function within National Grid has legally separated from the TO function and, effective 1 April 2019, the legal entity National Grid Electricity System Operator Limited was formed and all existing electricity connection agreements which prior to 1 April 2019 were between connection customers and National Grid Electricity Transmission plc were 'bulk-novated' to National Grid Electricity System Operator Limited.</p>	
2.0.10	<p>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 MEASS and confirm whether or not the anticipated publication timescale remains current.</p> <p><a href="https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy">https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy</a> The Applicant is requested to continue to liaise with Defra.</p>	DEFRA	<p>The EA are handling the assurance of this strategy and there are no outstanding actions on it despite the statements from the local EA team. Below is a statement from the Large Projects Review Group who assured the strategy, as such there are no actions n Defra and the publication of the post adoption statement should sit with the local EA team who I imagine you have been dealing with.</p> <p>"The assurance of the Strategy is complete. Now that the strategy has NFSoD approval, the EA Area team produces a post adoption statement for publication in the media and the strategy is made available as a public document. That may not have been done yet. We will investigate the progress of</p>	<p>The Final MEASS was published on 10 September 2019<sup>1</sup> and a digital copy was provided to the Applicant on 10 September 2019 by the EA.</p> <p>The Applicant notes the EA's comments that the MEASS documentation has not changed substantively since the consultation version, and that the EA does not consider that there are changes to the MEASS from to the consultation version published in November 2017 that would affect Cleve Hill Solar Park.</p> <p>The Applicant has reviewed the final version of the MEASS documents provided by the EA on 10 September 2019 and would like to highlight the following:</p>

<sup>1</sup> <https://www.gov.uk/government/publications/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy/medway-estuary-and-swale-flood-and-coastal-risk-management-strategy#contents>

Ref.	Question	Respondent	Response	Applicant's Comments
			publication and let you know as soon as possible."	<ul style="list-style-type: none"> <li>Whilst the leading option for the Cleve Hill site (Benefit Area 6.2) is for managed realignment from year 20, the MEASS clearly sets out a "Plan B" in the event that Cleve Hill Solar Park achieves consent and is constructed (page 123 of Appendix H – Implementation Plan). The implementation of Plan B would result in the EA no longer taking responsibility for the existing flood defences at Cleve Hill, for managed realignment to be proposed in the longer term following the lifetime of the solar farm, and managed realignment in other parts of the strategy area (e.g., Chetney Marsh) being progressed earlier in the strategy period.</li> <li>The presence of important infrastructure is acknowledged by the EA to present risks to managed realignment on the Cleve Hill site resulting in managed realignment being proposed for epoch 2 (from year 20) (e.g., page 78 of Appendix K – Habitat Regulations Assessment)</li> <li>The delivery of the leading option of managed realignment is modelled to result in increased future flood extents (page 219 of Appendix I – Modelling Report).</li> </ul>

## 2.1 Biodiversity and Nature Conservation (including HRA)

**Table 2.1: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.1.1	<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><a href="https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planningrequirements?utm_source=ea420b59-d39c-4214-8490-0d39d5c8768a&amp;utm_medium=email&amp;utm_campaign=govuknotifications&amp;utm_content=immediate">https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planningrequirements?utm_source=ea420b59-d39c-4214-8490-0d39d5c8768a&amp;utm_medium=email&amp;utm_campaign=govuknotifications&amp;utm_content=immediate</a></p>	Swale Borough Council	<p>This question is about the weight that should be placed on the natural environment section of the Planning Practice Guidance (NPPG) published on 21 July 2019 given the publication on 23 July 2019 of the summary of responses and Government response to Defra's biodiversity Mandatory Net Gain (MNG) consultation.</p> <p>The Government's biodiversity MNG response is quite clear that it is not yet intended that NSIP projects are caught by these proposals, but their inclusion is not ruled out in the future. The Government's response actually states that NSIPs are "currently" outside the scope of the mandatory requirement in the Environment Bill, but that the Government "will continue to work" with industry and conservation bodies on "exploring potential net gain approaches for these types of development". Furthermore, it is hard to believe that it is not the Government's intention to require biodiversity Mandatory Net Gain in NSIP projects once the suggested further consultation and reflection has been carried out, if such a requirement is to be mandatory for far less significant projects.</p>	<p>The Applicant agrees with SBC that biodiversity and wider environmental net gain should be a legitimate aspiration for this NSIP project.</p> <p>The Applicant provided updated biodiversity metric calculations at Deadline 4 [REP4-052] which were undertaken using the latest DEFRA methodology. These updated calculations draw a distinction between biodiversity benefits of hedgerow creation and separates it from wider biodiversity enhancements.</p> <p>The updated metrics predict a biodiversity net gain of 65% for habitat biodiversity units, and a net gain of 7,870% in hedgerow habitat biodiversity units.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>The NPPG advice relates to biodiversity and wider environmental net gain and is current now. The new NPPG guidance does not disapply itself from NSIP projects, nor does paragraph 118 (a) of the NPPF. Notwithstanding the comments in paragraph 5 of the NPPF there is no suggestion in either of these documents that they do not apply to NSIP decision making. The Council sees no reason why biodiversity and wider environmental net gain cannot and should not be a legitimate aspiration for this NSIP project.</p> <p>It is also clear that with the two sets of guidance being issued almost simultaneously there can have been no intention for them to be in conflict, or for one to supersede or override the other. They are effectively completely different and complementary Government statements.</p> <p>The Council was not, and is not, suggesting that this NSIP project should be required to provide biodiversity Mandatory Net Gain under the possible provisions of the forthcoming Environment Bill. As such, our comments are not at odds with the Government's 23 July 2019 response to consultation on the proposals for biodiversity</p>	



Ref.	Question	Respondent	Response	Applicant's Comments
			<p>MNG. To that extent the Council considers that the Government's recent response is largely irrelevant to the matter we have raised.</p> <p>The matter we raised was entirely different and related to actual published NPPG advice, which we referenced. This advice is current, very recently published, and in tune with the Council's own recently adopted Local Plan, which itself seeks a biodiversity net gain in policy DM 28 at point 6. As already stated in relation to this project, the Council's view is that the absence of a relevant NPS for solar or energy storage technology means that considerable weight must be given to this recently adopted Development Plan.</p> <p>You will recall that I have already raised the fact that the Council understands that the vast majority of the applicant's predicted biodiversity net gain in Biodiversity Units in their submitted document 10.6.5 arises from the introduction of screen hedge planting. This planting is not primarily intended for its biodiversity or natural environment net gain value, and is intended to mitigate visual impact. Moreover, large stretches of this new hedging will cut across existing open views where the current lack of planting creates the</p>	

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>sort of landscape that is recognised (and recently confirmed) as being of County level value, and where this new planting will in certain cases sever the visual relationship between heritage assets and the marshland landscape settings that they enjoy. Whether the biodiversity net gain is actually an overall benefit of the scheme when all matters are taken into account is thus far less clear.</p> <p>To conclude on this point, the Council does not believe that the Government's response to the biodiversity Mandatory Net Gain consultation should carry any weight in the consideration of this project, and that it in no way detracts from the Council's reference to the reasonable policy expectation of a biodiversity and natural environment net gain from this major project.</p>	
2.1.2	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.	Canterbury City Council	CCC defers to Natural England	The Applicant notes this response.
2.1.5	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	Natural England	Natural England will continue to work with the Applicant and provide detailed comments on the LBMP. Key points regarding the AR HMA are set out here:	Sub-soiling of the AR HMA prior to seed bed preparation will be included in the next iteration of the Outline LBMP to be submitted at DL6.

Ref.	Question	Respondent	Response	Applicant's Comments
	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>Ground preparation:</p> <ul style="list-style-type: none"> <li>• Sub-soiling, to alleviate compaction before seed bed preparation, should be added to section 15.3.1.</li> </ul>	
			<p>Seed mix:</p> <ul style="list-style-type: none"> <li>• Table 7.1 AR HMA Grassland Mix should be amended. Saltmarsh grass is inappropriate and a more diverse mix of grasses is recommended: rye grass + other bents and fescues e.g. Festuca rubra.</li> <li>• Whilst white clover is good for foraging brent geese, the mix could include some red clover as beneficial for pollinators.</li> </ul>	<p>The proposed seed-mix for the AR HMA presented at Table 7.1 of the Outline LBMP was updated in the DL4 iteration [REP4-007]. It excluded saltmarsh grass and included a more diverse grass mix with both red and white clover.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>Monitoring</p> <ul style="list-style-type: none"> <li>• Wintering bird surveys between Sept and March in years 1, 2, 3, 5, 10 and 20 is appropriate.</li> <li>• Paragraph 350 does not specifically state that marsh harrier surveys will be in the same years, but we consider the same timings appropriate.</li> <li>• Habitat surveys to check grassland establishment are proposed in the same years. This may be appropriate for formal surveys by an ecologist, however the grazier will need to respond to annual variations in conditions to adjust the grazing pressure.</li> <li>• Table 3 on p.25 states that the ecologist has responsibility for the water control structures, visiting at the same frequency as above. However, an annual inspection to respond to annual changes in water levels may be necessary, which need not be undertaken by an ecologist.</li> </ul>	<p>The Applicant notes Natural England's agreement with the monitoring schedule in years 1, 2, 3, 5, 10 and 20.</p> <p>The proposed monitoring schedule and protocol for marsh harrier was updated in the DL4 iteration of the Outline LBMP (REP4-007) Table 2 and Table 3. It will be further updated at DL6 – e.g. paragraph 52 of the DL4 iteration (REP4-007) to include Year 1 of operation as well.</p> <p>A protocol and schedule for annual habitat checks of the AR HMA will be included in the next iteration of the Outline LBMP at DL6, to inform any necessary adjustments of grazing pressure.</p> <p>A protocol and schedule for annual checks of water control will be included in the next iteration of the Outline LBMP at DL6, to inform any necessary adjustments of control structures.</p>
			<p>Timing of grassland establishment</p> <ul style="list-style-type: none"> <li>• Paragraph 317 states that 'grassland will be established in advance of the first winter before construction is due to commence'.</li> </ul>	<p>Section 16 sets out the AR HMA implementation timing under different construction start scenarios. The intention is for implementation of the AR HMA to be carried out before the first winter in which any construction occurs; therefore</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>However, Section 16 shows that for some construction start timetables, the grassland will be sown after construction, although before the winter when birds will arrive.</p>	<p>construction may have already commenced before AR HMA implementation if construction starts during the spring or summer months (Q2 or Q3), however it would be available to wintering birds.</p>
			<p>Triggers and adaptive management</p> <ul style="list-style-type: none"> <li>• Triggers should be included for wintering waterbirds as well as marsh harriers.</li> <li>• The remedial measures included on page 80 seem to be related to wintering waterbirds. However there are no remedial actions included to address the triggers identified for marsh harriers.</li> </ul>	<p>Monitoring triggers for adaptive management in relation to the AR HMA for wintering waterbirds and marsh harrier were discussed at the HMSG meeting on 23 August 2019. It was agreed that there are too many permutations and potential variables to set out specific triggers at the outset. The outline LBMP was updated at DL4 (REP4-007) 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>
			<ul style="list-style-type: none"> <li>• The LBMP should set out how often the HMSG should meet and how often the group should be sent monitoring reports, to enable feedback. In the first year or two, quarterly reports and feedback may be necessary to advise on remediation in a timely manner. Adaptive management is reliant on</li> </ul>	<p>The Outline LBMP will be subject to a process of amendment and review in consultation with the HMSG, with the intention of submitting an agreed draft at DL6. This will include further amendments to the monitoring and remedial measures and timing of reporting and meetings of the HMSG during construction and operation.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			and timely and effective feedback from the HMSG, so should remain flexible.	
		Kent Wildlife Trust	<p>As currently written REP3-005 requires some revision with regard to the AR HMA. The seed mix for the AR HMA was discussed at the Habitat Management Steering Group (HMSG) and we understand the LBMP will be revised accordingly to reflect this. We also understand that errors that crept in during revisions (such as that picked up in ExQ2.1.13, and the references to Appendix A in Paragraph 15) will be corrected. At present, the implementation of the AR HMA comes after the start of construction (rather than construction starting after the mitigation has been confirmed to have established), but before the first winter when the impacts on Brent geese, lapwing and golden plover can be expected. It would be much more preferable to implement the AR HMA and establish the mitigation prior to the start of construction (and therefore impacts). We have requested monitoring between implementation and the first winter that isn't currently included in REP3-005, so that any issues can be picked up sooner. It is possible that establishment of the AR HMA (or GMG) does not go according to expectations, leading to a</p>	<p>The proposed seed-mix for the AR HMA presented at Table 7.1 of the Outline LBMP was updated in the DL4 iteration (REP4-007). It excluded saltmarsh grass and included a more diverse grass mix with both red and white clover. Errors were corrected in the Outline LBMP submitted at DL4 (REP4-007). Further corrections will be made and the Outline LBMP will be reviewed in consultation with the HMSG to provide an updated iteration at DL6.</p> <p>The Applicant maintains that the timing of implementation of the AR HMA is suitable. Halting construction is not proposed as a mitigating measure in the event that grassland establishment is not immediately successful. In Chapter 10: Ornithology of the ES (APP-039), temporary reduction in capacity to support brent goose, lapwing and golden plover was assessed in terms of the effects of disturbance during construction, whereby resources may not be fully available to these species during the construction phase. Due to the temporary nature of the effects of disturbance during construction and the proven resilience to the absence of availability of foraging resources within functionally linked arable land over the course of some winter seasons (i.e. in some winter seasons, brent geese, lapwings and golden plovers do not make any substantive use of the arable land at the site), it was concluded that there would be no long-term</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			reduction in carrying capacity for the target species. In such a case, it would be advisable to halt construction with respect to avoiding further loss of carrying capacity until habitats have established.	decline in the survival or productivity of brent goose, lapwing or golden plover and hence no significant effect.  Also see response above to Natural England comments.
2.1.6	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?	Natural England	Confirmation at paragraph 40 of the LBMP [REP3-005] that stock proof fencing will be used to allow different grazing regimes in the areas alongside the ditches and between the arrays is helpful. Low intensity grazing is set out in the LBMP, but choosing livestock type (sheep or cattle and specific breeds) is likely to require forward planning to identify competent graziers. This was highlighted at the HMSG meeting on 23 August 19, and should be addressed in the LBMP. Timings for putting stock on and off the different grazing areas should also be included.	The Applicant is continuing to liaise with Natural England, Kent Wildlife Trust and other nature conservation consultees regarding the detail of the Outline LBMP.  The Applicant requested further comments where required be provided at Deadline 5, to give an opportunity for the Applicant to review all comments, and provide an updated version to consultees ahead of the submission of an updated Outline LBMP at Deadline 6.  Any further comments, as well as the comments in this response will be incorporated in to the updated Outline LBMP.
		Kent Wildlife Trust	Yes, the proposed additional temporary stock-proof fencing (paragraph 40 of REP3-005) should provide the necessary additional control of grazing densities.	The Applicant welcomes this confirmation.
2.1.7	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	Natural England	See Natural England's answers to 2.1.5. More detail is required on triggers and adaptive management, and we will work with the Applicant to achieve this.	The Applicant is continuing to liaise with Natural England, Kent Wildlife Trust and other nature conservation consultees regarding the detail of the Outline LBMP.  The Applicant requested further comments

Ref.	Question	Respondent	Response	Applicant's Comments
	management now, and that the outline monitoring proposals are sufficient?			<p>where required be provided at Deadline 5, to give an opportunity for the Applicant to review all comments, and provide an updated version to consultees ahead of the submission of an updated Outline LBMP at Deadline 6.</p> <p>Any further comments, as well as the comments in this response will be incorporated in to the updated Outline LBMP.</p>
		Kent Wildlife Trust	<p>In addition to our answer to ExQ2.1.5, with regard to monitoring, we note the applicant's preference for use of ivermectin-free manure in the AR HMA to 'avoid adverse effect on invertebrates' (invertebrate being the food source of lapwing and golden plover) but that this will be used 'where possible'. We have highlighted to them that this creates a potential conflict between management for Brent geese and management for lapwing and golden plover. We have requested that this be taken into account in the monitoring, such as through mapping of areas where treated and ivermectin-free manure is used, and monitoring invertebrate biomass.</p> <p>With regard to the inter-array grassland, Paragraph 51 of REP3-005 would appear to cover the appropriate variables. However, "Lower than expected use</p>	<p>The Applicant has provided additional evidence in respect of ivermectin content of farmyard manure in a written representation (Deadline 5 submission document reference 13.6.2).</p> <p>The Applicant is continuing to liaise with Natural England, Kent Wildlife Trust and other nature conservation consultees regarding the detail of the Outline LBMP.</p> <p>The Applicant requested further comments where required be provided at Deadline 5, to give an opportunity for the Applicant to review all comments, and provide an updated version to consultees ahead of the submission of an updated Outline LBMP at Deadline 6.</p> <p>Any further comments, as well as the comments in this response will be incorporated in to the updated Outline LBMP.</p>



Ref.	Question	Respondent	Response	Applicant's Comments
			(indicated by lower frequency of flight activity than baseline) by marsh harriers" (Paragraph 53) may result from the change in the landscape (introduction of artificial structures into the previously open foraging area), and that the adaptive management will not deal with this. We are therefore particularly interested in the Applicant's response to ExQ2.1.15. This issue was also discussed at the HMSG.	
2.1.8	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?	Natural England	With the provisos set out under 2.1.5, an adaptive management strategy is the best way forward under the guidance of the HMSG. The LBMP could be an appropriate means of securing this. There is still little detail of the water management proposed for the AR HMA. Similarly there is no detail on any enhancements planned for the SSSI; e.g. reprofiling of existing topography to enhance wet features, earth bunds on footdrains to hold back water during seasonal flooding. Natural England will continue to work with the Applicant to resolve these issues of detail.	The Applicant notes Natural England's position that an adaptive management strategy guided by the HMSG and secured through the LBMP is appropriate. The Applicant will continue to develop proposals for management of the AR HMA and FGM HMA (the SSSI area referred to) with Natural England and the HMSG. Amendments to the Outline LBMP submitted at DL4 (REP4-007) will be made in consultation through a review process with the HMSG with a view to submission of an agreed iteration at DL6. This will include more detailed measures described for water management of the AR HMA and FGM HMA and landscaping proposals in the FGM HMA.
		Kent Wildlife Trust	We are assuming that the LBMP is an 'enforceable' document. However, where the LBMP requires flexibility to enable decisions to be made at a later date (e.g. water levels, grazing density) it would appear that a certain amount of	The Applicant will continue to develop proposals for the mechanism by which the HMSG operates (and its constitution) with respect to adaptive management during the construction and operational phases of the Development.

Ref.	Question	Respondent	Response	Applicant's Comments
			'good faith' may be required on the operator's part to implement these. From discussions at the HMSG we understand more detail about the HMSG is to be included in revisions to the LBMP, but defining what 'agreement' within the HMSG is and powers to implement may require further consideration. We would welcome Natural England's thoughts on this in the context of securing any 'adaptive management' necessary. Given the additional structures proposed for water level control, and subject to agreement to raise the water levels, we believe there is sufficient detail with regard to water level control.	Amendments to the Outline LBMP submitted at DL4 [REP4-007] will be made in consultation through a review process with the HMSG with a view to submission of an agreed updated Outline LBMP at DL6.
2.1.10	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?	Natural England	The Deadline 3 revised SPA CNMP [REP3-008] provides the information we were seeking regarding the 55dB contour and wintering birds. In particular, Appendix 3 showing the indicative setback distances is helpful. Therefore, Natural England's view is that the mitigation measures set out in the SPA CNMP [REP3-008] and the Breeding Bird Protection Plan, at Appendix B of the CEMP [REP3-006] are sufficient to avoid an adverse effect on the integrity of the SPA during construction	The Applicant welcomes this confirmation.
2.1.11	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	Natural England	The calculations set out in Table 2.17 of the Applicant's responses to Written Representations [REP3-020] are welcomed and cover the points made at the ISH. Natural	The Applicant welcomes this confirmation.

Ref.	Question	Respondent	Response	Applicant's Comments
	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?		England considers that the difference of 360 goose-days when taking into account the unfertilised buffer along the ditches is not significant in the context of the number of goose-days supported by the whole AR HMA. This is included in the Statement of Common Ground to be submitted by the Applicant at Deadline 4.	
		Kent Wildlife Trust	Our understanding from the Applicant's response at the ISH was that the revised calculations resulted in them being 300 goose-days short of the mitigation target (as defined in the ES) This was confirmed at the HMSG and we await the revised calculations.	The calculations are provided in Table 2.17 of [REP3-020].  Natural England has agreed that this difference is not significant in the context of the overall assessment.
2.1.12	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 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?	Natural England	In our Written Representation, Natural England highlighted four areas of uncertainty surrounding the wader calculations: 1. That the lapwing and golden plover days can be combined so that the over provision for golden plovers can make up for the shortfall for lapwings. 2. There is no lapwing/golden plover-days figure for pasture, so the calculation of mitigation land requirements is based on work on arable land in Norfolk.  3. Will intensive management for geese hinder lapwings and golden plovers from getting at soil invertebrates? 4. The Gillings et al (2007) study found that lapwings	1. Communication with Dr Gillings has been submitted to the Examination (AS-040). The Applicant considers that this has been resolved.  2. & 3. The Applicant refers to the evidence presented in the Ornithology Technical Appendix [APP-223], that grassland will hold higher prey abundance than arable and is preferred foraging habitat for lapwing and golden plover.  The SSSI grassland in the east of the Application site supported foraging lapwings and golden plovers during the baseline winter surveys. The grassland in that location is long-established and is therefore not directly comparable to the newly established grassland proposed in the AR HMA, at least not in the initial years;

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>and golden plovers were concentrated in a few fields, therefore if they averaged over the whole area, the bird days would be much lower. Subject to confirmation from Dr Gillings, the first uncertainty is resolved, in that the bird-days for lapwings and golden plovers can be combined. This would result in around 33ha of mitigation land being required for the combined wader populations. The second uncertainty cannot be entirely resolved as there is no experimental data for the number of wader days supported by brent goose pasture. The Applicant's responses to Written Representations [REP3- 020] (refs 32 and 33) demonstrate that lapwings and golden plovers will use pasture with a short, dense sward. Therefore, intensive management for geese will not necessarily hinder foraging lapwings and golden plovers. However, the references cited indicate that old pastures are preferred over new. Therefore, foraging waders in old pastures may be exploiting a wider range of invertebrate prey than will be available in the AR HMA (where earthworms are likely to be the main prey item). Use of ivermectin-free manure will be important in improving the invertebrate biomass of the AR</p>	<p>however, it is a closed sward grassland without significant muddy areas. The Applicant has undertaken post-meeting calculations, circulated to the HMSG following the 23 August 2019 meeting and replicated below regarding the measured capacity of the SSSI grassland within the Application site during the baseline surveys. This demonstrates that the SSSI grassland area supported foraging lapwings and golden plovers in densities exceeding that of the arable area:</p> <p>Arable land in Application site (389.8 ha)          Lapwing: maximum seasonal peak-mean (2015/16) = 79,777 bird-days = 204.7 bird-days/ha          Golden Plover: maximum seasonal peak-mean (2015/16) = 62,911 bird-days = 161.4 bird-days/ha</p> <p>SSSI grassland in Application site (28.7 ha)          Lapwing: maximum seasonal peak-mean (2017/18) = 20,196 bird-days = 703.7 bird-days/ha          Golden Plover: maximum seasonal peak-mean (2015/16) = 41,850 bird-days = 1458.2 bird-days/ha</p> <p>These numbers are calculated simply on the total area surveyed in each habitat and do not account for potentially unsuitable areas such as proximity to roads, or boundary features, crop type etc. If arable fields that were not used by any lapwings or golden plovers, or those with very low diurnal use (&lt;10 birds) are excluded the resulting arable area used in 2015/16 is 227.2 ha and resulting densities remain lower than</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<p>HMA. The final uncertainty listed above is reduced by the fact that lapwings and golden plovers were recorded during preapplication surveys using the fields that will make up the AR HMA.</p> <p>The uncertainty over whether lapwings and golden plovers will use the AR HMA was discussed at the HMSG meeting on 23 August 19. The experience of the land managers on the HMSG was that waders are attracted in by the bare earth of arable. Therefore, the recommendation was to create a scrape on the SSSI grassland to attract birds in, so that they are more likely to use the AR HMA for foraging.</p>	<p>densities recorded in the grassland:            Lapwing: 351.1 bird-days/ha            Golden Plover: 276.9 bird-days/ha</p> <p>As Natural England has commented, if those capacities are realised in the AR HMA grassland, then 33 ha would be required for the combined lapwing/plover bird-days to mitigate for the peak-mean number recorded in the baseline. The AR HMA is 50 ha in functional extent, therefore the required capacity per hectare would be one third less than provided for. This provides confidence that the AR HMA will supply the required resources for lapwing and golden plover.</p> <p>The Applicant will also implement the advice regarding creation of a wetland scrape within the SSSI (FGM HMA) to help attract birds in. This will be included in the DL6 update to the Outline LBMP.</p> <p>4. The Gillings study was a large area of farmland that included numerous fields that were completely unsuitable for lapwings and golden plovers, such as unharvested crops of maize, game cover or sugar beet. The bird-days/ha calculations were therefore based on the fields that were occupied, rather than the study area as a whole. Gillings (unpublished thesis) describes these as the 'true densities', since only a limited proportion of the study fields are actively used. The management of the AR HMA is such that it will provide suitable habitat (short-sward grassland) throughout the winter every year, therefore at least similar capacities as those recorded in</p>

Ref.	Question	Respondent	Response	Applicant's Comments
				occupied habitats in the Gillings study are applicable.
		Kent Wildlife Trust	As highlighted in our answer to ExQ2.1.7 there remain potential conflicts between management for Brent geese and management for golden plover and lapwing. There will remain uncertainties regarding this issue, as although from Gillings et al. we know that lapwing and golden plover will use arable fields within an landscape at densities of 1000 and 1560 bird-days/ha, and that these can be 'combined' (subject to confirmation from Gillings), we don't know what carrying capacity (for lapwing and golden plover) pasture managed for Brent geese will have.	See Applicant's comments on Natural England response above.
2.1.15	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?	Kent Wildlife Trust	We welcome the further analysis of carrying capacity, which was discussed at the HMSG. With regard to the width of the habitat between arrays, with no studies to compare it to the reaction of marsh harriers to the solar park, either on the site-wide or individual ditch scale, will remain an unknown. There is nothing in the LBMP that can adapt the management to deal with this if it happens. We have suggested that if there is shown to be, through monitoring, a minimum width that the harriers will use, panels in those areas that fall below this could be decommissioned to widen these areas.	<p>The Applicant maintains that the habitat management proposals across the site, as set out in the Outline LBMP will provide enhanced foraging resources for marsh harrier and that they will be available to marsh harrier. Decommissioning of panels to widen inter-array grassland areas is not proposed as a remedial action.</p> <p>At a landscape scale, the arable baseline currently occupies approximately 390 hectares in extent, within part of which, the solar arrays will be developed. 22.5% of this currently arable area that comprises the AR HMA and LGM HMA will remain undeveloped with no solar panels or infrastructure, with arable to grassland reversion enhancements that will provide more suitable foraging habitat for marsh</p>

Ref.	Question	Respondent	Response	Applicant's Comments
				<p>harriers, at least at some times of year (during winter, the short sward of the AR HMA will be sub-optimal, but likely to be more suitable than arable crops in summer). Those large, undeveloped extents of grassland habitat will continue to attract foraging marsh harriers, such that there is confidence that the site will continue to support the species.</p> <p>In terms of the inter-array grassland areas, these will be managed to provide optimal conditions for marsh harrier prey species and the Applicant is confident that individuals will continue to forage in those areas, attracted by the features that they are currently most attracted to in the current arable landscape. The Applicant provided additional information on the width of these areas in response to the ExA's further written question ExQ2.1.15 [REP4-020].</p> <p>The Applicant concludes that marsh harriers will continue to forage at the site. Marsh harriers will continue to be present within the breeding assemblage of The Swale SPA and there will not be an adverse effect on the integrity of the SPA. In ISH 6 on Environmental Matters, the Applicant emphasised the importance of doing what the law requires with respect to the Habitats Regulations, given that no-one can state with certainty what the marsh harriers will do if the project is built. The Applicant advised that as stated in section 3 of the Applicant's submission on recent case law relating to appropriate assessment under Habitat Regulations Assessment [REP2-027] there is no requirement for absolute</p>

Ref.	Question	Respondent	Response	Applicant's Comments
				certainty, rather the requirement is to demonstrate beyond reasonable scientific doubt there will not be a significant adverse effect on a SPA, with the Secretary of State having regard to the best available evidence when making the decision.
2.1.17	At paragraph 3.2.6 of its Written Representation [REP2-096], 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?	Natural England	Natural England is now content that the updated Breeding Bird Protection Plan [REP3-006] is clear regarding mitigation measures, and that these measures are sufficient to avoid an adverse impact on breeding birds.	The Applicant welcomes this confirmation.
2.1.18	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?	Natural England	Natural England is content with the proposals to create reedbed between the AR HMA and the solar array, as set out in the Deadline 3 Outline LBMP [REP3-005].	The Applicant welcomes this confirmation.
2.1.21	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?	Environment Agency	The applicant has referred to the Environment Agency's Eel Manual, GEHO0211BTMV-E-E, in their representation EN010085 - Cleve Hill Solar Park – for Deadline 3 Submission. This guidance makes recommendations for the passage of eels at all stages of the species' lifecycle. The applicant's Updates To Existing Documents Outline Landscape And Biodiversity Management Plan, ("LBMP", Reference Document Reference:	<p>The Applicant has updated the Outline LBMP to refer to eels and elvers to ensure that all life stages are captured.</p> <p>Further information on eels and elvers and the Applicant's approach is set out in the Applicant's Written Representation on Miscellaneous Issues at Deadline 5 (document reference 13.6.2).</p>



Ref.	Question	Respondent	Response	Applicant's Comments
			<p>6.4.5.2) only refers to eels, animals frequently taken to be the species' adult stage. In discussions at the recent Habitat Management Steering Group meeting (23 August 2019), it was agreed that the applicant's reference to eels in their LBMP is to the species and not to a specific life stage and, therefore, their measures will be appropriate to enable migration of elvers into the site and adult eels from the site. The applicant will confirm this in a written submission in time for the next deadline possibly by minor amendment to the LBMP.</p>	

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

***Table 2.2: Applicant's responses***

Ref.	Question	Respondent	Response	Applicant's Response
N/A	None	All questions to the Applicant	None	None

## 2.3 Cultural Heritage

**Table 2.3: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.3.1	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?	Kent County Council	Kent County Council notes that the revised proposals as set out by the applicant has now excluded the external mounding and overgrowing previously proposed. Given that the external appearance will be mostly preserved, KCC is satisfied with the revised proposals as long as there is a management regime in place that ensures the control of the vegetation (ivy growth) as suggested in paragraph 304, bullet point 3 of the Outline Landscape and Biodiversity Management Plan	The Applicant will ensure that this requirement is fully captured in the Deadline 6 update to the Outline LBMP.
2.3.4	Historic England [REP2-087] indicates that: "The site of the proposed development has 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	Kent County Council	The County Council is satisfied with the approach and methodologies set out in the Outline Written Scheme of Investigation (WSI). Detailed WSIs can be agreed following approval of the Development Consent Order application and in advance of development works. The Council's Principal Archaeological Officer will continue to work with the applicant's archaeological and heritage consultants to develop the programme of archaeological works in detail. The WSI can be secured through an appropriately worded requirement, as demonstrated in Requirement 9.	The Applicant welcomes this confirmation.

Ref.	Question	Respondent	Response	Applicant's Comments
	be secured through Requirement 9 of the updated dDCO [REP3-003], and does it have any outstanding concerns around archaeology?			

## 2.4 Draft Development Consent Order

**Table 2.4: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.4.10	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?	Environment Agency	Requirement 16 has been worked up in consultation with the Environment Agency and we are satisfied with the Requirement. We are happy that it provides the appropriate level of flexibility and certainty. Regarding safeguarding the site, we believe the Requirement is in line with paragraph 169 of the NPPF, however as we are not the planning authority it is not our place to decide this.	The Applicant welcomes this confirmation. The wording of Requirement 17 (previously requirement 16) has been agreed with Swale Borough Council as the local planning authority.
2.4.11	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?	Environment Agency	We would expect the design and construction of a managed realignment scheme would be carried out by us, not the undertaker, hence we would not require them to decommission the defence. Retention of the defences in the long-term is not compatible with managed realignment, but in the period governed by this Order it is acceptable to us.	<p>The Applicant has updated the wording of the draft DCO submitted at Deadline 5 (document reference 3.1, Revision D) to be clear that references to decommissioning the flood defences located within the order limits refer to the 'existing' flood defence, and not to the flood protection bund which forms part of the electrical compound.</p> <p>Requirement 17(11)(c) relates to the existing flood defence only as defined in the dDCO "existing flood defence means the existing bund and integrated infrastructure located beneath the path known as the Saxon Shore Way and on the north and west boundaries of the authorised project in Work No. 9".</p>

Ref.	Question	Respondent	Response	Applicant's Comments
				<p>It was not meant to apply to the proposed bund around the energy storage compound. To clarify this, Requirement 17 has been amended i.e. "existing" has been inserted before each reference to "flood defence".</p> <p>R17(9)(c)(ii) has the effect that a decommissioning notice cannot be served on any part of the land within the Order limits not required for managed realignment.</p> <p>However, R17(10)(a) requires a Decommissioning and Restoration Plan in respect of any land no longer used for generation, and (11)(a) requires compliance with the outline Decommissioning and Restoration Plan.</p> <p>So, unless the proposed flood protection bund is on land required for managed realignment, it would not need to be decommissioned until such time as the land is no longer used for generation.</p>
2.4.10 to 2.4.13	<p>(See above for ExQ2.4.10 and ExQ2.4.11)</p> <p>Could the Applicant review the following drafting from draft Requirement 16 (Decommissioning) in the Deadline 3 update to the dDCO [REP3-003]:</p> <ul style="list-style-type: none"> <li>Requirement 16(2) has an 'and' between (b) and (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.</li> <li>Requirement 16(11) needs to be expressed as 'within 3 months of the earlier of' the following options, to</li> </ul>	Swale Borough Council	<p>The Council has negotiated with the applicant a revised version of dDCO Requirement 16 which we are now content with. This has now been submitted to the Examining Authority by the applicant on 22 August 2019 as a joint position statement.</p> <p>The Council notes that the applicant has responded to the concerns we raised in paragraph 31 of our Written Representation dated 26 June 2019 regarding the burden we are to be placed under in respect of consultations on submissions in relation to certain dDCO Requirements. We have no problem in being the determining body for such submissions, but having understood the applicant's response to our Written Representation, we would still prefer that the applicant be required to consult with the relevant statutory or technical body first, before submitting an application for approval to the Council. At the moment this is simply expressed as an "in practice" expectation, and to that extent we are not asking for</p>	<p>The Applicant amended the dDCO at Deadline 4 [REP4-003] to take account of SBC's comments where possible. In particular, a new requirement 20 (now 21) was introduced into the dDCO at Deadline 4 [REP4-003] to provide for the undertaker to carry out consultation prior to making a discharge application.</p> <p>The Applicant made its own position clear in its own response to the further written questions [REP4-020], and at the ISH5 relating to the draft DCO (Deadline 5 submission document reference 13.1.2).</p>

Ref.	Question	Respondent	Response	Applicant's Comments
	<p>avoid confusion where several apply.</p> <p>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.</p>		<p>anything that a responsible developer should object to. We see no reason why the applicant or undertaker would oppose being required to consult with the relevant body prior to submitting details to the Council for approval. The applicant's response to our concerns includes an objection to simply being require to "seek agreement" from relevant bodies before submission to the Council. However, this is precisely why we ask that this requirement be made. The alternative scenario is that a submission might be made without the agreement or involvement of the relevant body and the Council would have to "hold the baby" (and risk a non-determination appeal) whilst the relevant body tells us they don't agree and we have to go back and forth to seek agreement. After all, we are unlikely to approve anything a relevant body objects to, and to save the matter being argued out via the Council it must be better if any possible disagreements are dealt with directly between the applicant and the applicant or undertaker. Or at least an attempt made to do so.</p> <p>Very recent discussions with the applicant have revealed a willingness to accept the need for presubmission consultation with the relevant consultation body, and I understand that he applicant may amend the dDCO to include such a requirement. The Council welcomes this likely shift in the applicant's position. Such a proposal s now incorporated with the agreed Statement of Common Ground signed by the Council. Finally, the request in paragraph 32 of our Written Representation dated 26 June 2019 for some simplicity and clarity in relation to some of the more fundamental planning controls such as hours of work has not been encapsulated into direct plainly written Requirements, and these remain likely to be buried in complex documents (such as a CEMP) that will not be clear to members of the public or as easy to enforce e.g. by a Breach</p>	

Ref.	Question	Respondent	Response	Applicant's Comments
			of Condition Notice. We would still prefer that such basic matters which do not require complex plans for are set out in plain language in Primary Requirements of the DCO. The applicant's response to our concern is inconsistent. It at once compares the London Array planning permission to an outline permission (which should include straightforward conditions) and also compares the dDCO to an outline planning permission (which should NOT include the same straightforward conditions). There can be no logic in such a distinction. The Council would still prefer that such basic controls as set out in our paragraph 32 (and which were set out so for London Array) are set out plainly on the dDCO. The Council would like to see the Examining Authority ask the applicant about the Council's concerns at the scheduled DCO Issue Specific hearing on September 10th.	
2.4.17	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	Natural England	Apologies for this omission in Natural England's Deadline 3 submission. Whilst draft Requirement 13 in the dDCO could be seen as duplication, Natural England's view is that it is helpful to include it. Given this position, the Requirement should be extended to species protected under domestic legislation, for consistency.	The Applicant has included amended drafting of Requirement 14 (previously 13) reflecting Natural England's comments in the Deadline 5 submission version of the draft DCO (document reference 3.1, Revision D).



Ref.	Question	Respondent	Response	Applicant's Comments
	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?			

## 2.5 Environmental Statement, General

***Table 2.5: Applicant's responses***

Ref.	Question	Respondent	Response	Applicant's Response
N/A	None	All questions to the Applicant	None	None

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

**Table 2.6: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.6.2	<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 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</p>	Faversham and Oare Heritage Harbour Group	<p>We write in response to the Examining Authority's Further Written Questions, posted on 9 August 2019, specifically Q ExQ2 2.6.2 and to Deadline 3 document 11.4.7 [REP3 – 027] and in reference to our verbal submission made to the Specific Hearing 3, confirmed by our Deadline 3 submission posted on 2 August 2019. We wish to request further clarification by the Applicant of specific issues we raised. The cross sections now presented by the Applicant represent a welcome start towards clarification but, in our view, do not present as complete a picture as required. We note the further detail already requested by the Examining Authority. This too is a start, but will not fully address some aspects of the important points we raised.</p> <p>1. The implications of the issues we raised are:</p> <ul style="list-style-type: none"> <li>• The principal concern we expressed was over the visual impact of the Applicant's proposals on the land and seascape as a whole; not just on the close-up views affected, but also on landmarks, the overall background and setting, with much wider consequential effects.</li> <li>• It is clear, from the photographic panoramas taken by us from afloat (on a Thames Sailing Barge) in the Swale, as included in our Deadline 3 submission, that the existing Cleve Hill Substation and farm buildings are clearly and substantially visible above the existing sea wall along the Northern boundary of the proposal site.</li> <li>• Equally, Graveney Church and neighbouring farm and residential buildings are also clearly visible.</li> <li>• The approximate height of all of these buildings</li> </ul>	<p>The Applicant has provided the cross-sections requested by the Examining Authority [see REP4-029 and REP4-030] and considers that these form useful information to support and verify the findings of the LVIA [APP-037].</p> <p>In response to Faversham and Oare Heritage Harbour Group's comments at ISH6 on Environmental Matters, where further information in relation to viewer heights from boats on the Swale, an additional cross section drawing showing a greater viewer height of 3 m from a boat on the Swale has been provided at Deadline 5 (document reference 13.6.3). This demonstrates similar visibility for a viewer height of 3 m above the water level relative to a viewer height of 1.5 m above water level.</p> <p>The Applicant does not agree that it is necessary to provide further visualisations to address the points raised in this response, as it is of the view that the previously provided cross sections along with the landscape and visual impact assessment are sufficient to allow the Examining Authority and Secretary of State to properly assess the visual impacts of the project.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
	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>had been assumed, for the purposes of our assessment of the visual impact of the Solar Park proposals. These assumptions had had to be made without reference to empirical data on levels and heights, which was not available to us.</p> <ul style="list-style-type: none"> <li>• Our assessment was (and provisionally still is) that the proposed solar panel arrays would project visually substantially above the level of the sea wall, along both the Northern and Western boundaries of the proposal site. We made no assessment of the possible visual impact of the battery containment bund, nor of the proposed 'tallest structure'.</li> <li>• In order to validate or to contradict our assessment, it would be necessary to establish the base levels and actual heights of all the existing buildings, referred to above, as well as of the proposed Solar Park structures, including the solar panel arrays, the battery containment bund and the 'tallest structure', AOD in all cases.</li> <li>• Consequently we welcomed the Applicant's undertaking, at Specific Hearing 3, to provide cross sections of the Application Site. But, in our view, those cross sections now provided do not make the full necessary data available.</li> </ul>	
			<p>2. Our comments on the Applicant's subsequent submission of cross sections, in Deadline 3 document 11.4.7 [REP3 – 027] are as follows:</p> <ul style="list-style-type: none"> <li>• The drawings are described as Not To Scale @ A1. However, it would be helpful if both horizontal and vertical scales (if different) were indicated for each section cut.</li> </ul>	<p>The individual sections are produced to scale as stated below each section and therefore the horizontal and vertical proportions are accurate and not exaggerated.</p> <p>A series of cut/break lines have been added due to the distance represented in sections C-CC and E-EE.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<ul style="list-style-type: none"> <li>It would also be helpful if the existing ground level/ contours throughout the proposal site were specified, on plan as well as section, particularly compared to the assumed 'finished' ground level on each cross section.</li> </ul>	<p>The existing ground levels are shown on the cross sections and there are no level changes within the site other than through the construction of the access roads across the site and the bund associated with the Site Compound. Where such level changes are associated with the access roads these are shown on a suite of drawings submitted at Deadline 4 [REP4-033].</p> <p>In relation to levels associated with the bund these are represented in section D-DD with spot levels and dimensions provided. The heights of the panels are also shown on Figure 5.3A [AS-026] and the heights shown in this figure correlate with heights used in the cross sections provided on drawing 11.4.7.1 [REP3-027].</p>
			<ul style="list-style-type: none"> <li>Section A – AA. It would be helpful if the section view were facing towards the East and showed the Cleve Hill Substation, Graveney Church and other buildings in the background, together with their base and highest levels AOD.</li> </ul>	<p>This would produce a sectional elevation, which would replicate the information already presented in the suite of sections provided [REP4-033].</p>
			<ul style="list-style-type: none"> <li>Sections B – BB and C – CC. It would be helpful if both sections were extended to the South to show existing buildings and levels, similarly.</li> </ul>	<p>Section C has been extended across the site as requested as shown on Figure 11.4.7.1 [REP4-033].</p>
			<ul style="list-style-type: none"> <li>Section D – DD. The solar panel arrays have been described as approximately 3.9m high, presumably above their 'finished' ground level. However they are shown in this cross section as being lower than the battery containment bund at 3.42m above its (apparently the same) assumed ground level. This apparent discrepancy should be clarified.</li> </ul>	<p>Section D-DD shows the panels slightly higher than the bund. In this cross section the bund is 3.42m high and the panel is shown at 3.5m high. The solar panels vary in height across the site relative to the flood levels and as shown in Figure 5.3A [AS-026]. The topographical base data has been used to create the sections and the existing and proposed ground levels under the solar panels would not change.</p>

Ref.	Question	Respondent	Response	Applicant's Comments
			<ul style="list-style-type: none"> <li>• Key Plan. It would be helpful to align cross sections to provide full coverage of the Application Site, combining base data on the Applicant's proposals, as well as of the existing landscape, buildings and features.</li> </ul>	This is shown in the section location insert in the bottom right of the referenced drawing [REP4-033].
			<p>3. In our view, to enable a full and proper assessment of the visual impact of the Applicant's proposals, full cross sections should be drawn across the entire proposal site along (at least) four axes:</p> <ul style="list-style-type: none"> <li>• Approximately from 'Sand End' Buoy (or from Shell Ness on Sheppey), to the East side of the existing Cleve Hill Substation and of Graveney Church, facing approximately South-Westwards.</li> <li>• Approximately from the 'Receptive' (former Wreck) Buoy (or from Harty Church on Sheppey) to the West side of Graveney Church, facing approximately North-Eastwards.</li> <li>• From the bird watchers' hide building on the West side of the entrance to Faversham Creek to the North side of the existing Cleve Hill Substation, facing approximately Southwards.</li> <li>• From the Sewage Works on the South side of Faversham Creek to the Southside of the existing Cleve Hill Substation, facing approximately Northwards.</li> </ul>	<p>The sectional information provided in drawing 11.4.7.1 [REP4-033] provides information across both axis of the site; together with specific areas of the site.</p> <p>Sections can be read in conjunction with the Zone of Theoretical (ZTV) visibility figures [APP-054], and the photomontages [APP-109 to APP-196] provided as part of the ES submission.</p> <p>This information is not exhaustive but shows the impacts of the site from a wide variety of receptors in different medium across the study area. It is considered that the information provided is sufficient to provide a detailed understanding of the landscape and visual effects of the Development upon the landscape and visual receptors within the study area.</p>
			<p>4. Each cross section should show actual (existing) and proposed levels AOD across the entire site, particularly through the proposed solar panel arrays, the proposed battery containment bund and the proposed 'tallest structure', as well as of the existing buildings referred to above and of the existing sea wall and bund.</p>	

## 2.7 Noise

**Table 2.7: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.7.2	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.	Swale Borough Council	<p>The Council has no additional issues or concerns regarding noise for this development at this point.</p> <p>The Council is satisfied with the applicant's approach to noise and any mitigation measures that may be required. They propose to submit a noise assessment which should describe the noise environment at this locality and whether any mitigation measures are necessary and how and where they propose to install them. In addition, the CEMP should be sufficient to cover operational noise during construction.</p> <p>The Council considers that dDCO Requirement 14 provides adequate precise, reasonable, necessary and enforceable safeguards in relation to possible noise issues.</p>	The Applicant welcomes this confirmation.

## 2.8 Socio-economics

**Table 2.8: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.8.1	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?	Kent County Council	<p>The County Council's concerns relate to the following roads:</p> <ul style="list-style-type: none"> <li>• Faversham Road</li> <li>• Seasalter Road</li> <li>• Sandbanks Lane</li> <li>• Head Hill Road</li> </ul>	The Applicant notes that Sandbanks Lane and Faversham Road are not on the construction traffic route and therefore public rights of way users on these roads will not experience direct effects as a result of HGV traffic during construction.
2.8.6	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?	Kent County Council	<p>The County Council's preference would be for the path to be dedicated as a Public Footpath through a Creation Agreement with the County Council (Highway Act 1980 s25). The dedication as a PRoW would secure the long term sustainability and protection of this route, creating a positive legacy for the Solar Park after its future decommissioning. The County Council believes that the applicant may be unwilling to proceed in this manner. Alternatively, it would be for the applicant to enter into a licensed agreement with the County Council for the new Permissive Path. Whilst the applicant could dedicate permissive access on their own, it is recommended that the applicant enters into a formal permissive path agreement with the County Council, as this approach would clarify the</p>	<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>However, the Outline Design Principles document (Deadline 5 submission document reference 7.1, Revision D) has been updated to incorporate KCC comments.</p>



Ref.	Question	Respondent	Response	Applicant's Comments
			terms and conditions of public use and clearly define future maintenance responsibilities. The benefits of this approach for the applicant are that the County Council would have details of the permission registered and be able to promote responsible use of the route by the public. Furthermore, the landowner would be afforded greater protection against claims for new PRow across their land made under the Wildlife and Countryside Act 1981. With the agreement of the applicant, KCC would request that the Permissive Path features on OS recreational mapping, to increase public awareness of the new off-road link. The applicant should engage with the County Council at the earliest opportunity to agree the wording of this Licensed Permissive Path Agreement	
2.8.12	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	Kent County Council	Kent County Council presumes that the maximum 400 members of staff quoted as being on site during the peak construction activity is intended to represent a maximum daily figure, but appreciates that this is typically only likely to occur for a limited period during the construction programme, when several different construction activities requiring separate trade skills overlap. Clarification by the applicant of this assumption would be welcomed. However, from earlier discussion with the applicant, it is understood that the working day on this project is expected to start before the AM peak on the highway network, and finish after the PM peak. As such,	<p>The Applicant confirms it is correct that the maximum 400 members of staff quoted as being on-site during peak construction activity is intended to represent a maximum daily figure, and further confirms that this is typically only likely to occur for a limited period during the construction programme, when several different construction activities requiring separate trade skills overlap.</p> <p>Furthermore, the Applicant can confirm that to maximise core working hours on-site (07.00 until 19.00) it is expected that most staff movements will occur before 07.00 and after 19.00 avoiding traditional highway network AM and PM peak periods.</p> <p>In addition, staff will be collected from pre-</p>

Ref.	Question	Respondent	Response	Applicant's Comments
	construction period". Please can the Applicant provide an estimation of such movements during construction?		staff movements are likely to take place outside of the network peaks and not conflict with the sensitive periods on the highway. In addition, the specialist nature of many of the construction activities typically attracts a non-local workforce that is temporarily housed in hotel type accommodation and brought to site more efficiently in shared transport. These are measures that can be encouraged through the Construction Traffic Management Plan (CTMP).	arranged pick up locations and taken to the site in multi-occupancy vehicles (typically mini-buses).
2.8.17	Please can the Applicant provide an update regarding the progress of the proposed England Coast Path?	Natural England	The England Coast Path (ECP) proposals for Whitstable to Iwade stretch, which includes the application site, were submitted to the Secretary of State in June 2017. A subsequent Court of Justice of the European Union (the CJEU) ruling in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17) affected how Natural England should assess the impact of proposals on European sites, and led to the need to produce a Habitats Regulation Assessment for the stretch. This has meant that progress has slowed and a decision on this stretch has not yet been made.	The Applicant has considered the England Coast Path within the assessments in the Environmental Statement. For example, users of the Saxon Shore Way / England Coast Path are ascribed "High" sensitivity in Chapter 7 - Landscape and Visual Impact Assessment ([APP-037] see paragraph 327) and Chapter 13 - Socio-economics, Tourism, land-use and Recreation [APP-043] recognises that the route is of greater than local importance and refers to the England Coast Path in Table 13.16 and paragraph 167.

## 2.9 Traffic and Transport

**Table 2.9: Applicant's responses**

Ref.	Question	Respondent	Response	Applicant's Comments
2.9.1	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."	Kent County Council	The proposed use of a holding area at the port is considered to be a workable method of controlling the spread of vehicles arriving at the site and is believed to be entirely consistent with the type of control that is expected to be included within the CTMP	<p>The response from Kent County Council is acknowledged and welcomed.</p> <p>It is noted that this topic was discussed at Issue Specific Hearing 6 on the 11th September 2019 and is included within the Applicant's Written Summary (Agenda Item 13) (Deadline 5 submission document reference 13.1.2).</p>
2.9.4	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 [APP-044], which sets out 2018 Baseline Annual Average Daily Traffic Flows. Mr King suggested that Table 14.6	Kent County Council	The County Council is satisfied with the data presented in Table 14.6, which has been derived from the 2017 surveys commissioned by the applicant and scaled to 2018 using the relevant TEMPRO (Trip End Model Presentation Program) growth factor and using the appropriate combination of vehicle classes to determine the HGV numbers. It is	The response from Kent County Council is acknowledged and welcomed.

Ref.	Question	Respondent	Response	Applicant's Comments
	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?		also noted that the percentages presented for the HGV traffic is broadly similar to those previously identified in the Transport Assessment that accompanied the London Array development, thus giving a level of confidence that the figures are correct.	

**2.10 Water, Flooding and Coastal Defence*****Table 2.10: Applicant's responses***

<b>Ref.</b>	<b>Question</b>	<b>Respondent</b>	<b>Response</b>	<b>Applicant's Response</b>
N/A	None	All questions to the Applicant	None	None