Q. no.	QUESTION	SOUTH DERBYSHIRE DISTRICT COUNCIL REPLY
1.2	Articles 11(7), 14(9), 16(6) confer deemed consent if the authority does not respond within 28 days (a "guillotine"). The Applicant [AS-017] considers that these provisions are necessary to ensure that delivery of the Proposed Development is not unnecessarily delayed. a) Do DCC, SDDC and the EA consider that the 28 days period is reasonable? b) Should provisions be added for any application for consent to contain a statement drawing the authority's attention to the guillotine?	SDDC considers the 28-day period to be very tight, particularly if consultation between authorities is required. 28 days does not give much time for communications between local authorities, with internal consultees, or the Applicant. SDDC would ask that provision is made for the authority's attention to be drawn to the guillotine.
1.5	Article 2 - Interpretation 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. a) Do the parties have any comments on the activities included in "site preparation works"? 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?	a) Some activities defined as "site preparation works" have the potential to result in adverse noise and air quality impacts, such as "remedial work in respect of any contamination or other adverse ground conditions" and "site clearance (including vegetation removal, demolition of existing buildings and structures)". SDDC would like to see "commencement" to include site preparation works for noise, protected species, archaeology, and traffic. In Paragraph 2.8.1 under Ecology Management in the Outline Construction Environmental Management Plan January 2024 – Document Ref EN010122/APP/6.1/Appx 4.3 The Applicant states "valuable habitats will be protected or reinstated". The nature of valuable habitats can't necessary be reinstated, specific ecological and environmental conditions prevail often over a long period of time to create the situations to support those specific species that require exact surroundings that make the habitat valuable. It is likely that this can't be recreated in short periods of time and will take significant time to recover. Site preparation works are likely to have the same significant effects as those works that will be consented for. Could the Applicant confirm those valuable habitats that will be reinstated?

		b) Mitigation should be secured for impacts on protected species particularly otter and GCN
1.6	Article 3 - Development consent etc. granted by the Order The Applicant [AS-017] considers that the permitted limits of deviation are clarified by Article 3(2) which includes that "Each numbered work must be situated within the corresponding numbered area shown on the works plan and must not exceed the design parameters assessed in the environmental statement." Given the size of works areas, please could the Applicant comment on whether it is necessary for works to be located within the numbered areas such that there would not be any materially new or materially more adverse environmental effects compared to those identified in the environmental statement?	SDDC considers that it would be reasonable for the necessary works to be located in the numbered areas to ensure the adverse impacts expected are not exceeded.
1.8	Requirement 4 - Phases of authorised development and date of final commissioning a) Should the scope of the written scheme setting out the phases of construction of the authorised development be expanded for clarity, for example by adding key activities and timescales? b) Should a written scheme be required for the site preparation works?	SDDC considers that it would be helpful for the written scheme setting out the phases of construction to be expanded and that it would be helpful for it to include site preparation works.

1.9	Requirement 5 - Detailed design approval The Applicant [AS-017] states that the requirements for the detailed design to accord with the principles and assessments set out in the Environmental Statement (ES) and with the outline design principles set out in the design statement would ensure consistency with the ES. Design parameters for, amongst other things, dimensions, materials, and colours of the structures and components are set out in various chapters of the ES, including in paragraphs 4.11-14 and Table 4.2 of the Project Description [APP-096], and Appendix B of the Design Statement [APP-182]. a) Please could the Applicant ensure that the design parameters relied on for the assessment are clearly identified and secured by the dDCO [AS-005]? b) Would it help SDDC, as discharging authority, if the design parameters were set out in a single, definitive, standalone certified document? c) With reference to paragraph 5.10.29 of NPS EN-1, do SDDC consider that sufficient design content is secured to ensure that future consenting will meet landscape, visual and good design objectives? d) Please could the Applicant set out the consideration given to paragraph 5.10.38 of NPS EN-1 in relation to requirements for the incorporation of design details?	It would be helpful if the design parameters were in one certified document. The glint and glare assessment provides a high-level summary on the height, orientation, tilt and coating of the proposed panels, and gives explanations on how changing the design within certain parameters will not significantly affect the results of the assessment. As such, the design details are appropriate for potential variations in future approvals.

2.15	Possible impediments a) Is the Applicant aware of any land or rights being required in addition to those sought through the dDCO [AS-005] before the Proposed Development can become operational? b) Does SDDC have any concerns about whether potential impediments to the development been properly identified and addressed? Is it aware of any matters within or outside the scope of the dDCO that may have a bearing on whether the development could become operational may not be satisfactorily resolved, including in relation to acquisitions, consents, resources, or other agreements?	SDDC does not have any concerns as to how the applicant has identified and addressed impediments, nor about any other impediments within or outside the scope of the dDCO.
3.4	Construction phase management plans The dDCO [AS-005] and Outline CEMP [APP-090] refer to several management plans for the construction phase that would only be prepared post-consent, including the Public Rights of Way Management Plan, Site Waste Management Plan, Species Protection Plan, Travel Plan, and Water Quality and Silt Management Plan. a) Please could the Applicant ensure that the dDCO [AS-005] and/ or Outline CEMP [APP-090] identify the measures to be included in those management plans to demonstrate that the mitigation relied on in the ES is secured?	a) The dDCO and Outline CEMP should provide Species Protection Plans for Otter, GCN/Ponds, Hedgerows & Trees and Woodland and identify important zones for each species so this could feed into effective mitigation strategies to be secured. b) The provision for outline versions of management plans for those species identified in the first part of the question a) would help fully examine the impact on those species from the development. Otter – SDDC have concerns about the impact of otters resulting from disturbance and feel that the species hasn't been properly surveyed, a species protection plan for this species will help determine in detail the likely impact the road crossings in particular would have on otter. GCN – SDDC feel that the species may be present in the wider area as the surveys could not obtain access to all ponds within 250m of the site. SDDC feel further surveys would be required or a suitable protection plan be in place that it would

	b) Please could DCC, SDDC, and the EA advise whether outline versions of any of those management plans, or any other management plans, should be provided during the Examination to clarify and help secure the measures that should be included? In each case, please set out why this is necessary and proportionate.	significantly reduce the potential of impact. Further examination would be required to address the lack of survey effort. Hedgerows and Trees – The Applicant considers that the broad powers to fell or lop any tree or shrub trees subject to tree preservation orders or cut back their roots are subject to appropriate limitations and is necessary for the safe delivery of the Proposed Development. The production of a Species Protection Plan would help quantify the extent of tree and hedgerow loss and identify the zones of greatest impact. Woodland - SDDC has concerns regarding the adequate buffer zone on Grove Wood and veteran trees that haven't been clearly identified. A species Protection Plan is necessary and proportionate to be able to determine the impact on Grove Wood and comprehensively identify those trees to be protected and for this to be effectively communicated.
3.5	<u>Pollution control through other consenting and licensing regimes</u> 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 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.	There are no specific consenting or licensing regimes which are enforced by the SDDC which would apply to this development. There are specific statutory controls, such as 'statutory nuisance under Part III of the Environmental Protection Act 1990 which may apply to the development if the magnitude of the impact during the construction or operational phase is considered to be in breach this statute, however the relevant mitigations outlined in the relevant environmental chapters, if met in full, should ensure that this magnitude of impact isn't reached. I therefore consider that potential releases can be adequately regulated under the pollution control framework and that 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. a) SDDC still have concerns regarding the potential adverse impacts on the River Mease SAC without due and additional consideration in relation to pollution control and environmental regulatory regimes particularly how this will be monitored and just how these controls will prevent likely significant effects associated with water quality and quantity, spread of invasive non-native species, contaminated runoff, changes in surface water flow, and disturbance to otter specifically in relation to the River Mease SAC.

	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: • 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. a) Please could the relevant bodies comment, highlighting any specific concerns? b) Please could the Applicant provide evidence of whether relevant bodies, including the water and sewerage undertakers, are satisfied and what concerns remain? c) Please could the Applicant set out the steps that will be taken to resolve any outstanding concerns? Please could the relevant bodies and the Applicant provide regular updates to the Examination?	

5.1	Decommissioning of underground cables Paragraph 2.10.68 of NPS EN-3 states that the nature and extent of decommissioning of a site can vary and generally it is expected that underground cabling will be dug out to ensure that prior use of the site can continue. The Applicant [APP-092, APP-181] says that the cables may be left in situ, depending on the method which is likely to have the least environmental impact at the time. a) Do the parties have any comments on the Applicant's suggested approach and whether it strikes an appropriate balance between the potential magnitude and duration of impacts during decommissioning and the longer-term implications for future site use? b) Should the dDCO [AS-005] require the underground cables and ducting to be removed?	a) Implementing the development would result in land drains being damaged as a result of the piling for the panels, and other works such as cabling. If cables are left in-situ this would result in land drains not being reinstated so the land would not be able to return to its previous condition. b) The dDCO should require the underground cables and ducting to be removed, otherwise there will be no drainage for producing crops as they were damaged during implementation. The removal will, however, undo any soil improvements which have taken place during the 40 fallow years.
5.2	Draft DCO [AS-005] Requirement 22 - Decommissioning and restoration End state and funding Several parties, including South Derbyshire District Council [RR-295], Lullington Parish Meeting [RR-179], Alex Wolfe [RR-010], Denise Ann Walsh [RR-077], Diane Abbott [RR-080], Jacqueline Shirley Bott [RR-129], Martin David William Abbott [RR-190], and Tracy Hiatt [RR-321] raise concerns in relation to decommissioning.	There should be a comprehensive Soil Management Plan that deals with construction, operation and decommissioning of the site. a) Should be assessed by experts in their field - soils/agriculture expert. b) Yes. c) Yes, to ensure that there is certainty that adequate funding arrangements are in place to reinstate the land appropriately.

	The Applicant provides a description of the decommissioning activities [APP-092, APP-181]. The Applicant [AS-017] considers that it is not necessary to add a requirement to secure the end state of the Order Land after decommissioning and refers to the requirement for a decommissioning environmental management plan and a decommissioning traffic management plan to be submitted for approval. The ExA is considering if it has sufficient understanding of the likely end state of the land after decommissioning, the suitability for other uses after decommissioning, the measures that should be secured by the DCO, and the likely potential effects. a) Please could the parties comment on how the end state after decommissioning should be defined? b) Is it necessary, reasonable, and appropriate for the definition of the end state after decommissioning to be secured more precisely by the dDCO? c) Should a provision be added to the dDCO to secure funding for decommissioning? d) If it should be secured, how should the amount of funding be identified, what form of security would be appropriate, and when should the security be put in place?	d) All of the works identified in the DEMP for the whole site, including hedgerow restoration and the removal of cables and ducting, can be costed now. This amount can then be held in an index/inflation linked escrow account or bond and secured.

5.3	Draft DCO [AS-005] Requirement 22 - Decommissioning and restoration Timescales for completion The dDCO requires decommissioning to commence no later than 40 years following the date of final commissioning of the first phase of Work No. 1. The Applicant [APP-181] says that decommissioning is expected to take between 12 and 24 months. a) Should the dDCO include a requirement for decommissioning and restoration to be completed within a specified timescale? b) If so, how should the completion of decommissioning and restoration be defined, and what is an appropriate timescale for it to be completed? Should separate timescales be identified for different activities, for example for decommissioning, for restoration, and for any necessary maintenance? c) Should the commencement and completion of decommissioning also be related to when the generation of electricity ceases in case that is earlier than 40 years following the date of final commissioning of the first phase of Work No. 1?	a) Yes, but up to 2 years is acceptable b) Signed off by an independent expert soils/agriculture. A period for correction/remedy of any failures during restoration should be considered, as with tree planting 5 years may be suitable to ensure that land has been properly restored and no long-term damage has occurred. c) Yes, if the unit would fail or be left dormant/derelict some time before the 40-year life has expired.

6.2	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. a) Are NE and SDDC content with the Applicant's ALC and surveys [APP-168, APP-169, APP-170, APP-171]? b) Is Subgrade 3b a robust worst case assumption for the areas that were not surveyed [APP-168]? c) Should surveys be required of areas that were not surveyed to rule out that they could be BMV agricultural land?	a) It is considered that they meet the minimum criteria of MAFF 1988, but soil survey work was not supervised/observed. b) Yes, this is the most likely grade. c) Only where land is shown on provisional maps to be higher than Grade 3 or on the Likelihood of BMV map as moderate to high likelihood of BMV.
6.6	Potential permanent loss of agricultural land The Applicant [APP-169 paragraph 15.134] states that the Battery Energy Storage System and onsite substation would be removed during decommissioning, but that the land in these areas may not be restored back to the same ALC grade. The Battery Energy Storage System and substation would be within a small field of mixed Subgrade 3a and 3b quality. The Applicant indicates that there would be a permanent loss or downgrading of 1.5ha of Subgrade 3a agricultural land if the substation was not removed or suitably restored.	a) If cables are left in-situ this would result in land drains not being reinstated so there would be a permanent loss. It would be reasonable for the dDCO to require no permanent loss of Subgrade 3a land.

	a) Noting the protection afforded to BMV agricultural land, has sufficient consideration been given to measures to avoid the permanent loss of Subgrade 3a agricultural land? Would it be reasonable for the dDCO [AS-005] to require no permanent loss of Subgrade 3a agricultural land? If not, why not?	
6.7	Return to agricultural land uses after decommissioning a) Should the dDCO [AS-005] explicitly require the land to be returned to agricultural use immediately after decommissioning has been completed? If not, why not? b) Please could the Applicant suggest suitable wording in case the ExA is minded to include such a provision?	a) Yes, because if at the time there are unforeseen reasons for not restoring it to agriculture these will be apparent to decision makers in 40 years' time
6.8	Draft DCO [AS-005] Requirement 13 - Land contamination The Applicant [AS-017] states that appropriate remediation strategies and measures would be secured where found to be necessary, and that remediation must be carried out in accordance with the approved scheme. a) Is the approach consistent with the EA's guidance on land contamination risk management? Should it be required that land contamination is dealt with in accordance with that guidance?	Our reference point for land contamination assessment and remediation is BS 10175:2011+A2:2017 Investigation of potentially contaminated sites - Code of practice. I have not had the opportunity to read in detail the EA guidance on land contamination risk management, although the principles of the two appear to be broadly the same. I would recommend that land contamination should be dealt with in accordance with BS10175:2011+A2:2017 Investigation of potentially contaminated sites - Code of practice. By definition compliance with this Code should ensure that any contamination is not disturbed. I would only consider it necessary to consult with the EA in the event that the source – pathway – receptor model identifies that contamination is present which poses a viable threat of causing contamination to a sensitive ecological system or a watercourse

	b) Should measures be added to Requirement 13 in relation to avoiding disturbing any contamination and to consultation with the EA?	
7.1	Skylark 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. 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? b) Please comment on the potential for any successful breeding skylark on the site currently and during the operational phase.	a) The supporting baseline for the PEIR (Arcus 2020 Breeding Bird Survey Report), identified the presence of x28 breeding territories for skylark within the Oakland Farm part of the Site, together with x1 breeding territory for lapwing – both are ground nesting birds. No evidence of skylark breeding territories was found within the Park Farm part of the Site (Luc 2022 Breeding Bird Survey Report), this has now dropped to an estimate of 19 pairs. Following best practice in monitoring breeding skylarks, at least four visits should be made to the site at dawn between April and August. The most accurate idea of a Skylark territory can be made by observing where the bird flies up from or alights. One singing male is assumed to represent one territory, i.e. one breeding pair. In order to collect meaningful data from the Application Site within the time available, it is practical to use singing skylarks as an indicator of breeding skylark density. In optimal breeding habitats, the presence of a singing skylark is probably a good indication that a pair is breeding (Delius 1965 and Schlapfer 1988) but it is noted that where breeding habitats are suboptimal the presence of a singing bird in all likelihood does not necessarily imply that it has a mate. To remove a degree of uncertainty, it would be best to assume the maximum population estimate and not rely on speculation as for species that establish territories and breed late in the season, maximum counts have been shown to be more appropriate. Skylarks have multiple broods and breed from mid-April to mid-July. Therefore, impacts are significant adverse at District Ecological Value. b) Establishing the impact of the operational phase on the skylark population would be useful and what opportunities the breeding population would have to disperse to the surrounding area given 19-28 pairs is relatively significant considering the surrounding area having the capacity to accommodate the movement of those dispersed birds.

	c) Please comment on the potential for harm to skylark during the site preparation works, and during the construction, operational and decommissioning phases?	c) An examination of the potential harm to the skylark population would give greater clarity on the potential for sustaining the population and help guide appropriate and specific mitigation.
7.2	Barn owl 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. 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. 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?	a) SDDC predicts a loss of foraging habitat to Barn Owl during the construction stage from particularly disturbance. b) The supporting baseline (LUC 2022 Breeding Bird Survey Report, appended) appears to identify the presence of a nesting barn owl within tree T24 of the Oaklands Farm part of the Site, although the report makes several inconsistent statements in this respect (Sections 3.10, 4.6, 4.7). The Preliminary Environmental Information Report (PEIR) makes no reference to barn owl or the potential nesting site, specifically whether the tree would be retained and whether appropriate mitigation measures in respect of disturbance have been considered, given that this species is listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). The ES should clarify whether barn owl has been identified as nesting within a Site tree; and if nesting has been identified, mitigation and compensation measures should be prescribed to adhere to statutory legislation and best practice guidelines during construction and operational phases
7.3	Other breeding birds of conservation concern 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	The Applicant details most breeding bird interest was within the agricultural buildings at Park Farm which support house sparrow, swallow, and house martin. Will this ecological feature/receptor be given due consideration in relation to the disturbance during the construction phase and is any enhancement possible for these three species resulting from the Proposed Development.

	conservation concern. It considers that the study area has limited potential for Schedule 1 bird species other than barn owl. 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?	a) Species specific considerations would be welcomed.
7.4	Great crested newt The Applicant [APP-135 paragraph 6.7] scoped great crested newt out of the detailed assessment as it considers that the Proposed Development would not result in the loss of any ponds and would be focused in areas of arable and grazed grassland which provide low suitability habitat for great crested newt in their terrestrial phase. It states that surveys of all accessible ponds functionally connected to the site within 250m confirm the likely absence of great crested newt. SDDC [RR-295] suggests that additional compensation and mitigation measures may be required to suitably control the potential for killing and injuring great crested newt during the construction phase. a) Is SDDC content that great crested newt was scoped out of the detailed assessment?	a) SDDC is not content that GCN was scoped out of the detailed assessment because in respect of the NSIP proposal, the PEIR determines 'a likely absence of (GCN) and therefore adverse impacts are considered extremely unlikely'. The survey limitations section of the PEIR (6.47) identifies that 'it was not possible to survey all ponds within 250m of the Site, and outside of the site boundary, due to access restrictions' but this 'was not considered a constraint to the survey as extensive eDNA survey effort was undertaken for numerous ponds within 250m of the Site, which were recorded as negative for GCN'. The detailed GCN baseline for the Oaklands Farm part of the Site is provided within an appended report - Arcus 2020 PEA Report. Of the x9 accessible ponds within the Site (on-site ponds), x6 were dry and x1 was of limited suitability for GCN. The x2 remaining on-site ponds were subject to eDNA water sampling which tested negative for GCN. Critically, the Arcus 2020 PEA identifies a further x15 off-site ponds within 250m of the Site boundary which could not be surveyed as no access was granted from landholders, therefore, presence or absence of GCN could not be determined within all off-site ponds. The absence of GCN survey data for the x15 off-site ponds is a significant constraint to the survey baseline and assessment of likely significant effects to GCN for the Oaklands Farm part of the Site. Natural England standing guidance requires impacts to GCN to be considered from a minimum 250m buffer of the development boundary. Whilst offsite ponds clearly cannot be surveyed if access

	b) Please could SDDC explain why additional compensation and mitigation measures may be required?	has not been granted, the Arcus 2020 PEA simply states that 'it is considered unlikely that GCN are present on site and are unlikely to be a constraint to the Development design'. No consideration of the absence of GCN survey data for the x15 offsite ponds have been considered in this assessment. In respect of the Oaklands Farm part of the Site, the ES should have considered in more detail the implications of an absence of GCN survey data for off-site ponds and furthermore, the likely significant impacts arising from the construction phase of the solar installation following the precautionary principle. b) Those additional compensation and mitigation measures that may be required to suitably control the potential for killing and injuring GCN during the construction phase because of the absence of survey data for 15x ponds within the locality would come under a GCN Mitigation Strategy and could include: 1.Further survey work on all ponds in the extended locality. 2. Creation, retention and enhancement of habitats of primary importance for GCN including terrestrial habitats (hedges, grassland, hibernacula) 3. Prevention of harm to GCN including exclusion fencing. 4. Monitoring/Identification of a Receptor Site 5. Appropriate ECoW
7.5	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.	b) The Applicant has been unable to rule out the potential for likely significant effects associated with water quality and quantity, spread of invasive non-native species, and disturbance to otter during construction, alone or in-combination on the River Mease SAC'. However, the shadow appropriate assessment concluded that 'the avoidance and mitigation measures which will be secured in relation to the construction of the NSIP will provide certainty that harmful effects associated with contaminated runoff, changes in surface water flow, and disturbance to otter, will 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' The Applicant states "The Proposed Development will include construction activities in and near to the unnamed watercourse. Therefore, it is possible that this will result in increased noise and disturbance and as such cause disturbance to otter. It is expected impacts will be short-term, localised and small in extent with the

	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?	majority of the construction activities located in areas away from habitat suitable for use by otter". The statements are somewhat in contradiction of each other. Furthermore, Under Planning Application SDDC ref: DMPA/2024/0789 for the proposed development of an Installation and operation of an Energy Storage System (ESS) including energy storage units, substation, site access, cable connection, landscaping and ancillary infrastructure located at Fairfields Farm, Rosliston Road, Walton-on-Trent, Swadlincote, DE12 8LR, Innova Renewables Developments were commissioned to conduct an Ecological Impact Assessment (ECIA) for the Fairfield Energy Centre immediately adjacent to this NSIP application by Oaklands Farm Solar Limited for an Order Granting Development Consent for Oaklands Farm Solar Park. The ECIA Surveys confirmed the presence of otter in the form of a spraint and feeding signs including pulled apart signal crayfish and mussels. This further confirms the presence of otter on the watercourses connected with the site and both these applications. Otter was scoped out of both ECIA's (1), (2) yet the Fairfield Farm ECIA goes onto state that the tributary of the River Trent is considered to be a Priority Habitat following evidence of otter presence during the 2023 surveys (4.5.12. Other Rivers and Streams (r2b), Fairfield Energy Centre ECIA). (1) The watercourse which is present within the site boundary is not also considered functional habitat for maintaining the population of otters which are linked to the River Mease SAC (2) Surveys have confirmed the absence of otter and water vole within the site. Measures detailed within the CEMP will be prevent any adverse impacts upon the species in terms of disturbance which would contravene legislation. Otter and water vole have been scoped out of detailed assessment. Further clarification on the importance of the Site for otter is required and what mitigation measures are in place, particularly regarding site works and water crossings particularly in relation to otter disturbance given that in the likely future both applications will be aligned. The Outline Operational Environmental Management Plan does not appear to show any mitigation for otter.

7.6	River Mease Site of Special Scientific Interest (SSSI) The Applicant [APP-135 Table 6.6] states that the provision of 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. Are NE, DCC, and SDDC satisfied with the Applicant's assessment?	There is evidence that proposals of this nature can alter surface water runoff and drainage within developed sites. Indeed, a planning appeal for a solar farm scheme has addressed this issue directly. Appeal Ref: APP/D3315/A/13/2203242[4] Land at Glebe Farm, Tolland, Lydeard St Lawrence, Taunton TA4 3PR considers the issue of drainage as follows: 17. The planning application was accompanied by a Flood Risk Assessment (FRA). A carefully considered and professionally well-informed letter of objection to the proposed development makes the important point that it would be unsound to assume that rain falling on each row of solar panels would flow evenly into the rain-shadow of the row below, so as to mobilise the same percentage of the ground for infiltration as was available before the panels were installed. Rather, because the panels would be set at a downward slope and aligned to follow the contours of the land, rainwater would be likely to fall in a column from the lowest corner of each panel, and could then form rivulets flowing down through the rain-shadows of the rows below without utilising their whole area for infiltration, thus increasing the amount of water run-off from the site. SDDC find that argument persuasive. It is also noted that it is a concern which informed the proposed "Sustainable Drainage Scheme (SuDS)" incorporated in the appellant's FRA, following consultation with the Environment Agency. The FRA recognises that intensification of the run-off into small channels could occur beneath the lower end of the panels, and that this could increase run-off above that associated with the undeveloped site: it goes on to explain that the design of the SuDS has therefore incorporated a system of bunds, swales and scrapes to promote infiltration, limit erosion and provide on-site storage, thereby effectively managing the surface water run-off from the site. It also unclear whether any investigation or consideration of the impact of the proposal on land drainage within the site has been made. Officers at this Council have recently been involved with a Natural Flood Management (NFM) scheme close to the proposed site. This NFM scheme is being implemented because the area has recently become prone to high levels of surface water flooding/overland flows following significant tree planting locally. It appears the changes to hydrology have been caused by tree roots penetrating and breaking up land drains beneath that site which was formally in use as arable land. It is unclear

		whether land drains are located within the development site, however if they are present and still operative, given that the steel frames which will hold the panels will be piled into the ground to some depth there may be potential for the proposal to similarly destroy or damage existing field drains and ultimately affect land drainage across the proposal site. Given the size of the site, and the extensive nature of the project, it is likely that should any hydrological effects occur, these could be addressed on site through the incorporation of an appropriate Sustainable Drainage System (SUDS) and through the careful management of soil quality to avoid compaction during construction. SDDC would expect the detailed and thorough consideration of the potential for this scheme to alter flood risk from all sources and expect appropriate measures to be identified to ensure that flood risk and hydrological impacts do not occur.
7.7	<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. 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?	a) Yes b) Yes

7.9	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?	SDDC argue that adverse effects are likely to occur for certain ecological receptors. In relation to Ancient Woodland, would a greater buffer not be required for Grove Wood in relation to best practice. GCN were scoped out in relation to the operational phase and highlighted "accessible ponds" showed no signs of presence, however 15x ponds were not accessible. So there is potential for GCN presence and for impacts to occur during the operational phase.
7.11	Draft DCO [AS-005] Article 37 - Felling or lopping of trees or removal of hedgerows. The Applicant [AS-007, AS-017] considers that the broad powers to fell or lop any tree or shrub trees subject to tree preservation orders or cut back their roots are subject to appropriate limitations, and is necessary for the safe delivery of the Proposed Development. a) Should the exercise of these powers be subject to the prior consent of the local planning authority? b) Should the removal of hedgerows be restricted to those identified in Schedule 9 to ensure that any impacts are minimised and to ensure consistency with the ES?	a) SDDC would require the power to consent on the removal to fell or lop trees or removal of hedgerows. b) SDDC would deem it necessary to identify the trees in Schedule 9 to allow fulfilment of the actions identified in the Environmental Statement.
7.12	Draft DCO [AS-005] Article 38 - Trees subject to Tree Preservation Orders. The Applicant [AS-007, AS-017] considers that the broad powers to fell or lop trees subject to tree preservation orders or cut back their roots provide necessary flexibility.	a) SDDC considers that it is necessary for SDDC's prior consent to be required for the removal to fell or lop trees. b) SDDC would deem it necessary to identify the trees in Schedule 9 so that any impacts are minimised, and good practice is evidenced.

	a) Should the exercise of these powers be subject to the prior consent of the local planning authority? b) Should the relevant trees be identified in Schedule 9 to ensure that any impacts are minimised and to ensure consistency with the ES? c) With reference to paragraph 5.4.32 of NPS EN-1, would the proposals fully mitigate the direct and indirect effects on ancient and veteran trees?	c) The proposals would only fully mitigate those direct and indirect effects on ancient and veteran trees if no ancient or veteran trees were to be removed or damaged under broad powers.
7.13	Buffers The Applicant states that there would be: • a 5m buffer to retained hedgerows [APP-135 paragraph 6.78]; • a protection buffer of at least 15m from ancient woodland associated with Grove Wood LWS and for any ancient or veteran trees a buffer zone at least 15 times larger than the tree diameter [APP-135 paragraph 6.79]; and • in accordance with the EA's requirements, an 8m buffer to watercourses, apart from water crossings. DCC and SDDC [APP-121] are quoted as recommending that a habitat constraints plan or similar is produced for the CEMP, which clearly defines buffer zones to sensitive features such as ancient/veteran trees, other retained trees,	a) As a precautionary principle, a minimum 50 metre buffer should be maintained between a development and the ancient woodland particularly Grove Wood, including through the construction phase, unless the applicant can demonstrate very clearly how a smaller buffer would suffice. b) It is recommended that a habitat constraints plan or similar is produced for the CEMP, which clearly defines buffer zones to sensitive features such as ancient/veteran trees, other retained trees, ponds, watercourses, hedgerows and woodlands etc. these should be clearly marked to aid interpretation. c) As part of a habitat constraints plan Clearly identified and defined buffer zones identifying the rivers, ponds, woodlands, hedgerows, and trees that are subject to a buffer zone, recorded on a simple map should be provided at the earliest opportunity.

	ponds, watercourses, hedgerows, and woodlands etc. a) Please could DCC and SDDC comment on the buffers proposed by the Applicant? b) Please could the Applicant ensure that each buffer relied on for mitigation in the assessment is included in the Outline CEMP [APP-090]? c) Please could the Applicant, DCC, and SDDC consider whether a habitat constraints plan, or similar, would provide helpful clarification of the buffer zones, seek to agree what should be included in the Outline CEMP [APP-090], and each provide an update at the earliest opportunity?	
7.15	National Forest a) Is the Proposed Development consistent with Policy INF8 (The National Forest) of the South Derbyshire Local Plan, including in relation to supporting the delivery of National Forest objectives, native scrub and woodland connectivity across the site, and tree planting targets? b) Are the necessary mitigation measures provided in the Outline CEMP [APP-090], Outline OEMP [APP-091], Outline DEMP [APP-092], and Outline LEMP [APP-105]?	a) The proposed development is consistent with Policy INF8 in relation to tree planting and connectivity. However, the above requirement will vary depending on the amount and extent of necessary tree felling for the safe delivery of the Proposed Development. b) Greater identification of areas that would be subject to tree felling would help identify whether the mitigation measures identified in the Outline CEMP, DEMP and LEMP are adequate.

7.17	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?	SDDC would welcome a BNG Strategy and any alterations to the BNG metric to be completed before the commencement of any development.
8.4	Draft DCO [AS-005] Requirement 18 - Archaeology a) Should this requirement also apply to the site preparation works, rather than only in relation to commencement? b) Should a requirement be added for a copy of any analysis, reporting, publication, or archiving required as part of the written scheme to be deposited with the Historic Environment Record of the local planning authority within one year of the date of completion of the authorised development or such other period as may be agreed in writing by the local planning authority? c) In relation to any archaeological remains not previously identified which are revealed when carrying out the	SDDC relies on Derbyshire County Council (DCC) on this matter. DCC have advised the following: a) The requirement should apply in relation to commencement for the identification and protection of previously unidentified archaeological assets. b) A requirement should d be added to secure that a copy of any analysis, reporting, publication, or archiving required as part of the written scheme to be deposited with the Historic Environment Record of the local planning authority within one year of the date of completion of the authorised development or such other period as may be agreed in writing by the local planning authority. c) In relation to any archaeological remains not previously identified which are revealed when carrying out the authorised development, it should be required that: • they must be retained in situ and reported to the relevant planning authority as soon as reasonably practicable from the date they are identified;

	authorised development, should it be required that: • they must be retained in situ and reported to the relevant planning authority as soon as reasonably practicable from the date they are identified; • no construction operations are to take place within 10 metres of the remains for a period of 14 days from the date of any notice unless otherwise agreed in writing by the local planning authority; and • if the local planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the local planning authority? d) Should it be required that on completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the county archaeologist?	• no construction operations are to take place within 10 metres of the remains for a period of 14 days from the date of any notice unless otherwise agreed in writing by the local planning authority; and • if the local planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the local planning authority? d) On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive should be agreed with the county archaeologist.

9.4	The National Forest Have reasonable opportunities been taken to provide more woodland, and to support Policy INF8 (The National Forest) of the South Derbyshire Local Plan in relation to potential landscape and visual effects?	Yes
9.6	Glint and glare Footnote 93 of NPS EN-3 states that most commercially available solar panels are designed with anti-reflective glass or are produced with anti-reflective coating and have a reflective capacity that is generally equal to or less hazardous than other objects typically found in the outdoor environment, such as bodies of water or glass buildings. Please comment on whether mitigation using anti-reflective glass or anti-reflective coating should be secured?	The glint and glare assessment has modelled solar panels of smooth glass with anti-reflective coating (ARC) "because it is the panel surface most used for modern solar panels". The current industry standard for solar panels is that an ARC is applied, and in the absence of confirmation of the make and model of the panels, an anti-reflective coating is a reasonable assumption. It is recommended that a condition be attached to the consent to submit details of the solar panels and confirmation that an ARC will be applied to the installed solar panels.
10.2	Noise limits Paragraph 5.12.18 of NPS EN-1 requires that consideration be given to including measurable requirements or specifying the mitigation measures to be put in place to ensure that noise levels do not exceed any limits specified in the development consent. These requirements or mitigation measures may apply to the construction, operation, and decommissioning of the energy infrastructure development. SDDC [APP-160 Table 11.2] are quoted as recommending a condition for a site noise limit at the boundary.	SDDC is not aware of any update to the secured mitigation measures, but SDDC is satisfied with the proposed site noise limits.

	a) Please could the Applicant, following consultation with the SDDC, update its secured mitigation measures for the construction and operational phases as necessary, or set out why it does not consider it necessary to secure noise limits? b) Please could SDDC advise if it has any outstanding concerns on the Applicant's updates?	
10.3	Construction and delivery hours Requirement 20 of the dDCO [AS-005] specifies construction hours as a firm requirement. Paragraph 1.15.1 of the Outline OEMP [APP-090] states that working hours would be agreed with the Council prior to construction. SDDC [APP-160 Table 11.2] is quoted as recommending a condition for SDDC's standard working hours to be adopted. a) Please could SDDC advise if it has any concerns about Requirement 20 of the dDCO [AS-005]? b) Please could the Applicant, following consultation with SDDC about its concerns, update the Outline OEMP [APP-090] to recognise the firmness of the construction hours secured in the dDCO [AS-005]?	SDDC is satisfied with the "Construction Hours" section of Schedule 1, Part 2 of the dDCO, given that it sets out clearly defined construction hours with reasonable flexibility in the event of emergency and low impact activities.

11.2	Field surveys The Applicant [APP-155 paragraph 10.57] states that field surveys were carried out in November 2021 and April 2023. Do the parties have any concerns about whether the timing of these surveys is likely to provide sufficient understanding of the baseline conditions, including for non-motorised users?	The timing of the field work is not considered to be something that is detrimental to the assessment work submitted.
11.9	Draft DCO [AS-005] Article 9 - Power to alter layout, etc., of streets Draft DCO [AS-005] Article 10 - Access to works The Applicant requests powers to make permanent, rather than temporary, alterations to streets and to create of permanent means of access, setting out its reasoning [AS-017]. Do DCC or SDDC have any concerns?	SDDC relies on Derbyshire County Council (DCC) on this matter. DCC have advised the following: DCC would expect that the applicant would fully engage with the Highway Authority to ensure that any proposed temporary or permanent alterations to the road layout or structure are acceptable in terms of highway safety and for the long-term future maintenance of the highway.
12.2	Draft DCO [AS-005] Article 6 - Disapplication and modification of legislative provisions The Applicant [AS-007] is seeking to disapply a requirement in s25 of the Land Drainage Act 1991 for statutory consent from the EA in relation to impounding water necessary for the temporary stopping up of watercourses to trench and lay cables, installation of culverts, drainage and other features to cross watercourses. It states that it would be content in principle to include protective provisions for the benefit of the EA, if requested.	SDDC relies on Derbyshire County Council (DCC) on this matter. DCC have advised the following: As Lead Local Flood Authority, DCC would seek to be consulted prior to any stopping up or culverting of water courses in connection with site works, whether temporary or permanent, for the prevention of flooding or any adverse impacts attributable to the works.

	The EA [AS-019] states that it cannot agree to disapply the requirement for any impoundment licences required. a) Notwithstanding any potential discussions on protective provisions, please could the EA set out the implications of s25 of the Land Drainage Act 1991 being disapplied, including in relation to the need to control the Proposed Development and mitigate its effects. b) Without prejudice to any later determination, please could the EA set out any concerns that it currently has that may lead to any impoundment licenses not being granted? c) Do DCC or SDDC have any related concerns?	
12.3	Draft DCO [AS-005] Requirement 9 - Construction environmental management plans (CEMP) The Applicant [AS-017] states that while the Outline CEMP [APP-090] does not refer to a Surface Water Management Plan, it includes surface water management provisions. It refers to Requirement 17, which provides for details of the surface water and foul water drainage system for each phase to be submitted to and approved by the local planning authority. a) Should a requirement to provide details of a Surface Water Management Plan be added to Requirement 9 of the dDCO? If so, why?	SDDC relies on Derbyshire County Council (DCC) on this matter. DCC have advised the following: DCC feel that the submission of an Outline Surface Water Management Plan would be beneficial as an addition to Requirement 9. And Outline SWMP would make a significant contribution to ensuring that surface waters are adequately managed for the prevention of flooding, conservation of ecological interest and the prevention of pollution.

	b) Would it be helpful for the Applicant to provide an Outline Surface Water Management Plan to the Examination to clarify and help secure the measures that should be included?	
12.7	<u>Potential water quality, drainage, and flooding benefits</u> Paragraph 2.10.154 of NPS EN-3 states that where previous management of the site has involved intensive agricultural practice, solar sites can deliver significant ecosystem services value in the form of drainage, flood attenuation, and water quality management. Have reasonable opportunities been taken to maximise the potential benefits?	SDDC relies on Derbyshire County Council (DCC) on most of these matters. DCC have advised the following: DCC considers that there are concerns that changes to surface water run off characteristics associated with the concentration of surface flow along the lower edge of panels during the operational phase of the development. An Outline Surface Water Management Plan may contribute to a better understanding and mitigation of changes to surface water flows. Similarly, following decommissioning, the establishment of an agreed end state of the land would help to maximise the potential benefits to ecosystem services, drainage and flood alleviation derived from the site. Concerns have been expressed that changes to site sub-soil drainage resulting from construction and decommissioning may impact upon localised soil conditions, these matters should be addressed in an agreed 'End State of the Land' set out in the DEMP. In addition to these points from DCC, SDDC would add that a detailed look at the potential ecosystem services relevant to this site could be explored, specifically in relation to a costed grassland management plan and following the decommission the site is managed as a traditional hay meadow to utilise those gains suggested. Likewise, SuDS or ponds holding the channelled water from the solar panel array might also provide maximum benefit.