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Your ref: EN010101

5 April 2022

Dear Gareth Roberts,

**PLANNING ACT 2008**

**PLANNING ACT 2008: APPLICATION FOR DEVELOPMENT CONSENT FOR LITTLE CROW SOLAR PARK**

**1. Introduction**

1.1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the report dated 5 January 2022 of the Examining Authority (“the ExA”) consisting of a single Inspector, Grahame Gould - which conducted an Examination into the application (“the Application”) submitted on 4 December 2020 by INRG Solar (Little Crow) Limited<sup>1</sup> (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Little Crow Solar Park and associated development (“the proposed Development”).

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<sup>1</sup> Until 1 March 2022 the shares in INRG (Little Crow) Limited were 100% owned by INRG Solar Limited. By letter of 7 March 2022 the Secretary of State was informed that these shares were being transferred into two private companies (50% to each). The Secretary of State has considered this change of ownership but does not consider that it affects his considerations of the application.

- 1.2. The Application was accepted for Examination on 23 December 2020. The Examination began on 20 April 2021 and closed on 5 October 2021.
- 1.3. The Order, as applied for, would grant development consent for the construction, operation, maintenance, and decommissioning of a solar photovoltaic array with a gross electrical output of more than 50 megawatts (“MW”), associated development including an electrical storage facility with a capacity of up to 90 MW, and connection infrastructure.
- 1.4. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website<sup>2</sup> is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 4-6 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 8.

## **2. Summary of the ExA’s Report and Recommendation**

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report under the following broad headings:
  - Meeting energy need, including the generating capacity for the proposed Development;
  - Site selection, including effects for agriculture and consideration of alternatives;
  - Landscape and visual effects, including recreational effects for users of the public rights of way network;
  - Historic environment;
  - Ecology;
  - Traffic and transport;
  - Noise;
  - Air quality;
  - Socio-economic effects; and
  - Habitats Regulations Assessment.
- 2.2. The ExA recommended that the Secretary of State should make the Order in the form recommended at Appendix D to its Report [ER 8.3.1].

## **3. Summary of the Secretary of State’s Decision**

- 3.1. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”).

## **4. The Secretary of State’s Consideration of the Application**

- 4.1. The Secretary of State has considered the ExA’s Report and all other material considerations, including representations received after the close of the ExA’s Examination.

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<sup>2</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/little-crow-solar-park/>

The Secretary of State's consideration of the ExA's Report is set out below. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report ["ER \*.\*.\*"]. A list of abbreviations used in this letter is set out in Annex B: List Of Abbreviations.

- 4.2. The Secretary of State has had regard to the Local Impact Report ("LIR") submitted by North Lincolnshire Council, environmental information as defined in Regulation 3(1) of the 2017 Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 105 of the 2008 Act including relevant policy set out in the National Policy Statements ("NPSs"). The Energy White Paper, Powering Our Net Zero Future, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the current NPSs were not being suspended in the meantime. The review of the energy NPS suite is currently underway and draft versions of the new NPSs were subject to a consultation which closed on 29 November 2021. The transitional guidance in the consultation paper makes clear that the assessment of and decision-making about National Significant Infrastructure Projects ("NSIP") applications in progress, should continue to be made with reference to the currently designated NPS suite which remain in force and therefore remain the basis of the Secretary of State's consideration of the Application.
- 4.3. Although the new NPSs are in draft form and have not been designated, the Secretary of State considers them to be important and relevant for the purpose of section 105 of the 2008 Act. As such, the Secretary of State has had regard to the draft energy NPSs in deciding the Application but does not consider that there is anything contained within the drafts of the relevant NPS documents that would lead him to reach a different decision on the Application. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.
- 4.4. 16 Relevant Representations were made in respect of the Application by statutory authorities, businesses, and individuals. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. Unless indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations set out in the ExA's Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations.

#### The proposed Development

- 4.5. The site comprises 226 hectares ("ha") of land which for the most part is arable farmland, predominantly within agricultural land classification grades 3b and 3a [ER 2.1.1]. The site is predominantly fields used to cultivate cereal and root crops, demarcated by a mixture of hedgerows, trees and fencing [ER 2.1.2].
- 4.6. The site is immediately east of the existing Scunthorpe steel works and a little to the north west of the village of Broughton [ER 2.1.1]. There is dense mixed deciduous and coniferous woodland immediately to the north and east of the site, and some woodland to the south providing separation between the proposed Development and Broughton's residential area [ER 2.1.2].
- 4.7. Vehicular access to the proposed Development is via an east/west farm track which links the site to the B1207 to the east. A public right of way crosses the site, providing an east/west route of around 1.6 km [ER 2.1.3].

- 4.8. Two runs of pylon mounted 132 kilovolt (“kV”) distribution network power lines cross the site on an essentially north/south orientation, and a single pylon mounted run of 132kV power lines crosses part of the north eastern section of the site [ER 2.1.4].
- 4.9. Under the candidate design<sup>3</sup> assessed in the Environmental Statement, the installed capacity for the proposed solar arrays would be around 150 megawatts (“MW”) peak (“MWp”) [ER 2.2.1]. The photovoltaic solar panels would be fixed to aluminium racks to form arrays of panels set out in multiple parallel rows, and would occupy an area of up to 153 ha, of which the solar panels would occupy around 92.4 ha [ER 2.2.2]. In total 356,670 solar panels would be installed [ER 2.2.4] with each panel rated as having a maximum power output of 420 watts (“w”). The arrays would be static and have an east/west orientation, making them south facing, with a maximum height of 3.5 metres (“m”) and a space between the rows of between 3.5m and 6.0m [ER 2.2.5].
- 4.10. The proposed Development would be connected to the 132kV distribution network operated by Northern Powergrid (Yorkshire) plc (“NGP”) via an existing underground cable within the Order Limits, which links with the above ground 132kV lines within the Order Limits [ER 2.2.16]. The capacity limit for the agreed connection is 99.9MW at any time [ER 1.7.1]. The proposed Development includes a substation as associated development, incidental to the operation of the generating station [ER 8.2.3].
- 4.11. The proposed Battery Energy Storage System (“BESS”) would have a proposed candidate capacity of up to 90MW and would occupy 0.529 to 1.138 ha. It would allow for electricity to be stored when the amount generated by the solar array exceeded the grid export limit and exported when the output of the solar array was less than the export limit and the demand for electricity warranted it, or allow importation and subsequent exportation of electricity when the solar arrays were not utilising the full grid connection limit [ER 2.2.11]. It would be implemented in one location either as Work No. 2A or Work No. 2B, but the Order would prevent both Works being implemented [ER 2.2.13 et seq.]. The BESS is associated development to the solar array and the ExA noted that since 2 December 2020<sup>4</sup> it no longer falls under the NSIP regime and therefore is not covered by either the Overarching National Policy Statement for Energy (EN-1) (“NPS EN-1”) or National Policy Statement for Renewable Energy (EN-3) (“NPS EN-3”) [ER 3.1.4 and 8.2.2].
- 4.12. The construction compound would be at the northern end of the site and accessed by an existing farm track connecting with the B1207 [ER 2.2.17]. Construction hours would be 07:00 to 18:00 hours on Monday to Friday and 08:00 to 13:30 on Saturdays, with an exception for emergency works and those that would not cause audible noise at the boundaries of the site [ER 2.2.18]. If the photovoltaic arrays and BESS are constructed concurrently it is anticipated that the construction period would be eleven months; constructing the BESS separately would require approximately an additional three months [ER 2.2.21].

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<sup>3</sup> The Environmental Statement refers to a candidate design in order that the physical parameters of the development (i.e. the panels and the battery) could be assessed. That candidate design was based on an example capacity that could be accommodated within the size of panels and battery assessed at the time of the preparation of the Environmental Statement and the Application.

<sup>4</sup> The Infrastructure Planning (Electricity Storage Facilities) Order 2020.

- 4.13. The proposed Development would have an operational life of 35 years, ceasing electricity generation following the thirty-fifth anniversary of electricity having first been exported from the site, and would then be decommissioned in accordance with a decommissioning and site restoration scheme which would be submitted for North Lincolnshire Council's approval [ER 2.2.22]. The Secretary of State notes that this is secured via Requirements 3 and 4 of the draft Order. The substation would remain until NPG decommissioned it, and the Order would require its removal unless its operator had confirmed a need for its retention [ER 2.2.23 et seq.].
- 4.14. The ExA noted that the Applicant made no changes to the design, layout or extent of the proposed Development between its submission and the close of the Examination, although changes were made to the application documents that did not result in any material changes to what was applied for [ER 3.12.3].

#### Relevant planning policy

- 4.15. The Application is a 'Nationally Significant Infrastructure Project' as defined in sections 14 and 15 of the 2008 Act by virtue of being an onshore solar farm with a generating capacity of greater than 50MW.

#### *National planning policy*

- 4.16. Solar photovoltaic generation was not included in national policy when NPS EN-3 was published in 2011 and consequently does not benefit from the Government's demonstration of need for energy infrastructure and the substantial weight in favour of an application in section 3.1 of NPS EN-1 [ER 4.4.7, 4.4.14, and 4.9.5]. The ExA concluded that NPS EN-3 should not be considered as important or relevant to the determination of this Application [ER 3.2.8 and 3.2.25].
- 4.17. The ExA considered that as the BESS stored electricity to address the intermittency of renewable energy generation, the policy in paragraphs 3.3.12 and 3.3.31 of NPS EN-1, is important and relevant under section 105 of the 2008 Act [ER 3.1.5, 3.2.3, and 3.2.6].
- 4.18. The substation falls within the scope of NPS EN-1 and the NPS for Electricity Networks Infrastructure (EN-5) ("NPS EN-5"), and the ExA noted it would be associated development as it would be entirely incidental to the solar generation station, and the grid connection would be via an existing 132kV underground cable within the site, with substantive installation of new lower voltage electricity lines: the ExA concluded that the substation to a very limited extent comes within the coverage of NPS EN-5, and regard must be had to NPS EN-1 and NPS EN-5 for the substation, but due to its incidental nature relative to the totality of the proposed Development the conformity (or not) of this aspect of the proposed Development would not be determinative [ER 3.1.4, 3.2.10 et seq, and 3.2.24].
- 4.19. NPS EN-1's overarching policy objectives include meeting UK demand for energy generation and transitioning to low carbon sources and reducing greenhouse gas emissions, including the need for secure and reliable electricity supplies during the transition [ER 4.4.3 et seq.]. The ExA considered the policy statements in favour of renewable electricity generation in NPS EN-1, in particular that increasing renewable electricity generation would be essential to improve energy security, reduce dependence on fossil fuels, decrease greenhouse gas emissions and provide economic opportunities, but the intermittency of some of these forms of generation means that additional overall capacity is required to provide back-up when the

availability of these intermittent renewable sources is low, including reference to electricity storage [ER 4.4.10 et seq.]. The ExA concluded that the Application falls to be decided under section 105 of the 2008 Act but there was no inconsistency between the proposed Development and the thrust of the policy expressed in NPS EN-1 and NPS EN-5 [ER 3.2.26 and 4.4.18].

- 4.20. The Energy White Paper, *Powering our Net Zero Future*, published on 14 December 2020, announced a review of the suite of energy NPSs but confirmed that the current NPSs were not being suspended in the meantime. Consultation drafts of the revised NPSs were published during the Examination and the ExA gave all parties the opportunity to comment on any implications for the Application [ER 4.11.2 et seq.]. The Application was accepted for Examination before replacement NPSs were designated, but the ExA confirmed it had treated the draft NPSs as important and relevant in considering the Application [ER 3.11.7].
- 4.21. Draft replacement NPS EN-1 and NPS EN-3 signal the Government's intention to bring solar photovoltaic electricity generation within the scope of the NPSs [ER 3.11.4, 4.9.13 and 4.9.22]. Section 1.6 of draft NPS EN-1 confirmed the existing NPSs would remain the basis for the determination of applications received before the designation of the proposed amendments, but that emerging draft NPSs are capable of being important and relevant considerations in the decision-making process [ER 3.11.5 et seq.]. Paragraph 3.2.6 of draft NPS EN-1 highlights that substantial weight should be given to the need for new energy infrastructure when determining NSIP applications [ER 4.9.16]. The role of storage in providing flexibility in the management of electricity generation from intermittent sources such as solar is recognised in part 3 of draft NPS EN-1 and paragraph 3.3.17 of draft NPS EN-3 [ER 4.9.17]. Draft NPS EN-1 paragraph 3.3.22 refers to the requirement for sustained growth in capacity for solar generation in the next decade, but the ExA notes that no target has been identified [ER 4.9.21]. The ExA considered that the proposed Development would be consistent with the relevant emerging policy in draft NPS EN-1 and NPS EN-3 [ER 6.2.13].
- 4.22. The ExA identified a number of additional policy statements relevant to the decision, including the National Planning Policy Framework ("the NPPF") and the Planning Practice Guidance ("the PPG"). The most up to date version of the NPPF was published on 21 July 2021 [ER 3.8.1]. As solar generation is not currently within the scope of NPS EN-1 and NPS EN-3 the ExA considered that the NPPF is important and relevant to the decision and has had regard to the relevant policies during the Examination [ER 3.8.3]. Section 5 of the PPG provides guidance for solar energy generation and the ExA considered that it, and in particular paragraphs 001, 012 and 013 are important and relevant to the Application [ER 3.8.5].
- 4.23. The ExA considered that the proposed Development would be broadly consistent with the objectives in NPSs EN-1 and EN-3 for generating electricity, and generally compliant with the NPPF, most particularly part 14 which addresses meeting the challenge of climate change [ER 6.2.3 et seq.]. The Secretary of State agrees.

#### *Local planning policy*

- 4.24. Due to the ExA's conclusions in relation to the energy NPSs, it considered the development plan for North Lincolnshire is important and relevant to the determination of the Application, which reflected both the Applicant's view and paragraph 4.1.5 of NPS EN-1 [ER 3.10.2]. The ExA lists all the policies within the North Lincolnshire Plan identified by the Applicant and

North Lincolnshire Council in their Statement of Common Ground [ER 3.10.3 et seq.]. The ExA notes that restrictions in policy CS2 and CS3 of the North Lincolnshire Core Strategy mean development outside settlement boundaries would only be permitted if essential to the functioning of the countryside such as relating to agriculture, forestry, other uses which require a countryside location or which will contribute to the sustainable development of the tourist industry [ER 4.5.3 et seq.]. Policy RD2, a saved policy of the North Lincolnshire Local Plan, sets the policy for development in open countryside, establishing that development will only be permitted for specifically identified types of development including those essential to efficient operation of agriculture or forestry, employment related development appropriate to the open countryside, the re-use and adaptation of existing rural buildings, and the diversification of an established agricultural business [ER 4.5.6 et seq.]. Policy RD7 deals with agricultural, forestry and farm diversification and states that diversification will be acceptable provided it does not conflict with the operational needs of the agricultural enterprise, there is no adverse impact on high quality agricultural land, any new building should be sited in or adjacent to an existing group of buildings and be of a design, scale and construction appropriate to the surrounds, the likely level of traffic generated is acceptable taking account of the suitability of existing access and approach roads, and any parking associated with the proposal would not be visually intrusive [[REP3-037](#)].

- 4.25. The ExA notes that policies CS2, CS3, RD2 and RD7 do not identify solar farms as acceptable development within the countryside, that North Lincolnshire Council observed in its Local Impact Report that although a brownfield site would be preferred “it is considered that by the very nature of solar farms open countryside can be suitable and still allow agricultural uses such as grazing to take place”, and due to the size of the proposed Development there is no known available brownfield site that could accommodate the project and confirmed this in response to a written question from the ExA [ER 4.5.9 et seq.]. The Council acknowledged there was some conflict between the wording of RD2 and the NPPF, and the ExA notes paragraph 158 of the NPPF states that renewable and low carbon projects should be approved where the impacts are, or can be made, acceptable [ER 4.5.12 et seq.]. The ExA noted the Council considers there is no in principle conflict between the proposed Development and the North Lincolnshire Local Plan or Core Strategy [ER 4.5.18]. The ExA considered there was no in principle conflict with policy RD7. The proposed Development would increase the use of renewable energy which is supported by policy CS2, and despite some conflict between the proposed Development and policies ERD2, CS2 and CS3 this did not amount to overarching non-conformity with the development plan. [ER 4.5.19]
- 4.26. The Secretary of State has carefully reviewed the ExA’s consideration of national and local planning policy and agrees with its conclusions.

#### Meeting energy need, including the generating capacity for the proposed Development

- 4.27. The ExA notes that, based on the installation of solar panels rated at 420 watts (“w”) that around 134,530 megawatts hours (“MWh”) of electricity would be generated in the first calendar year of operation with a predicted saving of around 31,364 tonnes of carbon dioxide annually (although in the first year, after an allowance for emissions during construction works, this would be reduced to 30,050 tonnes) [ER 4.9.31], but these figures do not include any allowance for the CO<sub>2</sub> emitted during the manufacture of the solar panels [ER 4.9.61].
- 4.28. The solar arrays would provide electricity for 45-60,000 houses per year and displace 31,364 tonnes of CO<sub>2</sub> per year based on the figures in the Applicant’s updated (“AQCA”) [ER 4.17.4]. The ExA considered that the proposed Development would make a modest contribution

towards meeting the UK's target under the Climate Change Act 2008 as amended [ER 6.2.12].

- 4.29. The ExA expressed concern whether the Applicant had considered all reasonable alternatives arising from the potential use of more efficient panels [ER 4.10.46 et seq.].
- 4.30. The ExA investigated the generation capacity of the proposed Development [ER 4.9.33 et seq.]. The ExA expressed concern whether the Applicant had considered all reasonable alternatives arising from the potential use of more efficient panels [ER 4.10.46 et seq.]. The candidate design panels are rated at 420w but the Applicant's Environmental Statement ("ES") explains that panels rated at more than 500w might be installed and panels rated at around 600w achieving efficiency levels exceeding 40% may become available over the next 12 to 18 months [ER 4.9.39]. Replying to a written question from the ExA the Applicant stated it had explored a range of between 150 to 200MWp for the solar park [ER 4.9.43].
- 4.31. The ExA expressed concern over the Applicant's perceived lack of ambition to install solar panels above 420wp and produce as much electricity as possible, and noted the draft Order contains no provision securing the installation of solar panels at a particular power rating (whether 420wp or higher) [ER 4.9.44]. The ExA noted that installing 356,670 solar panels rated at 420wp would mean the installed arrays would have a capacity of approximately 150MWp whilst occupying 153.42 hectares (ha) of land and questioned whether this would amount to an efficient use of land as promoted by paragraph 124 of the NPPF, and considered this an important and relevant matter in the determination of the Application [ER 4.9.45]. The Secretary of State notes the ExA investigated this in some depth [ER 4.9.46 et seq.].
- 4.32. The ExA considered that despite solar generation being expressly excluded from NPSs EN-1 and EN-3 there was no inherent inconsistency with the policy principles in NPS EN-1 that support the provision of new diversified renewable electricity generating capacity as part of the UKs decarbonisation of energy production and consumption [ER 4.9.71]. However, the exclusion of solar generation from NPS EN-1 means the presumption in favour of consent in the NPSs does not apply [ER 4.9.72]. The ExA noted that if 420w solar panels were installed the proposed Development would be capable of generating between 134,530MWh and 136,240MWh of electricity per year, which would make a useful but modest contribution to providing electricity, attracting no more than moderate weight in favour of consent being granted [ER 4.9.74]. The Secretary of State agrees with the ExA's conclusions in terms of the application of planning policy. However, the Secretary of State disagrees with the ExA's suggested weighting and considers that it is appropriate to accord substantial positive weight to the project due to the contribution it will make towards the decarbonisation of the UK's energy production.
- 4.33. However, the ExA considered the candidate design was an inefficient use of land which weighed significantly against the need for the proposed Development [ER 4.9.75 et seq.]. The Secretary of State has carefully considered the ExA's points in relation to the use of land, including scrutinising the ExA's Table 6.1 [ER 6.2.7]. The Secretary of State notes the ExA's concerns that the installation of 420w solar panels would not be an efficient use of land [ER 8.2.13] and the ExA's suggestion that the Secretary of State may wish to satisfy himself whether it would be appropriate for a minimum solar panel rating to be specified [ER 4.9.77 et seq.]. The ExA cites what it regards as potential conflict with section 11 of the NPPF as possible justification for the Secretary of State to set a minimum power rating for the installed solar panels to ensure a more efficient use of land.



- 4.34. The Secretary of State has carefully considered this issue but is not persuaded by the ExA's arguments on this point. He notes NPPF para 124 (b) requires viability to be taken into account when considering the efficient use of land. He further notes that in response to the ExQ4.1.2, the Applicant stated that "whilst there are PV modules with higher outputs continuously entering the market, it takes a few years before they become commonly viable and available. Therefore, the Applicant may opt to construct with lower output modules" [ER 4.9.43].
- 4.35. The Secretary of State has no information in front of him to conclude otherwise than that the Applicant would make best efforts to make the proposed Development as efficient as possible in terms of land use. Indeed the Applicant's request that the Secretary of State should not set a maximum generating capacity is indicative of its desire to ensure the most efficient use of the land that it can in terms of the production of electricity. The Secretary of State anticipates it would in most cases be in an operator's commercial interest to do so.
- 4.36. The Secretary of State does not agree there is necessarily any inconsistency between the Applicant's desire not to have a maximum generating capacity set out in the Order and its retaining the possibility of deploying PV modules with lower capacity than the very latest models. The Applicant is merely seeking a degree of flexibility in its design of the proposed Development which may obviate the need for changes to the Order at a later stage.
- 4.37. The Secretary of State concludes that if the use of PV modules with higher outputs would make the proposed Development unviable then the deployment of PV modules with lower outputs should not be precluded as they would still provide a reasonable benefit in terms of the production of renewable electricity from the land within the Order limits. The Secretary of State does not agree with the ExA's approach and considers that this concern does not weigh against the proposed Development.

#### Site selection, including effects for agriculture and consideration of alternatives

- 4.38. The principal issues were the use of previously developed land as an alternative to farmland and the Applicant's approach to the consideration of alternatives [ER 4.10.1].
- 4.39. Paragraph 4.4.2 of NPS EN-1 requires an applicant's ES to include information about the main alternatives that have been studied and the main reasons for the applicant's choice, taking account of the environmental, social and economic effects and, where relevant, including technical and commercial feasibility [ER 4.10.2].
- 4.40. The Applicant highlighted that a solar park of this scale requires a 132kV grid connection, with distance from the 132kV grid as a potential limiting factor, and explained that a grid connection of 99.9MW had been secured which took the network operated by NPG to its capacity in the area and the National Grid transmission network very close to its capacity [ER 4.10.9].
- 4.41. The Applicant confirmed it had not considered alternative site locations [ER 4.10.10]. The alternatives it had considered were do nothing, using the Order Limits to grow biofuel crops, and different order limits [ER 4.10.11].
- 4.42. NPS EN-1 states that applicants should seek to minimise impacts on the best and most versatile land ("BMVL") (Grades 1, 2 and 3a) and preferably use land of Grade 3b and below except where this is inconsistent with other sustainability considerations [ER 4.10.3]. The NPPF states that decisions should recognise the economic and other benefits of the best

and most versatile agricultural land (paragraph 174) [ER 4.10.4]. Section 5 of the PPG requires consideration of several factors, including effective use of land by focussing large scale solar farms on previously developed and non-agricultural land which is not of high environmental value, whether the use of agricultural land is necessary, that poorer quality land is used in preference to higher quality land and the proposals allows for continued agricultural use and/or encourages biodiversity enhancement around the arrays, and that planning conditions can be used to ensure removal of installations and restoration of the land to its previous use when the solar farm is no longer in use [ER 4.10.5].

- 4.43. The land in the Order Limits was 16.3% (36.6ha) Grade 3a, 77.2% (173.5ha) Grade 3b, and 5.9% non-agricultural usage, with no land in Grades 1,2,4 or 5 [ER 4.10.13]. The Applicant noted that 89% of North Lincolnshire is in some form of agricultural use, that 54% of its farmland is Grade 1 (excellent) or Grade 2 (very good) as against 16% on average across England, and that only 2% of North Lincolnshire farmland is Grade 4 (poor quality) and a negligible amount Grade 5 (very poor quality) [ER 4.10.13]. The Applicant submitted that as the effects would be short term and reversible, no BMVL would be lost from construction, operation or decommissioning of the proposed Development. In addition, as the operational phase would have a beneficial impact on the soil no additional mitigation was required [ER 4.10.23].
- 4.44. No solar arrays would be installed within the Gokewell archaeological exclusion zone within the order limits, and this area would provide ecological enhancements. 6.1ha of this area is Grade 3a land and would not be directly affected by the proposed Development. [ER 4.10.14]
- 4.45. Construction works would cause a temporary curtailment of arable production but the results would be short term, reversible, local and have negligible significance [ER 4.10.17]. The Applicant assessed that the construction effects on the farm businesses would result in some temporary curtailment of agricultural activities, but that these would also be short term, reversible, local, and of negligible significance [ER 4.10.18]. Decommissioning impacts were assessed as being comparable with those of construction [ER 4.10.19].
- 4.46. The Applicant acknowledged the solar arrays would physically preclude the growing of crops, but has a “reasonable expectation” the grass below the solar arrays would be grazed by sheep throughout the operational life of the solar park, but if that is not possible the grass would be managed to enhance the biodiversity value of the Order Limits in accordance with the Outline Landscape and Ecological Management Plan (“oLEMP”), and concluded the extent, quality and versatility of the land as an agricultural resource would not be impaired [ER 4.10.20 et seq.].
- 4.47. The impacts during operation were assessed as medium term, reversible, local, and negligible adverse for agricultural land; medium term, reversible, local, moderate beneficial significance; and operation of the farming businesses as medium term, reversible, local, and of negligible significance [ER 4.10.22]. Residual effects from construction and decommissioning would be short term, reversible, local and of negligible significance, and for the operational phase they would be medium term, reversible, local and of negligible significance [ER 4.10.23]. A Soil Management Plan would sit alongside the Construction Environmental Management Plan (“CEMP”) and would ensure that the construction and decommissioning effects on the Order Limits’ soils would remain short term, reversible, local, and of negligible adverse significance [ER 4.10.24]. The Applicant does not consider that mitigation for effects on the farming businesses is necessary, with the business receiving rental income from the proposed Development [ER 4.10.26].

- 4.48. The ExA heard evidence that there is previously developed land available in Lincolnshire and that because of the number of solar projects in various stages of development in North and North East Lincolnshire some form of selection amongst the schemes should be made and there might not be a need for the proposed Development [ER 4.10.27 et seq.]. The Applicant drew attention to Part 3 of NPS EN-1, which indicated the need for new energy infrastructure has been demonstrated and is urgent, and paragraph 158a of the NPPF, which advises that applicants should not be required to demonstrate the overall need for their schemes and recognises that even small-scale projects can provide valuable contributions to reducing greenhouse gas emissions [ER 4.10.29].
- 4.49. North Lincolnshire Council was not aware of any parcels of previously developed land within its administrative area that could be used as an alternative to the Order Limits [ER 4.10.31]. The ExA took this, along with the preponderance of farmland in North Lincolnshire Council's area, and the amount of land required to accommodate a solar generating station of the proposed size, into account and considered it was inevitable that the proposed Development would have to use farmland [ER 4.10.33]. The ExA noted that even if sufficient previously developed land was available it might not relate well to the available grid capacity and the Applicant had identified scarcity of grid capacity as a significant constraint for locating a utility scale solar generating station in this part of Lincolnshire [ER 4.10.34 et seq.]. The ExA was not persuaded that a standalone sequential test document would reveal suitable alternative sites that would obviate the use of farmland, and considered the proposed Development did not conflict with section 5 of the Planning Practice Guidance or paragraph 2.48.13 of draft NPS EN-3 as neither mandate that only previously developed land should be used or place an absolute bar on the use of farmland [ER 4.10.36].
- 4.50. The majority of the agricultural land that would be used is Grade 3b, which does not constitute BMVL, although 36.6ha would be Grade 3a (which is BMVL) [ER 4.10.37]. This would be affected for the 35 year lifetime of the proposed Development and then be returned to agricultural use, and the ExA considered this did not amount to a permanent loss of farmland [ER 4.10.38]. The ExA agreed the proposed Development's impact on agricultural land would be short term, reversible, local in extent, and of negligible significance during the construction and decommissioning phases, and medium term, reversible, local in extent and of negligible significance during the operational phase with a moderate beneficial effect for the quality of the soils because intensive cropping would be replaced by the growing of grass [ER 4.10.39]. The 36.6ha of BMVL taken out of arable farming in relative terms would not have a significant effect on agricultural productivity in North Lincolnshire and there would be no unacceptable conflict with extant national and local policy and guidance, and the emerging policy in paragraph 2.48.13 of draft EN-3 [ER 4.10.40]. The ExA acknowledged a conflict with policy RD2 of the North Lincolnshire Local Plan, but noted that the policy is inconsistent with the NPPF and accorded very little weight to the conflict [ER 4.10.41]. The Secretary of State agrees with the ExA's approach to this issue.
- 4.51. The ExA considered the location of the proposed Development was mainly determined by the grid connection it had secured, that the Applicant's descriptions of alternatives it had considered met the requirements of the EIA Regulations, and that a suitable alternative site did not exist [ER 4.19.45].
- 4.52. The ExA considered there was no in principle objection to its location, there were no suitable alternative locations capable of accommodating the proposed Development, and other potential locations had been adequately considered for the purposes of the EIA Regulations. The proposed Development would benefit from a connection to the distribution systems

within the Order Limits, and there was no evidence it would prejudice the operation of the grid. The ExA considered all these matters provide support for the proposed Development. [ER 6.2.19]

- 4.53. The ExA considered the use of 36.6ha of BMVL agricultural land would not have a significant effect on agricultural productivity in North Lincolnshire, the Applicant had sought to minimise significant effects on BMVL, there would be no unacceptable conflict with the relevant national and local policies, and as the use would last for around 35 years any adverse effects on agricultural land only weighs moderately against the proposed Development and are of insufficient weight to recommend the Order should not be made [ER 6.2.26 et seq.]. The Secretary of State agrees.

#### Landscape and visual effects, including recreational effects for users of the public right of way network

- 4.54. Paragraph 5.9.8 of NPS EN-1 accepts that virtually all energy infrastructure will have landscape effects and projects need to aim to minimise harm and provide reasonable mitigation where possible and appropriate [ER 4.11.3].
- 4.55. The site is on the edge of a localised rise that is raised slightly above the surrounding landscape, but the woodland surrounding much of the Order Limits results in well contained views [ER 4.11.21].
- 4.56. The Applicant's Landscape and Visual Impact Assessment was undertaken in accordance with the Landscape Institute and Institute for Environmental Management and Assessment guidelines [ER 4.11.18]. The Applicant considered that any views beyond 5km from the Order Limits would be negligible and unlikely to cause any effects greater than minor [ER 4.11.18]. A Zone of Theoretical Visibility was produced to help identify landscape and visual receptors with potential to be significantly affected, and the Applicant argued the extent of the proposed Development's actual visibility would be less due to the woodland to the north, east, and south, and the Scunthorpe steel works immediately to the west which screens the site from Scunthorpe's main residential and commercial areas [ER 4.11.23]. It was considered very few residents of the area would have views of the proposed Development [ER 4.11.26]. The most notable views of the proposed Development would be to users of FP214 which runs through the Order Limits, and there would be very limited visibility in the wider landscape, restricted to possible glimpsed views through very limited breaks in the woodland [ER 4.11.24]. The ExA considered the potential for visibility of the proposed Development in the character areas beyond the Order Limits would be very limited and the potential for effects on landscape character is restricted to the local character of the Order Limits and their immediate surroundings [ER 4.11.31]. The Applicant considers the primary characteristics of the Heathy Woodland Landscape Character Area would not be diminished by the proposed Development [ER 4.11.32]. The Wooded Scarp Slope LCA is partly wooded and partly arable land, and is heavily influenced by the immediately adjoining steel works [ER 4.11.33]. The Applicant recognises the proposed Development would have a localised major effect for its lifetime, but any effects would not extend beyond the Landscape Character Area and the steel works would remain the primary influence on the landscape character in the locality [ER 4.11.33].
- 4.57. The effects of the proposed Development on landform and topography have been assessed as negligible and not significant [ER 4.11.26]. The main change would be from arable fields to solar arrays with grassland beneath [ER 4.11.28]. The sensitivity of the agricultural land

use is judged to be low because arable land of this type is common and extensive in the area; the magnitude of change on land use as been assessed as high, resulting in a moderate level of effect, which is not significant because of the continuation of a similar land cover beneath the solar array [ER 4.11.28].

- 4.58. The affected landscape is considered to be of medium susceptibility to the proposed Development because of the large scale, broad nature, gently undulating landform and simple, consistent landcover, and these would be key characteristics that would be capable of successfully accommodating or co-existing with the proposed Development [ER 4.11.29].
- 4.59. The landscape value of the Order Limits is assessed as medium because the landscape is not subject to any designations and other than FP214 there are no valued features within the Order Limits, and the landscape's value is not out of the ordinary [ER 4.11.30]. The impact on users of FP214 was assessed as high, and mitigation proposed planting native hedgerows and the creation of grassy verges adjacent to the footpath: the impacts after mitigation are assessed as major and significant within the Order Limits, but quickly reducing to slight or no effect as walkers enter the adjacent woodland areas [ER 4.11.35]. Impacts to another footpath in the area, FP212, were assessed, with the conclusion that there would be no effects for users of it [ER 4.11.36].
- 4.60. The ExA considered that visual impact on FP214 would be experienced by users throughout the construction, operational, and decommissioning phases of the proposed Development [ER 4.11.60]. The ExA noted there was no survey data about the usage of FP214, but did not request a survey due to the Covid-19 movement restrictions in place immediately prior to and during the early parts of the Examination as the opportunities for obtaining representative survey information were limited [ER 4.11.61 and 63]. The ExA noted that no representations were received from any group representing the recreational walkers, suggesting this was not a particularly well used route [ER 4.11.74].
- 4.61. The ExA considered the change in appearance of FP214 as it crossed the Order Limits would be very marked [ER 4.11.63]. To facilitate construction FP214 would need to be temporarily diverted to largely follow the eastern, southern and western boundaries of the site and would be around 4.5km long compared with the current 1.55km [ER 2.2.20]. The ExA noted this route would require approximately three times longer to walk and would expose walkers to views dominated by the steelworks, from which operational noise would be audible, for nearly 1.4km of the diversionary route [ER 4.11.65 and 69]. The ExA had major reservations whether this route would be much used given its length, time to walk, and the significant change in ambience, and considered it was likely users would stop using FP214 as a continuous recreational through route between Broughton and High Santon, and on this basis considered the impact on users of FP214 would be major [ER 4.11.66]. The ExA noted it was unclear how many users would be deterred from using the temporary route, but considered this impact weighed against the proposed Development [ER 4.11.70].
- 4.62. Mitigation includes consideration of the location of the Order Limits, which are screened from large parts of the landscape due to their proximity to woodland [ER 4.11.42]. Proposals include new native hedgerow planting adjacent to the proposed security fencing along footpath FP214, closing gaps in the existing hedgerow adjacent to FP214, and sowing wildflower seeds along the verges between FP214 and the security fence [ER 4.11.43]. North Lincolnshire Council has drawn attention to the need for the operator or landowner to be responsible for the ongoing maintenance of the hedgerows and wildflower planting throughout the operational phase [ER 4.11.48].

- 4.63. The Landscape and Ecology Management and Monitoring Plan must be approved by North Lincolnshire Council, and the ES takes account of the mitigation measures within the oLEMP [ER 4.11.44]. The Council noted the significant landscape enhancements within this document, which reflected its advice to the Applicant [ER 4.11.48]. The wording in Requirement 10 was amended during the examination to clarify that long-term landscape management would be for the lifetime of the proposed Development [ER 4.11.49]. The ExA was satisfied that Requirement 10 would secure the necessary screen planting as long term visual mitigation for users of FP214 [ER 4.11.53].
- 4.64. The Applicant confirmed that the proposal was to retain the mature hedgerows when the proposed Development is decommissioned as doing so would retain much of the additional biodiversity value gained during the proposed Development's operational phase [ER 4.11.71]. North Lincolnshire Council confirmed that, under the Hedgerow Regulations 1997, any hedgerow more than 30 years old, species-rich, and adjacent to grazing land and a footpath is likely to qualify as important and should be retained, and considered it would also qualify as a habitat of principal importance (priority habitat) under section 41 of the Natural Environment and Rural Communities Act 2006 [ER 4.11.72]. The ExA considered the retention of the hedge-lined corridor might appear out of keeping and would preclude outward views from FP214, but given the views of the Applicant and North Lincolnshire Council was content to retain the hedge in the interests of retaining its biodiversity value [ER 4.11.73]. Overall the ExA considered that the construction, operational and decommissioning phases would have adverse impacts for users of FP214, but these would be outweighed by the moderate positive weight attributed to the generation of electricity [ER 4.11.74].
- 4.65. The landscape was considered to be of medium sensitivity to the proposed Development [ER 4.11.30]. Overall the operational effects for landscape character are extremely limited and localised and would be restricted to a major effect that would not extend beyond the Order Limits and a negligible impact on the immediate surroundings within the Heathy Woodland and Wooded Scarp Slope Landscape Character Areas [ER 4.11.34]. When the adjoining woodland and steelworks are taken into account the primary characteristics of the local and wider landscape, including the Landscape Character Area within which the Order Limits are situated, would not be diminished [ER 4.11.34].
- 4.66. The character within the Order Limits would be entirely changed from agriculture to quasi-industrial for the 35 years of the proposed Development's lifetime, but would then be reversed by the decommissioning which is secured through Requirement 4 of the Order [ER 4.11.59].
- 4.67. Field work has established that road users would experience no more than a negligible visual effect from the proposed Development [ER 4.11.37].
- 4.68. The construction effects within the Order Limits and its immediate locality would be significant but temporary [ER 4.11.38]. Beyond the immediate vicinity of the Order Limits it was considered that there would be no greater than an additional low magnitude of change, resulting in no higher than a moderate/minor temporary effect on landscape character which would not be significant [ER 4.11.40].
- 4.69. Movement of construction vehicles, personnel, and material would be the only additional constructions effects of note [ER 4.11.39]. Users of FP214, within the Order Limits or in close proximity, would generally be the only visual receptors from which there would be any

notable views of the construction works: and there would be a moderate temporary effect over and above the permanent effects of the proposed Development [ER 4.11.39].

- 4.70. The Applicant considered that the use of an existing farm track as the proposed access to the Order Limits would be screened by the thick continuous woodland cover that lies between the access track and the dwelling and commercial premises at Fennswood which would filter views of vehicles using the track during the construction and operational phases [ER 4.11.51 et seq.]. During the construction phase a total of 16 heavy goods vehicle movements, 10 to 14 light goods vehicle movements (including minibuses transporting some construction workers) and the movements of 100 construction workers are expected, and in the operational phase one vehicle visit four times a year [ER 4.11.52]. The ExA considered that vehicles may be visible to the occupiers of Fennswood, but that the existing mature tree screen would provide no more than glimpses of the construction and decommissioning traffic using the access track and that consequently the movement of construction and decommissioning traffic would not have a significant visual impact and vehicle movements during the operational phase would have no adverse visual effect on the occupiers of Fennswood [ER 4.11.54 et seq.].
- 4.71. Impacts of decommissioning were considered to be similar to those for construction, with the effects gradually reducing as the proposed Development was dismantled [ER 4.11.41].
- 4.72. Operational solar energy schemes in the surrounding landscape have been included in the baseline environment. The Applicant considers there would be no significant cumulative effects above and beyond those identified for the proposed Development itself. Although there may be a small number of locations where the proposed Development would be seen in combination with existing solar energy developments, these would be of a highly limited nature [ER 4.11.45]. The Applicant considered no projects in planning or permitted in the vicinity have the potential for cumulative effects [ER 4.11.46].
- 4.73. The ExA noted the solar arrays would have a very significant horizontal emphasis with a functional and somewhat monotonous appearance, but considered this unavoidable given the scale of the proposed Development and the need to capture as much of the available solar energy for conversion into electricity [ER 4.11.56]. The ExA agreed the effects on landscape character and visual amenity would be primarily confined to the Order Limits with negligible effects beyond them because of the site's enclosure by woodland and the steel works and with the solar arrays having a maximum height of 3.5m and the other buildings and structures, primarily associated with the substation, being no more than 7.2m tall, which would serve to reduce its effect on landscape character and visibility for receptors beyond the Order Limits [ER 4.11.58]. The ExA considered the chosen location means the proposed Development's design complies with the requirement in NPS EN-1 to minimise harm to the landscape, and there would be no conflict with paragraph 158 of the NPPF, paragraph 13 of section 5 of the PPG, Policies DS21 and LC7 of the North Lincolnshire Local Plan and Policy CS5 of the Core Strategy [ER 4.11.58]. The ExA concluded there would also be no unacceptable conflict with emerging policy in draft EN-1 and draft EN-3 [ER 4.11.75].
- 4.74. The ExA considered that beyond the Order Limits there would be no significant landscape effects during the construction, operation and decommissioning of the proposed Development. However, there would be an adverse effect for users of footpath 214 crossing the Order Limits during all phases of the proposed Development, and the ExA had reservations whether the temporary diversion would be of much practical utility. In the absence of evidence noting the number of users of the footpath, or submissions during the

Examination in relation to this footpath, the ExA considered visual harm for all phases of the proposed Development would be outweighed by the benefits associated with the generation of electricity from a renewable source. The ExA considered the effects on landscape character and visual amenity on users of FP214 would result in no unacceptable conflict with NPS EN-1, the NPPF or the relevant local plan policies, and would not give rise to any unacceptable conflict with the emerging policy in draft NPS EN-1 and EN-3. The ExA considered the effect on landscape character and visual amenity weighed moderately against the proposed Development, but does not warrant a recommendation that the Order should not be made. [ER 6.2.28 et seq.]

4.75. The Secretary of State agrees with these conclusions.

#### Historic Environment

- 4.76. The Applicant used a minimum 1km study area around the Order Limits as the baseline for the heritage assessment [ER 4.12.9]. There are no designated heritage assets (listed buildings, scheduled ancient monuments or conservation areas) within the Order Limits, and the Applicant has considered the effects of the proposed Development on known and potentially buried archaeological and other heritage assets within and near the Order Limits which could potentially be affected by changes within their settings [ER 4.12.12]. An assessment of the settings of heritage assets has been undertaken in accordance with Historic England's guidance and the relevant policy in section 16 of the NPPF [ER 4.12.13]. This included 23 test pits, 155 trial trenches, and fieldwalking of approximately a quarter of the Order Limits [ER 4.12.10 et seq.]. Historic England considered that the Applicant's heritage assessment appeared to be of sufficient scope [ER 4.12.31]. North Lincolnshire Council considered the assessment and methodology to be appropriate [ER 4.12.32].
- 4.77. The Applicant's ES identified the baseline conditions and referred to prehistoric, Roman, medieval and post-medieval features along with various undated features possibly associated with historic enclosure of land [ER 4.12.14]. There is tentative evidence of a ploughed out prehistoric barrow [ER 4.12.21], and a substantial ditch, likely to represent a Middle to Late Iron Age field boundary [ER 4.12.22]. To protect the prehistoric feature and those of uncertain date a no-dig zone will be established using concrete pads rather than driving array legs into the ground, relocation of trench cabling to avoid the potential barrow, archaeological recording during any works on the fringes of the Archaeological Exclusion Zone, and an archaeological watching brief during ground works within several sensitive locations [ER 4.12.26].
- 4.78. Within 2km of the Order Limits are the scheduled monument of the Raventhorpe medieval settlement, the grade I listed St Mary's Church, Broughton, and ten grade II listed buildings to the north, east, and south of the Order Limits [ER 4.12.15]. The closest are two grade II listed buildings approximately 650m to the north east, and Raventhorpe House (grade II listed) and the Raventhorpe Scheduled Monument around 870m to the south [ER 4.12.15]. The proposed Development would cause no harm to the Scheduled Monument [ER 4.12.29]. North Lincolnshire Council agreed that there would be no adverse effects for designated heritage assets beyond the Order Limits [ER 4.12.32].
- 4.79. The former Gokewell Priory is considered to be a non-designated heritage asset, and the ES considers that any below ground remains would be of heritage significance, although unlikely to constitute non-designated heritage assets of archaeological interest [ER 4.12.18]. There would be no indirect harm to the significance of any other non-designated heritage



assets [ER 4.12.19]. To mitigate effects the Applicant intends to establish an Archaeological Exclusion Zone within which no solar arrays or associated works would be installed, ensuring any buried archaeology would remain unaffected and in situ [ER 4.12.25]. It is anticipated that there would be no significant effects for the setting of the Priory [ER 4.12.29].

- 4.80. The Applicant concluded that the Order Limits do not form any part of the settings of significance to any of the designated heritage assets due to distance, topography and tree planting, and will therefore not result in any change and harm to any of the designated heritage assets [ER 4.12.17].
- 4.81. The Applicant considers it has a good understanding of the archaeological potential of the Order Limits due to the investigations already undertaken, and considers there is limited scope for further undiscovered archaeological remains to be present, and, based on the known archaeological potential, any encountered are unlikely to be of the highest significance and would probably relate to non-designated heritage assets [ER 4.11.21].
- 4.82. The ES considers that the excavation of cable trenches and building foundations, the construction of new roads and the installation and removal of mounting system structure have the potential to truncate or totally remove the archaeological features within their footprint, which would lead to a significant adverse effect [ER 4.12.24]. During the Examination the Applicant submitted a freestanding Archaeological Management Plan that would apply for the duration of the proposed Development and specifies all the mitigation measures that would be followed during the construction and decommissioning phases [ER 4.12.27]. Requirement 13 would secure the implementation of the proposed Development in accordance with the Archaeological Management Plan and preclude any phase being commenced until the Archaeological Exclusion Zone was established [ER 4.12.28]. Historic England welcomed the range of mitigation measures [ER 4.12.31].
- 4.83. The Applicant considered that the only other development to be taken into consideration in the assessment is the 80ha Raventhorpe solar farm south of the Order Limits, and the Applicant considered that because of the mitigation measures for both schemes there would be no anticipated significant adverse cumulative effects [ER 4.12.30].
- 4.84. The ExA noted that the Order Limits may contain unknown archaeological remains, but that on the available evidence it is unlikely that those would be of significance [ER 4.12.40]. The ExA concluded that there would be no significant effects either physically or for the settings of any designated heritage assets, and that would be no harm to their significance [ER 4.12.41]. The ExA considered that there would be no significant cumulative archaeological historic environment effects from the proposed Development [ER 4.12.42].
- 4.85. The ExA considered that with the necessary mitigation for buried archaeology there would be no significant archaeological or historic environment related effects arising from the proposed Development, and the impacts have been addressed in ways that would accord with the relevant provisions of NPS EN-1, the NPPF, and the development plan, and there would be no conflict with the emerging policy in draft NPS EN-1 and EN-3. Overall the ExA considered that the proposed Development would have a neutral effect on the historic environment. [ER 6.2.33 et seq.]. The Secretary of State agrees.

## Ecology

- 4.86. EN-1 provides the primary basis for decision making in relation to ecology, setting out the policy tests in Section 5.3 [ER 4.13.3 et seq.].
- 4.87. Policy LC5 of the North Lincolnshire Local Plan states that planning permission will not be granted for developments that would have an adverse impact for badgers and other species subject to protection under Schedules 1, 5, and 8 of the Wildlife and Countryside Act 1981, but where development may have an adverse effect conditions will be considered to facilitate the survival of individual members of the affected species, reduce disturbance to a minimum, and provide alternative habitats [ER 4.13.10].
- 4.88. Policy CS17 of the Core Strategy indicates that appropriate consideration will be given to species; the retention, protection and enhancement of features of biological interest and the provision of appropriate management; and ensuring net gain in biodiversity by designing in wildlife and ensuring that any unavoidable impacts are appropriately mitigated [ER 4.13.10].
- 4.89. The Applicant undertook a range of surveys of the Order Limits [ER 4.13.12 et seq.]. In its Local Impact Report North Lincolnshire Council confirmed that it considered these to be appropriate [ER 4.13.30].
- 4.90. There are no internationally or nationally designated habitats within the Order Limits [ER 4.13.14]. There are five Sites of Special Scientific Interest within 5km of the Order Limits: there is the potential for construction traffic on the B1208 to have an indirect impact on the Broughton Far Wood SSSI; the Broughton Alder Wood SSSI, the Risby Warren SSSI, and the Manton and Twigmoor SSSI are all considered to be beyond the zone of influence of the proposed Development, whilst Castlethorpe Tufas SSSI is designated for its geological interest and was not considered further by the Applicant [ER 4.13.15]. Natural England (“NE”) considered there would be no significant impact on the Broughton Far Wood SSSI [ER 4.13.27 et seq.].
- 4.91. Eleven locally designated sites for nature conservation are designated within 1km: the effects on five have been assessed because of their proximity to the Order Limits; a further two have been assessed because they border the B1208; the other sites have been excluded because of their distance from the Order Limits [ER 4.13.17]. A range of habitats were identified within or immediately adjacent to the Order Limits, mostly identified as of local importance, or site importance, except for the arable fields which were considered to be of negligible importance [ER 4.13.18].
- 4.92. Surveys identified five bat species using the Order Limits and identified the hedgerows and woodland edges as of most value for foraging/commuting bats, and the Order Limits were assessed as of local level importance for bats [ER 4.13.19].
- 4.93. The water bodies within the Order Limits were considered unsuitable for otters, and a data search revealed no otters present within 2km of the Order Limits: Otter has therefore been scoped out of the ecological assessment [ER 4.13.19].
- 4.94. Small numbers of brown hare were recorded using the arable fields during the surveys. The population was assessed as of local importance. It was considered likely that the ranges for hare recorded on site extend beyond the Order Limits and the zone of influence has been selected as up to 1km from the Order Limits. [ER 4.13.19].

- 4.95. Breeding bird surveys undertaken between April and June 2018 recorded 55 species of birds using the Order Limits, of which 21 are listed as species of conservation concern. Several farmland bird species are targets for both local and national conservation. Most recorded bird species were associated with the boundary habitats, predominantly, within the woodland, hedgerows, scrub and wetland. The exceptions were considered to be nesting within the open fields: these were assessed as being of district importance. The breeding birds within the woodland, hedgerows, trees and scrub habitats at the field boundaries were used by a range of species of conservation concern, generally in small to moderate numbers, and overall the assemblage of species associated with the boundary habitat was assessed as of local importance. The zone of influence for the birds recorded has been identified of the Order Limits and up to 500m beyond. [ER 4.13.19]
- 4.96. Wintering bird surveys were undertaken between November 2017 and February 2018, recording a total of 51 bird species using the Order Limits, of which 24 are listed as of conservation concern. Most were associated with the boundary habitats, however some species of conservation concern which are known to rely on or regularly use arable fields for foraging and roosting were recorded either as part of large flocks or as small, loose flocks and individuals. The consistent presence of large numbers of skylarks (peak count of 159) indicates the site is of noteworthy importance to local wintering populations. Lapwing were present in relatively large numbers on two survey visits (peak count of 109), although their absence from the two remaining survey visits indicates that the Order Limits are used at least in part in conjunction with other suitable fields in the surrounding area (see paragraph 5.5 below). The zone of influence for wintering birds was set as up to 2km from the Order Limits. The Order Limits have been assessed as of site importance to wintering birds of woodland and hedgerow habitats. [ER 4.13.19]
- 4.97. No great crested newt DNA was found in ponds within the Order Limits, but was found in a pond 330m to the south, which is within the dispersal range of the species. It is possible that great crested newts may be present in around 7ha of the Order Limits, albeit that the arable farmland and semi-improved grassland within that area provides sub-optimal habitat. Because of the legal protection given to the species and its status of local conservation priority the Order Limits are considered to be of local importance for great crested newts. [ER 4.13.19]
- 4.98. Suitable habitat for reptiles was restricted to the margin and boundary habitats and reptiles were likely to be present in small number, if at all, and restricted to those areas. They are considered most likely to be of site importance if present. [ER 4.13.19]
- 4.99. The data search revealed a number of existing records for notable butterfly and moth species within the local area. Habitats at the margins and boundaries of the fields are likely to be of value for a range of invertebrates typical of woodland and hedgerows, and a number of species of butterflies and moths were recording during the surveys, including cinnabar moth (a priority species). The ponds and ditches within the Order Limits are likely to support a range of aquatic invertebrates. However, the arable fields are likely to be poor habitat, particularly for pollinating species, and the zone of influence is considered to be the extent of the Order Limits. The invertebrates using this are considered to be of local importance. [ER 4.13.19]
- 4.100. A local resident raised concerns about the adequacy of the assessment of effects on biodiversity, citing a number of species that the author considered to be omitted, but the ExA

noted that neither NE nor North Lincolnshire Council have identified any concerns about the species scoped into the assessment [ER 4.13.44].

- 4.101. Design measures with ecological influence would include a minimum 10m wide buffer between the Order Limits habitats and the boundary security fencing, and a minimum 4m buffer will be provided between hedgerows and interior fencing; the planting of approximately 2.5km of native hedgerows along either site of PF214, increasing connectivity and foraging opportunities for a range of species including birds, bats, and small mammals; creation of 4m wide 400mm deep swales along some field boundaries; and the sowing of grass below the solar arrays with either sheep grazing or a grass cutting regime if grazing is not available [ER 4.13.20]. North Lincolnshire Council welcomed the proposed mitigation and enhancement measures, but noted that experience with other solar farms in its area suggested that sheep grazing may not occur [ER 4.13.30]. The Applicant considered that as the landowner currently grazes approximately 800ha of land and keeps between one and two thousand sheep that there is a reasonable prospect that this would happen, but otherwise a grass cutting regime, secured in the oLEMP via Requirement 10 of the draft Order, would be implemented to deliver the biodiversity benefits intended [ER 4.13.31 et seq.].
- 4.102. Measures to safeguard or enhance the nature conservation value of the Order Limits during the construction and operation phases have been incorporated into the Outline Construction Environmental Management Plan for Biodiversity (“oCEMPfB”) and the oLEMP [ER 4.13.20]. The oLEMP explains how the site would be managed during the operational phase to maximise the proposed Development’s ecological value, and includes conservation management for the grassland and hedgerows to maximise their value for wildlife and other measures for the retention and ongoing management of the land for arable plant species; bat and bird boxes would also be installed and hedgerows in-filled where appropriate; and sets out details for monitoring and reporting [ER 4.13.22]. NE considered that the provisions of the oCEMPfB and the oLEMP and Requirements 8 and 10 in the draft Order are appropriate [ER 4.13.29]. North Lincolnshire Council considered that the oLEMP will adequately address the provision of the proposed mitigation and enhancement measures, but highlighted the need for those measures to be fully implemented for the lifetime of the proposed Development through Requirement 10 of the draft Order [ER 4.13.30].
- 4.103. The ES assessed the expected ecological effects, mitigation proposes, and residual effects after mitigation: during construction the mitigation would seek to avoid impacts such as runoff, dust deposition and accidental damage, and would be secured through measures in the CEMP [ER 4.13.21]. With the proposed mitigation measures the residual effects have been as assessed as being neutral for the construction phase in most instances, but have been assessed as adverse for most breeding birds because the conditions would be unsuitable for ground nesting birds [ER 4.13.23]. Despite this impact the overall significance for construction impacts has been assessed as not significant due to the temporary nature of the effects [ER 4.13.23]. For the operational phase the residual effects have been assessed as being positive because intensive arable farming, including the use of insecticides, would cease and be replaced by a more diverse foraging habitat, being either not significant, or significant at a local level for brown hare, breeding birds, great crested newts, and invertebrates [ER 4.13.24]. North Lincolnshire Council considered that the overall effect of the development would be neutral or minor positive when compared with other solar farms that have come forward in its area [ER 4.13.30].

- 4.104. Confidential information on badgers was submitted to the Examination and has been supplied to the Secretary of State [ER 4.13.25]. The Secretary of State has had regard to this information and considers that there is unlikely to be a negative interaction between badgers and the proposed Development. Taking into account mitigation measures proposed by the applicant, there are no likely adverse effects on badgers during the construction phase, and potentially a positive effect during the operational phase.
- 4.105. The operational 38MW Raveithorpe and 5.9MW Flixborough solar farms and the proposed 50MW Conesby solar farm were considered in the cumulative impact assessment, and in response to a question from the ExA, the Applicant confirmed that consideration of cumulative impacts was not restricted to the proposed Development with other solar farm schemes [ER 4.13.26 and 4.7.5 et seq.].
- 4.106. The ExA noted that various mitigation and/or enhancement measures for the construction and operational phases are identified in the oCEMP, oCEMPfB, outline Decommissioning Strategy, and oLEMP, and the ExA provided revised wording to ensure that these are all secured in requirements 8, 4, and 10 of the Order [ER 4.13.35 et seq.].
- 4.107. The ExA noted that the ES has not identified any significant effects on designated sites, protected species and habitats, and other species of principal importance for the conservation of biodiversity. The mitigation measures would ensure no significant residual effects are anticipated. The proposed Development would comply with NPS EN-1, the NPPF and the development plan. The ExA considered there would be no conflict with the emerging policy in draft NPS EN-1 and EN-3. This matter was neutral in the planning balance. [ER 6.2.36 et seq.]. The Secretary of State agrees.

#### Traffic and transport

- 4.108. The ES assessed transportation impacts on the basis of a construction period of 47 weeks with work hours between 7am and 6pm Monday to Friday and 8am to 1.30pm on Saturdays, and an average of eight heavy goods vehicle deliveries per day (16 two-way movements) [ER 4.14.9]. If the BESS is built separately from the rest of the proposed Development, the Applicant estimates there would be a construction period of three months [ER 4.14.10]. It is predicted that there would be a maximum of 100 workers on site during the construction period, some of whom would be transported to and from the construction site in minibuses [ER 4.14.12]. Smaller construction vehicle and minibus movements would give rise to an anticipated 10 to 14 light goods vehicle movements per day [ER 4.14.12]. The combination of an average of 16 HGV and 10 to 14 light goods vehicles movements per day was assessed as not having a significant environmental effect when compared with existing traffic in the area [ER 4.14.14]. The construction traffic impacts are considered to be negligible [ER 4.14.14].
- 4.109. For the operational phase there are anticipated to be four site visits per year, made by van or 4x4 vehicle, assessed as having a negligible effect, either alone or cumulatively [ER 4.14.15].
- 4.110. The transportation impacts for decommissioning are expected to be very similar to the construction impacts, and will also be temporary [ER 4.14.17].
- 4.111. An outline Construction Traffic Management Plan (“oCTMP”) was submitted with the Application, which would include requiring HGVs to use a signed route to and from the

construction site [ER 4.14.17 et seq.]. With its implementation the transportation effects during construction, operation, and decommissioning, were assessed as negligible, either alone or in-combination [ER 4.14.20].

- 4.112. Highways England signed a Statement of Common Ground with the Applicant recording that all matters were agreed between it and the Applicant, including the construction traffic route, the construction traffic generation predictions, and the proposed mitigation measures identified in the oCTMP [ER 4.14.21]. North Lincolnshire Council concluded that the development would not have an adverse impact on the highway network, agreed the construction traffic route which avoids settlements will minimise disruption to residents, had no road safety concerns, and considered the oCTMP to be acceptable, and in a Statement of Common Ground with the Applicant confirmed that all matters relating to traffic and transportation are agreed [ER 4.11.22 et seq.].
- 4.113. No other Interested Parties raised concerns relating to traffic impacts on the public highway [ER 4.14.26]. The ExA agreed with the Applicant's assessment on traffic impacts both on its own and in relation to cumulative and in combination effects [ER 4.14.29]. The ExA considered that the proposed Development would accord with policy in NPS EN-1, the NPPF, and the North Lincolnshire development plan, and that the necessary traffic management measures would be adequately secured through Requirement 9 of the draft Order [ER 4.14.30].
- 4.114. Traffic and transport effects would be controlled by a Construction Traffic Management Plan and a Decommissioning Strategy. The ExA was satisfied the ES has adequately assessed traffic and transport effects from all phases of the proposed Development. The ExA considered the proposed Development would accord with NPS EN-1, the NPPF and the development plan and would not conflict with draft NPS EN-1 and EN-3. Traffic and transport effects were neutral in the planning balance. [ER 6.2.39] The Secretary of State agrees.

## Noise

- 4.115. Section 5.11 of NPS EN-1 advises that projects should demonstrate good design through the selection of the quietest cost-effective plant available, contain noise within buildings wherever possible, optimise the layout to minimise noise emissions, and, where possible, utilise landscaping or noise barriers to reduce noise transmission. It advises that consent should not be granted unless significant adverse impacts are avoided, and developments should mitigate and minimise other adverse noise impacts for health and the quality of life [ER 4.15.4 et seq.].
- 4.116. Section 2.9 of NPS EN-5 recognises audible noise can arise from operation of substation equipment such as transformers, and appropriate mitigation measures should be considered and adopted. Where the applicant can demonstrate appropriate mitigation measures would be in place the residual impacts are unlikely to be significant [ER 4.15.5].
- 4.117. Paragraph 185 of the NPPF states decisions should ensure new development is appropriate for its location and should mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life [ER 4.15.6]. The PPG notes that the subjective nature of noise and the impact on those affected [ER 4.15.7]. Policy DS1 of the North Lincolnshire Local Plan requires that new development should not unacceptably affect the amenity of neighbouring land uses through the generation of noise [ER 4.15.8].

- 4.118. The Applicant prepared a Noise Impact Assessment which was updated to address queries from the ExA [ER 4.15.9]. Noise surveys were undertaken at positions deemed to be representative of each noise receiver location, in accordance with British Standard BS7445:1991 [ER 4.15.10]. The Applicant agreed that the appropriate standard for assessing the proposed Development's operational noise is BS 4142:2014 [ER 4.15.11].
- 4.119. The noise surveys identified the typical background noise levels at 36dB(A) during the daytime and 32dB(A) during night-time [ER 4.15.12]. Data for typical plant has been used as the precise specification of the plant for the proposed Development is currently unknown, and the predictive noise modelling has also taken account of the alternative locations for the BESS [ER 4.15.13]. The daytime difference between the operational and background noise levels was predicted to be +4.5dB/4.6dB (depending on which location was chosen for the BESS) at receiver 2 (Fennswood) and +5.9dB at receiver 3 (Gokewell Priory Farm): at night-time the noise is predicted to be below the background level at all receiver locations [ER 4.15.14]. To safeguard living conditions of the occupiers at these locations mitigation was identified to be necessary, with the Applicant proposing to install plant with noise attenuation capable of providing an 8dB reduction [ER 4.15.15]. Noise predictions for the operational phase visits to the generating station were 32dB(A), which is 4dB below the background level [ER 4.15.16]. Noise mitigation would be provided through the CEMP [ER 4.15.23].
- 4.120. Assessment of construction noise was undertaken using BS 5228-1:2009 and was based on the predictions for vehicle movements and the working hours [ER 4.15.17]. The Noise Impact Assessment recognises the current use of the farm track proposed for construction access is sporadic, and making predictions from this would be unlikely to provide a reliable and representative assessment [ER 4.15.19]. If cumulative noise levels for construction and the existing ambient noise exceeded 65dB(A) a significant construction noise effect would be deemed to occur, however as the background noise levels measured within the Order Limits are more than 10dB lower than the threshold level a significant construction noise effect would not be expected [ER 4.15.19]. The calculated worst case construction noise levels were 59dB(A) for Fennswood and 53dB(A) for Gokewell Priory Farm, both below the threshold level for significant effects [ER 4.15.21]. The ExA rejected Fennswood's request that the access track should be surfaced with a noise reducing material because the NIA had not identified the noise from the track's use to require mitigation [ER 4.15.45].
- 4.121. Vibration was not expected to be a concern due to the ground conditions, the distance from the nearest properties, and the works being primarily above ground with no piled foundations. Vibration was expected to be at a level that cannot be predicted or detected and therefore insignificant. HGV movements are expected to generate vibration below the lowest threshold levels defined in BS 5228-2:2009. [ER 4.15.23].
- 4.122. During the Examination, the Applicant added Requirement 15 on operational noise, based on the requirement in the Cleve Hill Order, and North Lincolnshire Council expressed no concerns about this wording [ER 4.15.27].
- 4.123. The ExA considered the construction works would not cause unacceptable noise disturbance for the occupiers of the premises adjoining the Order Limits [ER 4.15.47]. The four annual maintenance visits would be very unlikely to cause an adverse noise impact for the occupiers of Fennswood either from use of the access track or maintaining the generating station's plant [ER 4.15.48]. In the event that grass cutting, rather than grazing, is required the ExA considered that activity would be unlikely to differ greatly from the current arable farming of the Order Limits [ER 4.15.48]. The ExA concluded noise associated with

maintenance would be at a low level that would not adversely affect the occupiers of the premises immediately adjoining the Order Limits and consequently there was no need for a requirement restricting the times when maintenance works could be undertaken [ER 4.15.49]. The ExA agreed operational noise needed to be controlled, and considered this was adequately secured through Requirement 15 in the draft Order [ER 4.15.50].

- 4.124. The ExA considered the proposed Development was designed with mitigation to minimise noise emissions and avoid significant adverse impacts on the health and quality of life for the occupiers of the neighbouring properties [ER 4.15.51]. The ExA considered that the risk of noise nuisance has been reduced to the extent reasonably feasible and will be negligible [ER 7.6.8].
- 4.125. The ExA was content the Applicant had adopted a reasonable and proportionate approach to assessing noise and vibration. Necessary mitigation during the construction and operation phases had been identified and would be secured. Construction and decommissioning noise impacts would be capable of being mitigated appropriately and would be of a comparatively short duration. The proposed Development would accord with the policy in NPS EN-1 and EN-5, the NPPF and the development plan. There would be no conflict with emerging policy in draft NPS EN- 1 and EN-3. Noise was neutral in the planning balance. [ER 6.2.40 et seq.] The Secretary of State agrees.

#### Air quality

- 4.126. The Applicant submitted an Air Quality and Carbon Assessment (“AQCA”), which was revised during the Examination [ER 4.16.8].
- 4.127. The site is in an Air Quality Management Area<sup>5</sup> declared by North Lincolnshire Council for the presence of PM<sub>10</sub> associated with the operation of Scunthorpe steel works [ER 3.3.14 and 4.16.9]. In 2016 there were 25 exceedances of the 24 hour mean objective for PM<sub>10</sub> against the Air Quality Strategy target of no more than seven per year [ER 4.16.10].
- 4.128. In accordance with Institute of Air Quality Management guidance, the assessment of dust impacts had regard to the scale and nature of the construction works to determine a potential magnitude for dust emissions and the area’s sensitivity [ER 4.16.11]. The construction dust magnitudes were assessed as large for the worst case (given the scale of the Order Limits), small for construction works (due to the scale of the proposed buildings and the nature of the arrays’ installation), and large for trackout by outbound construction vehicles (as unpaved roads exceeding 100m in length would be used) [ER 4.16.12]. The sensitivity for all residential receptors within the vicinity of the Order Limits was assessed as low because of the limited number of dwellings and the background PM<sub>10</sub> concentration being significantly below the annual mean AQS objective [ER 4.16.13]. There was a low risk in relation to human health impacts [ER 4.16.16]. Section 5 of the AQCA identifies mitigation measures for the construction and trackout activities, which were not essential but represent good practice, and these are incorporated into the oCEMP [ER 4.16.18]. Impact from earthworks was classified as being of low risk and no mitigation was identified for it [ER 4.16.18].
- 4.129. Whilst Fennswood is within 50m of the Order Limits, its sensitivity to dust is considered low because of the extent of forestry between Fennswood and the construction access, which is

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<sup>5</sup> The North Lincolnshire Borough Council Air Quality Management Area (No.2) Order 2018.



more than the 20m considered to be the proximity threshold where dust soiling effects are likely to become disruptive to people and property [ER 4.16.14]. In accordance with IAQM guidance, because there are no designated ecological sites within 50m of the Order Limits, no dust effects assessment for ecological receptors has been done [ER 4.16.15].

- 4.130. It is considered that the volume of construction traffic would result in no significant air quality effects, with HGVs being routed to avoid residential areas. Emissions were scoped out from requiring detailed assessment. Operational phase impacts were also scoped out from requiring detailed assessment. [ER 4.16.18]
- 4.131. The Applicant considered that the low dust impact did not justify hard surfacing the access track [ER 4.16.27]. The ExA agreed with the Applicant on this issue [ER 4.16.31]. The Applicant proposed that if there was transient dust on the access track the track would be dampened down and this mitigation is included in the oCEMP [ER 4.16.29]. The ExA considered the occupiers of Fennwood would be unlikely to experience detrimental construction dust impacts [ER 4.16.30]. The ExA noted there was no suggestion the construction works would lead to PM<sub>10</sub> exceedances [ER 4.16.32]. The ExA was satisfied that with the mitigation in the CEMP there would be no significant effects or air quality from the construction and operational phases [ER 4.16.33].
- 4.132. The ExA considered there would be no significant effects of air quality during the construction phase despite the Order Limits being located in an Air Quality Management Area. Mitigation would be secured through the oCEMP. The ExA considered appropriate mitigation would be available to manage the dust impacts of the development. The ExA considered the proposed Development, alone or cumulatively, accorded with policy in NPS EN-1, the NPPF and the relevant development plan policies, and that there would be no conflict with emerging policy in draft NPS EN-1. Air quality was neutral in the planning balance. [ER 4.16.33 and 6.2.43 et seq.]

#### Socio-economic effects

- 4.133. The ES assessed socio-economic effects, primarily focussing on North Lincolnshire Council's area. At the peak of the construction phase, a maximum of 100 construction workers are predicted to be working on site, which it is suggested could support 133 temporary jobs in the wider economy during construction period. The Gross Value Added ("GVA") for the construction phase was calculated to be £15.9 million. The construction impacts were assessed as minor beneficial in the short term, which is not a significant impact in EIA terms. During the operational phase a maximum of ten jobs (full time equivalent) would be created, providing support for thirteen jobs in the wider economy, with the GVA predicted to contribute £1.2 million each year. [ER 4.17.3 et seq.] North Lincolnshire Council agreed with the Applicant's assessment of the moderate economic benefit from the temporary construction jobs [ER 4.17.7]. The ExA agreed with these conclusions [ER 4.17.10 et seq.].
- 4.134. Overall the proposed Development was assessed as having a long term moderate positive impact, with no negative effects requiring mitigation [ER 4.17.4 et seq.]. The Applicant contended that the proposed Development would have significant positive socio-economic effects [ER 4.17.6].
- 4.135. The ExA concluded that there would be no significant adverse socio-economic effects associated with the proposed Development, either alone or cumulatively with other developments, and that it would accord with relevant policy in NPS EN-1 and the NPPF and

that there would be no incompatibility with the emerging policy in draft NPS EN-1 [ER 4.17.13]. There would be minor positive socio-economic benefits which would not give rise to conflict with any extant national or local policies or the emerging policy in draft NPS EN-1. Socio-economic effects weighed moderately for the proposed Development in the planning balance. [ER 6.2.45 et seq.]

4.136. The Secretary of State agrees.

#### Other matters

4.137. Although the ExA identified water and flooding as a potential issue to be examined no Interested Parties raised this as an issue of concern during the Examination: The Secretary of State notes that the ExA has had regard to the issue while reviewing the application documentation but has concluded that there is no need to report on it [ER 4.1.5]. The Secretary of State agrees.

4.138. The Secretary of State notes the ExA considered the potential for cumulative and in-combination impacts with other existing and/or approved projects and that during pre-application consultation North Lincolnshire Council did not identify the need to take account of other developments as part of a cumulative assessment [ER 4.7.5]. North Lincolnshire Council responded to a Written Question from the ExA advising that there were no additional existing or proposed developments that needed to be included [ER 4.7.6]. The ExA notes that the Applicant undertook cumulative effects assessments for both the Keadby 3 and Able Marine Energy Park Material Change 2 applications, both of which were submitted for examination during the course of the proposed Development's examination, and that the Applicant and North Lincolnshire Council concluded that neither project would have the potential to generate any likely significant cumulative impacts when considered alongside the proposed Development [ER 4.7.7 et seq.]. The ExA was satisfied on this point [ER 4.7.12]. The Secretary of State agrees.

4.139. The ExA noted that a screening under regulation 32 of the EIA Regulations on the environment in any European Economic Area States concluded that the proposed Development would be unlikely to have a significant effect alone or cumulatively, and no issues arose during the Examination to indicate there might be a significant effect. The ExA was satisfied the duties under regulation 32 of the EIA Regulations had been discharged [ER 3.6.1 et seq.]. The Secretary of State agrees.

4.140. No submissions raised concerns about the adequacy of the EIA or ES. The ExA considered the ES and associated information submitted by the Applicant by the end of the Examination provided an adequate assessment of the environmental effects and met the requirements of the EIA Regulations, and was sufficient to describe the Rochdale Envelope for the proposed Development and secure its delivery within that envelope through the Order. [ER 6.2.16] The Secretary of State agrees.

4.141. The ExA considered the proposed Development was consistent with the general thrust of Government policy, which identifies a need for low-carbon and renewable energy NSIPs in order to address climate change, through meeting the legal commitment to Net Zero and ensuring a secure, diverse and affordable energy supply [ER 6.2.18]. However, due to the small scale of the output the ExA considered that the proposed Development's contribution to meeting the need for electricity attracted no more than moderate positive weight [ER 6.2.20 et seq.]. The Secretary of State disagrees with the ExA's suggested weighting and

considers that it is appropriate to accord substantial positive weight to the project due to the contribution it will make towards the decarbonisation of the UK's energy production.

- 4.142. The ExA considered the potential for the proposed Development to be operational by the end of 2023 or early 2024 weighs moderately in favour of the Order being made [ER 6.3.7]. The Secretary of State does not accord any weight to this point due to the inherent uncertainty over when the proposed Development would be built. However, even if the proposed Development were to become operational at a later time, the Secretary of State still considers that the planning balance remains in favour of the proposed Development.
- 4.143. The ExA considered that the moderate positive benefits outweighed those weighing against the proposed Development, and if its concerns about effective land use were not resolved that this narrowly outweighs factors against consent being given [ER 6.3.11 and 13]. The Secretary of State notes the ExA's conclusion that its concerns about effective land use could mean that the benefits of the proposed Development may only narrowly outweigh the adverse effects if 420wp panels are used, but he considers that even with such panels the proposed Development has significant positive benefits which outweigh its impacts more than narrowly.
- 4.144. The ExA noted that a planning agreement had been entered into, but considered that it was not necessary to make the proposed Development acceptable in planning terms and therefore considered that no weight should be attached to it [ER 7.5.4 et seq.]. The Secretary of State agrees.

## **5. Habitats Regulations Assessment**

- 5.1. The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. Following the UK's departure from the European Union, these domestic regulations continue to apply. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together form part of the UK's National Site Network.
- 5.2. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the National Site Network (collectively with SACs and SPAs referred to in this decision letter as "protected sites").
- 5.3. The proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations, the Secretary of State is required (as Competent Authority) to consider whether the proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If likely significant effects ("LSE") cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected site in view of its conservation objectives. This process is collectively known as a Habitats Regulations Assessment ("HRA"). In light of any such

assessment, the Secretary of State may grant development consent only if it has been ascertained that the proposed Development will not, either on its own or in combination with other plans or projects, adversely affect the integrity of such a site unless there are no feasible alternatives or imperative reasons of overriding public interest apply.

5.4. The Applicant submitted a Habitat Regulations – No Significant Effects Report (“NSER”)<sup>6</sup> with the Application and supporting ES. The NSER considered the potential for LSE on protected sites within 10km of the Order Limits boundary, which the applicant considered to reflect the maximum likely distance over which impacts could reasonably be foreseen to occur. NE consider, in the Statement of Common Ground (“SoCG”)<sup>7</sup>, that a 10km screening distance is appropriate for the nature and scale of the project. These sites are:

- Humber Estuary SPA, approximately 11km to the north at the closest point (screened in on a precautionary basis despite being beyond the screening radius);
- Humber Estuary SAC, approximately 8.1km to the west at the closest point;
- Humber Estuary Ramsar, approximately 8.1km to the west at the closest point;

5.5. The Secretary of State has carefully considered the information presented before and during the Examination, including the ES, NSER, Report on the Implications for European Sites (“RIES”)<sup>8</sup>, representations made by Interested Parties, and the ExA’s Report. The Secretary of State has considered the conservation objectives and qualifying features for each of the three above sites against the potential effects of the proposed Development:

- **Direct physical effects, habitat loss, habitat fragmentation and displacement:** Lapwing are not a qualifying species for the Humber Estuary SPA but are listed as a contributory species to the Waterbird Assemblage Qualification. Lapwing were recorded within the Order Limits during two of four survey visits (see paragraph 4.96 above). There was uncertainty during the examination whether the land within the Order Limits represent functionally linked habitat for the SPA’s Waterbird Assemblage. The Applicant considered that there is no functional link due to the transient nature of Lapwing sightings, a peak count of Lapwing representing 0.4% of the population associated with the SPA, and the widespread distribution of Lapwing across farmland. NE advised, in its Relevant Representation<sup>9</sup>, its SoCG and its response to ExQ3.5.1(a)<sup>10</sup>, that it agrees with the Applicant that the proposed Development would be unlikely to have a significant effect on the interest features of the Humber Estuary SPA, either alone or in-combination

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<sup>6</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000748-7.29B%20Environmental%20Statement%20-%20Technical%20Appendices%20-%20Appendix%207.9%20-%20Habitats%20Regulations%20Statement%20-%20No%20Significant%20Effects%20Report%20\(NSER\)%20\(Clean%20Version\)%20-%20Revision%20B.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000748-7.29B%20Environmental%20Statement%20-%20Technical%20Appendices%20-%20Appendix%207.9%20-%20Habitats%20Regulations%20Statement%20-%20No%20Significant%20Effects%20Report%20(NSER)%20(Clean%20Version)%20-%20Revision%20B.pdf)

<sup>7</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000717-PEGASUS%20GROUPE%20-%20Update%20on%20the%20preparation%20of%20SoCG%201.pdf>

<sup>8</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000729-LCRW%20-%20Report%20on%20the%20Implications%20for%20European%20Sites.pdf>

<sup>9</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/little-crow-solar-park/?ipcsection=relreps&relrep=42175>

<sup>10</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010101/EN010101-000764-Natural%20England%20-%20Natural%20England's%20response%20to%20ExQ3.pdf>

with other plans or projects, and that the order limits are unlikely to be functionally linked to the Humber Estuary SPA for mobile species which are qualifying features of the designation [ER 5.4.7 et seq.]. The Secretary of State considers that no LSE on the Waterbird Assemblage qualifying feature of the SPA are expected, in accordance with NE's views on the matter. Due to the distance between the proposed Development and protected sites, no other significant effects are considered likely. The ExA notes in its RIES that no Interested Party disputed this conclusion.

- **Disturbance as a result of noise:** Due to the nature of the proposed Development and distance between it and protected sites, no significant noise effects are likely during the construction, operation and decommissioning phases. The ExA notes in its RIES that no Interested Party disputed this conclusion.
- **Changes in water quality:** The proposed Development is located within the catchment of the Humber Estuary and is hydrologically connected to the Humber Estuary SAC. A reduction in surface water runoff and improvement in the quality of water entering the environment is expected, compared to the sites existing agricultural land use. Due to the distance between the proposed Development and the three protected sites, it is considered that an impact pathway to the protected sites is unlikely, and no significant effects are considered likely. The ExA notes in its RIES that no Interested Party disputed this conclusion.
- **Cumulative effects:** The applicant considered three other large solar farms located within 10km of the Order Limits, Keadby 3 Low Carbon Gas Power Station Project and Able Marine Energy Park Material Change 2 applications in its assessments of cumulative impacts. The proposed Development in combination with other plans or projects is unlikely to result in significant effects on qualifying features of the protected sites, during the construction, operation and decommissioning phase, due to their nature, distance from the proposed Development and planned timescales. The ExA notes in its RIES that no Interested Party disputed this conclusion.

5.6. The Secretary of State considers, on the basis of the above, that the proposed Development, either alone or in-combination with other plans or projects, is not likely to have a significant effect on any protected site and that an AA is therefore not required. This conclusion and reasoning is consistent with the advice provided during the examination by the Statutory Nature Conservation Body, NE, and the ExA's recommendation [ER 5.5.1 et seq.]. The Secretary of State also agrees with the ExA that sufficient information has been provided for him to determine that an AA under the Habitats Regulations is not required.

5.7. The Secretary of State notes that mitigation measures have been proposed by the Applicant to avoid local environmental effects. He agrees with the inclusion of these measures, but whilst they strengthen the above conclusions they are not intended or necessary to avoid significant effects on protected sites, nor have they been considered when reaching his above conclusion.

## **6. The Secretary of State's Consideration of the Planning Balance**

6.1. The ExA recommends that on balance the Secretary of State makes the Order in the form recommended in Appendix D to the Report or with a minimum solar panel rating should the Secretary of State consider that to be appropriate [ER 8.3.1].

6.2. The ExA accorded moderate positive weight in relation to electricity generation; moderate positive weight for socio-economic effects; potential for the proposed Development to be

operational by the end of 2023 or early 2024 moderate positive weight; against these the ExA accorded moderate negative weight in relation to landscape and visual impacts due to the impacts on the users of FP214; moderate negative weight in relation to the impact on agricultural land; neutral weight to the visual impacts of the proposed Development; neutral weight to the historic environment; neutral weight to ecology; neutral weight to traffic and transport; neutral weight to noise; neutral weight to air quality.

- 6.3. The ExA also expressed its concerns about the effective use of land by the proposed Development, considering that the need for electricity generation narrowly outweighs factors against consent being given. For reasons set out above the Secretary of State does not agree with this approach and considers that this concern does not weigh against the proposed Development.
- 6.4. The ExA considered that moderate positive weight should be given to the proposed Development's electricity generation. The Secretary of State disagrees with the ExA's suggested weighting and considers that it is appropriate to accord substantial positive weight to the project due to the contribution it will make towards the decarbonisation of the UK's energy production. However, the Secretary of State agrees with the ExA's position to the extent that even had he accorded only moderate positive weight to the proposed Development, it would still have outweighed the adverse effects of the proposed Development.
- 6.5. The Secretary of State has considered all the merits and disbenefits of the proposed Development, and concluded that, on balance, its benefits outweigh its negative impacts.

## **7. General Considerations**

### Equality Act 2010

- 7.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment; disability; marriage and civil partnerships<sup>11</sup>; pregnancy and maternity; religion and belief; and race.
- 7.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must consideration of all potential equality impacts highlighted during the Examination.
- 7.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the proposed Development.

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<sup>11</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

## Natural Environment and Rural Communities Act 2006

7.4. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

7.5. The Secretary of State is of the view that the ExA's Report, together with the environmental impact analysis, considers biodiversity sufficiently to inform him in this respect. In reaching the decision to give consent to the proposed Development, the Secretary of State has had due regard to conserving biodiversity.

### **8. Other Matters**

8.1. The Secretary of State notes that other consents, licences, and permits are likely to be required to construct and operate the proposed Development, and has no reason to believe that the relevant approvals would also not be forthcoming [ER 1.8.1 et seq.].

### **9. Representations Received After the Close of the Examination**

9.1. The Planning Inspectorate received one item of correspondence after the close of the Examination. This has been supplied to the Secretary of State, who has considered the matter raised in the correspondence but does not think it raises any new issues that were not considered by the ExA in its Report.

### **10. Secretary of State's Conclusions and Decision**

10.1. For the reasons given in this letter, the Secretary of State considers that the benefits of the proposed Development outweigh its adverse impacts and that consequently development consent should be granted for the Little Crow Solar Park. Given the national need for the proposed Development the Secretary of State does not consider that this is outweighed by the proposed Development's adverse impacts, as mitigated by the proposed terms of the Order.

10.2. The Secretary of State has decided to make the Order granting development consent to include modifications set out below in section 11 below. In reaching this decision, the Secretary of State confirms regard has been given to the ExA's Report, the LIR submitted by North Lincolnshire Council, the NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 105 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

### **11. Modifications to the Order by the Secretary of State**

11.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:

- In article 2, amended the definition of "authorised development" to refer only to the development and associated development as described in schedule 1;

- In article 5(9) amended period for giving notice of transfer to 14 days, to be consistent with recent DCOs;
- Article 17 – amended to exclude decisions of the Secretary of State from arbitration; and
- Schedule 1 (Works 2A and 2B) to include the capacity of the battery storage system.

11.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments (for example, modernisation of language), changes made in the interests of clarity and consistency, and changes to ensure that the Order has its intended effect.

## **12. Challenge to decision**

12.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

## **13. Publicity for decision**

13.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Yours sincerely,



**Gareth Leigh**  
Head of Energy Infrastructure Planning



## **ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/little-crow-solar-park/>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).**

## ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AQCA	Air Quality and Carbon Assessment
AQMA	Air Quality Management Area
BESS	Battery Energy Storage System
BMVL	Best and Most Versatile Land
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EN-1	Overarching National Policy Statement for Energy (EN-1)
EN-3	National Policy Statement for Renewable Energy Infrastructure (EN-3)
EN-5	National Policy Statement for Electricity Networks Infrastructure (EN-5)
ER	Examining Authority's Report
ES	Environmental Statement
ExA	The Examining Authority
GVA	Gross Value Added
ha	Hectare
HGV	Heavy Good Vehicle
HRA	Habitats Regulations Assessment
kV	Kilovolt
LIR	Local Impact Report
LSE	Likely Significant Effect
m	Metre
MW	Megawatt
MWh	Megawatt hour
NE	Natural England
NIA	Noise Impact Assessment
NPG	Norther Powergrid (Yorkshire) Plc
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSER	No Significant Effects Report
oCEMP	Outline Construction Environmental Management Plan
oCEMPfB	Outline Construction Environmental Management Plan for Biodiversity
oLEMP	Outline Landscape and Ecological Management Plan
The 2008 Act	The Planning Act 2008
PPG	Planning Practice Guidance
PSED	Public Sector Equality Duty
RIES	Report on the Implications for European Sites
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SPA	Special Protection Area

Abbreviation	Reference
SSSI	Site of Special Scientific Interest
W	Watt