

Date: 06 August 2024
Our ref: 482288
Your ref: EN010122



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Planning Inspectorate

BY EMAIL ONLY

Dear Sir/Madam

NSIP Reference Name / Code: Oaklands Farm Solar Park / EN010122

Title: Written Representations and response to the Examining Authority's first written questions

Examining Authority's submission deadline 1 with a date of 06 August 2024

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer Caolan Gaffney and copy to consultations@naturalengland.org.uk.

Yours sincerely

Caolan Gaffney
Senior Planning Officer

Natural England's Written Representations

PART I: Summary and conclusions of Natural England's advice.
PART II: Natural England's detailed advice (starting on page 8)
PART III: Natural England's response to the Examining Authority's (ExA's) first written questions (starting on page 15)

Part I: Summary and conclusions of Natural England's advice

Summary of Natural England's advice

Overall Natural England are satisfied that the proposals address potential impacts on the natural environment. The remaining areas of concern where we consider further assessment or clarification is required by the Examining Authority to make an informed decision are as follows:

Key concerns regarding Internationally designated sites are;

Impacts from the construction as a result of sediment mobilisation
Impacts from the operational phase as a result of sediment mobilisation
Impacts from the operational phase as a result of chemical use

Key concerns regarding Soils and BMV;

A full Agricultural Land Classification (ALC) survey should be undertaken where BMV is expected and a semi detailed survey where non-BMV is expected. This approach should include the cable route. Natural England support the provision of an Outline Soil Management Plan (oSMP). Natural England are satisfied that the Soils and Agricultural Land Classification Report (Appendix 15.1 of the Environment Statement – Soils and Agriculture) constitutes a record of the pre-working ALC grading and physical characteristics of the land within the application site boundary.

Protected Species

Natural England are aware that proposed works may impact a Badger sett however it may be possible to avoid impacts through the development of the final design. The provision of draft licence applications to Natural England for review and commentary, and if appropriate, the subsequent provision of a Letter of No Impediment, should be considered as a means to early resolution of any species issues that require licensing resolution. Conditions and requirements relating to badgers, and any required mitigation and compensation, would be secured as part of an appropriated protected species licence issued by Natural England, if required.

Part I of these Written Representations provides a summary (above) and overall conclusions of Natural England's advice. This advice identifies whether any progress in resolving issues has been made since submission of our Relevant Representations RR472774 (13.06.24) Our comments are set out against the following sub-headings which represent our key areas of remit as follows:

- International designated sites
- Nationally designated sites
- Protected species
- Biodiversity net gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees
- Connecting people with nature (National Trails, open access land and England Coast Path)
- Other valuable and sensitive habitats and species, landscapes and access routes

Our comments are flagged as red, amber or green:

- Red are those where there are fundamental concerns which it may not be possible to overcome in their current form
- Amber are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.
- Green are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured)

Internationally designated sites

Natural England's position regarding internationally designated sites **has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding impacts on internationally designated sites is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning for this is given against each impact pathway within our Written Representations Part II.

Natural England is not yet satisfied for 'amber' and 'red' issues identified in Table 1 below that it can be ascertained beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity of the following internationally designated sites The River Mease Special Area of Conservation (SAC)

Table 1: Potential risks to internationally designated sites			
Site name with link to conservation objective	Features for which NE has outstanding concerns	Potential impact pathways where further information/assessment is required	Risk rating: red/amber/green and reference to key issue ref in Part II
River Mease Special Area of Conservaiton. Link	<ul style="list-style-type: none"> • Water course of plain to montane levels with Ranunculion fluitantis and Callitricho-Batrachion vegetation; Rivers with floating 	<ol style="list-style-type: none"> 1. Mobilisation of Nutrient rich sediment form the application site to the River Mease SAC during the construction phase. The disturbance of soil as a result of construction 	Amber

Table 1: Potential risks to internationally designated sites

Site name with link to conservation objective	Features for which NE has outstanding concerns	Potential impact pathways where further information/assessment is required	Risk rating: red/amber/green and reference to key issue ref in Part II
	<p>vegetation often dominated by water-crowfoot</p> <ul style="list-style-type: none"> • <i>Austropotamobius pallipes</i>; White-clawed (or Atlantic stream) crayfish • <i>Cobitis taenia</i>; Spined loach • <i>Cottus gobio</i>; Bullhead • <i>Lutra lutra</i>; Otter 	<p>works could result in soils running off the site which could be conveyed to the River Mease SAC. The oCEMP could include measures that would avoid this impact. However specific measures to avoid this impact are not included at this stage.</p> <p>2. Mobilisation of Nutrient rich sediment from the application site to the River Mease SAC during the operational phase phase. It has been observed in other comparable developments that water typically falls off panels in single locations. This results in channels forming, if this were to occur then these channels could convey nutrient rich sediment to the River Mease SAC. Mitigation measures to intercept sediment and prevent it from leaving sites are available however specific measures are not included at this stage.</p> <p>3. Impacts from the operational phase as a result of chemical use. Details on the impact of regular maintenance of the panels have not been included. If chemicals are to be used then specific measures on how these will be prevented from entering the River Mease SAC need to be provided.</p>	

Nationally designated sites

Natural England's position regarding nationally designated sites **has not** changed since submission of our Relevant Representations (RR 472774).

Impacts that could impact the River Mease Site of Special Scientific Interest are the same as those listed above for the River Mease Special Area of conservation. Mitigation measures proposed to prevent impacts on the River Mease Special Area of Conservation would also protect the interest features of the River Mease Site of Special Scientific Interest.

Protected species

Natural England's position regarding European protected species **has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding impacts on protected species is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning for this is given for each species within our Written Representations Part II.

Natural England is still awaiting submission of draft protected species licence applications for review.

Species	Potential impact pathways where further info/assessment required	Risk rating: red/amber/green and reference to key issue ref in part II
<i>Meles meles</i> ; Badger	Chapter 6 (Ecology) of the Environmental Statement has set out that one Badger sett may be impacted by construction works. However following discussions with the applicant it may be possible to avoid impacts on the single Badger sett at the final design stage. However while there is still the possibility for an impact to occur Natural England advise that the applicant apply for a draft protected species licence. Without a draft licence submission Natural England are unable to issue a letter of no impediment for this project.	Amber

Biodiversity Net Gain Provision

Natural England's position regarding provision of biodiversity net gain **has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding biodiversity net gain provision is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

Nationally designated landscapes

Natural England's position regarding nationally designated landscapes **has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding nationally designated landscapes is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

Soils and best and most versatile agricultural land

Natural England's position regarding soils and the best and most versatile agricultural land **has not** changed since submission of our Relevant Representations (RR 472774). **Natural England are unable to provide any additional detailed comments at deadline 1 however we will provide detailed comments for deadline 2 and 3.**

Our position regarding soils and best and most versatile agricultural land is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

Ancient woodland and ancient/veteran trees

Natural England's position regarding ancient woodland and ancient/veteran trees **has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding ancient woodland and ancient/veteran trees is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

Connecting people with nature (National Trails, open access land and England Coast Path)

Natural England's position regarding The Cross Britain Way **has/has not** changed since submission of our Relevant Representations (RR 472774).

Our position regarding Click here to enter text. is as set out in our Relevant Representations (RR 472774). Further detail on our reasoning to support our Relevant Representations is set out in our Written Representations Part II.

Natural England's overall conclusions

Overall Natural England are satisfied that the proposals address potential impacts on the natural environment. The main potential impacts The remaining areas of concern where we consider further assessment or clarification is required by the Examining Authority to make an informed decision are as follows:

Key concerns regarding Internationally designated sites and nationally designated sites are;

- Impacts from the construction as a result of sediment mobilisation
- Impacts from the operational phase as a result of sediment mobilisation
- Impacts from the operational phase as a result of chemical use

Key concerns regarding Soils and BMV;

- A full Agricultural Land Classification (ALC) survey should be undertaken where BMV is expected and a semi detailed survey where non-BMV is expected. This approach should include the cable route.
- Natural England support the provision of an Outline Soil Management Plan (oSMP)
- Natural England are satisfied that the Soils and Agricultural Land Classification Report (Appendix 15.1 of the Environment Statement – Soils and Agriculture) constitutes a record of the pre-working ALC grading and physical characteristics of the land within the application site boundary.

Protected Species

Natural England are aware that proposed works may impact a Badger (*Meles meles*) sett however it may be possible to avoid impacts through the development of the final design. The provision of draft licence applications to Natural England for review and commentary, and if appropriate, the subsequent provision of a Letter of No Impediment, should be considered as a means to early resolution of any species issues that require licensing resolution. Conditions and requirements relating to badgers, and any required mitigation and compensation, would be secured as part of an appropriated protected species licence issued by Natural England, if required.

Natural England's Written Representations

Part II: Natural England's detailed advice

Part II of these Representations updates and where necessary augments Part II of the Relevant Representations. It expands upon the detail of all the significant issues ('red' and 'amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Part II also shows 'green' issues which have been agreed since our Relevant Representations (RR 472774). (subject always to the appropriate requirements being secured adequately).

Natural England will continue engaging with the applicant to seek to resolve these concerns throughout the examination. Natural England advises that the matters indicated as 'red' and 'amber' will require consideration by the Examining Authority during the examination.

Natural Englands Written Representations, Part II, Table 3

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amber/Green
International designated sites						
1	Sediment mobilisation	C	Mobilisation of Nutrient rich sediment from the application site to the River Mease SAC during the construction phase. The disturbance of soil as a result of construction works could result in soils running off the site which could be conveyed to the River Mease SAC. The oCEMP could include measures that would avoid	If the area of the site within the Mease catchment had established grassland prior to the installation of solar panels then sediment mobilisation would likely be avoided, however there are other mitigation options available and NE would	The establishment of grassland for the section of the site that lies within the River Mease SAC catchment. Or similar mitigation options to prevent sediment leaving the site.	Amber

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amb er/Green
			this impact. However specific measures to avoid this impact are not included at this stage.	consider their effectiveness if they were proposed.		
2	Sediment mobilisation	O	Mobilisation of Nutrient rich sediment from the application site to the River Mease SAC during the operational phase phase. It has been observed in other comparable developments that water typically falls off panels in single locations. This results in channels forming, if this were to occur then these channels could convey nutrient rich sediment to the River Mease SAC. Mitigation measures to intercept sediment and prevent it from leaving sites are available however specific measures are not included at this stage.	If the area of the site within the Mease catchment had established grassland prior to the installation of solar panels then sediment mobilisation would likely be avoided, however there are other mitigation options available and NE would consider their effectiveness if they were proposed.	The establishment of grassland for the section of the site that lies within the River Mease SAC catchment. Or similar mitigation options to prevent sediment leaving the site.	Amber
3	Maintenance activity	O	Impacts from the operational phase as a result of chemical use. Details on the impact of regular maintenance of the panels have not been included. If chemicals are to be used then specific measures on how these will be prevented	There is a lack of clarity how the equipment installed as part of this development will be maintained within the section of the site that is in the River Mease SAC	If chemicals are used that could negatively impact the features of the River Mease SAC then a management strategy would be required. This would set out how these would be controlled or treated	Amber

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amb/er/Green
			from entering the River Mease SAC need to be provided.	catchment. It may be the case that no harmful chemicals would be used however this information has not been provided.	on site to avoid an impact on the SAC.	
Protected species						
4	Letter Of No Impediment	C	There is currently the possibility that a protected species licence would be required and a draft application has not been submitted. Without a draft licence NE cannot provide a Letter Of No Impediment for the project.	Draft protected species licence application.	A LONI secured from NE for the project.	Amber
Biodiversity net gain						
5	BNG	C	Biodiversity Net Gain is not currently mandatory for NSIP's. With this in mind Natural England welcomes the intention to provide Biodiversity Net Gain as a result of the development.	N/A	N/A	Natural England do not assign a RAG status for BNG responses
National designated landscapes						
6	Landscapes	N/A	There are no national landscapes that could be impacted by this	N/A	N/A	Green

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amber/Green
			development. Therefore NE have no detailed comments to make.			
Soils and best and most versatile agricultural land						
7	ALC Survey	C	While predictive mapping provides an indication of ALC grade it does not provide the soil details required to inform soil management which would feed into the Soil Management Plan. NE have advised that where the predicted ALC data suggests there will be BMV land then a full ALC survey should be undertaken.	Full ALC survey where the predictive mapping indicate BMV will be present	A full ALC survey should be undertaken to inform decision making and the SMP	Amber
8	ALC Survey	C	While predictive mapping provides an indication of ALC grade it does not provide the soil details required to inform soil management which would feed into the Soil Management Plan. NE advised that a full ALC survey should be undertaken on the cable route.	Full ALC survey on the cable route	A full ALC survey should be undertaken to inform decision making and the SMP	Amber
9	oSMP	C	15.71 Natural England do not concur with the assumptions made in this paragraph. Stone and	The applicant should update the oSMP to reflect the advice provided	An updated SMP should be secured that includes the recommendations provided by NE	Amber

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amber/Green
			concrete pad bases have potential to increase compaction on soils within the solar array component. Typically, where infrastructure ie inverters/substations require bases the soil will be stripped during the construction phase, stored and then replaced at the time of decommissioning. The non-intrusive method for mounting solar arrays should be considered in the oSMP.			
10	oSMP	C	15.77 Figure 4.5 Illustrative Drakelow Access Design indicates a temporary 5m track width, however there is no Indicative Access Track Cross Section (figure 4.11) for a 5m width.	The applicant should update the oSMP to reflect the advice provided	An updated SMP should be secured that includes the recommendations provided by NE	Amber
National designated sites						
11	Sediment	C	Mobilisation of Nutrient rich sediment form the application site to the River Mease SSSI during the construction phase. The disturbance of soil as a result of	If the area of the site within the Mease catchment had established grassland prior to the installation of solar panels then sediment mobilisation	The establishment of grassland for the section of the site that lies within the River Mease SSSI catchment. Or similar mitigation options to	Amber

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amber/Green
			construction works could result in soils running off the site which could be conveyed to the River Mease SSSI. The oCEMP could include measures that would avoid this impact. However specific measures to avoid this impact are not included at this stage.	would likely be avoided, however there are other mitigation options available and NE would consider their effectiveness if they were proposed.	prevent sediment leaving the site.	
12	Sediment	O	Mobilisation of Nutrient rich sediment from the application site to the River Mease SSSI during the operational phase phase. It has been observed in other comparable developments that water typically falls off panels in single locations. This results in channels forming, if this were to occur then these channels could convey nutrient rich sediment to the River Mease SSSI. Mitigation measures to intercept sediment and prevent it from leaving sites are available however	If the area of the site within the Mease catchment had established grassland prior to the installation of solar panels then sediment mobilisation would likely be avoided, however there are other mitigation options available and NE would consider their effectiveness if they were proposed.	The establishment of grassland for the section of the site that lies within the River Mease SSSI catchment. Or similar mitigation options to prevent sediment leaving the site.	Amber

Table 3: Natural England's detailed advice						
NE key issue ref	Topic	Issue summary (C) – construction phase (O) – operational phase	NE commentary and advice on further details about the project to enable assessment or further evidence/assessment work required	NE comment on mechanism for securing resolution, e.g. mitigation/compensation	Matters that must be secured in the DCO (with DCO/DML or omission ref as applicable)	Risk Red/Amb/ Green
			specific measures are not included at this stage.			
13	Maintenance Activity	O	Impacts from the operational phase as a result of chemical use. Details on the impact of regular maintenance of the panels have not been included. If chemicals are to be used then specific measures on how these will be prevented from entering the River Mease SSSI need to be provided.	There is a lack of clarity how the equipment installed as part of this development will be maintained within the section of the site that is in the River Mease SSSI catchment. It may be the case that no harmful chemicals would be used however this information has not been provided.	If chemicals are used that could negatively impact the features of the River Mease SSSI then a management strategy would be required. This would set out how these would be controlled or treated on site to avoid an impact on the SSSI.	Amber
Connecting people with nature (National Trails, open access land and England Coast Path)						
14	Disturbance to the Cross Britain Way	C & O	Natural England welcome the measures to ensure there is no impact on the Cross Britain Way included in the oCEMP	The measure proposed should be sufficient to ensure that people can continue to use the trail.	Measures outlined in the oCEMP should be secured to ensure access is maintained.	Green
Ancient Woodland						
15	Ancient Woodland	N/A	There are no Ancient Woodlands that could be impacted by the proposed development so NE have no detailed comments.	N/A	N/A	Green

Natural England's Written Representations

PART III: Natural England's response to the Examining Authority's (ExA's)

Table 4: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
1.5	DCC SDDC EA Natural England (NE)	<p>Article 2 – Interpretation</p> <p>The defined “site preparation works” are pre-commencement activities that could be undertaken without the controls that only apply following commencement, including those in dDCO Requirements and in the Outline Construction Environmental Management Plan (Outline CEMP) [APP-090]. The Applicant [AS-017] is satisfied with the definition of site preparation works and considers that they would not be likely to have significant environmental effects.</p> <p>a) Do the parties have any comments on the activities included in “site preparation works”?</p> <p>b) Should any more mitigation be secured for “site preparation works”, for example in relation to noise, impacts on protected species, archaeological remains, or traffic?</p>	<p>Natural England would like clarification about what site preparations entail. In Particular whether or not this activity will involve the breaking the soil or other activity that could damage the soil through compaction etc. If this is the case then further information about the potential impacts on BMV agricultural land should be included and suitable mitigation measures secured to ensure this resource is not damaged.</p> <p>If site preparation work is undertaken in the River Mease SAC and River Mease SSSI catchment and has the potential to mobilise of sediment then additional mitigation measures must be proposed and secured to ensure there is no impact on the designated sites features.</p>
3.2	Statutory bodies	<p>Responses to the Applicant's submissions</p> <p>a) Please could statutory bodies provide a written response to any submissions made by the Applicant that either seek to address concerns that they have previously raised, or that raise new concerns, at the earliest opportunity?</p> <p>b) Please could the responses set out whether and, if so, how their concerns have been addressed and set out any remaining concerns and the steps that might be taken to resolve them?</p>	<p>The applicants have had a number of meetings with us regarding our previous comments. They have also requested to have topic specific meeting with our soils specialists to address the concerns raised.</p> <p>They have also contacted us with the aim of agreeing a statement of common ground.</p> <p>In terms of resolution the items are still outstanding however the applicant has agreed to provide a draft SOCG to review urgently.</p>
3.5	Applicant DCC SDDC EA NE	<p>Pollution control through other consenting and licensing regimes Paragraphs 4.12.2 and 4.12.10 of NPS EN-1 note that the planning and pollution control systems are separate but complementary, that pollution control is concerned with preventing pollution using measures to prohibit or limit the</p>	<p>There are no other regulatory regimes that relate to this project and NE's remit. NE have no detailed comments to make.</p>

Table 4: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		<p>releases of substances to the environment, and to ensuring that ambient air, water, and land quality meet standards that guard against impacts to the environment or human health. It states that the Secretary of State (SoS) should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator.</p> <p>Paragraph 4.12.15 of NPS EN-1 requires the SoS to consider if the EA, any pollution control authority, Statutory Nature Conservation Bodies, Drainage Boards, water and sewerage undertakers, and other relevant bodies are:</p> <ul style="list-style-type: none"> • satisfied that potential releases can be adequately regulated under the pollution control framework; and • the effects of existing sources of pollution in and around the site are not such that the cumulative effects of pollution would make the Proposed Development unacceptable, particularly in relation to statutory environmental quality limits. <p>a) Please could the relevant bodies comment, highlighting any specific concerns?</p> <p>b) Please could the Applicant provide evidence of whether relevant bodies, including the water and sewerage undertakers, are satisfied and what concerns remain?</p> <p>c) Please could the Applicant set out the steps that will be taken to resolve any outstanding concerns?</p> <p>d) Please could the relevant bodies and the Applicant provide regular updates to the Examination?</p>	

Table 4: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
6.2	NE SDDC	<p>Agricultural Land Classification (ALC) Paragraph 2010.33 of NPS EN-3 states that the ALC is the only approved system for grading agricultural quality in England and, if necessary, field surveys should be used to establish the ALC grades in accordance with grading criteria and identify the soil types to inform soil management at the construction, operation, and decommissioning phases in line with the DEFRA Construction Code.</p> <p>a) Are NE and SDDC content with the Applicant's ALC and surveys [APP-168, APP-169, APP-170, APP-171]?</p> <p>b) Is Subgrade 3b a robust worst case assumption for the areas that were not surveyed [APP-168]?</p> <p>c) Should surveys be required of areas that were not surveyed to rule out that they could be BMV agricultural land?</p>	<p>Natural England are unable to provide detailed soils comments for deadline 1.</p> <p>a) However in our previous response Natural England have advised that a semi detailed survey is not sufficient to determine the ALC grade of the whole site. NE also advised that an ALC survey should be undertaken on the cable route.</p> <p>b) Natural England advise that it is not a robust approach to assume ALC grades. The only way to determine ALC grades is to undertake appropriate surveys.</p> <p>c) Although a full ALC survey should be undertaken as best practice NE have advised that where BMV was not predicted then a semi detailed survey will suffice and a full survey undertaken if this this indicates that BMV is present. In areas that BMV is predicted then a full ALC must be undertaken.</p>
7.1	Applicant SDDC NE	<p><u>Skylark</u> Paragraph 5.4.55 of NPS EN-1 states that consent should be refused where harm to a protected species and relevant habitat would result, unless there is an overriding public interest, and the other relevant legal tests are met. The Applicant [APP-135 paragraph 6.69] considers it highly unlikely that 19 singing males recorded within the site boundary represent 19 successful breeding pairs within the Oaklands farm area. It [APP-135 Table 6.8] summarises that habitat loss during the construction and operational phases would each be a significant adverse effect at the local level that would be a minor adverse effect in the context of EIA Regulations and not significant. The Applicant [APP 135 Table 6.5] states that the study area is considered of district ecological value for skylark.</p>	<p>Natural England's Wildlife Licensing Service (NEWLS), and by extension Natural England, does not issue protected species licences for impacts to birds for the purposes of development.</p> <p>Any potential negative effects to skylarks and other birds should be identified as early as possible and designed out to avoid impacts. In order to help schemes and project ecologists to achieve this, Natural England produces standing advice, which is freely available online. In this advice, Natural England outlines best practice for surveys, methods, and mitigation, in order to avoid negative impacts for breeding birds such as skylarks. The link to the relevant standing advice is included below:</p>

Table 4: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
		<p>a) Please could the Applicant clarify the ecological importance (e.g., district level or site level) given to skylark habitats in the assessment and provide an update to correct any inconsistency?</p> <p>b) Please comment on the potential for any successful breeding skylark on the site currently and during the operational phase.</p> <p>c) Please comment on the potential for harm to skylark during the site preparation works, and during the construction, operational and decommissioning phases?</p>	<p>https://www.gov.uk/guidance/wild-birds-advice-for-making-planning-decisions</p>
7.2	Applicant SDDC NE	<p><u>Barn owl</u> The Applicant [APP-135 paragraph 6.68 and Table 6.6] records the presence of barn owl in the study area and considers that there would not be a loss of nesting or foraging habitat for barn owl during the construction phase, and that the provision of enhancements would provide overall benefit during the operational phase.</p> <p>SDDC [RR-295] expresses concern about whether barn owls have been identified as nesting within site trees, and, if so, whether appropriate mitigation and compensation will be provided.</p> <p>a) Please could the Applicant, following consultation with SDDC, update its assessment and secured mitigation measures as necessary? b) Please could SDDC advise if it has any outstanding concerns on the Applicant's updates? c) Please could NE comment?</p>	<p>Natural England's Wildlife Licensing Service (NEWLS), and by extension Natural England, does not issue protected species licences for impacts to birds for the purposes of development.</p> <p>Any potential negative effects to barn owls and other birds should be identified as early as possible and designed out to avoid impacts. In order to help schemes and project ecologists to achieve this, Natural England produces standing advice, which is freely available online. In this advice, Natural England outlines best practice for surveys, methods, and mitigation, in order to avoid negative impacts for breeding birds such as barn owls. The link to the relevant standing advice is included below:</p> <p>https://www.gov.uk/guidance/wild-birds-advice-for-making-planning-decisions</p>

Table 4: Natural England's response to Examiner's initial questions			
ExA question ref	Question addressed to	Question	Answer
7.3	Applicant SDDC NE	<p><u>Other breeding birds of conservation concern</u> The Applicant [APP-135 paragraph 6.68] states that the site supports suitable habitat for a range of farmland bird species. Breeding bird surveys of the southern portion of the site identified a total of 56 bird species, including 22 species of conservation concern. It considers that the study area has limited potential for Schedule 1 bird species other than barn owl.</p> <p>a) Please could the Applicant set out the consideration given to all 22 species of conservation concern identified, including in relation to the removal of any hedgerow that may provide a suitable habitat? b) What length of hedgerow would be removed and how much would be replaced? How is this secured?</p>	Natural England are unable to provide any detailed comments on this question however hedgerows should be retained where it is feasible to do so.
7.5	NE DCC SDDC	<p>River Mease Special Area of Conservation (SAC) The Applicant [APP-122 paragraph 5.3] concludes that the avoidance and mitigation measures which would be secured in relation to the construction of the Proposed Development provide certainty that harmful effects associated with contaminated run-off, changes in surface water flow, and disturbance to otter, would be avoided entirely, thereby eliminating any potential for adverse effects on the integrity of the River Mease SAC either alone or in-combination with other plans and projects.</p> <p>a) Please could the Applicant set out the conclusions, with reasoning, in relation to white clawed crayfish, bullhead and spined loach? b) Are NE, DCC, and SDDC satisfied with the Applicant's assessment?</p>	<p>As set in part 2 and 3 above Natural England are not satisfied with the applicants assessment of the impacts on the River Mease SAC. There is a potential pathway for the mobilisation of sediment during the constructin and operational phase. There is also a lack of clarity around the maintenance strategy which has the potential to impact the designated features.</p> <p>Natural England have had discussions with the applicant regarding this and there are mitigation measures available to prevent sediment mobilisation. There is also the possibility that the maintenance strategy would not entail activities that could impact the designated features, information related to this has been requested. We will review this when it is available.</p>
7.6	NE DCC	River Mease Site of Special Scientific Interest (SSSI) The Applicant [APP-135 Table 6.6] states that the provision of	Natural Englands response to question 7.6 are the same as the response to question 7.5

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	SDDC	<p>embedded mitigation as part of the CEMP, such as the application of best practice run-off and pollution control methods, would ensure that the predicted impact of contamination would be extremely unlikely.</p> <p>Are NE, DCC, and SDDC satisfied with the Applicant's assessment?</p>	
7.7	Applicant SDDC NE	<p><u>Draft DCO [AS-005] Requirement 21 – Protected Species</u> Provisions are included for the authorised development not to commence until protected species surveys have been carried out by a suitably qualified person, and for mitigation to be carried out in accordance with a resulting Species Mitigation Plan that must be agreed with the local planning authority.</p> <p>a) Should the Species Mitigation Plan be agreed with the local planning authority in consultation with NE? b) Noting the potential for disturbance during the pre-commencement site preparation works, operation and decommissioning, are similar provisions required for those phases?</p>	<p>Natural England's Wildlife Licensing Service (NEWLS) would encourage the applicant and external project team to engage with Natural England as early as possible regarding protected species matters for any species where it is likely that a wildlife licence may be required.</p> <p>It is the responsibility of the scheme to employ and follow the guidance of a suitably competent ecological consultant advising on the project. This ecological consultant should provide expert advice to ensure all relevant wildlife laws are complied with, including advising on where protected species licences may be required.</p> <p>Where the need for such licences is identified, Natural England can provide input to mitigation proposals through review of draft licence applications and the associated issuing of Letters of No Impediment (LONIs) to provide the consenting authority with greater certainty that protected species licensing issues have been appropriately addressed at the earliest possible time. Should the applicant and external project team wish to pursue LONIs, then NEWLS can provide this via our <u>Discretionary Advice Service (DAS)</u> or <u>Pre-Submission Screening Service (PSS)</u>.</p>

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7.9	SDDC DCC NE EA	Operational phase detailed assessment The Applicant [APP-135 paragraph 6.7] scoped adverse impacts arising during the operational phase out of the detailed assessment on the basis that there is no potential for significant effects to occur for all ecological receptors. Are the parties content that adverse impacts arising during the operational phase were scoped out of the detailed assessment?	Natural England mostly agree with APP-135 paragraph 6.7 however as with our response to question 7.5 and 7.6 there are concerns about the impacts on the River Mease SAC and River Mease SSSI during the operational phase. The maintenance strategy has the potential to impacts the designated features of both sites. In particular the cleaning of solar panels can involve chemical use, this could introduce an impact pathway unless mitigation measures are proposed and secured through the DCO. However additional information about how these activities are undertaken could remove the concerns Natural England have highlighted to the applicant and we will review this information once it is received.
7.17	Applicant SDDC NE	Biodiversity Net Gain The Applicant [AS-017] states that delivery of biodiversity net gain is secured via the Outline Landscape Ecological Management Plan. The Applicant has submitted a Biodiversity Net Gain Report [APP-131]. The ExA is considering whether to add a requirement to the dDCO [AS-005] for no part of the authorised development to commence until a Biodiversity Net Gain Strategy has been submitted to and approved by the local planning authority in consultation with NE, and for it to be implemented as approved. Please could the parties comment?	Natural England advise that Biodiversity Net Gain is currently not mandatory for NSIP's. However the applicant has proposed to deliver a 19.82 Biodiversity Net Gain as set out in APP-131, Natural England welcome this. As BNG is not mandatory Natural England would be unable to agree a Biodiversity Net Gain Strategy if it was a requirement of the dDCO.

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