OAKLANDS FARM SOLAR PARK

Applicant: Oaklands Farm Solar Ltd

The Applicant's Comments on Responses by Interested Parties to the First Written Questions

August 2024

Document Ref: EN010122/D3/11.3

Version: Deadline 3

1 INTRODUCTION

1.1 PURPOSE OF THIS DOCUMENT

1.1.1 This Document has been prepared for submission at Deadline 3 of the Examination by the Planning Inspectorate into an application by Oaklands Farm Solar Limited ("the Applicant") (a wholly owned subsidiary of BayWa r.e UK Ltd - "BayWa") under the Planning Act 2008 for a Development Consent Order (a "DCO") for the construction, operation, maintenance and decommissioning of ground mounted solar photovoltaic arrays and a Battery Energy Storage System ("BESS") on land west of the village of Rosliston and east of Walton-on-Trent in South Derbyshire ("the Proposed Development").

1.1.1 At Deadline 1 the Applicant and other parties provided responses to the First Written Questions set by the Examining Authority. This document records those responses by the Applicant and other parties, and then provides the Applicant's comments on those responses where appropriate.

1.1.2 This document has been prepared as part of the DCO application ("the Application") and should be read in conjunction with the other documents submitted within the Application and by the Applicant at Deadline 1.

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1.2	**Derbyshire County Council (DCC), South Derbyshire District Council (SDDC), Environment Agency (EA), Applicant**				
	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?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	The Applicant considers that the 28 days period is reasonable as this allows sufficient time for any absences, such as from holiday or sickness, without causing unnecessary delay to the delivery of the project. The Applicant does not consider it necessary for any application for consent to contain a statement drawing the authority's attention to the deemed consent period as this is clearly and properly provided for within the dDCO. However, the Applicant will engage directly with DCC, SDDC and the EA on this point and seek to capture an agreed position in the Statement of Common Ground, with an update on the progress of that SoCG to be provided at Deadline 3.	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.	DCC considers that 28 days is a tight timeframe, particularly if consultation between authorities is required. 28 days does not give much time for communications between local authorities and with internal consultees. Yes, the 28 day timeframe guillotine should be drawn to the attention of the local authorities to ensure that all internal consultees and officers are fully aware of time constraints.	A) The EA does not support 'deemed approval' for any of consents. B) Yes, if the above approach is taken.	As part of its submission at Deadline 1, the Applicant submitted a revised dDCO, which allowed for the 28-day period to be extended if agreed in writing between the parties (Articles 11(7), 14(9) and 16(6)). No further amendments to the dDCO are subsequently proposed considering the IPs' responses. The Applicant considers that a requirement to draw the authorities' attention to these provisions would be unnecessary as DCC, SDDC and the EA have been made aware of the 'deemed consent' provisions through this examination process.

1.5	**DCC, SDDC, EA, Natural England (NE)**					
	<u>Article 2 - Interpretation</u> **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?**					
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	NE at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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	DCC consider that some site preparation works have the potential to create adverse noise and air quality impacts including "remedial work in respect of any contamination or other adverse ground conditions" and "site clearance (including vegetation removal, demolition of existing buildings and structures)". "Commencement" should include preparation works relating to protected species, archaeological remains and traffic. Also, additional mitigation should be secured for impacts on protected species particularly otter and Great Crested Newts.	a) The "site preparation works" on page 6 of the draft Development Consent Order include '(*c) remedial work in respect of any contamination or other adverse ground conditions'*. Such works are pre-commencement activities that could be undertaken without the controls that only apply following commencement. This means that remediation of the site could take place without the Construction and Environmental Management Plan (CEMP) (Requirement 9) being approved or in place. It also means that remedial works can take place before the Contamination Risk Assessment under Requirement 13 for Land Contamination has been produced and agreed. Significant environmental effects cannot be ruled out. Therefore, we advise that '(*c) remedial work in respect of any contamination or other adverse ground conditions'* is removed from the "site preparations work" list in the dDCO, and that such works are undertaken with controls that apply at commencement (i.e., controls within Requirements 9 and 13 apply). b) Requirement 9 (CEMP) and 13 (Land contamination) are sufficient if any '*remedial work in respect of any contamination or other adverse ground conditions'* is no longer classed as "site preparation work" and therefore no longer a pre-commencement activity. If such activities are to remain as pre commencement, controls like those secured through Requirement 9 and 13 will be required.	Natural England would like clarification about what site prepareations 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.If site preparation work is undertaken in the River Mease SAC and River Mease SSSI catchment and has the potential to mobilalise of sediment then additional mititgation measures must be proposed and secured to ensure there is no impact on the designated sites features.	The Applicant acknowledges the comments made by the IPs in respect of the definition of "site preparation works". The Applicant considers that the works identified in the "site preparation works" are appropriate, as the nature of these works means they are not expected to give rise to environmental effects requiring mitigation. The Applicant does recognise that prior to some of the site preparation works being carried out, it may be appropriate for certain details to be submitted to and approved by the local planning authority. Where this is the case, the Applicant has provided for this in the drafting of the relevant Requirement e.g. sub-paragraph (4) of Requirements 8 (LEMP) and 9 (CEMP), and at Requirement 16 (Fencing and other means of enclosure). The Applicant appreciates the concerns raised by DCC and SDDC relating to limb (g) ("site clearance (including vegetation removal, demolition of existing buildings and structures)"), and has amended Requirement 9 to provide that for the purposes of that Requirement, "commence" includes site clearance works. The Applicant appreciates the concerns raised by the IPs relating to the limb (c) ("remedial work in respect of any contamination or other adverse ground conditions"), and has amended Requirement 13 to provide that no remedial works in any phase of the development may commence until a contamination risk assessment has been produced. The Applicant acknowledges SDDC's response to ExQ 1.5(b) [REP1-029] and refers the IP to the Applicant's response to the IPs' comments to ExQ 7.4 and 7.5. The Applicant considers SDDC's comment on paragraph 2.8.1 [REP1-029] to fall outside the scope of ExQ 1.5. The Applicant refers SDDC to the OLEMP **[REP1-015]**, which describes the valuable habitats that will be provided.

1.6	**Applicant, SDDC**			
	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?**			
	Applicant at D1	SDDC at D1	DDC at D1	Applicant at D3
	As provided for at Article 3(2) of the dDCO, 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. The effect of this is that the works are necessarily 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.	DDC 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.	As noted in the Applicant's response to ExQ 1.6 in REP1-025 this is secured by Article 3(2) of the dDCO.

1.8	**Applicant, DCC, SDDC, EA**				
	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?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	(a) The Applicant has amended Requirement 4 of the dDCO to require that the scheme includes a construction timetable, following precedent in the Sunnica Energy Farm Order 2024 and the Mallard Pass Solar Farm Order 2024. (b) The Applicant does not consider it necessary or proportionate to require a written scheme for the site preparation works. The purpose of the exclusion of site preparation works from the definition of "commence" is to allow those works which do not constitute material operations to be carried out ahead of discharge of requirements to enable prompt and efficient delivery of the authorised development. The Applicant considers that requirements should only relate to the site preparation works where necessary to secure necessary protections, such as in requirements 8 (LEMP), 9 (CEMP) and 16 (fencing and other means of enclosure).	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.	DCC considers that the scope of the written scheme setting out phases of construction of the authorised development should be expanded, to include key activities and timescales and that this should include preparation works.	a) No comment b) No comment	As noted in its response to ExQ 1.8(a) in REP1-025, the Applicant has amended Requirement 4 (phases of authorised development and date of final commissioning) of the dDCO to require that the scheme includes a construction timetable and phasing plan. For the reasons provided in its response to ExQ 1.8(b), the Applicant does not consider it necessary or proportionate to require a written scheme for the site preparation works and submits that no further action is required.

1.9	**Applicant, SDDC**
	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?** **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?**

Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
a) The design parameters relied on for the assessment are secured by sub-paragraph (2) of requirement 5, which requires the detailed design to be in accordance with the principles and assessments set out in the ES and the outline design principles as set out in the design statement. The Applicant has amended sub-paragraph (2) to specifically reference Table 4.2 of the Environmental Statement 'Design Parameters used in the EIA'. b) No comment required. c) No comment required. (d) With consideration of paragraph 5.10.38 of NPS EN-1, which states, *"The Secretary of State should consider whether requirements to the consent are needed requiring the incorporation of particular design details that are in keeping with the statutory and technical requirements for landscape and visual impacts",* the Applicant has appropriately provided for design details relating to landscape and visual impacts within the requirements of the dDCO. For example, through: • Requirement 5 (Detailed design approval), which requires the Applicant to submit to and have approved in writing by the local planning authority details of the layout, scale, proposed finished ground levels and external appearance of the proposed infrastructure; and Requirements 6 (Implementation and maintenance of landscaping), 7 (Arboricultural method statement (AMS)) and 8 (Landscape and ecological management plan (LEMP)), each of which place requirements on the Applicant to ensure landscape and visual impacts are avoided and mitigated so far as is practicable, as assessed within the environmental statement.	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.	DCC agrees that 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.	The Applicant does not consider it necessary for a standalone document comprising the design parameters to be certified under the dDCO as the environmental statement and design statement, which include these design parameters, are already to be certified. As part of its Deadline 1 submissions, the Applicant submitted a revised version of the dDCO, which amended Requirement 5(2) to specifically reference Table 4.2 of the Environmental Statement, 'Design Parameters used in the EIA'. No further action is therefore required.

2.7	**Affected Persons, Interested Parties**
	Other inaccuracies **Are any parties aware of any other inaccuracies in the BoR [AS-009], SoR [APP-019], or Land Plan [AS-002]?**

Applicant at D1	EA at D1	Applicant at D3
The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	We are not aware of any inaccuracies in the Book of Reference, Statement of Reasons or Land Plan.	The Applicant has no further comments to make based on the response from the Environment Agency REP1-032.

2.10	**Applicant, E.ON UK PLC, National Grid Electricity Distribution (East Midlands) PLC, National Grid Electricity Transmission PLC**			
	Land in the vicinity of Drakelow electricity substation **a) Please explain whether, and if so how, the land rights powers requested could affect the undertakings of E.ON UK PLC, National Grid Electricity Distribution (East Midlands) PLC and National Grid Electricity Transmission PLC, including in the vicinity of Drakelow electricity substation at plot numbers 01-001 to 01-014 [AS-002, AS-009]?** **b) Please could the Applicant justify the extent of the land over which the powers are sought, and justify the flexibility sought, for example by providing an indicative layout?** **Do E.ON UK PLC, National Grid Electricity Distribution (East Midlands) PLC, or National Grid Electricity Transmission PLC have any concerns about the extent of the land over which the powers are sought?**			
	Applicant at D1	NGET at D1	NGED at D1	Applicant at D3
	a) i. **National Grid Electricity Transmission PLC (NGET) and E.ON UK PLC –** In the vicinity of Drakelow electricity substation, NGET leases land from E.ON UK PLC and through the provisions of the lease, has the right to grant easement and access rights to third parties, such as the Applicant. Following initial engagement with E.ON UK PLC, the Applicant determined that NGET had the authority to provide the necessary easement. The Applicant considers no further direct correspondence with E.ON UK PLC is required. However, the Applicant is open to recommencing discussions with E.ON UK PLC if E.ON's position changes. The Applicant is continuing to negotiate the Option for Easement with NGET and through these negotiations, the parties will agree provisions to mitigate any potential impacts on NGET undertakings. ii. **National Grid Electricity Distribution (East Midlands) PLC (NGED) –** In the vicinity of Drakelow electricity substation, NGED has easements over the NGET leasehold and Mallaber freehold for overhead lines which will be crossed by the cable route associated with the Development. i. The Applicant has secured an Option for Easement over Mallaber freehold. Although the Applicant's easement will cross NGED's easement, rights under each agreement can be enjoyed without detriment to either party. ii. The Applicant continues to engage with NGET to secure Option for Easement for cabling and associated access rights into Drakelow electricity substation. iii. Although the Applicant's easement will cross NGED's easement, it is anticipated that rights under each agreement can be enjoyed without detriment to either party. iii. The Applicant is continuing to discuss Protective Provisions with relevant parties, including NGET and NGED. Undertakings and assets will be appropriately protected under these provisions. b) Through discussions with NGET and recognising the scale of electrical infrastructure within Drakelow electricity substation, the Applicant seeks flexibility to determine the final route and access requirement for the underground cabling. The Development is at a planning stage of design and further detailed, intrusive investigations will be required post-consent to determine the final construction design. In addition, several other developers are active in the area and seeking to connect into Drakelow electricity substation and therefore, interactions need to be considered which may only crystallise closer to final construction design. Flexibility under the DCO is required to manage this uncertainty. An indicative layout of cabling and access provisions is available at APP-097 - ES Figure 4.5 - Illustrative Drakelow Access Design.	National Grid Electricity Transmission PLC (NGET) is currently in negotiations with the Applicant to agree Heads of Terms for the Applicant to have rights over NGET's land at Drakelow electricity substation (Substation). The rights required by the Applicant are (1) access rights to the Substation, (2) connection rights for the installation of its connection cable and (3) if necessary, secondary access rights to enable construction of its connection cable in the event NGET is also undertaking works in the area which would prevent the Applicant from relying on the access rights referred to at point (1). NGET is unable to confirm at this stage whether or not the Applicant is able to use the current substation access at the point of constructing its connection cable. This is subject to programme of works and further details surrounding potential future NGET works at this location. NGET confirms that it will provide access over its land for the Applicant to deliver the proposed development and will work with the Applicant to confirm the access arrangements prior to construction. Regardless of the access rights which are eventually used by the Applicant, NGET must ensure that the Substation and its surrounding apparatus is adequately protected. To achieve this, NGET must maintain control over this land and therefore objects to any use of compulsory acquisition powers by the Applicant. It is understood that the Applicant is seeking compulsory acquisition powers (acquisition of rights) over plots 01-001, 01-002, 01-003, 01-004, 01-007, 01-009, 01-010, 01-011, 01-012, 01-013 and 01-014 which form part of the Substation and the access to the Substation and also include NGET overhead line assets and/or interests. NGET objects to the compulsory acquisition of its assets, land or rights over its land. It is essential that nothing in the DCO prevents NGET from continuing to deliver future plans or from accommodating other electricity connection customers. NGET requires its standard from protective provisions to be included in the DCO to protect its Substation, apparatus and interests from the Applicant's works and to ensure compliance with relevant safety standards. NGET is currently liaising with the Applicant in relation to such protective provisions and will continue to liaise with the Applicant with a view to reaching a satisfactory agreement. b) N/A – Applicant to answer. c) As referred to at its answer to Question 2.10(a), NGET objects to the compulsory acquisition of its assets, land or rights over its land. Aside from this, NGET will only have concerns over the extent of land over which the Applicant seeks rights if its standard form protective provisions cannot be agreed with the Applicant. This is because these protective provisions are required by NGET to ensure that its interests are adequately protected and to ensure compliance with relevant safety standards. NGET requests that the Applicant continues to engage with it to provide explanation and reassurances as to how the Applicant's works pursuant to the DCO (if made) will ensure protection for those NGET assets which will remain in situ, along with facilitating all future access and other rights as are necessary to allow NGET to properly discharge its statutory obligations. NGET also requests that the Applicant withdraws its proposals to seek compulsory acquisition powers over any of NGET's assets, land or rights over its land in connection with the DCO	NGED recognises that compulsory acquisition powers are sought under the articles of the proposed development consent order for the Oaklands Farm Solar Park (the "Order"). NGED has provided the Applicant with its required form protective provisions ("PPs") and asset protection agreement ("APA") for consideration and comment to date. The PPs and APA contain restrictions on the exercise of compulsory acquisition powers by the Applicant in respect of NGED's existing interests in land and apparatus. This is to ensure that NGED suffers no serious detriment as a result of the Order being granted. Accordingly, provided NGED's preferred form PPs are included on the face of the Order and a satisfactory APA is entered into between the parties prior to the granting of the Order, NGED does not object in principle at this time to the granting of compulsory acquisition powers under the Order.	As noted in its response to ExQ 2.10, the Applicant is continuing to liaise with NGET to agree protective provisions and, in respect of NGED, an Asset Protection Agreement. The Applicant has agreed protective provisions with NGED. The Schedule of Progress – Statutory Undertakers and Protective Provisions [Document 3.5 – Deadline 3] submitted by the Applicant at Deadline 3 provides a complete update on the progress of those negotiations.

2.15	**Applicant, SDDC**		
	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?** **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?**		
	Applicant at D1	SDDC at D1	Applicant at D3
	a) No, the Applicant is not currently aware of any land or rights being required in addition to those sought through the dDCO before the Proposed Development can become operational.	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.	The Applicant has no further comments to make based on the response from SDDC REP1-029 and its response to ExQ 2.15(a) REP1-025.

3.2	**Statutory bodies**			
	Responses to the Applicant's submissions **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?** **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?**			
	Applicant at D1	EA at D1	NE at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	Please refer to our Written Representation which also has our Work Package Tracker appended to it.	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. They have also contacted us with the aim of agreeing a statement of common ground. In terms of resolution the items are still outstanding however the applicant has agreed to provide a draft SOCG to review urgently.	The Applicant is continuing to engage with the IPs to enter into Statements of Common Ground as detailed in the Status of Statements of Common Ground document submitted at Deadline 3.

3.4	**Applicant, DCC, SDDC, EA**				
	<u>Construction phase management plans</u> **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?** **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.**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1 and D2	Applicant at D3
	The Applicant has reviewed AS-005 and the APP-090 in light of the ExA's questions. The following changes to the dDCO (AS-005) and OCEMP (APP-090) have been made in response: • Requirement 14 of the dDCO (AS-005) has been amended to provide further detail on what the Public Rights of Way Management Plan should include to ensure appropriate mitigation has been secured. • The OCEMP (APP-090) has been updated to clearly identify the measures to be included in a Site Waste Management Plan; • In respect of protected species, the Applicant identified duplication between Requirements 8 and 9 of the dDCO. The Applicant has therefore amended the wording of the Requirements such that construction related mitigation measures are to be secured in the OCEMP (APP-090) and planting, habitat creation and management measures in the Outline LEMP (APP-105). • The OCEMP (APP-090) has been amended to clearly identify the measures that should be included in the final CEMP pursuant to Requirement 9 of the dDCO in respect of protected species and retained habitat. • As part of the review undertaken the Applicant has also updated the Outline Decommissioning Environmental Management Plan (APP-092) to ensure that this clearly identifies the measures necessary at the decommissioning stage. • In respect to the Travel Plan, the Outline Construction Traffic Management Plan (APP-148) has been updated to clearly reference the need for a Travel Plan and to identify	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 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.	Species Protection Plan, Travel Plan, and Water Quality and Silt Management Plans should be provided in outline during the examination. The Species Protection Plan outline will enable consideration of measures required to be implemented before installation of panels commences in order to reduce the adverse impacts of the proposal on specific species, including, but not limited to Sky Lark. Early consideration of a draft plan will ensure that adverse impacts are likely to be minimised and mitigated to an acceptable level prior to the commencement of activities. Traffic congestion during the construction and decommissioning phases of the proposal are a cause of concern for local residents. Congestion on the local roads, compounded by longstanding issues relating to the Trent crossings, will need to be managed, particularly where the construction phase coincides with other long standing local events which are already known to adversely impact on traffic. Early consideration of travel planning will enable the Highway Authority to provide advice and traffic management to keep disruption to a minimum. Similarly, early consideration of the content of a Water and Silt Management Plan will ensure that those actions necessary to prevent adverse impacts on site drainage and local water courses can be fully considered at an early stage in the development process.	Deadline 1 Submission: Waste - We would not require an outline version of the Site Waste Management Plan pre-consent. Water Quality - With regards to outline Water Quality and Silt Management Plans we are currently unable to provide an answer to this. We will provide a response to this question at Deadline 2 (15 August 2024). Deadline 2 Submission: We would not require an outline version of the Water Quality and Silt Management Plan, or the Spill Response Plan mentioned within the Outline CEMP [APP-090].	The Applicant maintains its position as set out at D1 [REP1-025] which is that the inclusion of detail specifying what is to be included in the various management plans (where those are not provided in outline as part of the application) is appropriate and provides sufficient certainty regarding the content of those management plans at this stage. The detail of those management plans will then be agreed with the relevant parties through the process of discharging requirements. In respect of the specific points raised by the IPs in REP1-026, REP1-029, REP1-032 and REP2-003 the Applicant submits as follows: Otter: as set out in the Applicant's response in this document to ExQ 7.5, embedded mitigation will ensure that significant impacts on otter are avoided. The delivery and implementation of a detailed CEMP and LEMP is secured through Requirement 9 (construction environmental management plans) and Requirement 8 (landscape and ecological management plan) of the dDCO (REP1-003). These management plans will provide further details on the delivery of ecological enhancements and management, including for otter. GCN – the Applicant refers to its D1 response in REP1-025 and subsequent D3 comment regarding GCN, as set out at ExQ 7.4 above. Hedgerows and trees – the Tree Protection Plan provided within the Arboricultural Survey Report (APP-133) provides detail on the extent of tree and hedgerow loss. Woodland – as noted above, the Tree Protection Plan provided within the Arboricultural Survey Report (APP-133) provides detail on the extent of tree and hedgerow loss. In its comment at D3 on ExQ 7.13 below, the Applicant agrees with SDDC and DCC that a Habitat Constraints Plan should be included as part of the detailed CEMP. In response to SDDC comments at Deadline 1 to ExQ 7.13, the Applicant's response to ExQ 7.13 at Deadline 3 confirms there is a

	the measures that this should include. • The OCEMP (APP-090) has also been updated to clearly identify the measures that should be included in a Water Quality and Silt Management Plan.				buffer greater than 50m from the Order Limits to Grove Wood. Traffic congestion – as per the Applicant's response at D1 (REP1-025), the OCTMP has been updated at D1 (REP1-021) to provide further detail about the content of the Travel Plan which will be used to mitigate any potential adverse impacts on the highways network. Water and Silt Management Plan – the Applicant notes the position of the EA in REP1-032 and REP2-003, and confirms the OCEMP submitted at D1 (REP1-007) includes detail on what would be included within a Water and Silt Management Plan.

3.5	**Applicant, DCC, SDDC, EA, NE**					
	<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.** **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?**					
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1 and D2	NE at D1	Applicant at D3
	The Applicant received a S42 consultation response from the Environment Agency, which in respect of pollution identified a low risk to controlled waters from the proposed development, whilst noting the potential risk during construction for sediments to enter the River Mease SAC watercourse, which it states would be an offence under the Environmental Permitting Regulations 2016. The Applicant has taken steps within the application, such as providing an outline CEMP, to deal with that risk and is engaging with the EA following the Relevant Representation submitted by the EA regarding the content of that document and the application in general with a view to entering into a Statement of Common Ground. Natural England have noted in their Relevant Representation that they have been unable to completely rule out impacts during the operational phase on the River Mease SAC, through the discharge of surface water to that watercourse. Similarly the Applicant is seeking to engage with Natural England towards agreeing a Statement of Common Ground which will address that matter. The Applicant is not aware of any other bodies who have raised concerns regarding matters relating to potential pollution, either during consultation or through Relevant Representations.	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	DCC agree with the comments of SDDC. There are no specific consenting or licensing regimes which are enforced by the DDC 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. DCC also agree that 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	Deadline 1 Submission: Part a) Water Resources The applicant may have approached the water undertaker to agree a supply of water to the site. The applicant has not made the Environment Agency aware of the need for any Water Resources permits for other sources of supply to date. However, the Environmental Statement makes references to non-potable on site water availability for construction activities such as dust suppression. (APP-175 Environmental Statement 16.1 - Air Quality Assessment) Consumptive uses of water during construction will require an abstraction licence for quantities >20m3/day. There is availability from surface water in this catchment, but it may be restricted to medium- high low flows (Q70) only (i.e. not available during low flows). More information can be found in the licensing strategy for the catchment here. Planning for on-site storage to buffer water supply when it is not available directly is encouraged, particularly for activities such as dust suppression which is often needed during hot dry weather. Water Quality	There are no other regulatory regimes that relate to this project and NE's remit. NE have no detailed comments to make.	The Applicant notes the comments by SDDC [REP1-029] and DCC [REP1-026] regarding the lack of any specific consenting or licensing regimes enforced by those bodies which would apply to this scheme. The Applicant has provided a further response in respect of the River Mease SAC in its responses at D1 [REP1-025] and D3 to ExQ7.5 and 7.6. The Applicant notes the EA's comments in REP1-032 and REP2-003 regarding the requirement for abstraction licence for quantities greater than >20m3/day, and will apply for the relevant licence if required prior to commencement of consumptive uses of water during construction.

	The Applicant therefore responds as follows: a) The Applicant will review any submissions in response to this question and will comment as necessary at future deadlines. b) The Applicant will continue to engage with the EA and NE in order to ensure that the ExA is provided with evidence, either through a SoCG or through the submissions by those bodies, as to whether those bodies are satisfied or have outstanding concerns in respect of the risks of pollution. c) The Applicant will identify any ongoing or residual concerns and will engage as necessary with the bodies in question to resolve those matters, having regard to the various outline management documents which form part of the application and the Requirements within the dDCO, as mechanisms for ensuring that the risks of pollution occurring are minimised. d) The Applicant acknowledges the need to provide regular updates and will ensure those are submitted at the necessary deadlines.	otter specifically in relation to the River Mease SAC	surface water flow, and disturbance to otter specifically in relation to the River Mease SAC.	We will provide an answer to this question with regards to water quality related permits at Deadline 2 (15 August 2024) Part d No permit application(s) has currently been submitted. We can provide updates via our Work Package Tracker as we progress through the DCO process. Deadline 2 Submission: The Environmental Permitting (England and Wales) Regulations 2016 sets out the requirement to hold and adhere to an environmental permit to carry out a water discharge activity, unless exemptions apply. The Environment Agency is satisfied that the above regulations provide adequate controls to protect the water environment from water discharge activities provided they are adhered to by the applicant and any subsequent contractor		

5.1	DDC, SDDC, EA				
	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?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	DCC considers that: a) The suggested approach which is likely to result in a proportion of the underground ducting and cables to remain in situ after decommissioning, to reduce the environmental impact of the removal works, has the potential to adversely impact on the long-term agricultural use of the site – although this is to some extent dependent on the depth at which the underground cables are laid. A number of questions need to be answered to assess the potential impact of the ducting and cables remaining in situ. How deep will the cables be laid, will the ducting be sealed upon decommissioning, has an assessment of the implications for site drainage been reported and what are the long-term risks associated with the environmental leaching of materials from within the ducting. b) Ideally the underground cables and ducting should be removed for the long-term benefit of the agricultural land.	Part a) The approach to decommissioning cables will depend upon a site-specific risk assessment being carried out prior to the decommissioning phase. However, we would normally object to pipelines/ cables (being left in situ) that transport pollutants, particularly hazardous substances, that are below the water table in principal or secondary aquifers. We would expect to work with operators to agree best available environmental options. Part b) We are unable to provide a yes or no answer to this question as it depends on the outcome of a site-specific risk assessment to be undertaken prior to the decommissioning phase. However, it is important to note that leaving cables in situ could fall under the definition of waste.	The Applicant notes the responses by SDDC REP1-029, DCC REP1-026 and the EA REP1-032 and will engage with those IPs as part of discussions regarding SoCGs. The Applicant is seeking to retain an appropriate level of flexibility which would allow some cables to be left in situ should an assessment of the situation at the decommissioning phase determine that to leave cables in situ would be environmentally preferable, having regard to factors such as the condition of the land at that time, potential disturbance from the removal of the cables, and any contamination risks which could arise from the cables being left in situ. It is not possible to determine the approach to be taken across different parts of the Proposed Development at this stage, which is why flexibility is being sought to retain that option. Requirement 22 (decommissioning and restoration) of the dDCO REP1-003 requires the decommissioning environmental management plan, which would detail the decommissioning and restoration measures to be undertaken, to be approved by the local planning authorities).

5.2	**Applicant, DDC, SDDC, EA**
	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.** **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?**

	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	a) Requirement 22 requires the undertaker to submit a decommissioning environmental management plan and decommissioning traffic management plan for approval, and to decommission the Proposed Development in accordance with the approved plans. That approach will ensure that the Local Planning Authorities have the opportunity at that time to determine the acceptability of the end state after decommissioning, in line with the relevant legislation and policy in force at that time. b) Decommissioning will be carried out in accordance with the relevant legislation and policy in force at the time of decommissioning, and it is not therefore considered necessary or appropriate to include further detail in the draft Order at this stage. c) The Applicant's position is that is not necessary to include a provision to secure funding for decommissioning, as the decommissioning of the site is secured through Requirement 22 which is legally enforceable and meets the appropriate tests for Requirements. That was the position taken in the Gate Burton DCO, where the ExA confirmed at Paragraph 7.3.10 of its Recommendation Report (EN010131-001743-Gate Burton Solar Recommendation Report Appendices.pdf (planninginspectorate.gov.uk) that a	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. 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.	DCC considers that: a) This is a matter for consideration by agricultural and land management specialists. b) While the decommissioning of the solar array and associated infrastructure is addressed in the dDCO, it does not fully address the end state of the land. This matter must be addressed in the DEMP and relates to the response to question 5.1 above. It is necessary to understand the end sate of the land following decommissioning, and its suitability of other uses, including agriculture, if the full impact of the proposal is to be understood prior to consenting. c) The dDCO should make provision to secure funding to provide certainty that adequate land and landscape restoration can take place upon decommissioning if planning conditions are not considered an adequate control. DCC agrees with SDDC that there should be a comprehensive Soil Management Plan that deals with construction, operation and decommissioning of the site. DCC agrees with SDDC that 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.	Part a) The Decommissioning Environmental Management Plan (DEMP) will capture the environmental situation at the time and the applicant will use this information to inform their decommissioning plan. We request to be consulted on the DEMP (Requirement 22) and proposed decommissioning and restoration plans. Part b) Please see above comments. From our perspective this is sufficient. Part c) We have no comments to make. The Local Planning Authority (LPA) might be best placed to answer this. Part d) We have no comments to make. The LPA might be best placed to answer this.	The Applicant maintains the position set out in its response to ExQ 5.2 in REP1-025 that the level of detail in Requirement 22 is appropriate at this stage in the process. Requirement 22 of the draft DCO REP1-003 requires the decommissioning environmental management plan to be in accordance with the outline decommissioning environmental management plan REP1-011, and to include a resource management plan. Requirement 22 is in substantially similar terms to Requirement 22 of the Sunnica Energy Farm Order 2024, Requirement 19 of the Gate Burton Energy Park Order 2024, and Requirement 18 of the Mallard Pass Solar Farm Order 2024, which would suggest that the Secretary of State also considers this level of detail to be appropriate. There are no specific concerns in relation to the proposed scheme which would suggest an alternative approach is required. It is considered appropriate that Requirement 22 provides for detailed decommissioning provisions to be agreed with the local authorities prior to decommissioning, in line with relevant legislation and policy in force at that time.

	decommissioning bond was not required given the inclusion of a Requirement providing for decommissioning. Similarly in its Recommendation Report on the Mallard Pass DCO (EN010127-001608-240216 - MPSP - The Examination Authority's recommendation report.pdf (planninginspectorate.gov.uk) the ExA confirmed at Para 7.4.73 that no bond was required given the inclusion of a decommissioning requirement. d) As set out above, the Applicant's position is that a provision to secure funding for decommissioning is not required.		c) Yes, to ensure that there is certainty that adequate funding arrangements are in place to reinstate the land appropriately. 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	Applicant, DDC, SDDC, EA

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?

Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
a) The Applicant submits that a requirement to secure the decommissioning and restoration of the site within a specified timescale is not necessary as there are factors outside the control of the Applicant that could lead to delay- for example, contractor availability. The requirement to submit a decommissioning environmental management plan and decommissioning traffic management plan for approval by the LPA will ensure that decommissioning will be subject to appropriate control by the LPA. b) Due to its response at (a) above, the Applicant does not consider it proportionate or appropriate to further control the decommissioning and restoration timescales. c) The Applicant does not consider this necessary as decommissioning must be carried out in accordance with the approved DEMP and DTMP, which require to be submitted to the LPA within 3 months of the undertaker deciding to decommission any part of the works. The final sentence of requirement 21(1) (Decommissioning and restoration) simply confirms that this can be no later 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.	DCC considers that: a) A specified time scale would add certainty to the decommissioning process giving assurance to landowners relating to the return of the land and commencement of future uses. b) To add certainty to decommissioning, each phase or decommissioning activity should be completed within an appropriate timescale. Activities such as reseeding or replanting of trees and hedges will clearly need to be tied to appropriate planting seasons to improve establishment. c) The commencement and completion of the decommissioning phase should be linked to the cessation of energy generation if earlier than 40 years following the date of final commissioning of the first phase of Work No. 1.	Part a) Yes, to ensure it is done. A requirement such as this will also enable enforcement. Part b) Defining the completion of decommissioning and restoration is required to ensure everyone has the same expectations. This will also aid enforcement if required. The definition/timescale of decommissioning and restoration is not possible to define at this time but would be based on the DEMP (Requirement 21). Part c) The requirement can give two options, 1) within 2 years of energy generation ceasing or 2) within 2 years after the 40-year expiry date, whichever is sooner.	The Applicant refers the IPs to its response to ExQ 5.3 in REP1-025. Specific decommissioning activities, such as the restoration of land, will be provided for within the decommissioning environmental management plan, however; it is not appropriate to require the decommissioning of the scheme within a prescribed timeframe beyond the current drafting of the dDCO. Sub-paragraph (1) of Requirement 22 (decommissioning and restoration) requires the decommissioning environmental management plan and decommissioning travel management plan to be approved by the relevant local planning authority. Sub-paragraph (5) states that the decommissioning environmental management plan and decommissioning travel management plan must be implemented as approved. The LPAs therefore will be able to ensure that the plans contain appropriate and necessary detailed provisions and timescales, and will be able to take enforcement action if these are not complied with. The Applicant considers that the level of detail in Requirement 22 is appropriate at this stage. The Requirement is in substantially similar terms to Requirement 22 of the Sunnica Energy Farm Order 2024, Requirement 19 of the Gate Burton Energy Park Order 2024, and Requirement 18 of the Mallard Pass Solar Farm Order 2024, which would suggest that the Secretary of State also considers this level of detail to be appropriate. There are no specific concerns in relation to the proposed scheme which would suggest an alternative approach is required. No further action is therefore required.

6.2	NE, SDDC				
	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?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	The Applicant considers the approach and methodology used within the ALC and surveys to be robust and appropriate. The Applicant is engaging with Natural England to discuss that approach and methodology, with a view to agreeing a Statement of Common Ground during the course of the examination and will provide an update on those discussions at Deadline 3, together with comments as necessary on any responses by Interested Parties to this question.	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.	DCC agrees that: 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.	Natural England are unable to provide detailed soils comments for deadline 1. 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. 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. 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.	As set out in its response to ExQ 6.2 in REP1-025, the Applicant maintains its position that the approach and methodology used within the ALC and surveys is robust and appropriate. The Applicant is undertaking further survey work to confirm the Agricultural Land Classification of the area within the cable route between the solar arrays and the point of connection. The Applicant will provide an update on the results of the survey at Deadline 4.

6.6	**Applicant, SDDC**			
	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) 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?** **b) Would it be reasonable for the dDCO [AS-005] to require no permanent loss of Subgrade 3a agricultural land? If not, why not?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The BESS and substation is proposed within a relatively small field within the Site. The works occupy much of the field, which is surrounded by hedges. The Applicant recognises the policy position in respect of the broad objective of the minimisation of loss of BMV land. The Applicant anticipates that this area can be restored to BMV status on decommissioning, and that no permanent downgrading will result. The land will not be lost, it is only the BMV status that is under consideration. In response to this question, the Applicant is producing a Soil Management Plan dedicated to the BESS and substation area. This will address the removal of topsoil from across the BESS and substation area, the storage of that material for the duration of the consent, management of the material for the operational phase and the movement of the material at the decommissioning phase and its return to comparable agricultural quality. The Applicant will seek to provide a feasible solution where possible and update on this at Deadline 3. For the reasons stated the ES took a cautious approach and assessed the position in the event that the Applicant cannot be certain of restoration back to the same ALC grade. Whilst the Applicant anticipates restoration to comparable quality, it is considered that it would not be reasonable for the DCO to require that there is no permanent loss of Subgrade 3a. Planning policy does not prevent the loss of BMV land. The area involved is small, is contained in a single field, and 1.5 ha maximum. Such a loss is not considered to constitute a “significant” loss of BMV agricultural land (reference NPPF footnote 62) and is a minor adverse effect under the EIA methodology. As explained in Chapter 3 Site Selection and Design Strategy of the Environmental Statement at paragraphs 1.65 – 1.74, a number of environmental and technical considerations had to be taken into account in the siting of the Substation and BESS, and ultimately it is not possible to site this infrastructure completely within subgrade 3b agricultural land due to design requirements, the need to minimise visual and noise effects on neighbouring residential properties, the minimisation of new tracks, and to make use of the existing field pattern and hedgerows for screening. In the context of the proposed development constituting Critical National Priority infrastructure, it is the Applicant’s position that the urgent need for CNP infrastructure to achieve our energy objectives outweighs this residual effect on subgrade 3a agricultural land.	a) If cables are left in-situ this would result in land drains not being reinstated so there would be a permanent loss. b) It would be reasonable for the dDCO to require no permanent loss of Subgrade 3a land.	The potential loss of 1.5 ha of grade 3a/b land is not considered significant, however, decisions as to whether or not the BESS facility is to be fully removed should be established in as part of the dEMP setting out the end state of the land. It would not be unreasonable for there to be no net loss of grad 3a agricultural land.	For the reasons provided in its response to ExQ 6.6 in REP1-025, the Applicant maintains its position that it would not be appropriate or proportionate for the dDCO to require no permanent loss of Subgrade 3a agricultural land. The Applicant is undertaking additional survey work to inform the Soil Management Plan, results of which will be submitted at Deadline 4. The Applicant acknowledges the IPs’ response to ExQ 6.6(a) (REP1-029) and can confirm that cabling remaining in situ does not preclude the future use of drainage solutions to reinstate the land for example, bespoke land drain designs or other drainage features and soil management practices.

6.7	**Applicant, SDDC**			
	<u>Return to agricultural land uses after decommissioning</u> **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?** **Please could the Applicant suggest suitable wording in case the ExA is minded to include such a provision?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	(a) As noted in response to ExAQ 6.4(c) above, it is not appropriate or proportionate for the dDCO to require that the land be returned to agricultural use immediately after decommissioning the proposed development. The Applicant cannot compel the landowner/farmer to use the land in a particular way and it is not within the gift of the DCO regime, or the Secretary of State's powers, to do the same. It is only for the landowner/farmer to determine how to use the land in 40 years, which may be agricultural use, or an alternative use, depending on their personal circumstances at that time. If a requirement to this effect were to be included in the dDCO, the consent would no longer be for a temporary development. As noted in response to ExQ 6.4 above, there is currently no legal obligation on the landowner/farmer to keep the land in agricultural use and there is no policy or legislative justification for a requirement to be placed on the land to this effect once the development has been constructed. There are also many things outside the control of the Applicant and the landowner/farmer that could render it impossible to comply with such a requirement. For example, in the event of another foot and mouth outbreak or the landowner/farmer deciding to no longer farm the land. It is also noted that the use of land for agriculture does not require planning permission so that future use is not facilitated by providing for it in the dDCO. The lease requires the Applicant to make good the land in no worse state or condition prior to implementing the Proposed Development and therefore, the landowner has the ability (should they choose) to return the land to its current use. (b) Given the Applicant's position that it is not appropriate, proportionate or within the Secretary of State's powers to do so, the Applicant is not clear how such a provision could be suitably worded. The Applicant is unaware of any consented NSIP solar schemes that have imposed such a requirement that could serve as a precedent, both for circumstances that would warrant such control and the wording by which it might be secured.	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	a) Yes, the default should be to restore the land to agricultural uses. Any decision to deviate from this position, in 40 years time, should be made in light of circumstances prevailing at that time.	For the reasons provided in its response to ExQ 6.7 in REP1-025, the Applicant maintains its position that such a course of action would not be appropriate, and no further response or action is proposed.

6.8	**SDDC, EA**			
	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?** **b) Should measures be added to Requirement 13 in relation to avoiding disturbing any contamination and to consultation with the EA?**			
	Applicant at D1	SDDC at D1	EA at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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	Part a) Yes, the approach follows the process outlined in LCRM (gov.uk). We recommend that land contamination is dealt with in accordance with this guidance. We also recommend that reference is made to the position statements within the EA's publication - 'The Environment Agency's Approach to Groundwater Protection' (2018). Part b) Yes, any contamination identified to pose a risk to controlled waters receptors (through mobilisation during construction, for example) should be appropriately remediated. Any unsuspected contamination subsequently identified to pose a risk to controlled waters receptors should be reported to the Environment Agency and appropriately dealt with via an agreed remediation strategy. Note: Requirement 13(d) (Land contamination) within the amended draft DCO [AS-006] includes measures to follow if unsuspected contamination is found. 13(e) states that the contamination risk assessment will be submitted to the LPA for approval in consultation with the Environment Agency.	Further to the responses from the IPs, the Applicant has not identified any changes needed to Requirement 13 (land contamination) and has no further comments to make.

6.9	**DCC**		
	<u>Mineral safeguarding</u> **Paragraph 5.11.19 of NPS EN-1 states that Applicants should safeguard any mineral resources on the proposed site as far as possible, considering the long-term potential of the land use after any future decommissioning has taken place.** **Paragraph 5.11.28 of NPS EN-1 states that where a Proposed Development has an impact upon a Mineral Safeguarding Area, the SoS should ensure that appropriate mitigation measures have been put in place to safeguard mineral resources.** **The Applicant [APP-146 Paragraph 9.45] states that a short section of cable routing parallel to Walton Road to the north of Grove Wood is in a Sand and Gravel Safeguarding Area in the Draft Derbyshire and Derby Minerals Local Plan. DCC is quoted as saying that this is unlikely to impact the availability of the resource.** **DCC [RR-078] states that the nature of the Proposed Development means it could be removed relatively easily and it is unlikely therefore that it would lead to the permanent sterilisation of the sand and gravel resource.** **a) Is DCC satisfied that mineral resources are safeguarded "as far as possible"?** **b) Have appropriate mitigation measures been put in place to safeguard mineral resources?**		
	Applicant at D1	DCC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	a) The nearest identified mineral safeguarding area is not impacted by the proposal. A small sand and gravel safeguarding area exists adjacent to the River Trent, north of Walton Road/Drakelow Business Park in the area of 'The Verge'. This site is to the north of the proposal and is unaffected. b) No longer relevant.	The Applicant has no further comments to make based on the response from DCC in REP1-026.

7.1	**Applicant, SDDC, NE**
	<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.** **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.** **Please comment on the potential for harm to skylark during the site preparation works, and during the construction, operational and decommissioning phases?**

	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	A) The defined Study Area is the site plus a 500m buffer. The study area is considered to be of District value for skylark based on the number of singing males recorded. However, the study area (and therefore by definition the site itself) were considered sub-optimal for nesting skylark, due to the growing and harvesting of winter wheat and intensive grassland grazing. Crops such as winter wheat generally grow too tall and thick to enable successful breeding. Silage fields attract Skylarks, but are generally cut too frequently to allow successful breeding. Whilst Skylarks were heard calling within the site, this does not confirm that they are successfully nesting and breeding within the site, where the habitat is considered to be sub optimal. The proposed scheme will result in the permanent loss of open habitat which this species favours for nesting (although given the management of the land the site is already potentially unsuitable for breeding) and was considered to result in a significant adverse effect at the Local level for this species in the context of the CIEEM Guidance on Ecological Impact Assessments. That effect would be felt at the local level due to the habitat within the site being sub-optimal and due to some benefits arising from the Proposed Development for Skylarks through habitat creation (suitable foraging habitat). The Proposed Development would not result in a loss of habitat or potential effects on the Skylark population at a District Level due to those factors but also due to the presence more widely in the local area of similar agricultural practices serving to mean that other fields also offer sub-optimal habitat for Skylark. The loss of potential nesting habitat would have a very minor effect on the local population of skylark within the Site and study area but it is not considered that this would be detrimental to the conservation status of the species in area beyond the site. The primary cause of population decline for skylark is due to farming practices such as the move from spring to winter cereals, as well as by intensified grassland management rather than a lack of space or availability of land. As explained at paragraphs 6.39 – 6.44 of Chapter 6 of the Environmental Statement, statements of significance of effect are given with reference to both the CIEEM Guidance and separately categorised under the EIA	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 midJuly. Therefore, impacts are significant adverse at District Ecological Value.	DCC agree with the comments of SDDC in relation to Skylark: 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-	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. 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:	The Applicant maintains its response to ExQ 7.1 in REP1-025 and clarifies that of the 28 territory holding males identified in the Study Area, only 19 were recorded within the Order Limits. Whilst it is agreed that the Study Area, which is greater than the Order Limits and therefore conservative in terms of assessment, is considered to be of District Value for skylark, the scale of predicted impact is at a lower (Local) scale.

	Regulations. Paragraph 6.39 confirms that effects identified as being significant at the local level in terms of the CIEEM Guidance would be classified as minor (not significant) in the context of the EIA Regulations. B) There is potential for skylark to currently be nesting within the site (or attempting to), however due to the sub-optimal conditions presented by the current land use the presence of successful breeding skylark is reduced, and it is considered highly unlikely for there to be 19 successful breeding pairs within the site. The Proposed Development would create some habitats which would benefit the wider Skylark population (foraging) but would not provide the low crop habitats which Skylark typically favour for nesting. As such any skylark nesting within the Site boundary are expected to be focused within larger expanses of species-rich grassland located in field corners at the edges of the solar arrays. There is therefore a low prospect of skylark nesting on the site during the operation of the Proposed Development. C) In relation to the site preparation works, Requirement 9(3) provides that pre-commencement establishment of construction compounds, preparation of land for construction, construction area fencing and installation of site drainage must only take place in accordance with a specific plan for such works which must accord with the OCEMP. At the construction stage the dDCO includes provision for mitigation through the CEMP with Section 2.8 detailing the approach to Ecology Management, including the provision of a Species Protection Plan which will provide detail on mitigation in relation to nesting birds (including ground nesting birds such as skylark) to include measures such as timing works to suitable nesting habitat to be outside the bird breeding season and/or works being supervised by a qualified person if undertaken during the nesting season. At the operational stage Paragraph 3.28 of the OLEMP details how the management regime established through the LEMP would create benefits for the quality of foraging resource. The OOEMP then includes provisions for ensuring that impacts on appropriate habitats and nesting birds are avoided during the operation of the Proposed Development and similarly the ODEMP includes provisions to implement measures prior to decommissioning to mitigate for impacts to nesting and breeding birds through the provision of a Species Protection Plan (Paragraph 4.1.1). The Applicant's position is that those mitigation measures will be appropriate to ensure harm to Skylark at the construction, operational and decommissioning stages is avoided.	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) 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.	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) 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	Applicant, NE, SDDC				
	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?** **Please could NE comment?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	a) The site provides suitable habitat for barn owl to nest. However, no nesting activity was recorded during the bird surveys undertaken for the site. Nonetheless as detailed in Paragraph 15.51 of the oLEMP, a barn owl box is included as part of the Proposed Development. The Proposed Development will not result in the loss of suitable habitat for this species and instead will provide a significant increase in the availability of foraging habitat for this species through the creation of suitable habitat for its prey species. b) The Applicant is engaged in ongoing discussions with South Derbyshire District Council and Derbyshire County Council towards agreeing a Statement of Common Ground and will await and review and further comments on this matter in order to agree and record a position within the SoCG. The Applicant is engaged in discussions with Natural England and will await, review and respond to any comments by NE as well as continuing discussions towards agreeing a Statement of Common Ground.	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	DCC agree with the comments of SDDC in relation to Barn owls: a) SDDC predicts a loss of foraging habitat to Barn Owl during the construction stage from particularly disturbance. c) 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	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. 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: https://www.gov.uk/guidance/wild-birds-advice-for-makingplanning-decision	The proposals will not result in a reduction in the availability of foraging habitat during either construction or operational phases. Habitats typically utilised by barn owl for foraging (e.g. rough grasslands) will not be affected by the proposals. Indeed, such habitats are rare within the Site, typically being restricted to narrow field margins which will be retained as part of the protection buffers for woodlands, tree lines and hedgerows. The arable crops which comprise the majority of habitat affected by the proposals represent negligible suitability for barn owl foraging. Furthermore, the construction works will be completed during daytime working hours, thereby limiting any potential for displacement of flight lines or foraging at field margins as a result of disturbance. Further to SDDC's (REP1-029) and DCC's (REP1-026) response to ExQ 7.2(b), the Applicant confirms tree T24 will be retained and protected during the construction of the scheme. During the operational phase, the scheme will significantly increase the extent of suitable foraging habitat for barn owl by creating preferred grassland habitats around field edges and between solar arrays. Requirement 9 (construction environmental management plans) secures measures to be taken to protect protected species, including pre-construction protected species surveys to inform a Species Protective Plan. The implementation of the Species Protection Plan is secured through Requirement 21 (protected species). The OLEMP includes provision at Paragraph 4.51 for the placing of owl boxes within the scheme. The delivery of the LEMP is secured through Requirement 8 (landscape and ecological management plan) of the dDCO (REP1-003).

7.3	**Applicant, SDDC, NE**				
	<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.** **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?** **What length of hedgerow would be removed and how much would be replaced? How is this secured?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	a) As noted in the question ES Technical Appendix 6.4 and 6.9 provides detail on the breeding bird survey undertaken to inform the proposed scheme. Of the 56 bird species identified it is only Skylark where the Proposed Development is considered to have the potential to have an adverse impact at the local level (i.e. not significant in EIA terms), due to that species dependence on open habitat. The impact on the remaining species is expected to be positive, as those are species which would directly benefit from the habitat creation and site management proposed (predominantly hedgerows), which are secured through the OEMP and OLEMP. The OCEMP ensures that impacts on those remaining species is avoided at the construction stage. b) The proposed scheme has sought to retain the majority of hedgerows with exception to two hedgerows to accommodate visibility splays and short sections of hedgerow to allow for widening of gateways and installation of temporary or permanent access tracks and cabling. Reference should be made to Technical Appendix 6.12: Biodiversity Net Gain Report, which outlines total loss of hedgerow of 0.25km and the provision for hedgerow creation of 2.86km and enhancement of 3.18km. The provision of new hedgerow would be secured via the OLEMP, which details at various points throughout the document how existing hedgerows to be retained would be protected during the construction phase and where and how new hedgerow would be established and managed.	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. a) Species specific considerations would be welcomed.	DCC agree with the comments of SDDC in relation to other breading birds: 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. a) Species specific considerations would be welcomed.	Natural England are unable to provide any detailed comments on this question however hedgerows should be retained where it is feasible to do so.	Further to SDDC's (REP1-029) and DCC's (REP1-026) response to ExQ 7.3(a), breeding bird interest associated with Park Farm, including house sparrow, swallow and house martin, is considered unlikely to be adversely affected by the proposals given the distance from the construction areas and the existing high levels of agricultural industrial activity at the farm to which existing bird populations are habituated. The OLEMP includes provision at Paragraph 4.51 for the placing of various bird boxes within the Proposed Development, which would include boxes suitable for the species identified by the IPs. The delivery of the LEMP is secured through Requirement 8 (landscape and ecological management plan) of the dDCO (REP1-003).

7.4	SDDC			
	<u>Great crested newt</u> **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?** **b) Please could SDDC explain why additional compensation and mitigation measures may be required?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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 offsite 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 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	DCC agrees with the comments of SDDC: 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 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.	The Applicant considers its approach to GCN assessment to be appropriate and robust, for the reasons stated below. However the Applicant will engage with SDDC following Deadline 3 as part of its discussions regarding the SoCG to endeavour to resolve SDDC's concerns and will provide an update on those discussions at Deadline 4. In the first instance the Habitat Suitability Index identified those waterbodies located within and close to the Site boundary which had suitability for supporting GCN. A total of nine eDNA surveys of these waterbodies confirmed an absence of GCN. GCN typically occur in metapopulations with movements of animals between waterbodies within a local area. It is therefore reasonable to state that if GCN occurred in offsite ponds located close to the Site, GCN eDNA would have been identified with the sample of optimal waterbodies located within the Site. Of the 15 offsite waterbodies identified, 12 are located over 100m from the Site boundary, thereby further reducing the likelihood of any GCN (if present) travelling from these waterbodies into the largely unsuitable habitats present within the Site boundary. Furthermore, the nature of the Proposed Development is such that it would represent a low risk to GCN even if they were present. The proposals will not result in the loss of any waterbodies, and the habitats affected are largely unsuitable for supporting GCN in their terrestrial phase. Indeed, if GCN were present in offsite waterbodies, their occurrence within the Site would relate to transitory roaming individuals which would be most likely to move along suitable linear features at field edges, which scheme design has sought to retain and protect. Therefore any risk to GCN (albeit extremely unlikely) relates primarily to temporary and localised soil disturbance where features (e.g. trenches and soil piles) could provide increased opportunities for GCN, which would be mitigated effectively by way of the application of standard avoidance measures as part of a highly precautionary approach secured through Requirement 9 (construction environmental management plans) and Requirement 21 (protected species).

		5. Appropriate ECoW	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	NE, DCC, SDDC				
	<u>River Mease Special Area of Conservation (SAC)</u> **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.** **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?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	a) Technical Appendix 6.2: Report to inform HRA considers the impacts of the proposed scheme in relation to the qualifying features of the River Mease SAC, including white clawed crayfish, bullhead and spined loach. The habitats present within the site were assessed as not being suitable for those species and the Report to inform HRA therefore focused on the potential for impacts on those species arising from the Proposed Development to be seen outside the site by affecting the SAC or supporting habitats. The provision of mitigation through best practice construction measures, discussed at paragraph 4.4 of APP-122, which will be secured in the CEMP, and which have a high level of efficacy and delivery, provides certainty in that respect beyond reasonable doubt that adverse effects on the integrity of the SAC will be avoided. No adverse effects on the integrity of the SAC were predicted either alone or in-combination with other plans and projects. Further detail is presented in Chapter 4 of Technical Appendix 6.2. b) The Applicant will review responses by NE, DCC and SDDC at Deadline 1 and will review those with those parties as necessary through its discussions on Statements of Common Ground, before responding as appropriate.	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 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	DCC would reiterate the comments of SDDC: 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 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	As set in part 2 and 3 above Natural England are not satisfied with the applciants 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. 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	The Applicant acknowledges SDDC's (REP1-029) and DCC's (REP1-026) responses to ExQ 7.5(a) and the representation that '*The statements are somewhat in contradiction of each other*'. The Applicant's position is that this has arisen as a result of the different approaches required for EIA and HRA. For the EIA, embedded mitigation will ensure that significant impacts on otter are avoided. For HRA, in line with best practice guidance and case law, mitigation cannot be relied upon at the stage 1 test for Likely Significant Effects (LSE). For this reason, the HRA specifies that there is the potential for LSE to occur but concludes at the Appropriate Assessment stage (when mitigation can be relied upon) that the measures specified will ensure that adverse effects on integrity will be avoided. To assist the ExA, the Study Area is considered to be of importance at the Site level for otter as detailed in ES Chapter 6 (APP-135). Mitigation measures for protected species, including otter, are detailed within this chapter, the Outline CEMP (REP1-007), and the Schedule of Mitigation (APP-179). The delivery and implementation of a detailed CEMP and LEMP is secured through Requirement 9 (construction environmental management plans) and Requirement 8 (landscape and ecological management plan) of the dDCO (REP1-003). These management plans will provide further details on the delivery of ecological enhancements and management, including for otter.

		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.	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	NE, DCC, SDDC				
	<u>River Mease Site of Special Scientific Interest (SSSI)</u> **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?**				
	Applicant at D1	SDDC at D1	DDC at D1	NE at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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	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.	Natural Englands response to question 7.6 are the same as the response to question 7.5	The Applicant maintains its position that embedded mitigation as part of the oCEMP would ensure that the predicted impact of contamination on the River Mease SSSI would be extremely unlikely. The WFD Assessment [APP-142] and Figure 8.1 of the ES [APP-144] demonstrate how little of the site is within the River Mease catchment and there is no hydraulic connection via a watercourse or drain to the River Mease, with the catchment reflective only of toography. The oCEMP [REP1-007] was updated by the Applicant at Deadline 1 to include the Flood Risk Assessment and Outline Drainage Strategy as Appendix 3 to ensure the FRA clearly forms part of the final CEMP. As per Section 6.4.1 of the Flood Risk Assessment and Outline Drainage Strategy [AS-014], rainfall will be allowed to percolate into the underlying vegetation and soil as occurs at present. The solar arrays contain frequent gaps up and along the arrays, to allow the individual panels to manage thermal expansion along the array, which are fundamental for thermal movement. These gaps allow rainwater to disperse through the array and avoid concentrated flows landing on the ground. Runoff from the panels can therefore be intercepted and buffered by the vegetation growing underneath the panels and retained prior to infiltration as with the greenfield situation. The impact of the panels on runoff is therefore expected to be positive, as rainfall compaction of bare ground will be eradicated and soakage into the soil will be feasible throughout the year. Overall runoff will be reduced as the vegetation will be in place all year round and the underlying soil will not be left bare or compacted by agricultural activities. The Applicant notes the reference made by SDDC and DCC to an appeal for another project. The Applicant's position is that its assessment for the Proposed Development is robust and appropriate for the particulars of the site, and without knowing the specific context of the appeal project and assessment undertaken for it, it is not possible to infer the conclusions of that appeal as being directly

		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.	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. For the reasons set out above by SDDC, DCC considers that the installation of the solar panels is likely to impact upon surface water run off characteristics, which over such an extensive site, may have adverse hydrological impacts due to increased run off and reduced infiltration. This issue should be addressed by the incorporation of a suitable Sustainable Drainage System (SuDS) to delay run off and encourage infiltration.		applicable or relevant to the Proposed Development. As noted above the Applicant considers the impact of the panels on runoff to be positive, due to improved infiltration into grassland below panels compared to the situation where soils are subjected to intensive agricultural use. The existing land drains provide a preferential pathway for surface water run off thus potentially increasing the rate of run off compared to the true greenfield situation. That notwithstanding, the amended OCEMP [REP1-007] commits at section 2.6.5 to replace or repair any land drain found to be damaged during construction if required.

7.7	**Applicant, SDDC, NE**				
	Draft DCO [AS-005] Requirement 21 – Protected Species **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?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	a) Yes b) Yes	In response to a) and b), DCC concludes that the species mitigation plan should be agreed by the Local Authorities in consultation with NE and that similar provisions are required for site preparation, operation and decommissioning phases.	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. 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. 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 Discretionary Advice Service (DAS) or Pre-Submission Screening Service (PSS)	The Applicant understands references to a "Species Mitigation Plan" should instead refer to the "Species Protection Plan" secured by Requirement 21 (protected species) of the dDCO (REP1-003). The Applicant agrees with the submissions of SDDC (REP1-029) and DCC (REP1-026) and has revised Requirement 21(2) (protected species) to ensure the Species Protection Plan is agreed with the local planning authority in consultation with Natural England. This amendment can be seen on the clean and tracked versions of the dDCO submitted at Deadline 3.

7.9	**SDDC, DCC, NE, EA**					
	<u>Operational phase detailed assessment</u> **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?**					
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	NE at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	DCC considers that there are potentially adverse ecological effects arising from the operational phase of the proposal particularly in relation to the passage of mammal species which may be affected by site fencing. While it is accepted that fencing is required for security and to protect panels from damage by deer, consideration should be given to the ground level fencing design to enable the passage of smaller mammals such as badger, fox and hedgehog. Ecological receptors including badger setts and bat roosts should be given greater consideration in respect of buffer zones to minimise disturbance.	This question is within the remit of Natural England and LPA's ecologists. There are no main rivers on/ adjacent the site. Therefore, the information doesn't suggest there is a risk to water dependant species / habitats for which the EA are the lead.	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 introcude 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	The Applicant's response to the points made at D1 is as follows: Grove Wood – as set out in the Applicant's response at D1 to ExQ 7,13 in REP1-025, the Arboricultural Survey Report (APP-133) clearly defines the location of ancient woodland, the Grove Wood LWS and all identified ancient/veteran trees and their buffer zones. The Applicant confirms the Order Limits are greater than 50m from Grove Wood such that the recommended buffer is naturally provided for through the design of the scheme. GCN – the Applicant refers to its D1 response in REP1-025 and subsequent D3 comment regarding GCN, as set out in this document in respect of ExQ 7.4. Mammals - The indicative locations of the mammal gaps are detailed within Figure 6.3 of the ES [APP-136], and will allow the movement of small mammals, including badger and hedgehog to disperse through the Site. The final detail of the mammal gaps will be set out in the detailed LEMP secured by Requirement 8) and through Requirement 16 (fencing and other means of enclosure) of the dDCO [REP1-003]. Buffer zones - In its comment at D3 on ExQ 7.13 the Applicant agrees that a Habitat Constraints Plan should be produced as part of a detailed CEMP, which will ensure that appropriate buffer zones are provided. River Mease – the Applicant is engaging further with NE to address these points and will provide an update at Deadline 4.

7.10	Applicant, EA		
	<u>Wildflower meadows</u> **The EA [APP-121] is quoted as stating that if crops are to be replaced by wildflower meadows, a management plan must be agreed which should include when and where any grazing is permitted, as well as an annual cut and removal of wildflowers in August to allow species to fully establish.** **a) Please, following consultation with the EA, could the Applicant ensure that suitable measures for the management and maintenance of wildflower meadows are included in the Outline OEMP [APP-091]?** **Please could the EA advise if it has any outstanding concerns on the Applicant's update?**		
	Applicant at D1	EA at D1	Applicant at D3
	The LEMP provides detail on management and enhancement measures that will be applied during the operation of the proposed scheme in Chapter 5, paragraphs 5.4-5.11 and in Table 5.1. The Applicant is in discussion with the EA regarding a SOCG and will review any response by the EA to this question as those discussions continue, as well as providing a comment on any response at Deadline 3.	Part a) For the applicant to answer Part b) No outstanding concerns	The Applicant has no further comments to make based on the response from the Environment Agency in REP1-032.

7.11	Applicant, SDDC			
	<u>Draft DCO [AS-005] Article 37 - Felling or lopping of trees or removal of hedgerows.</u> **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?** **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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	(a) The Applicant does not consider it necessary for these powers to be subject to the prior consent of the local planning authority. Article 37 (Felling or lopping of trees or removal of hedgerows) does not relate to the felling or lopping of trees subject to tree preservation orders. This is separately provided for within Article 38 (Trees subject to tree preservation orders). The Applicant has amended Article 37 to clarify that it is subject to Article 38. Notwithstanding this, Article 37(5) requires the consent of the highway authority prior to the felling or lopping of a tree or removal of hedgerows within the extent of the publicly maintainable highway. (b) The removal of hedgerows under Article 37 is restricted to those stated within Schedule 9 through the drafting of sub-paragraph (4), which, save for the requirement for approval under sub-paragraph (5), is the only provision within Article 37 relating to the removal of hedgerows.	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.	DCC considers that such powers to fell or lop trees or to removed hedgerows should be removed from the dDCO.	The effect of this Article is that the local planning authority's consent would not be required as consent for the felling or lopping of trees or removal of hedgerows will be permitted by the DCO. This is to ensure the scheme can be delivered in good time and without unreasonable delay. As set out in the Explanatory Memorandum REP1-005, hedgerow mitigation, woodland creation, tree planting and scrub creation are secured in the OLEMP REP1-015. Prior consent of the relevant planning authority is not sought, as any removal of hedgerow will be mitigated through habitat creation. As regards DCC's response, for the reasons provided above, this power is necessary for the delivery of the scheme and should remain within the dDCO. The Applicant notes DCC's view is not shared with SDDC and submits that no further action or response is required.

7.12	**Applicant, SDDC**			
	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) 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?** **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?**			
	Applicant at D1	SDDC at D1	DDC at D1	Applicant at D3
	(a) Article 38(1) (Trees subject to tree preservation orders) provides that the undertaker's powers under that article must be "in accordance with the landscape and ecological management plan" (the "**LEMP**"). The LEMP is secured by Requirement 8 (Landscape and ecological management plan (LEMP)) and must be submitted to and approved by the local planning authority. The effect of this is that the consent of the local planning authority will in any event be obtained before the powers under Article 38 are/can be exercised. The removal of trees is further secured by Requirement 7 (Arboricultural method statement (AMS)), which requires the Applicant to submit to and have approved by the local planning authority the AMS, which must be in accordance with the Tree Retention/Removal Plan and Tree Protection Plan within appendix 6.4 of the Environmental Statement application. (b) The Applicant does not consider it appropriate to identify the relevant trees in Schedule 9 as the Proposed Development is subject to detailed design, such that it is not possible at this time to definitively identify the relevant trees. (c) As described in the Arboricultural Survey Report (APP-133), and evidenced through the Requirements in the dDCO, the Applicant submits that measures to mitigate fully the direct and indirect effects of Proposed Development on ancient woodland, ancient and veteran trees or other irreplaceable habitats during both construction and operational phases are provided.	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. 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.	a) DDC considers that it is necessary for SDDC's prior consent to be required for the removal to fell or lop trees. b) DDC would deem it necessary to identify the trees in Schedule 9 so that any impacts are minimised, and good practice is evidenced. 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.	For the reasons given in its comment to SDDC's and DCC's written responses to ExQ 7.11(a) and (b) above and its Deadline 1 submission to ExQ 7.12(a) and (b) REP1-025, the Applicant submits no further comment is required beyond that given. As regards SDDC's and DCC's response to ExQ 7.12(c), the IPs appear to be seeking avoidance, rather than mitigation. As noted in its response to ExQ 7.12(c), the Applicant submits that the Arboricultural Survey Report and Requirements in the dDCO provide suitable mitigation measures for any direct and indirect effects of the scheme on ancient and veteran trees.

7.13	Applicant, DCC, SDDC			
	<u>Buffers</u> **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, 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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The Arboricultural Survey Report (APP-133) clearly defines the location of ancient woodland, the Grove Wood LWS and all identified ancient/veteran trees and their buffer zones. The Arboricultural Survey Report also includes plans showing all trees/hedgerows to be lost and retained and where relevant details additional mitigation that may be required where development impacts may occur within root protection zones. The Applicant is updating the Arboricultural Survey Report to provide further detail of the approach to be taken to the construction of the access and cable route at the Drakelow Power Station and anticipates providing that updated document at Deadline 3. The need for the Applicant to provide an Aboricultural Method Statement (AMS) prior to the commencement of development is secured by Requirement 7 of the dDCO (AS-005). The Outline CEMP (APP-090) expressly references the need to adhere to the Arboricultural Impact Assessment (APP-133) at Paragraph 2.8.6. An 8m buffer to watercourses (except water crossings) is identified in Chapter 8 (Water Resources and Flood Risk) of the Environmental Statement (APP-143) and in the Outline CEMP (APP-090) in paragraph 2.6.4. All watercourses and ponds are identified in the Habitats Plan (APP-011) and Water Bodies Plan (APP-012). The Applicant therefore considers that the buffer zones have been adequately captured and further details secured and safeguarded as required, but will review the response of the other parties to this question, and discuss such responses with those other parties as necessary.	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.	DCC considers that: a) The proposed buffer distances are acceptable. And C A habitats constraints plan, clearly setting out the extent of buffer zones should be provided for clarification and to provide certainty that all areas and features requiring a buffer have been appropriately identified.	The Applicant acknowledges SDDC's response to ExQ 7.13(a) (REP1-029) and confirms the Order Limits are greater than 50m from Grove Wood such that this buffer is naturally provided for through the design of the scheme. The Applicant maintains its position to ExQ 7.13(b) (REP1-025) and suggests no further action or response is required. The Applicant agrees with SDDC and DCC that a Habitat Constraints Plan should be included as part of the detailed CEMP.

7.15	SDDC, National Forest Company		
	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?** **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]?**		
	Applicant at D1	SDDC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	The Applicant notes the position of SDDC on Policy INF8 in REP1-029. Separately the Applicant has responded to the Written Representation by the National Forest Company in its comments on the Written Representations in REP1-046. The Arboricultural Survey Report [Ref APP-133] includes a Tree Removal and Retention Plan which identifies any instances where trees would be removed. The Applicant intends to submit a revised version of that document during the course of the examination to include the results of additional tree survey work at Drakelow and will continue to engage on this with the local planning authority.

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?**				
	Applicant at D1	SDDC at D1	DCC at D1	NE at D1	Applicant at D3
	Biodiversity Net Gain for Nationally Significant Infrastructure Projects is not a legal requirement, such that the Applicant's offering as provided for in the Outline Landscape and Ecological Management Plan, which will be secured and delivered in detailed form through Requirement 9 (Landscape and ecological management plan (LEMP)) of the dDCO, is considered appropriate and proportionate to secure the delivery of biodiversity net gain as well as being a greater offering that the Applicant can be legally obliged to provide.	SDDC would welcome a BNG Strategy and any alterations to the BNG metric to be completed before the commencement of any development.	DCC would welcome the submission of a BNG Strategy prior to commencement.	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.	For the reasons provided in the Applicant's response to ExQ 7.17 REP1-025, and Natural England's response to the same written question, no further action or response is required. The Applicant and Natural England are in an agreed position.

8.2	Applicant, DCC archaeologist		
	<u>Archaeology – potential later prehistoric to Roman assets</u> **The Applicant [APP-139] considers that that is a low risk of high value later prehistoric to Roman assets being present on the site.** **a) Please could the Applicant and the DCC archaeologist comment on the value of later prehistoric to Roman assets that should be considered in the assessment and the potential for them to be of demonstrably equivalent value to designated heritage assets?** **b) Please could the Applicant provide supporting evidence to justify the assessment that they are at a low risk of being present and clarify the meaning of 'low risk' in the context of a reasonable worst-case assessment. Please could the DCC archaeologist comment on the likelihood of them being present?** **Please could the Applicant clarify, with detailed justification, the potential for harm to later prehistoric to Roman assets of demonstrably equivalent value to designated heritage assets, and whether that potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance? Please could the DCC archaeologist comment?**		
	Applicant at D1	DCC at D1	Applicant at D3
	(a) Geophysical survey has been undertaken across the site and has not identified any potential heritage assets likely to be dating from these periods. It is possible that small discrete features, e.g. isolated burials or small groups of burials, would not be picked up by this survey technique as they would fall below its reliable resolution (i.e. too small to detect). In addition, magnetic interference was present in the survey data over southern parts of the site. This could mask potential assets of this date. As such the assessment took a precautionary approach that buried assets of varying significance dating to these periods could still be present within the site. This was based upon high levels of documented activity for these periods on the nearby floodplain. In line with the precautionary approach, it was recognised that this could theoretically include assets which may be of equivalent significance to scheduled monuments. An example of such an asset could be an isolated burial or small group of burials rich in grave goods (artefacts buried with the deceased) and unusual for the period. Requirement 18 of the draft DCO provides that no phase of the authorised development is to be commenced until a written scheme for the investigation for that phase has been submitted to and approved by the LPA in consultation with the DCC Archaeologist. (b) Research for the scheme and consultation with the DCC Archaeologist to date indicates that buried assets of the kind discussed in answer to element 'a' of the question are unlikely, as documented at Paragraphs 7.37, 7.38 and 7.39 of Chapter 7 of the ES (Historic Environment) [APP-139]. This is as there has been no indication of the presence of settlement of this period within the site from geophysical survey and analysis of HER and Portable Antiquity Scheme (PAS) data. It is also as known concentrations of ritual and burial activity appear to be confined to the Trent floodplain (i.e.at distance from the site). (c) As stated in answer to the points above, assets of later prehistoric to Roman date of demonstrably equivalent value to designated heritage assets are considered unlikely. Should however, any be present they could be subject to harm. Levels of harm, using a small burial cluster of the kind outlined against answer 'a' above and with caveats on mitigation, would be as follows: i. burial cluster removed by groundworks – total loss as the asset would have been entirely removed. This scenario would not arise due to controls that would be in place via the CEMP and the Written Scheme/s of Investigation (WSI/s) in place for archaeological works on the scheme. ii. burial cluster partly removed (e.g. all burials truncated and/or some individual burials wholly removed) – substantial harm. This scenario would not arise due to controls in the CEMP and WSI/s iii. burial cluster subject to some minor disturbance (e.g. slight truncation to uppermost fills of burial which does not contain any artefacts or human remains and post-dates the burial (i.e. soil deposited some time after original burial after original rave fill has settled); foundation post just clips edge of burial without affecting artefacts or human remains) – less than substantial harm. This scenario would not arise due to controls in the CEMP and WSI/s. This mitigation is secured in the Para 2.9 of the oCEMP [APP-090] and if required, will be included in the WSI secured by Requirement 18 of the dDCO..	While there are no recorded Roman assets within the site, there have been late Mesolithic and early neolithic finds within the development area. Further assets cannot be ruled out. There are also possible medieval features. pre commencement surveys and construction works may identify further features of value and micro-siting of infrastructure during the construction phase may be useful in ensuring protection of these assets. The degree of harm inflicted would depend on the asset impacts and the nature of the work being undertaken, but could potentially result in total loss or substantial harm to significance.	The Applicant has no further comments to make based on the response from DCC in REP1-026.

8.3	**Applicant, DCC archaeologist**		
	<u>Archaeology – micrositing</u> **Paragraph 2.10.137 of NPS EN-1 states that the ability of the Applicant to microsite specific elements during the construction phase should be an important consideration by the SoS when assessing the risk of damage to archaeology.** **a) Please could the Applicant provide its consideration of the potential for micrositing, including the practical feasibility in relation to the foundations of the solar panels?** **b) Please could the Applicant ensure that any micrositing mitigation is explicitly secured in the Outline CEMP [APP-090]?** **Please could the DCC archaeologist comment?**		
	Applicant at D1	DCC at D1	Applicant at D3
	a) When practical or feasible, the Applicant will be able to micro-site certain elements of the Proposed Development (such as transformer stations, fencing and access tracks). In situations where micro-siting is not practical, feasible, or will not wholly avoid or alleviate impacts to archaeological discoveries on site, the Applicant has set out the procedure for using alternative construction methods in the outline CEMP to protect archaeological assets where required. Piling for the solar panel support structures will cover a large portion of the site and micro-siting may only be required for very small areas. However, in any areas where alternative methods are deemed necessary to protect underground assets, the solar panel support structures can be fastened to concrete pads placed over sensitive archaeological assets to protect them from intrusive piling. This method and proposed locations would be identified in the Written Scheme of Investigation, secured by the oCEMP (paragraph 2.9.8) and by Requirement 18 of the dDCO. b) No specific micro-siting mitigation for specific areas has been identified at this stage, but as set out above many of the components of the scheme can be micro-sited pursuant to the design parameters of Chapter 4 to protect archaeological discoveries.	The use of micrositing to enable the avoidance of harm to archaeological assets identified during commencement and construction phases may be crucial to the protection of previously unrecorded assets.	The Applicant has no further comments to make based on the response from DCC in REP1-026.

8.4	Applicant, DCC, SDDC			
	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 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?** **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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	a) The Applicant's position is that it is not necessary for the Requirement to apply to the site preparation works. The purpose of the exclusion of site preparation works from the definition of "commence" is to allow those works which do not constitute material operations to be carried out ahead of discharge of requirements to enable prompt and efficient delivery of the authorised development. These might be required to inform the Written Scheme of Investigation (WSI) and might be time sensitive (i.e., vegetation removal at certain times of year). b) Requirement 18 of the dDCO has been amended to provide that any written analysis, reporting, publication or archiving required as part of the WSI must be deposited with the Historic Environment Record of the LPA. The Applicant requests flexibility in the timing to provide a copy of analysis, reporting, publication or archiving due to challenges with timeframes of post-excavation analysis (e.g., high value remains can take much longer than one year to analyse). The timing of provision of information will be agreed with the Local Planning Authority dependent on the type of find. c) If archaeological remains are found, this level of detail would be included in the WSI, secured by Requirement 18. The WSI must be submitted to and approved by the LPA in consultation with the county archaeologist. Any such buffers / restrictions, would be agreed with the LPA, in consultation with the County Archaeologist, when discharging this Requirement. d) The Applicant envisages this detail will be agreed through the WSI, secured by Requirement 18. The County Archaeologist is a consultee on Requirement 18 so will be involved in this detail.	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; • 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.	DCC considers that: 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; • 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?	The Applicant maintains the position set out in its response to ExQ 8.4 in REP1-025 and submits that no further response or action is required.

9.4	**SDDC, National Forest Company**		
	<u>The National Forest</u> **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?**		
	Applicant at D1	SDDC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	Yes	The Applicant is pleased to note the position taken by SDDC in REP1-029 and has separately responded to the Written Representation by the National Forest Company in its comments on the Written Representations (Document 11.2 at Deadline 3).

9.6	**Applicant, SDDC**			
	<u>Glint and glare</u> **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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The Applicant agrees with Footnote 93 of NPS EN-3 that most commercially available solar panels are designed with anti-reflective glass or anti-reflective coatings, and therefore securing this specifically is not necessary. However, if SDDC deems it necessary the Applicant is willing to secure this by updating the text in Table 4.2 'Design Parameters used in the EIA' in Chapter 4 of the ES to specifically state that solar panels will employ anti-reflective glass or anti-reflective coatings.	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.	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.	Further to SDDC's (REP1-029) and DDC's (REP1-026) responses to ExQ 9.6, the Applicant has provided additional wording to the third column against Work No. 1 "Module glass colour" in Table 4.2 of Chapter 4 (Project Description) of the ES as part of Deadline 3 submissions to secure the installation of dark blue or black solar pv modules with anti-reflective coating within the design parameters. The Applicant has made the same change to the Design Parameters Table at Appendix B of the Design Statement, which is also submitted at Deadline 3.

10.2	**Applicant, SDDC**			
	<u>Noise limits</u> **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.** **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?** **Please could SDDC advise if it has any outstanding concerns on the Applicant's updates?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	Table 11.2 of ES Chapter 11 (Noise) (APP-160) states that in SDDC's consultation prior to the application that SDDC stated the following might be required: "A site noise *limit at the boundary with NSR's (to be validated upon completion, and maintained thereafter)*". This relates to the operational stage phase of the development. Paragraph 11.144 of APP-160 then states: *"As part of the detailed design stage, the Applicant will be required to undertake and submit an operational noise assessment to the local planning authority prior to the start of works on site (DCO Requirement 15) to demonstrate that detailed design and plant selected do not demonstrably affect noise sensitive receptors in accordance with the conclusions of this assessment. A noise complaint procedure is also included in the Outline Operational Environmental Management Plan (see Appendix 4.4).*" The conclusion of APP-160 in respect of Residual Operational Effects at Paragraph 11.145 states: *"The predictions indicate that the residual effects are likely to remain negligible. Some low levels of sound may be audible outside at times when the background noise from other sources is very low".* There is, therefore, already a mechanism captured in the assessment and secured via the dDCO to ensure that adverse noise effects from the operation of the proposed development do not occur. Remedial measures are also included in the Outline Operational Management Plan (APP-091) should a noise complaint be received during operation. The Applicant is in discussion with SDDC on a range of matters, including noise. Draft wording regarding noise impacts has been produced by the Applicant and shared with SDDC as part of discussions relating to the Statement of Common Ground, which reflects the position above. SDDC have not raised any issues with that wording to date and have not requested noise limits at any phase of the development during those discussions. However, the Applicant will review any response by SDDC to this question at Deadline 1 and will continue that engagement to ensure that the position is confirmed through a Statement of Common Ground as early as possible in the examination.	SDDC is not aware of any update to the secured mitigation measures, but SDDC is satisfied with the proposed site noise limits.	DDC is not aware of any update to the secured mitigation measures, but DDC is satisfied with the proposed site noise limits.	The Applicant has no further comments to make based on the responses from SDDC in REP1-029 and DCC in REP1-026.

10.3	**Applicant, SDDC**			
	<u>Construction and delivery hours</u> **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]?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	a) ES Chapter 10 (Paragraph 0.283) and Outline CEMP, Paragraph 1.15.1 have been updated to align with Requirement 20 in relation to Saturday hours. b) The Applicant is awaiting a response from SDDC on Requirement 20. The Outline CEMP will be updated to provide firm construction hours following response from SDDC.	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.	DCC has no concerns relating to construction hours but would emphasise the need for coordination of delivery times (HGV movements) to reduce the potential impacts on the local road network.	For the reasons provided in the Applicant's response to ExQ 10.3 (REP1-025), and SDDC's (REP1-029) and DCC's (REP1-026) response to the same written question, no further action or response is required. The Applicant and IPs are in an agreed position.

11.1	**Applicant, DCC**		
	<u>Significance criteria and significance of effect matrix</u> **a) Please could the Applicant explain the basis for the significance criteria [APP-155 Table 10.7] and significance of effect matrix [APP-155 Table 10.8] in the context of relevant guidance, including in National Highways' Design Manual for Road and Bridges and as provided by the Institute of Environmental Management and Assessment?** **Please could DCC comment?**		
	Applicant at D1	DCC at D1	Applicant at D3
	a) ES Chapter 10, Table 10.7 seeks to collate the significance of effect definitions as an output of applying the Table 10:6 'Magnitude Criteria' to Table 10.8 'Significance of Effects Definitions' in consideration of the identified sensitive receptors. The Environmental Assessment of Road Traffic and Movement (EARTM), Institute of Environmental Assessment Guidelines (IEMA) (2023), examine the relationship between the Guidelines and DMRB and notes (para. 1.19, 1.20) "*Design Manual for Roads and Bridges (DMRB), published by National Highways, comprises a set of standards on the environmental assessment and design requirements for the delivery of National Highways' motorways and all-purpose trunk road projects….. these [the EARTM] Guidelines are designed to provide advice on how to undertake an EIA or non-statutory environmental assessment for traffic and movement of people associated with non highway/road projects. Notwithstanding, there are useful references within DMRB that can be used cautiously to augment the assessment methodologies outlined [in the Guidelines].*" In accordance with IEMA direction, EARTM has been adopted as the principal guidance to inform the EIA in ES Chapter 10 [APP- 155] with DMRB referenced to inform the structure of the chapter and for design of embedded highway mitigation (e.g. access and cross-over design). In addition, DfT guidance has been utilised to establish baseline traffic conditions (as set out in the Applicant's response to ExA Q11.2). The magnitude definitions in Table 10.7 align with the EARTM guidelines with variations applied to ensure appropriate and proportionate assessment of local conditions. (i.e. relatively low traffic magnitude on minor roads with very low baseline traffic flows could be disproportionally assessed by the application of percentage thresholds). ES Chapter 10, Table 10.8 applies the general significance of effects matrix set out in ES Chapter 2, Table 2.1 which accords with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). There are slight variations in Table 10.8 to allow 'banding of significance categories' (e.g. "Minor or Moderate") to enable the range of Traffic and Access impacts to be assessed on a diverse range of sensitive receptors. ES Chapter 10, Table 10.1 details a comprehensive pre application engagement process to agree the adopted impact assessment methodologies with the relevant highway authorities (including Derbyshire County Council).	The Highway authority have no comments regarding the content of tables 10.7 and 10.8.	The Applicant has no further comments to make based on the response from DCC in REP1-026.

11.2	**Applicant, DCC, SDDC**			
	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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The surveys were carried out during recognised neutral periods in accordance with DfT guidance [ref. WebTAG]. It is accepted in the industry that traffic flows post September 2021 are finding equilibrium following pandemic restrictions. Due to the large-scale study area, a proportional approach to assessing non-motorised user (NMU) impacts has been adopted that does not rely on NMU counts. As an alternative, the assessment examines the local walking and cycling facilities and the sensitive receptors that are likely to act as an attractor for NMUs, analyses the highway operation and the magnitude of impact of additional traffic, to assess a significance of effect. Therefore, the NMU assessments are not impacted by the period when the traffic data was captured.	The timing of the field work is not considered to be something that is detrimental to the assessment work submitted.	DCC considers that a summer survey would be appropriate to assess the use of the site, including by non-motorised users, particularly during the summer holiday period of July and August.	As noted in the Applicant's response to ExQ 11.2 [REP1-025] a proportional approach to assessing non-motorised user (NMU) impacts has been adopted that does not rely on NMU counts. As an alternative, the assessment examines the local walking and cycling facilities and the sensitive receptors that are likely to act as an attractor for NMUs, analyses the highway operation and the magnitude of impact of additional traffic, to assess a significance of effect. Noting the adopted methodology, additional seasonal counts will not materially change link sensitivity or the assessed outcomes.

11.3	Applicant, DCC		
	Condition of roads **Several parties including Andrew Passey [RR-025], David Frost [RR-065], Gemma Price [RR-100], Martin David William Abbott [RR-190], Miriam Elizabeth Mary Campion [RR-212], and Richard Giddings [RR-259], raise concerns in relation to the existing condition of roads.** **a) Please could the Applicant set out the consideration given to road condition, including in relation to safety, noise, and vibration?** **b) Please could DCC and SDDC comment?** **Are any mitigation measures required and, if so, what are they and how could they be secured?**		
	Applicant at D1	DCC at D1	Applicant at D3
	a) ES Chapter 10 [APP-155] details an extensive construction route definition and suitability assessment has been undertaken. The assessment considered the design of the Site, available points of access, limitations of the existing highway network, proximity to sensitive receptors, and the proximity of the nearest Trunk Road. A comprehensive road safety assessment is set out in ES Chapter 10 [APP-155] (and associated mitigation strategy is secured in the OCTMP [APP-148]). APP-160 details at Paragraph 11.9 the effects scoped out of the assessment and agreed as part of the Scoping Opinion. Paragraph 11.9 confirms the following has been scoped out of the assessment: • The assessment of noise arising from construction traffic on main roads. Construction traffic routes will be on dedicated routes, designed to join main roads (which currently carry significant traffic volume) as directly as possible so that the increase in traffic volume on main roads will be incidental (<1dBA - see paragraph 11.30 and Table 11.7). The impact of noise from construction traffic on the minor roads is, however, presented. • The assessment of operational noise and vibration from maintenance activities and traffic during the operational stage of the Proposed Development. There is a low level of activity required for maintenance with up to 3 members of staff on site to oversee daily operation. This is expected to be similar to current levels of agricultural activity. • The assessment of vibration from vehicle movements on public roads and access tracks on resources and receptors. Vibration from road vehicle movements is highly unlikely to be significant unless there are significant discontinuities or sudden changes in road height, such as potholes, immediately adjacent to a receptor. Where this occurs on any public roads it is an existing issue and is not an effect of the Proposed Development. All existing access tracks within the Site will be upgraded and maintained in accordance with Appendix 4.3: Outline Construction Environmental Management Plan and Appendix 4.4: Outline Operational Management Plan. b) The Applicant is engaging with DCC and will review their responses at Deadline 1 as well as providing an update of any residual concerns at Deadline 3. c) The Applicant's position is that no mitigation is required in addition to the measures outlined in the OCTMP, OCEMP and OOEMP. The Applicant will update on this point following further engagement with DCC if necessary.	The Highway Authority is responsible for the maintenance of the highway network and conducts periodic surveys of network condition to inform maintenance strategies. It is anticipated that the applicant will be responsible for keeping the highway clear of debris and preventing the trafficking of mud onto the road. The rectification of additional harm caused to the network assets demonstrably caused by the applicant tor its contractors should be the responsibility of the applicant, to the satisfaction of the Highway Authority.	The OCTMP [REP1-022] at paragraphs 5.25 to 5.28 contains additional measures for the control of material being deposited on the highway. Requirement 10 (construction traffic management plan) of the draft DCO [REP1-003] secures provisions for the protection of the highway assets. The OCTMP [REP1-022] at paragraphs 5.19 to 5.24 also details the highway asset protection measures to be secured by Requirement 10. The Applicant has engaged with DCC to discuss their Deadline 1 submissions, and DCC have confirmed that they are reviewing the highway asset provisions and measures and will revert with any concerns.

11.4	Applicant, DCC, Staffordshire County Council (SCC)

Heavy goods vehicles (HGV)

Paragraph 5.14.14 of NPS EN-1 states that requirements may be added to a consent where there is likely to be substantial HGV traffic that control numbers and possibly routing of HGV movements in a specified period during construction; make sufficient provision for HGV parking and facilities; and ensure satisfactory arrangements for reasonably foreseeable abnormal disruption.

Paragraph 2.10.123 of NPS EN-3 states that Applicants should assess the various potential routes to the site for delivery of materials and components where the source of the materials is known at the time of the application and select the route that is the most appropriate.

Paragraph 2.10.125 includes that Applicants should ensure all sections of roads and bridges on the proposed delivery route can accommodate the weight and volume of the loads and width of vehicles. Where modifications to roads and/or bridges are required, these should be identified, and potential effects addressed.

DCC [RR-078] considers that further assessments are required to establish the impacts of HGV movements associated with the construction and decommissioning of the proposal, particularly regarding the impacts of goods vehicle access through urban areas and along relatively quiet country roads benefiting from an environmental weight limit.

SCC [APP-155 Table 2.1] is quoted as saying that the route through Stapenhill is within Staffordshire and is particularly sensitive to HGV usage and will need careful consideration. The Applicant [AS-015 Figure 10.3] indicates that the likely construction route for HGV would be on Route 6 through Stapenhill.

a) Please could the Applicant, following consultation with DCC, update its assessment and secured mitigation measures as necessary?

b) Please could DCC advise if it has any outstanding concerns on the Applicant's updates?

c) Do SCC or DCC have any comments on the mitigation measures provided for Route 6?

d) Should it be secured that construction route Scenario 2A would only be used if Scenario 1 (using Walton-on-Trent bypass) is not available [APP-155 paragraph 10.149]?

e) Should it be secured that construction route Scenario 2B would only be used if Scenarios 1 and 2A are not available?

f) Are any more measures required to ensure that no construction traffic would go through Walton-on-Trent?

Are there any concerns about whether sections of roads and bridges on the proposed routes can accommodate the weight and volume of the loads and width of vehicles?

Applicant at D1	DCC at D1	SCC at D1	Applicant at D3
a), b) and c) - ES Chapter 10, Table 10.1 [APP-155] details a comprehensive pre application engagement process to agree the adopted impact assessment methodologies with the relevant highway authorities (including Derbyshire County Council). The Applicant is continuing to engage with DCC and will update ExA on any residual concerns at Deadline 3. The Applicant is continuing to engage with DCC and SCC officers who participated in agreeing the construction routes as part of the pre-application engagement. DCC have identified the following themes as requiring further review/clarification: - Cumulative traffic impact - other projects; - Cumulative traffic impact – event management; - Communication plans with the local community, stakeholders and events during construction. SCC have identified the following themes as requiring further review/clarification: - Controls on vehicle movements during highway incidents and emergency road closures. - Controls on vehicle movements during school pick up/drop of times. - Remedial measures to address infringement of designated construction vehicle route. - Communication plans with local community, and stakeholders. The Applicant will continue to engage with DCC and SCC throughout the examination process and will provide an update on actions to address any residual matters to ExA at Deadline 2.	(1) Construction traffic routing and, specifically, the timing of vehicle movements will need to take account of pre-existing events and traffic flows affecting the area to avoid compounding congestion on local roads. The applicant must work in consultation with the Highway Authority and the organisers of events in the locality to ensure that vehicle movement timings can be coordinated for the avoidance of congestion. (2) The proposed Walton bypass and new Trent Crossing will not be available at the time of construction. Therefore scenario 2A becomes the default routing option. (3) Traffic monitoring, signage, routing plans and clear instructions to suppliers/contractors must be implemented to ensure that unauthorised traffic does not pass through Walton-on Trent. (4) The options for crossing the River Trent are limited due to weight and width restrictions on bridges,	Please see our written representation for detailed commentary on HGV construction traffic within Staffordshire. (c) Route 6 comments – Please see Written representation. (d) The Walton bypass is the preferred route for construction traffic, if it is available for use. We would wish to see this secured in the DCO such that if the bypass is completed before or during construction of Oaklands Solar farm this then becomes the construction traffic route. (g) For Staffordshire roads the only issue in this respect is the Chetwynd bridge. However, the issues here were raised early during pre-app discussions and the application proposals designed accordingly to avoid use by heavy vehicles.	The Applicant has numbered DCC's individual points and responds as follows: 1. The OCTMP [REP1-022] at paragraph 5.15 contains a firm commitment by the Applicant to engage with Catton Hall, the National Memorial Arboretum, DCC and SCC to agree the timing of construction vehicles so as to not disrupt event traffic. The Applicant has engaged with DCC to discuss their Deadline 1 submissions and has agreed that more detail on how the commitment to event management will be incorporated into Section 6 'Management Structure' within the OCTMP. The Applicant will discuss the approach to that text with DCC prior to a revised OCTMP being submitted, with that expected to be submitted at Deadline 4. In addition, the Applicant has accepted an invitation to attend a meeting with DCC and Catton Hall to discuss the 2025 events programme. 2. The Applicant notes the IPs responses in REP1-026 and REP1-029. The Applicant's understanding is that the Walton Bypass will be delivered by Countryside Properties before the end of 22025, so would in Scenario 1 (Preferred) be present during the construction phase of the Proposed Development. However, Scenarios 2A (Likely) and Scenario 2B (Backup) are also available should the Walton Bypass not be in place during the construction phase. 3. The OCTMP [REP1-022] at table 3-3, identifies the sensitive built up areas to be avoided by construction traffic including Walton-on-Trent. Mitigation is outlined in the form of the signing strategy set out in Section 4 and contractor information packs (paragraph 5.36). Details of compliance measures are set out

	d), e) – the Applicant is content to secure these suggestions via an amendment to the OCTMP but will first review the responses by the other parties who have been asked to respond to this question in order to discuss the wording of any amendment if necessary. **f)** No, the outline CTMP [APP-148] has a comprehensive set of measures to address HGV route compliance; the Applicant continues to engage with DCC and SCC on transport matters to be agreed in Statements of Common Ground and any specific additional measures identified in discussions will be added to the outline CTMP if needed. **g)** A comprehensive assessment of road geometry and structures has been undertaken to inform Chapter 10 in consultation with local highway officers. Abnormal load movements will be subject to permit applications which will ensure a detailed review of routes by the relevant highway authorities and the Police prior to authorisation being granted.	traffic control instructions and systems for on-site monitoring of routing must be employed to ensure compliance with routing and timing requirements. The applicant must work in consultation with the Highway Authority to reduce the potential for adverse impacts on congestion.		in paragraph 6.10. To confirm, HGVs will not be permitted to travel through the villages of Walton-on-Trent or Rosliston. It is expected that details and schedules of signage would be agreed with the relevant highway authorities in the preparation and approval of the CTMP secured by Requirement 10 (construction and traffic management plan) of the dDCO [REP1-003]. 4. The OCTMP [REP1-022] at Section 6 'Management Structure' includes the provision of a Traffic Management Group (TMG) to oversee the implementation of the CTMP and the appointment of a Transport Co-ordinator, accountable for monitoring and reporting to the TMG. It is expected that full details of monitoring systems would be agreed with the relevant highway authorities in the preparation and approval of the CTMP secured by Requirement 10 (construction and traffic management plan) of the dDCO [REP1-003]. The Applicant has responded separately to SCC's Written Representation in Document 11.2 – the Applicant's Response to Written Representations, which is submitted by the Applicant at Deadline 3.

11.8	**Applicant, DCC**		
	Plots 02-045 and 02-048 **The BoR [AS-009] seeks the acquisition of the freehold of a section verge on Rosliston Road.** **How is the maintenance of the verges provided for?**		
	Applicant at D1	DCC at D1	Applicant at D3
	The Applicant is not seeking powers to stop up the adopted highway in respect of these plots. Derbyshire County Council's powers as highways authority will not be interfered with. The Applicant intends to rely on article 9 of the draft DCO to carry out works for the creation of a permanent access at Rosliston Road, and install cables either using trenchless crossing techniques beneath the highway or rely on article 8 of the draft DCO. The Applicant is not proposing to interfere in any way with the adopted highway beyond the construction period, and the topsoil of Plots 03-045 and 02-048 will remain as an adopted highway.	The maintenance of the verge, for the purposes of highway safety, must be included in the programme of general site maintenance.	As set out in the Applicant's response to ExQ11.8 at Deadline 1, the Applicant is not seeking powers to stop up the adopted highway, and Derbyshire County Council's powers as highways authority will not be interfered with. The Council will continue to be able to maintain the verge as necessary throughout all phases of the Proposed Development. For construction and decommissioning, the Applicant intends to install construction access and tracks within plots 02-045 and 02-048, and will clear and maintain vegetation to create these with traffic management utilised to ensure safety throughout these periods. Throughout operation of the Proposed Development, a permanent emergency access will be retained south off Rosliston Road for response to incidents only, and regular maintenance of the verge will be conducted through all phases of the Proposed Development to ensure highway safety,

11.9	**DCC, SDDC**			
	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?**			
	Applicant at D1	SDDC at D1	DCC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	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.	The Applicant considers that Article 9 (power to alter layout, etc., of streets) and Article 10 (access to works) of the dDCO (REP1-003) ensures that the undertaker will engage fully with the highway and street authorities regarding the acceptability of any alterations to the layout etc. of streets and access to works.

11.10	**DCC, SCC**		
	Draft DCO [AS-005] Article 13 - Traffic regulation measures **The Applicant is requesting broad powers to authorise temporary traffic regulation measures for the purposes of the construction or decommissioning of the authorised development, and has set out its reasoning for that [AS-017].** **Do DCC or SCC have any concerns?**		
	Applicant at D1	SCC at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	We have no concerns in this respect, as long as the provisions remain to give notice and require written approval of the highway authority before utilising the power in the DCO	The Applicant has no further comments to make based on the response from SCC in REP1-030.

12.2	**EA, DCC, SDDC**				
	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.** **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?** **Do DCC or SDDC have any related concerns?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	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.	Part a) We believe that this is an error and that in Article 6, the Applicant is actually meaning to seek to disapply s25 of the Water Resources Act, not the Land Drainage Act. However, the Applicant has since confirmed to us verbally that they no longer wish to disapply s25 of the Water Resources Act and will apply for an impoundment licence through the usual route outside of the DCO process. Further information is available within our Written Representation and appended Work package Tracker. Part b) Although there are no main rivers present on the site, an impoundment licence may still be required for an Ordinary Watercourse if it is part of the upper catchment of a main river system. The lead local authority would consider this only in regard to flood risk. At face value, it is unlikely that the development would qualify under any of the exemptions which apply to the need for an impoundment licence. However, many impoundments can be deemed to be low risk and there are circumstances where a licence is not required. Without knowing more details of the nature and purpose of the impoundment, it is not possible to give an indication of whether this is the case here. The EA has published its guidance to when an impoundment is needed which includes a checklist for the applicant to refer to when making the decision to apply or not. This is at the applicants own risk, should there be any environmental harm caused as a result of the impoundment. We would recommend the Applicant submits a pre-application enquiry to our National Permitting Service if there is any uncertainty.	The Applicant has amended Article 6 (disapplication and modification of legislative provisions) of the dDCO to remove section 25 of the Water Resources Act 1991 from the list of statutory provisions being disapplied for the purpose of the authorised development. The Applicant notes DCC's response in REP1-026 that they would seek to be consulted prior to any stopping up or culverting of water courses. Part 7 of Schedule 10 of the dDCO contains provisions for the protection of drainage authorities. The protective provisions require the undertaker to consult with the drainage authority before beginning to construct any "specified works" (as defined in Part 7 of Schedule 10), and allows the drainage authority to impose reasonable requirements on the undertaker.

12.3	EA, DCC, SDDC				
	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?** **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?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	The Applicant will review responses by other parties to this question, before commenting on those submissions as necessary at Deadline 3.	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.	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.	Part a) No, we feel this is sufficiently covered within the current Requirements Part b) No comment, see above	The Applicant provided an updated CEMP at Deadline 1 [REP1-007 and REP1-008] which included amendments at Section 2.6 'Water Quality and Pollution Management' regarding the management of surface water during the construction of the Proposed Development. Section 2.6 performs the role of an outline Surface Water Management Plan by identifying the expected measures to be used, with Requirement 9 of the draft DCO [REP1-003] also amended at Deadline 1 to include specific provision for the detailed CEMP to include details of 'm) flood risk management measures'. The Applicant has provided an updated draft DCO at this Deadline which amends Requirement 9(2)(m) to further specify that the details of flood risk management measures must include surface water management. The Applicant's position is that those amendments at D1 and D3 serve to address the points made by SDDC and DCC to ensure that surface waters are adequately managed to prevent flooding, conserve ecological interests and prevent pollution.

12.4	**Applicant, EA, DCC**		
	<u>Flood risk assessment (FRA)</u> **The EA [AS-019] states that flood risk has not been appropriately assessed and there is a risk that the proposed mitigation measures are not appropriate. The Applicant subsequently updated its Flood Risk Assessment and Outline Drainage Strategy [AS-014].** **a) Please could the Applicant consult with the EA on the adequacy of the updated FRA and on the appropriateness of the proposed mitigation measures?** **b) Following consultation with the EA, please could the Applicant provide any updates as necessary?** **c) Please could the EA advise if it has any outstanding concerns on the Applicant's updates, including in relation to whether the FRA satisfies the minimum requirements set out in paragraph 5.8.15 of NPS EN-1?** **d) Is the EA satisfied that the FRA makes up-to-date allowances for climate change?** **Does DCC, as Lead Local Flood Authority, have any concerns about the FRA?**		
	Applicant at D1	EA at D1	Applicant at D3
	a) As also documented in respect of Q12.1, the Applicant is engaging directly with the EA's National Infrastructure Team in order to discuss their Relevant Representation and to progress and agree a Statement of Common Ground. The Applicant submitted an amended Flood Risk Assessment [AS-014] to respond to S51 advice. The EA did not have the benefit of seeing that amended Flood Risk Assessment at the point of writing its RR. That amended Flood Risk Assessment has been discussed with the EA who have noted that it now addresses the Sequential/Exceptions Test, as per Appendix 1 of their RR. The Applicant has undertaken to conduct further modelling of expected flood levels to address the EA's comments in Appendix 1 of their RR on the assessment of fluvial flood risk, with that modelling underway at present. The Applicant is continuing to engage with the EA regarding the timing and outputs of that modelling and expects to be able to present that through an amended Flood Risk Assessment at Deadline 4. b) The Applicant is continuing to engage with the EA with the intention of agreeing a Statement of Common Ground; the Applicant will provide an update on those discussions at Deadline 3 and will review and respond to any submissions made by the EA at Deadline 1.	Part c) Yes, we have outstanding concerns as the Flood Risk Assessment (FRA) does not currently satisfy the minimum requirements of NPS EN-1. However, we have had several meetings with the applicant and their flood risk consultants to address our concerns and we understand that an amended FRA will be available in the coming weeks. Please see our Written Representation and Work Package Tracker for more information. Part d) No, however see the above answer	The Applicant does not have any further comments at this stage based on the response from the EA in REP1-032. The Applicant still expects to be able to submit an amended FRA at Deadline 4.

12.5	**Applicant, EA**		
	<u>Flood debris</u> **Please comment on the potential for flood debris to build up on the legs supporting the solar panels and any related implications for flood risk and drainage.**		
	Applicant at D1	EA at D1	Applicant at D3
	There is no significant potential for debris to build-up on the legs of the solar panel support structures which could create any meaningful implications for flood risk and drainage. Each support leg is approximately 20cm wide, and spaced several metres apart so they represent a very small portion of the space within the Proposed Development with the majority of space underneath the solar panels unobstructed.	Currently, we are still awaiting flood modelling to understand the extent and depth of fluvial flooding onsite. This will determine if a maintenance plan/clearance plan is necessary. If it is found that water (at deep enough depths) is reaching the solar panels then a Maintenance Plan will be required, which should be specified under Requirement 11 (Operational Environmental Management Plan), and this will need to include the following: Check periodically for penitential debris which could be moved by flood water (fallen trees etc) and removal. Checks and clearance of all flood debris after a storm event. Checks of the structural integrity of the solar panels after a storm event to reduce the risk of falling and causing blockages. However, as the watercourses are Ordinary Watercourses the maintenance of any river channels/banks to reduce the risk of debris will need to be discussed with the Lead Local Flood Authority.	The Applicant is engaging with the EA and will be supplying the Agency with revised flood modelling for review prior to that being submitted by the Applicant at Deadline 4. The Applicant's position at this point remain as stated in its response at Deadline 1.

12.7	**Applicant, EA, DCC, SDDC**				
	<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?**				
	Applicant at D1	SDDC at D1	DCC at D1	EA at D1	Applicant at D3
	Paragraph 15.107 of ES Chapter 15 (Agriculture and Soils) (APP-169) identifies the benefits which arise from the use of land for solar as being the ability to facilitate the transition of intensively managed agricultural land to grassland. Those benefits include an increased amount of organic matter in soils which has benefits in respect of runoff and erosion, water infiltration and retention. The Applicant has therefore, at the outset, sought to maximise the benefits of the Proposed Development by proposing to create grassland within the panel array areas, together with woodland and other landscaped/planted areas within the wider site. Paragraph 15.108 of APP-169 notes that those benefits will not arise from any areas taken up by tracks and fixed equipment, and the scale and extent of those features within the Proposed Development have therefore been limited. Where impermeable fixed features, such as the BESS, are proposed, specific drainage design measures are proposed to prevent any water quality issues. The Applicant's position is therefore that through embedded design measures and identified mitigation measures the scheme does reasonably seek 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.	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.	As we are still awaiting modelling and an updated FRA, we currently do not have a detailed understanding of the flood risk onsite so we cannot determine if flood reduction options have been maximised.	The Applicant provided an updated CEMP at Deadline 1 [REP1-007 and REP1-008] which included amendments at Section 2.6 'Water Quality and Pollution Management' regarding the management of surface water during the construction of the Proposed Development. Section 2.6 performs the role of an outline Surface Water Management Plan by identifying the expected measures to be used, with Requirement 9 of the draft DCO [REP1-003] also amended at Deadline 1 to include specific provision for the detailed CEMP to include details of flood risk management measures. The Applicant has provided an updated draft DCO at this Deadline which amends Requirement 9(2)(m) to further specify that the details of flood risk management measures must include surface water management. In response to the concerns expressed by SDDC in REP1-029 and DCC in REP1-026, Section 4.2 of the Outline Operational Management Plan [REP1-009] contains details of measures to be taken during the operation of the Proposed Development in respect of Flood Risk, Drainage and Surface Water. The Applicant's response to ExQ1 6.7 [REP1-025] sets out why it does not consider it appropriate for the dDCO to define an end state of the land following decommissioning. The Applicant's response to ExQ1 5.2 sets out the Applicant's position that the provision through Requirement 22 for a decommissioning environmental management plan provides an appropriate level of detail at this stage, with details of decommissioning activities to be agreed with the local authorities at the end of the operational lifetime of the Proposed Development.

Ends.