



**Application by Oaklands Farm Solar Limited for an Order Granting Development Consent for Oaklands Farm Solar Park**  
**The Examining Authority's second written questions and requests for information**  
**Issued on 10 September 2024**

The following table sets out the Examining Authority's (ExA's) second set of written questions and requests for information (ExQ2).

**Please respond no later than Deadline 4, which is on Tuesday 1 October 2024.**

These questions have arisen from the ExA's consideration of the application documents and subsequent representations. The answers to them will help the ExA to consider the application against relevant legislation and policy.

References in these questions set out in square brackets (e.g. [APP-016]) are to documents catalogued in the [Examination Library](#).

The meanings of abbreviations are set out in the List of Abbreviations and References [PD-007].

If you require an editable Microsoft Word version of ExQ2, please contact the Case Team by email to [OaklandsFarmSolar@planninginspectorate.gov.uk](mailto:OaklandsFarmSolar@planninginspectorate.gov.uk) or by telephone to 0303 444 5000.



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Ref:	Question to:	Question:
<b>1. Draft Development Consent Order (dDCO) and other consents</b>		
	<p>Reference is made to the version of the dDCO submitted by the Applicant at Deadline 3 <a href="#">[REP3-008]</a>.</p> <p>References to “recent DCO precedent” are to the made DCO and Decision Letters for one or more of <a href="#">Sunnica Energy Farm</a>, <a href="#">Mallard Pass Solar Project</a>, or <a href="#">Gate Burton Energy Park</a>.</p> <p>Other questions on dDCO matters are included under later headings, for example in relation to the land rights powers requested by the Applicant and in relation to securing mitigation measures.</p>	
<b>General points</b>		
1.1	Applicant	<p><u>Consistency with recent DCO precedent</u></p> <p>Please could the Applicant carry out a general review of the dDCO against recent DCO precedent and either make any changes necessary to ensure consistency or justify any differences? This should include consideration of changes for clarity and the need to conform with current practice for statutory instruments that do not materially alter its effect.</p>
1.2	Applicant	<p><u>Consistency with recent guidance</u></p> <p>Please could the Applicant carry out a general review of the dDCO against the <a href="#">Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects</a> guidance published on 30 April 2024 and either make any changes that are needed to comply with that guidance or justify any differences?</p>
1.3	Applicant	<p><u>Materially new or materially different effects</u></p> <p>The Applicant <a href="#">[REP1-025]</a> response to question 1.1] refers to replacing the phrase “materially new or materially different environmental effects from those assessed in the environmental statement” with “any materially new or materially more adverse environmental effects compared to those identified in the environmental statement” in the dDCO <a href="#">[REP3-008]</a>.</p> <p>The changes have not been made to the dDCO <a href="#">[REP3-008]</a>.</p> <p>Please could the Applicant comment?</p>

Ref:	Question to:	Question:
1.4	<p>Applicant Derbyshire County Council (DCC) South Derbyshire District Council (SDDC) Environment Agency (EA)</p>	<p><u>Articles 11(7), 14(9), 16(6) - Guillotine</u></p> <p>Articles 11(7), 14(9), 16(6) confer deemed consent if the authority does not respond within 28 days (a “guillotine”).</p> <p>DCC <a href="#">[REP1-026]</a> and SDDC <a href="#">[REP1-029]</a> consider that 28 days is a tight timeframe to deal with a submission, particularly if consultation is required between authorities, with internal consultees, or the Applicant. They ask that provision is made for the authority’s attention to be drawn to the guillotine.</p> <p>The EA <a href="#">[REP1-032]</a> does not support “deemed approval” for any consents, but ask that provision is made for attention to be drawn to the guillotine if the approach is taken.</p> <p>The Applicant <a href="#">[REP1-025, REP3-032]</a> 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 it considers that this is clearly and properly provided for within the dDCO <a href="#">[REP3-008]</a> and DCC, SDDC and the EA have been made aware of the “deemed consent” provisions through this examination process. The Applicant has revised Articles 11(7), 14(9) and 16(6) to allow the 28-day period to be extended if agreed in writing between the parties. It does not propose any further amendments.</p> <p>With reference to the Applicant’s updates, the ExA notes that if an extension to the 28-day period is not agreed in writing then the “deemed approval” provisions would remain. The ExA notes the likely benefits for applications for consent to be properly considered, and for the timescales to be reasonable. It would like to find the right balance between not unnecessarily delaying the Proposed Development and ensuring that appropriate regard is given to the interests and advice of parties involved in considering applications for consent. The ExA refers to the form of words adopted in Articles 14(7), 18(12), 19(10), 21(7) of <a href="#">The A57 Link Roads Development Consent Order 2022</a>.</p> <p>a) Do DCC, SDDC, and the EA still ask that provision is made for the authority’s attention to be drawn to the guillotine?</p> <p>b) Please could the Applicant comment?</p>
<p><b>Part 1 - Preliminary</b></p>		

Ref:	Question to:	Question:
1.5	Applicant DCC SDDC EA Natural England (NE)	<p><u>Article 2 – Interpretation</u></p> <p>DCC [REP1-026] and SDDC [REP1-029] 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)”. They say that “commencement” should include site preparation works relating to protected species, archaeological remains and traffic.</p> <p>In relation to “site clearance (including vegetation removal, demolition of existing buildings and structures)”, the Applicant [REP3-032] has amended Requirement 9 - Construction environmental management plans (CEMP) to provide that for the purposes of Requirement 9, “commence” includes site clearance works.</p> <p>EA [REP1-032] consider that significant environmental effects from “remedial work in respect of any contamination or other adverse ground conditions” cannot be ruled out and advise that this is removed from “site preparations work”, and that such works are undertaken with controls that apply at commencement, including Requirements 9 and 13.</p> <p>In relation to “remedial work in respect of any contamination or other adverse ground conditions”, the Applicant [REP3-032] has amended Requirement 13 – Land contamination to provide that no remedial works in any phase of the development may commence until a contamination risk assessment has been produced.</p> <p>NE [REP1-037] say that if site preparation would involve the breaking the soil or other activity that could damage the soil through compaction etc. then further information about the potential impacts on Best Most Versatile (BMV) agricultural land should be included and suitable mitigation measures secured to ensure that this resource is not damaged. It says that additional mitigation measures must be proposed and secured to ensure that there is no impact on the designated sites features if any site preparation work in the River Mease Special Area of Conservation (SAC) and River Mease Site of Special Scientific Interest (SSSI) catchment has the potential to mobilise sediment.</p> <p>a) Please could the Applicant clarify how its updates would address the concerns raised by DCC and SDDC in relation to archaeological remains and traffic? Should updates also</p>

Ref:	Question to:	Question:
		<p>be made to Requirement 10 - Construction traffic management plan (CTMP) and Requirement 18 – Archaeology? Please could DCC and SDDC comment?</p> <p>b) Do DCC, SDDC, or EA have any remaining concerns in relation to the mitigation of site preparation works? How might they be resolved?</p> <p>c) Please could the Applicant comment on whether any updates are required to address NE’s concerns, including in relation to the River Mease SAC and SSSI? If not, why not?</p> <p>d) Please could NE set out any remaining concerns in relation to site preparation works at Deadline 5 and suggest how they might be resolved?</p>
	<p><b>Part 2 - Principal Powers</b></p>	
1.6	Applicant	<p><u>Article 3 - Development consent etc. granted by the Order</u></p> <p>DCC <a href="#">[REP1-026]</a> and SDDC <a href="#">[REP1-029]</a> consider it reasonable for the works to be located in the numbered areas to ensure the expected adverse impacts are not exceeded.</p> <p>The Applicant <a href="#">[REP1-025, REP3-032]</a> says that the effect of Article 3(2) 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 ES.</p> <p>The ExA notes that Article 3 makes no provision in relation to environmental effects.</p> <p>a) For clarity, please could the Applicant reconsider whether Article 3 should include a provision for numbered works to be located within the corresponding numbered area shown on the works plan such that there would not be any materially new or materially more adverse environmental effects compared to those identified in the ES?</p> <p>The ExA notes the Requirement 5 provisions in relation to design parameters.</p> <p>b) For consistency, should Article 3 refer to design parameters in the same manner as Requirement 5? Should a definition of “design parameters” be provided in Article 2 and Requirement 5 simplified accordingly?</p>
1.7	Applicant	<p><u>Article 5 – Consent to transfer benefit of Order</u></p> <p>a) With reference to recent DCO precedent, should Article 5(3)(b) be deleted?</p>

Ref:	Question to:	Question:
		<p>b) Should it be necessary for any transfer under Article 5(3)(c) to be to a company with a licence under Section 6 (licences authorising supplies etc.) of the 1989 Act? If not, why not?</p>
	<p><b>Part 3 - Streets</b></p>	
1.8	Applicant	<p><u>Article 11 - Temporary stopping up of public rights of way</u>                      For clarity, and with reference to recent DCO precedent, should references made in this Article and elsewhere to “temporary stopping up” be changed to “temporary closure”?</p>
1.9	Applicant DCC Staffordshire County Council (SCC)	<p><u>Article 13 – Traffic regulation measures</u>                      With reference to recent DCO precedent, should Article 13(5)(c) be added to ensure adequate notification of the powers under Articles 13(1) and 13(2):  <i>“(c) displayed a site notice containing the same information at each end of the length of road affected”?</i></p>
1.10	Applicant DCC SCC	<p><u>Article 13 – Traffic regulation measures</u>                      With reference to recent DCO precedent, should Article 13(5)(d) be added to ensure that the powers under Articles 13(1) and 13(2) could only be used once relevant traffic management plans are approved:  <i>“(d) either—</i>  <i>(i) in relation to the construction of the authorised development only, have first obtained approval under requirement 10 for a construction traffic management plan for the phase of the authorised development in relation to which the power conferred by paragraph (1) or (2) is sought to be utilised; or</i>  <i>(ii) in relation to the decommissioning of the authorised development only, have first obtained approval under requirement 22 for a decommissioning traffic management plan for the part of the authorised development in relation to which the power conferred by paragraph (1) or (2) is sought to be utilised.”</i></p>

Ref:	Question to:	Question:
	<b>Part 5 – Powers of Acquisition</b>	
1.11	Applicant DCC	<p><u>Article 31 – Compulsory acquisition of land – incorporation of the mineral code</u></p> <p>Reference is made to recent DCO precedent where a similar article was removed.</p> <ul style="list-style-type: none"> <li>a) Would there be any compulsory acquisition of mining rights?</li> <li>b) If not, should Article 31 be removed?</li> <li>c) Please could DCC comment?</li> </ul>
	<b>Part 7 - Miscellaneous/General</b>	
1.12	Applicant SDDC	<p><u>Article 33 – Removal of human remains</u></p> <p>Reference is made to recent DCO precedent where a similar article was removed.</p> <ul style="list-style-type: none"> <li>a) Are there any known burial grounds within the Order limits?</li> <li>b) Would provision for any archaeological human remains be included in the Written Scheme of Investigation secured by Requirement 18 – Archaeology?</li> <li>c) Does it follow that Article 33 can be removed?</li> <li>d) Please could SDDC comment?</li> </ul>
1.13	Applicant	<p><u>Article 35 - Certification of plans, etc.</u></p> <p>The Applicant [<a href="#">REP1-025</a>] considers that identifying the certified documents on the face of the DCO in a Schedule would be of most assistance to third parties. It has updated Schedule 12 to illustrate its' suggested format, content, and level of detail.</p> <p>The ExA is seeking to ensure that the latest version of every individual document is clearly and unambiguously identified and certified. It notes that, as currently drafted, Schedule 12 includes a single entry for Environmental Statement (ES) Volume 1, Document 6.1, the large number of separate documents that includes, and the potential for a number of those documents to be updated during the Examination. The ExA is concerned that Schedule 12 will become lengthy,</p>



Ref:	Question to:	Question:
		<p>in which case it would be preferable for a list of all documents to be certified to be set out in a separate certified document.</p> <p>Please could the Applicant comment further and provide a fully populated draft of Schedule 12 and, as appropriate, a separate certified document well before the final deadline to give enough time for comments to be made?</p>
1.14	Applicant	<p><u>Article 39(2) - Arbitration</u></p> <p>For consistency, and with reference to recent DCO precedent, should “<i>shall not</i>” be replaced with “<i>is not</i>”?</p>
	<b>Schedule 1, Part 2 - Requirements</b>	
1.15	SDDC	<p><u>Requirement 5 – Detailed Design Approval</u></p> <p>Is SDDC content that Requirement 5(1) secures sufficient details for detailed design approval? Please provide the reasoning for any addition.</p>
1.16	Applicant DCC SDDC	<p><u>Requirement 5 – Detailed Design Approval</u></p> <p><u>Design parameters</u></p> <p>DCC [REP1-026] and SDDC [REP1-029] say that it would be helpful to have the design parameters in one certified document.</p> <p>The Applicant [REP1-025, REP3-032] says that 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.</p> <p>Table 4.2 is in the Project Description [REP3-023].</p> <p>a) Please could the Applicant either ensure that the Project Description is referenced in Requirement 5(2) of the dDCO and added to the dDCO Schedule 12 – Documents to be Certified, <u>or</u> replicate Table 4.2 in the Design Statement [REP3-027] and update Requirement 5(2) accordingly to refer to that?</p>

Ref:	Question to:	Question:
		b) Do DCC or SDDC have any remaining concerns in relation to the identification of design parameters? How might they be resolved?
1.17	Applicant EA NE	<u>Requirement 8 - Landscape and ecological management plan (LEMP)</u> Should it be required for the LEMP to be submitted to and approved by the local planning authority in consultation with the EA and NE?
1.18	Applicant SDDC	<u>Requirement 11 - Operational environmental management plan (OEMP)</u> For certainty, to ensure consistency with the ES, and with reference to recent precedent, can it be required for the OEMP to provide details of the solar panel replacement and how this would not lead to any materially new or materially more adverse environmental effects compared to those identified in the ES?
1.19	Applicant	<u>Requirement 12 – Battery safety management plan (BSMP)</u> Please add the following provision, or similar: <i>“(4) The BSMP must be implemented as approved and maintained throughout the construction, maintenance, operation and decommissioning of the authorised development.”</i>
<b>Schedule 1, Part 3 – Procedure for Discharge of Requirements</b>		
1.20	Applicant	<u>Interpretation</u> Reflecting the position of the Secretary of State, and with reference to recent DCO precedent, should the definition of relevant authority for the purpose of the procedure for discharge be amended to:  <i>“(a) any body, other than the Secretary of State, responsible for giving any consent, agreement or approval ...”?</i>
<b>Schedule 10 – Protective Provisions</b>		
1.21	Applicant	<u>Consistency with recent DCO precedent</u>

Ref:	Question to:	Question:
		Please could the Applicant review all Protective Provisions against recent DCO precedent, set out any differences with its proposed Protective Provisions and, as appropriate, either update the Protective Provisions to ensure consistency with that precedent or justify the differences?
<b>2. Land rights, related matters, and statutory undertakers</b>		
2.1	Applicant	<p><u>Statement of Reasons [REP3-015]</u></p> <p>With reference to the Applicant’s previous submission [REP1-025 response to question 2.6], please could it update Appendix 1 of the Statement of Reasons to:</p> <ul style="list-style-type: none"> <li>• include relevant plot numbers for E.ON UK plc; and</li> <li>• ensure that the reference to Elizabeth Goodson/ Elisabeth Albinia Dolben Goodson is consistent with the Book of Reference [REP3-017]?</li> </ul>
2.2	Applicant	<p><u>Draft DCO Article 19 - Compulsory acquisition of rights and restrictive covenants</u></p> <p>The Applicant [REP1-025 response to question 2.13] rephrased Article 19(5) to remove the need for the Secretary of State’s consent to transfer the powers under Article 19 to statutory undertakers for the purpose of carrying out their statutory duties. This is inconsistent with recent precedent.</p> <p>Please could the Applicant reinstate the need for the Secretary of State’s consent?</p>
2.3	Applicant	<p><u>Schedule of Progress – Affected Persons [REP3-020]</u></p> <p>Please could the Applicant clarify whether the Option Agreement with Elisabeth Albinia Dolben Goodson is under negotiation or secured/ signed?</p>
2.4	National Grid Electricity Transmission Plc National Grid Distribution (East Midlands) plc	<p><u>Statutory Undertakers’ rights and Protective Provisions</u></p> <p>a) Please could the Statutory Undertakers each provide an update on discussions with the Applicant regarding the agreement of the Protective Provisions in Schedule 10 of the dDCO [REP3-008], set out any remaining concerns, and suggest how their issues might be resolved?</p>

Ref:	Question to:	Question:
	Cadent Gas Limited	<p>b) Please could National Grid Distribution (East Midlands) plc also provide an update on discussions with the Applicant regarding the agreement of an asset protection agreement, set out any remaining concerns, and suggest how their issues might be resolved?</p> <p>c) Does each Statutory Undertaker maintain objections to the land rights powers sought by the Applicant? What might be done to address any objections?</p> <p>d) Please could each Statutory Undertaker set out its' position at Deadline 8 of the Examination?</p>
2.5	Applicant	<p><u>Funding</u></p> <p>Responding to concerns raised by Councillor Amy Wheelton [<a href="#">REP1-038</a>], Diane Abbott [<a href="#">REP1-043</a>], Michael Smith [<a href="#">REP1-045</a>], and Sarah Smith [<a href="#">REP1-047</a>], the Applicant states that in relation to BayWa AG's financial situation:</p> <ul style="list-style-type: none"> <li>• the Applicant is part of the renewable energy business, BayWa r.e. AG and that while part of the BayWa AG Group, BayWa r.e. AG operates largely independently of BayWa AG;</li> <li>• the renewable energy business has taken direct measures to ensure its financial stability, which have been effective; and</li> <li>• the current situation within BayWa AG would not have an impact on the Applicant's ability to deliver projects moving forward.</li> </ul> <p>Please could the Applicant provide evidence to substantiate its' position, particularly in relation to confidence in its ability to deliver the Proposed Development in the light of BayWa r.e. AG's financial situation, both now and in the future?</p>
<b>3. General and cross-topic planning matters</b>		
3.1	Applicant	<u>Statements of Common Ground (SoCG)</u>

Ref:	Question to:	Question:
		<p>Deadlines for the Applicant' updates are provided in the <a href="#">Examination Timetable</a>. Appendix G of the ExA's Rule 6 Letter <a href="#">[PD-006]</a> sets out a request for SoCG between the Applicant and various parties. Appendix D requests for a document to accompany the SoCG, setting out:</p> <ul style="list-style-type: none"> <li>• the status of each SoCG;</li> <li>• the matters agreed;</li> <li>• the main outstanding concerns held by each Interested Party, the reasons for those concerns, the next steps to be taken to address them, and the progress anticipated by the next Deadline and by the close of the Examination; and</li> <li>• when it is anticipated that any draft SoCG will be finalised and when the finalised signed and dated copies will be submitted to the Examination.</li> </ul> <p>The ExA welcomes the Applicant's Summary of the Status of SoCG <a href="#">[REP3-029]</a>.</p> <p>The ExA would like to ensure that there is time in the Examination to consider clarifications to matters raised in the SoCG, including anything not agreed between the parties.</p> <p>Please could the Applicant provide the document requested in Appendix G of the ExA's Rule 6 Letter <a href="#">[PD-006]</a> together with draft or final signed copies of all SoCG at Deadline 4?</p>
3.2	DCC SDDC Applicant	<p><u>Local Planning Authority (LPA) resources</u></p> <p>DCC and SDDC <a href="#">[REP2-001]</a> raise concerns about their resources for the consideration of any submissions, approvals and monitoring necessary for impact mitigation.</p> <p>The Applicant <a href="#">[REP3-033]</a> refers to Article 30 (fees) of the Part 3 of Schedule 1 of the dDCO <a href="#">[REP3-008]</a> and says that it is willing to discuss resourcing matters with the LPA in respect of Requirements and Obligations.</p> <ol style="list-style-type: none"> <li>a) Please could DCC and SDDC set out any remaining concerns, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> <li>b) Please could the Applicant comment?</li> </ol>
3.3	Applicant	<p><u>Construction, operation, and decommissioning stage mitigation measures</u></p>

Ref:	Question to:	Question:
		<p>Please could the Applicant review the wording in the following management plans to ensure that the mitigation measures are firmly secured and avoid any ambiguity or imprecision using terms such as “it is envisaged”, “are expected”, “it is proposed”, or “will be able”:</p> <ul style="list-style-type: none"> <li>• Outline Construction Environmental Management Plan (Outline CEMP) [<a href="#">REP1-007</a>];</li> <li>• Outline Operational Environmental Management Plan (Outline OEMP) [<a href="#">REP1-009</a>];</li> <li>• Outline Landscape and Ecological Management Plan (Outline LEMP) [<a href="#">REP1-015</a>]; and</li> <li>• Outline Decommissioning Environmental Management Plan (Outline DEMP) [<a href="#">REP1-011</a>]?</li> </ul>
3.4	<p>Applicant SDDC DCC Leicestershire County Council (LCC) SCC</p>	<p><u>Solar panel and battery storage replacement during the operation stage</u></p> <p>The Applicant [<a href="#">REP1-025</a> response to question 4.2] states that solar panels are not expected to be replaced during the operational life of the project, save for individual instances of damage or unexpected failure of specific panels, and that to account for this an annual replacement rate of 0.2% per year has been assumed in the ES [<a href="#">REP3-021</a> Table 13.3]. Battery cells replacement is anticipated to be once every 8 to 10 years depending on the final installed system and the operations profile. It considers that mitigation measures are secured within the Outline CEMP [<a href="#">REP1-007</a>] and Outline Construction Traffic Management Plan (Outline CTMP) [<a href="#">REP1-021</a>], and summarised in the ES [<a href="#">REP3-021</a> paragraph 13.59].</p> <p>The ExA notes the potential for adverse impacts in relation Heavy Goods Vehicle (HGV) movements during the operation stage, including for the replacement of solar panels and other equipment, in various chapters of the ES. It is seeking to ensure that appropriate precision and clarity is provided for related mitigation during the operation stage.</p> <p>Responding to similar concerns, paragraphs 2.2.3 and 2.2.5 of the <a href="#">Mallard Pass Solar Farm Outline OEMP</a> limit the maximum number of daily HGV movements during operation and requires the relevant planning authority to confirm that any maintenance activities involving panel replacement would not lead to such materially different effects. The <a href="#">Mallard Pass Solar Farm DCO</a> provides that the definition of “maintain” does not include remove, reconstruct or replace the whole of Work No. 1 at the same time and for such works not to give rise to any materially new or materially different environmental effects than those identified in the ES for</p>

Ref:	Question to:	Question:
		<p>the operation of the authorised development. The ExA is considering whether to adopt a similar approach.</p> <p>a) Please could the Applicant suggest updates to the dDCO <a href="#">[REP3-008]</a> and Outline OEMP <a href="#">[REP1-009]</a>?</p> <p>b) Please could SDDC, DCC, LCC and SCC comment at Deadlines 4 and 5, setting out any concerns and how they might be resolved?</p>
<p><b>4. Need case, effects on climate change, alternatives, electricity generation, and grid connection</b></p>		
4.1	Applicant	<p><u>Grid connection agreement</u></p> <p>The Applicant <a href="#">[REP1-025]</a> response to question 4.3] appears to suggest that the redacted agreement provided at Appendix B confirms that “<i>import and export capacity to deliver the Proposed Development is secured</i>”. The submitted documentation makes no reference to the capacity of any secured grid connection.</p> <p>Please could the Applicant provide the relevant evidence?</p>
<p><b>5. Project lifetime and decommissioning</b></p>		
5.1	<p>Applicant</p> <p>DCC</p> <p>SDDC</p> <p>EA</p> <p>NE</p>	<p><u>Outline DEMP <a href="#">[REP1-011]</a></u></p> <p>DCC <a href="#">[REP1-026]</a> considers that it is necessary to understand the end state 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, and suggests that this must be addressed in the DEMP. SDDC <a href="#">[REP1-029]</a> considers that it is necessary, reasonable, and appropriate for the definition of the end state after decommissioning to be secured by the dDCO <a href="#">[REP3-008]</a>.</p> <p>The Applicant <a href="#">[REP1-025, REP3-032]</a> refers to Requirement 22 of the dDCO <a href="#">[REP3-008]</a>, says that decommissioning would be carried out in accordance with the relevant legislation and policy in force at the time of decommissioning, that it is not considered necessary or</p>

Ref:	Question to:	Question:
		<p>appropriate to include further detail in the dDCO <a href="#">[REP3-008]</a>, and that its approach is consistent with recent precedent.</p> <p>The ExA is considering the extent to which it would be appropriate for the mitigation of impacts from decommissioning to require measures to be taken during detailed design, construction, operation, and maintenance, and whether this would benefit from more consideration of the potential end state after decommissioning now and when detailed mitigation plans would be finalised. Would consideration of the end state and decommissioning at all stages of the Proposed Development be appropriate in relation to the effective and efficient mitigation of long-term adverse effects and are there any specific examples of where this might be beneficial or unhelpful.</p> <p>a) Please could the Applicant, DCC, SDDC, EA, and NE comment?</p> <p>b) Do DCC, SDDC, EA and NE have any comments on the Outline DEMP <a href="#">[REP1-011]</a>? How should their concerns be addressed?</p>
5.2	Applicant DCC SDDC EA	<p><u>Decommissioning of underground cables</u></p> <p>DCC <a href="#">[REP1-026, REP2-001]</a> and SDDC <a href="#">[REP1-029, REP2-001]</a> consider that leaving underground cables in place would prevent suitable reinstatement of land drains, or appropriate decompaction of the soil, may inhibit mole ploughing/ subsoiling, and prevent the land from being returned to BMV condition. They say that the decomposition of cabling materials could leach contaminants into the soil and water resources. The councils suggest that the dDCO <a href="#">[REP3-008]</a> should require the underground cables and ducting to be removed, although SDDC <a href="#">[REP1-029]</a> advise that removal would undo soil improvements that have taken place during the 40 fallow years.</p> <p>The EA <a href="#">[REP1-032]</a> say that the approach to decommissioning cables should depend upon a site-specific risk assessment being carried out prior to decommissioning and expect to work with operators to agree best available environmental options. It notes that leaving cables in place could fall under the definition of waste.</p> <p>Councillor Amy Wheelton <a href="#">[REP1-039]</a> considers that leaving the cables in place would make the land incapable of returning to agricultural use due to the implications for drainage, whereas if they are dug out the previous 40 years fallow would be rendered a waste of time.</p>



Ref:	Question to:	Question:
		<p>The Applicant [<a href="#">REP3-031</a>, <a href="#">REP3-032</a>, <a href="#">REP3-033</a>] seeks an appropriate level of flexibility which would allow some cables to be left in place should an assessment of the situation at the decommissioning stage determine that to leave cables in place 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 place.</p> <p>a) Please could the Applicant consider the potential for the cables to be installed in such a manner as to mitigate the overall likely adverse impacts most effectively, for example by maximising the likelihood of it being acceptable for them to be left in place by mitigating long-term drainage, agricultural, contamination, and waste impacts? Should the dDCO [<a href="#">REP3-008</a>] secure that this be considered during detailed design and subject to approval by the local planning authority in consultation with the EA?</p> <p>b) Please could DCC, SDDC and the EA comment?</p>
5.3	Applicant	<p><u>Securing funding for decommissioning</u></p> <p>DCC [<a href="#">REP1-026</a>] and SDDC [<a href="#">REP1-029</a>] say that a provision should be added to the dDCO [<a href="#">REP3-008</a>] to secure funding for decommissioning to provide certainty that adequate funding arrangements are in place to reinstate the land appropriately. They suggest that all works identified in the Outline DEMP [<a href="#">REP1-011</a>], including hedgerow restoration and the removal of cables and ducting, can be costed now and that this amount can then be held in an index/inflation linked escrow account or bond and secured.</p> <p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-031</a>, <a href="#">REP3-032</a>] considers that it is not necessary to include a provision to secure funding for decommissioning, as the decommissioning of the site is secured through Requirement 22 of the dDCO [<a href="#">REP3-008</a>] which is legally enforceable, and that its approach is consistent with recent precedent.</p> <p>Please could the Applicant comment on the potential for decommissioning not to be completed, including in the context of the commercial and financial considerations that the undertaker (which may not be the Applicant) might have at that time? How can the ExA be satisfied that decommissioning would be completed if funding is not secured in advance?</p>
5.4	Applicant	<p><u>Securing decommissioning timescales</u></p>

Ref:	Question to:	Question:
		<p>DCC [REP1-026] considers that a dDCO [REP3-008] requirement for decommissioning and restoration to be completed within a specified timescale would add certainty to the decommissioning process and give assurance to landowners about the return of the land and commencement of future uses. SDDC [REP1-029] state that such a requirement should be provided and that up to two years is acceptable. The EA [REP1-032] suggest that such a requirement would ensure that decommissioning is done and would enable enforcement.</p> <p>DCC [REP1-026] consider that 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. SDDC [REP1-029] consider that timescales should be identified in case a unit fails or is left dormant/ derelict some time before the 40-year life has expired. The EA [REP1-032] suggest that it be required for decommissioning to be completed within two years of energy generation ceasing or within two years after the 40-year expiry date, whichever is sooner.</p> <p>The Applicant [REP1-025, REP3-032] says 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 and that no timescale is required other than provided by Requirement 22 of the dDCO [REP3-008], whereby decommissioning is to commence no later than 40 years following the date of final commissioning of the first phase of Work No. 1. The Applicant notes that its approach is consistent with recent precedent.</p> <p>The ExA notes the various submissions and is considering whether it is appropriate to secure provisions to limit the duration of any periods when the benefits of electricity generation and storage of all or part of the Proposed Development do not offset the various adverse impacts at that time. The ExA is considering if it is necessary to secure for the decommissioning and restoration of any part of the Proposed Development to be completed within two years of that part not being necessary for the generation or storage of electricity, or within 42 years following the date of final commissioning of the first phase of Work No. 1, whichever is earlier.</p> <p>Please could the Applicant comment?</p>
<p><b>6. Agriculture, land use, soils, ground conditions, minerals, and geology</b></p>		

Ref:	Question to:	Question:
6.1	Applicant NE SDDC	<p><u>Agricultural Land Classification (ALC)</u></p> <p>NE [<a href="#">AS-022</a>, <a href="#">REP1-037</a>] raise various concerns regarding ALC, including:</p> <ul style="list-style-type: none"> <li>• where BMV is not expected then a semi detailed survey (1 auger per 2 ha plus representative pits) will suffice;</li> <li>• in areas that BMV is expected then a full ALC (1 auger per ha plus representative pits) must be undertaken;</li> <li>• it does not concur with the assumption that land quality is mostly 3b within the cable route;</li> <li>• an ALC survey should be undertaken on the cable route;</li> <li>• in the absence of a detailed survey for most of the cable corridor it is impossible to provide an accurate baseline and demonstrate the likely potential impacts;</li> <li>• the survey requires an experienced ALC surveyor to make the correct professional judgements;</li> <li>• detail should be provided of the professional credentials and experience required of soil scientists (surveyors) experience carrying out ALC; and</li> <li>• the ALC survey will inform the Soil Management Plan.</li> </ul> <p>SDDC [<a href="#">REP1-029</a>] consider that the Applicant’s ALC and surveys meet the minimum criteria of MAFF 1988, but say that the soil survey work was not supervised/ observed.</p> <p>NE [<a href="#">AS-022</a>] provide detailed comments on the Applicant’s ALC undertaken to date and say [<a href="#">REP1-037</a>] that it will provide more detailed comments for Deadlines 2 and 3. The ExA notes that these are yet to be submitted.</p> <p>The Applicant [<a href="#">REP1-023</a>, <a href="#">REP1-025</a>, <a href="#">REP3-032</a>] considers the approach and methodology used within the ALC and surveys to be robust and appropriate. It says that is engaging with NE on a SoCG. It states that it is undertaking further survey work to confirm the ALC on the cable route and will provide an update on the results of the survey at Deadline 4.</p>

Ref:	Question to:	Question:
		<p>a) Please could the Applicant clarify the supervision provided for all ALC and surveys, including for the soil survey work on site, setting out the relevant professional credentials and experience of the surveyors/ scientists?</p> <p>b) Please could NE and SDDC comment on the supervision provided by the Applicant at Deadline 5?</p> <p>c) Please could the Applicant provide a draft copy of the SoCG with NE at Deadline 4, and set out the ALC matters yet to be agreed with NE and the next steps to be taken to address them?</p> <p>d) Please could NE and SDDC set out any remaining ALC concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</p> <p>e) Please could NE and SDDC provide their comments on the results of the Applicant's ALC on the cable route at Deadline 5?</p>
6.2	Applicant NE SDDC	<p><u>Outline Soil Management Plan</u></p> <p>NE [<a href="#">AS-022</a>] comment that the Outline Soil Management Plan should:</p> <ul style="list-style-type: none"> <li>• comply with paragraph 5.1 of the <a href="#">Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (2009)</a>;</li> <li>• follow the Institute of Quarrying's <a href="#">Good Practice Guide for Handling Soils in Mineral Working</a>;</li> <li>• clarify the level of professional qualification and experience required of the site foreman to ensure that soil handling and storage of soils adhere to the Defra Construction Code of Practice;</li> <li>• set out the target specification for the proposed end uses based on pre-construction ALC grade;</li> <li>• where topsoil is to be stripped, typically for construction compounds; access tracks and laying cabling, the soil handling methodology (movement, storage &amp; replacement) and</li> </ul>

Ref:	Question to:	Question:
		<p>soil protection proposals are reviewed to ensure that appropriate mitigation is in place to allow for the restoration of the land to the baseline ALC Grade;</p> <ul style="list-style-type: none"> <li>• avoiding soil handling during October to March inclusive, irrespective of soil moisture conditions;</li> <li>• only allow soils in a dry and friable condition to be handled; and</li> <li>• limit stockpile heights to avoid compaction of soils, typically a maximum of 3m for topsoils and 5m for subsoils.</li> </ul> <p>The Applicant [<a href="#">REP1-023</a>] is drafting a SoCG with NE to ensure all comments are addressed.</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant provide a draft copy of the SoCG with NE at Deadline 4, and set out the Outline Soil Management Plan matters yet to be agreed with NE, and the next steps to be taken to address them?</li> <li>b) Please could the Applicant submit the updated Outline Soil Management Plan?</li> <li>c) Please could NE set out any remaining Outline Soil Management Plan concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> <li>d) Please could SDDC comment at Deadlines 4 and 5?</li> </ol>
6.3	Applicant DCC SDDC	<p><u>Loss of BMV agricultural land</u></p> <p>Paragraph 5.11.12 of NPS EN-1 states that Applicants should seek to minimise impacts on BMV agricultural land and preferably use land in areas of poorer quality. Paragraph 2.10.29 of NPS EN-3 says that the use of BMV agricultural land should be avoided where possible.</p> <p>The ES [<a href="#">APP-169</a> paragraph 15.134] states that the Battery Energy Storage System (BESS) 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 BESS and substation would be within a small field of mixed Subgrade 3a and 3b quality. It is indicated 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.</p> <p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-032</a>] says that the BESS and onsite substation is proposed within a relatively small field and anticipates that this area could be restored to BMV status on</p>

Ref:	Question to:	Question:
		<p>decommissioning. At Deadline 4 it will submit a Soil Management Plan dedicated to this area to address the removal of topsoil, the management of that material for the duration of the consent. It anticipates restoration to comparable quality but cannot be certain of restoration back to the same ALC grade, and therefore considers that it would not be reasonable for the DCO to require no permanent loss of Subgrade 3a agricultural land.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant comment on whether the BESS and onsite substation could be located to avoid BMV agricultural land? If not, why not?</li> <li>b) Please could DCC and SDDC comment on the Applicant's Soil Management Plan for the BESS and onsite substation at Deadline 5, set out any remaining concerns and suggest how their issues might be resolved?</li> </ul> <p>DCC and SDDC [<a href="#">REP1-026</a>, <a href="#">REP1-029</a>, <a href="#">REP2-001</a>] consider it inevitable that land drains would be compromised by piling, cabling and other infrastructure and that, in the absence of land drains, nutrients would be washed out of the soil and the soil would no longer be BMV agricultural land quality. They also say that soil compaction on soil structure would lead to reduced permeability to water and air as well as increased surface runoff and erosion. The councils consider that the impacts on soil would not be practically reversible in respect of BMV land and that the Proposed Development would result in the permanent loss of BMV land. The councils advise that the Proposed Development site contains soil that is particularly good to produce potatoes, as it is potato cyst nematode free, making the soil even more of a rarity and adding to the BMV value. They consider that the permanent loss of BMV land of the scale proposed is a critical impact and that it is reasonable for the dDCO to require no permanent loss of Subgrade 3a land.</p> <p>Councillor Amy Wheelton [<a href="#">REP1-039</a>] notes that manure is not being added back to the soil to increase the organic matter content, raises concerns about the impact of the piling on the soil structure and land drainage, and considers that the land would be incapable of returning to BMV or any agricultural use as it would no longer be drained.</p> <p>The Applicant [<a href="#">REP3-031</a>, <a href="#">REP3-033</a>] says that although piling may disturb or break up land drains, the number affected is expected to be minimal and in the unlikely event that any significant drainage issue emerges due to construction activity, it would use measures such as SuDS, replacing or repairing land drains to rectify the situation. It considers it likely that there would be an improvement to soil quality as the ground beneath the solar panels would be</p>

Ref:	Question to:	Question:
		<p>permanently vegetated whereas with the existing agricultural use there are periods of bare and compacted earth which increase levels of the surface water runoff. It states that the land would be returned to an appropriate condition following decommissioning without compromising soil quality. The Applicant says that the lease requires it to make good the land in no worse state or condition prior to implementing the Proposed Development.</p> <p>c) Please could the Applicant suggest how measures to mitigate the potential for damage to existing land drains and impacts on soil quality can be secured by the dDCO [<a href="#">REP3-008</a>]?</p> <p>d) Please could the Applicant suggest how the condition of the land after decommissioning can be secured by the dDCO [<a href="#">REP3-008</a>]?</p> <p>e) Please could DCC and SDDC comment on the Applicant's suggestions at Deadline 5, set out any remaining concerns and suggest how their issues might be resolved?</p>
<p><b>7. Biodiversity</b></p>		
<p>7.1</p>	<p>Applicant NE</p>	<p><u>River Mease Special Area of Conservation (SAC)</u> <u>River Mease Site of Special Scientific Interest (SSSI)</u></p> <p>NE [<a href="#">AS-022</a>, <a href="#">REP1-037</a>] is not satisfied with the Applicant's assessment of the impacts on the River Mease SAC or that it can be ascertained beyond reasonable scientific doubt that the Proposed Development would not have an adverse effect on its integrity. NE notes a potential pathway for the mobilisation of sediment during the construction and operation stages. It also considers that there is a lack of clarity around the maintenance strategy, including the use of chemicals in the cleaning of the panels which has the potential to impact the designated features. It refers to discussions with the Applicant regarding this and says there are mitigation measures available to prevent potential impacts on the designated features using Sustainable Drainage Systems (SuDS).</p> <p>SDDC [<a href="#">REP1-029</a>, <a href="#">REP2-001</a>] raise concerns about mobilisation of sediment and the use of chemicals, and suggest incorporating SuDS as mitigation, as does DCC [<a href="#">REP1-026</a>]. SDDC provides evidence of the presence of otter on the watercourses connected with the Proposed</p>

Ref:	Question to:	Question:
		<p>Development and the potential for adverse impacts on them, including in combination with the proposed Energy Storage System at Fairfield's Farm, Rosliston Road, Walton-on-Trent.</p> <p>The Applicant [<a href="#">REP1-023</a>, <a href="#">REP1-025</a>, <a href="#">REP3-032</a>] predicts no adverse effects of the Proposed Development on the integrity of the SAC either alone or in-combination with other plans and projects. It suggests that there would not be an increase in the mobilisation of sedimentations as rainfall would be intercepted and buffered by the vegetation growing underneath the panels and retained prior to infiltration as with the greenfield situation. It considers that the impact of the panels on runoff would be positive as vegetation would be in place all year round and the underlying soil would not be left bare or compacted by agricultural activities. It says that the cleaning of the solar panels is unlikely to require the need to use harsh chemicals and that any potential additional mitigation would be detailed in the Outline OEMP [<a href="#">REP1-009</a>].</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant set out the consideration given to the River Mease SAC and SSSI during the operation and decommissioning stages? Please could NE and SDDC comment on that at Deadline 5, and set out any concerns and how they might be addressed?</li> <li>b) Please could NE provide a detailed response to the Applicant's reasoning that the Proposed Development would reduce the mobilisation of sediment?</li> <li>c) Does NE still consider that the Proposed Development would have a Likely Significant Effect on the River Mease SAC, either alone or in-combination with other projects?</li> <li>d) Can NE advise if the Proposed Development should progress to Stage 2 to consider if the Proposed Development may have an adverse effect on the integrity of the River Mease SAC?</li> <li>e) Please could the Applicant advise whether it will submit a Statement to Inform Appropriate Assessment?</li> <li>f) Please could the Applicant set out how mitigation in relation to chemical cleaning of the solar panels is secured? Please could NE and SDDC comment on the Applicant's response at Deadline 5, and set out any concerns and how they might be addressed?</li> <li>g) Do NE or SDDC have any concerns about otters in relation to the River Mease SAC or SSSI?</li> </ol>



Ref:	Question to:	Question:
7.2	Forestry Commission SDDC	<p>h) Do NE or SDDC have any other concerns in relation to the River Mease SAC or SSSI?</p> <p><u>Woodland bordering the former Drakelow Power Station site</u></p> <p>The Forestry Commission [<a href="#">RR-095</a>] considers that the woodland bordering the former Drakelow Power Station site, listed on the Arboricultural Report as Woodlands 8, 9 &amp; 10 are Lowland Mixed Deciduous Woodland on the Priority Habitat Inventory (England) and therefore recognised under the UK Biodiversity Action Plan as being the most threatened and requiring conservation action.</p> <p>The Applicant [<a href="#">REP1-023</a>] applies the habitat type of Other Woodland; Broadleaved rather than Lowland Mixed Deciduous Woodland due to the quality of the habitat present, which it considers do not meet the criteria for the Lowland Mixed Deciduous habitat type, including because of the presence of sycamore and the mixture of broadleaved and coniferous species.</p> <p>The Applicant [<a href="#">REP1-023</a>, <a href="#">REP3-030</a>] is updating the Arboricultural Survey Report [<a href="#">APP-133</a>] 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 the update at Deadline 4.</p> <p>a) Are the Forestry Commission and SDDC satisfied with the Applicant’s explanation for categorisation as Other Woodland; Broadleaved? If not, why not?</p> <p>b) Please could the Forestry Commission and SDDC comment on the updated Arboricultural Survey Report at Deadline 5, set out any remaining concerns and suggest how their issues might be resolved?</p>
7.3	Applicant SDDC DCC	<p><u>Draft DCO [<a href="#">REP3-008</a>] Article 37 - Felling or lopping of trees or removal of hedgerows</u></p> <p><u>Draft DCO [<a href="#">REP3-008</a>] Article 38 - Trees subject to Tree Preservation Orders.</u></p> <p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-032</a>] considers that the broad powers to fell or lop any tree, or shrub near any part of the authorised development, or cut back its roots, without the Local Planning Authority’s consent is to ensure that the Proposed Development could be delivered in good time and without unreasonable delay.</p> <p>DCC [<a href="#">REP1-026</a>] considers that it is necessary for SDDC’s prior consent to be required for the removal to fell or lop trees. SDDC [<a href="#">REP1-029</a>] require the power to consent on the removal to fell or lop trees.</p>

Ref:	Question to:	Question:
		<p>The ExA is considering whether the broad powers requested by the Applicant are justified, whether it is reasonable to consider that delay could be avoided by planning and obtaining consent for such works in advance, and if it would be helpful for consent to be deemed if it isn't provided within 28 days of an application for consent. The ExA is considering whether a provision regarding the quality of the works might be helpful, as provided for <a href="#">Sunnica Energy Farm</a>: <i>“to ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards”</i>. The ExA is thinking about whether greater control should be provided for trees subject to Tree Preservation Order than for other trees and shrubs.</p> <p>Please could the Applicant, SDDC and DCC comment?</p>
7.4	<p>Applicant The Woodland Trust DCC SDDC</p>	<p><u>Ancient/ veteran trees</u></p> <p>The Woodland Trust [<a href="#">RR-316</a>, <a href="#">REP1-049</a>] question whether various trees in the Arboricultural Survey Report [<a href="#">APP-133</a>] that are not identified as veteran/ ancient should be. The Applicant [<a href="#">REP1-023</a>, <a href="#">REP3-031</a>] provides its reasoning for each tree and says that it will engage with SDDC and DCC regarding the identification and classification of veteran trees .</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant provide a draft copy of the SoCG with SDDC and DCC at Deadline 4, and set any tree classification matters yet to be agreed, and the next steps to be taken to address them?</li> <li>b) Please could The Woodland Trust, DCC and SDDC set out any remaining concerns regarding tree classification and ancient/ veteran trees at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> </ol>
7.5	<p>Applicant DCC SDDC</p>	<p><u>Habitat Constraints Plan</u></p> <p>The ExA [<a href="#">PD-010</a> question 7.13] asked whether a Habitat Constraints Plan, or similar, would provide helpful clarification of the buffer zones, and if the Applicant, DCC and SDDC could agree what should be included in the Outline CEMP [<a href="#">REP1-007</a>].</p> <p>DCC [<a href="#">REP1-026</a>] and SDDC [<a href="#">REP1-029</a>] recommended that a habitat constraints plan or similar is produced for the CEMP, which clearly defines buffer zones to sensitive features such</p>

Ref:	Question to:	Question:
		<p>as ancient/ veteran trees, other retained trees, ponds, watercourses, hedgerows and woodlands etc.</p> <p>The Applicant <a href="#">[REP3-032]</a> agrees with SDDC and DCC that a Habitat Constraints Plan should be included as part of the detailed CEMP.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant, in consultation with SDDC and DCC, submit an updated Outline CEMP <a href="#">[REP1-007]</a> at Deadline 4 to include for a Habitat Constraints Plan, setting out what such a plan should include?</li> <li>b) Should a Habitats Constraint Plan be required for the site preparation works?</li> <li>c) Please could SDDC and DCC comment on the provisions for a Habitat Constraints Plan in the updated Outline CEMP at Deadline 5, set out any remaining concerns and suggest how their issues might be resolved?</li> </ul>
7.6	Applicant SDDC NE	<p><u>Skylark</u></p> <p>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.</p> <p>SDDC <a href="#">[REP1-029, REP2-001]</a> say that the supporting baseline for the Preliminary Environmental Information Report, identified 28 breeding territories for skylark within the Oakland Farm part of the Site and that this has dropped to an estimate of 19 pairs. It suggests that to remove a degree of uncertainty, it would be best to assume the maximum population estimate. SDDC questions the impact of the operation stage on the skylark population and the capacity of the surrounding area to accommodate the movement of any dispersed birds. It considers that there would be an adverse impact on ground nesting birds as while the total area of suitable habitat may have increased, the fragmented form of that habitat, broken up by solar panels, may no longer be suitable for some species.</p> <p>NE <a href="#">[REP1-037]</a> recommends that any potential negative effects to skylark should be identified as early as possible and designed out to avoid impacts. NE refers to its <a href="#">standing advice</a> on best practice for surveys, methods, and mitigation, to avoid negative impacts for breeding birds such as skylarks.</p>

Ref:	Question to:	Question:
		<p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-032</a>] says that of the 28 territory holding males identified in the Study Area, only 19 were recorded within the Order Limits. It considers that the loss of potential nesting habitat would have a very minor effect on the local population of skylark within the Site and study area that would not be detrimental to the conservation status of the species in the area beyond the site.</p> <ul style="list-style-type: none"> <li>a) Is SDDC satisfied with the Applicant’s explanation of the number of breeding pairs?</li> <li>b) Please could the Applicant set out whether it has fully followed NE’s standing advice?</li> <li>c) With reference to NPS EN-1, do the Applicant, SDDC or NE consider that the Proposed Development would harm skylark or other ground nesting birds?</li> <li>d) Please could SDDC, DCC and NE set out any remaining concerns regarding skylark and other ground nesting birds, and suggest how their issues might be resolved?</li> </ul>
7.7	Applicant SDDC NE	<p><u>Barn owl</u></p> <p>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.</p> <p>Breeding Bird Survey Report ES Appendix 6.4 [<a href="#">APP-124</a>] states that no records of barn owl were returned during the desk study or during a search of publicly available data sources, no records were found within the Site Boundary, and no suitable nest sites were noted during the field survey. Breeding Bird Survey Report ES Appendix 6.9 [<a href="#">APP-128</a>] records that a barn owl was recorded leaving a tree on 29/07/2021 within the Park Farm Site, adding that no specific survey was undertaken for this species, but it has been considered a probable breeding species on account of its presence and suitable nesting sites both within mature trees and within the Park Farm buildings.</p> <p>SDDC [<a href="#">REP1-029</a>, <a href="#">REP2-001</a>] say that the Applicant 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 operation stages. It refers to some inconsistencies in the Breeding Bird Survey Report . It considers that there would be an adverse impact on</p>

Ref:	Question to:	Question:
		<p>barn owl as while the total area of suitable habitat may have increased, the fragmented form of that habitat, broken up by solar panels, may no longer be suitable for some species.</p> <p>NE <a href="#">[REP1-037]</a> recommends that any potential negative effects to barn owl should be identified as early as possible, designed out to avoid impacts. NE refers to its <a href="#">standing advice</a> on best practice for surveys, methods, and mitigation, to avoid negative impacts for breeding birds such as barn owl.</p> <p>The Applicant <a href="#">[REP1-025, REP3-032]</a> states that the site provides suitable habitat for barn owl to nest but no nesting activity was recorded during the bird surveys. It considers that the Proposed Development would not result in a reduction in the availability of foraging habitat during either construction or operation stages.</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant set out whether it has fully followed NE’s standing advice?</li> <li>b) Please could the Applicant address the inconsistencies in the ES and submit an update to the ES at Deadline 4, together with any necessary updates to the Outline CEMP <a href="#">[REP1-007]</a>, ensuring that it takes a precautionary approach?</li> <li>c) Please could SDDC and DCC comment on the updates at Deadline 5?</li> <li>d) With reference to NPS EN-1, please, at Deadlines 4 and 5, could the Applicant, SDDC and NE set out whether they consider that the Proposed Development would harm barn owl?</li> <li>e) Please, at Deadlines 4 and 5, could SDDC, DCC and NE set out any remaining concerns regarding barn owl, and suggest how their issues might be resolved?</li> </ol>
7.8	Applicant SDDC	<p><u>Great crested newt</u></p> <p>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.</p> <p>SDDC <a href="#">[REP1-029, REP2-001]</a> is not content that great crested newt was scoped out of the detailed assessment, that great crested newt has not been fully surveyed and that this should be addressed. It considers that there are a total of 15 off-site ponds within 250m of the site boundary, which have not been surveyed as no access was obtained from the landholders, therefore, presence or absence of great crested newt in these ponds has not been fully</p>

Ref:	Question to:	Question:
		<p>determined. It considers that additional compensation and mitigation measures may be required to control the potential for killing and injuring great crested newt during the construction stage and sets out what could be included in a Great Crested Newt Mitigation Strategy.</p> <p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-032</a>] states that the findings of the great crested newt surveys indicate that great crested newt are likely to be absent from the Site. Nine surveys were carried out of waterbodies located within and close to the Site boundary which had suitability for supporting great crested newt confirmed an absence of great crested newt. Of the 15 offsite waterbodies identified by SDDC, 12 are located over 100m from the Site boundary, reducing the likelihood of any great crested newt (if present) travelling from these waterbodies into the largely unsuitable habitats present within the Site boundary. It considers that great crested newt are highly unlikely to be affected by the Proposed Development and therefore, no mitigation is required for great crested newt other than 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) of the dDCO [<a href="#">REP3-008</a>].</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant comment on the potential for offsite waterbodies identified by SDDC that fall within 100m of the Site boundary to support great crested newt?</li> <li>b) As a precautionary measure, please could the Applicant update the Outline CEMP [<a href="#">REP1-007</a>] to include for a Great Crested Newt Mitigation Strategy and set out the contents required of it?</li> <li>c) With reference to NPS EN-1, do the Applicant or SDDC consider that the Proposed Development would harm great crested newt?</li> <li>d) Please could SDDC set out any remaining concerns regarding great crested newt, and suggest how their issues might be resolved?</li> </ol>
7.9	Applicant SDDC	<p><u>Otter</u></p> <p>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.</p>

Ref:	Question to:	Question:
		<p>SDDC [<a href="#">REP1-029</a>, <a href="#">REP2-001</a>] provides evidence of the presence of otter on the watercourses connected with the Proposed Development and the potential for adverse impacts on them, including cumulatively with a proposed Energy Storage System at Fairfield's Farm. It considers that 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 in relation to otter disturbance given that both applications are likely to be aligned. SDDC say that the Outline OEMP [<a href="#">REP1-009</a>] does not appear to show any mitigation for otter.</p> <p>The Applicant [<a href="#">REP3-031</a>, <a href="#">REP3-032</a>, <a href="#">REP3-033</a>] concludes that it is likely that otter uses the unnamed watercourse and ponds for foraging and shelter and considers that embedded mitigation and the mitigation measures for protected species, including otter, would ensure that significant impacts on otter are avoided. The Applicant refers to mitigation measures within the Outline LEMP [<a href="#">REP3-025</a>], Outline CEMP [<a href="#">REP1-007</a>], Outline DEMP [<a href="#">REP1-011</a>], ES Chapter 6 [<a href="#">APP-135</a>] and the Schedule of Mitigation [<a href="#">APP-179</a>].</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant set out its consideration of impacts on otter cumulatively with the proposed Energy Storage System at Fairfield's Farm?</li> <li>b) Please could the Applicant ensure that the mitigation for otter is clearly identified in the outline management and mitigation plans and that all mitigation for otters in ES Chapter 6 [<a href="#">APP-135</a>] and the Schedule of Mitigation [<a href="#">APP-179</a>] is secured in the outline management and mitigation plans?</li> <li>c) With reference to NPS EN-1, do the Applicant or SDDC consider that the Proposed Development would harm otter?</li> <li>d) Please could SDDC set out any remaining concerns regarding otter, and suggest how their issues might be resolved?</li> </ol>
7.10	Applicant NE DCC SDDC	<p><u>Badger</u></p> <p>NE [<a href="#">AS-022</a>, <a href="#">REP1-037</a>] are aware that the Proposed Development may impact a Badger sett and say that it may be possible to avoid impacts through the development of the final design. It is unable to issue Letters of No Impediment before it has received draft protected species licence applications for review.</p>

Ref:	Question to:	Question:
		<p>The Applicant <a href="#">[REP3-029]</a> say that it will submit a draft application for a Badger Licence to NE shortly after Deadline 3, in order to seek a Letter of No Impediment from NE on that matter.</p> <p>DCC <a href="#">[REP1-026]</a> state that consideration should be given to the ground level fencing design to enable the passage of badger and consider that badger setts should be given greater consideration in respect of buffer zones to minimise disturbance.</p> <p>Paragraph 4.49 of the Outline LEMP <a href="#">[REP3-025]</a> includes that indicative locations of the mammal gaps are detailed within ES Figure 6.3, would allow the movement of badger and hedgehog to disperse through the Site, and that the gaps would be 20-30cm in size.</p> <ol style="list-style-type: none"> <li>a) Has the Applicant submitted a draft application for a Badger Licence to NE?</li> <li>b) Does NE have any concerns that would prevent it from issuing a Letter of No Impediment. How might any such concerns be resolved?</li> <li>c) Please could a Letter of No Impediment, or confirmation that one cannot be provided, be submitted by Deadline 4 or 5?</li> <li>d) Please, following consultation with DCC, could the Applicant respond to DCC's concerns about buffer distances for badger?</li> <li>e) Please could DCC and SDDC set out any remaining concerns regarding badger, and suggest how their issues might be resolved?</li> </ol>
7.11	Applicant DCC SDDC	<p><u>Draft DCO <a href="#">[REP3-008]</a> Requirement 21 – Protected Species</u></p> <p><u>Species Protection Plans</u></p> <p>SDDC <a href="#">[REP1-029]</a> consider that the Outline CEMP <a href="#">[REP1-007]</a> should provide Species Protection Plans for Otter, Great Crested Newt/ /Ponds, Hedgerows &amp; Trees and Woodland and identify important zones for each species to feed into mitigation strategies. DCC <a href="#">[REP1-026]</a> suggest that outline Species Protection Plans. should be provided in outline during the Examination.</p> <p>The Applicant has updated paragraph 2.81 of the Outline CEMP <a href="#">[REP1-007]</a> to set out the high level contents for a Species Protection Plan to be included in the final CEMP.</p>



Ref:	Question to:	Question:
		<p>The ExA notes the series of concerns raised by SDDC [<a href="#">REP1-029</a>, <a href="#">REP2-001</a>] in relation to scoping, surveys and potential impacts on a number of protected species, including skylark, barn owl, great crested newt, and otter.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant, in consultation with SDDC and DCC, submit an updated Outline CEMP [<a href="#">REP1-007</a>] at Deadline 4 to include more detail of Species Protection Plans so that specific measures are identified for individual species and address SDDC's concerns?</li> <li>b) Site preparation works which include (amongst other things) remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, and the demolition of existing buildings and structures, typically fall outside the Outline CEMP [<a href="#">REP1-007</a>]. Should Species Protection Plans be required for the site preparation works?</li> <li>c) Please could SDDC and DCC comment on the provisions for Species Protection Plans in the updated Outline CEMP at Deadline 5, set out any remaining concerns and suggest how their issues might be resolved?</li> </ul>
7.12	EA SDDC	<p><u>Invasive non-native species</u></p> <p>Do EA or SDDC have any concerns regarding non-native species that need to be addressed at this stage? How might their concerns be resolved?</p>
<b>8. Historic environment</b>		
8.1	Historic England DCC Applicant	<p><u>Potential harm to designated heritage assets</u></p> <p>Historic England [<a href="#">AS-021</a>] and DCC [<a href="#">REP2-001</a>] comment on the potential harm to designated heritage assets. DCC suggest magnitudes of harm, whereas Historic England don't.</p> <ul style="list-style-type: none"> <li>a) Does Historic England have any comments on the magnitude of harm to the heritage assets that it mentions?</li> </ul> <p>Historic England mention some assets that DCC does not comment on, including:</p>

Ref:	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Church of St Giles and Cauldwell Hall, Caldwell;</li> <li>• Catton Hall at Coton in the Elms;</li> <li>• Grade II listed buildings in Walton-on-Trent, Caldwell, Rosliston, Coton in the Elms; and</li> <li>• buildings related to the former Drakelow Hall.</li> </ul> <p>b) Please could DCC and the Applicant comment on the magnitude of harm to those assets?</p> <p>The Applicant [<a href="#">REP3-033</a>] says that it is engaging with Historic England, including to progress a SoCG, and suggest that Historic England have indicated that the Proposed Development would create a level of harm at the lower end of less than substantial.</p> <p>c) Please could the Applicant provide a draft copy of the SoCG with Historic England at Deadline 4, set out the matters yet to be agreed with Historic England including any in relation to the potential harm to designated heritage assets, and the next steps to be taken to address them?</p>
8.2	DCC	<p><u>Archaeology – potential harm to assets subject to the policies for designated heritage assets</u></p> <p>Paragraph 5.9.21 of NPS EN-1 states that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Monuments should be considered subject to the policies for designated heritage assets. Paragraph 5.9.31 says that where there would be substantial harm to (or total loss of significance of) a designated heritage asset then consent should be refused unless it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or various conditions apply.</p> <p>DCC [<a href="#">REP1-026</a>, <a href="#">REP2-001</a>] says that there are no recorded Roman assets within the site, there have been late Mesolithic and early neolithic finds and further assets cannot be ruled out, and there is a potential for medieval features. It considers that the lack of information on archaeological assets is likely to reflect a lack of sustained investigation rather than an absence of archaeology. DCC considers that the works could potentially result in total loss or substantial harm to significance.</p>

Ref:	Question to:	Question:
		<p>The Applicant [<a href="#">REP1-025</a>, <a href="#">REP3-033</a>] says that following analysis of the geophysical survey results which suggests extensive disturbance of the Site in the past, it considers that assets of later prehistoric to Roman date of demonstrably equivalent value to designated heritage assets are unlikely to be present and there would not be any harm due to the controls in place through the Outline CEMP [<a href="#">REP1-007</a>] and Written Scheme of Investigation secured by Requirement 18 of the dDCO [<a href="#">REP3-008</a>].</p> <ul style="list-style-type: none"> <li>a) Please could DCC comment on the likelihood of any archaeology of demonstrably equivalent value to Scheduled Monuments being present within the site?</li> <li>b) Does DCC consider it likely that the Outline CEMP [<a href="#">REP1-007</a>] and Written Scheme of Investigation secured by Requirement 18 of the dDCO [<a href="#">REP3-008</a>] would avoid harm to archaeology and, if not, is the potential harm likely to amount to substantial harm, total loss, or less than substantial harm to its significance?</li> </ul>
8.3	Applicant	<p><u>Archaeology – micrositing</u></p> <p>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.</p> <p>DCC [<a href="#">REP1-026</a>] consider that use of micrositing to enable the avoidance of harm to archaeological assets identified during commencement and construction stages may be crucial to the protection of previously unrecorded assets.</p> <p>The Outline CEMP [<a href="#">REP1-007</a>] includes that the Applicant would be able to microsite certain elements of the Proposed Development (such as transformer stations, fencing and access tracks), but in situations where micro-siting would not wholly avoid or alleviate impacts to archaeological discoveries on site, the Applicant would use alternative construction methods to protect archaeological assets, where required. Alternative methods are set out for the solar panel support structures.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant set out the potential for micro-siting other elements of the Proposed Development including, but not limited to, the onsite substation and BESS?</li> </ul>

Ref:	Question to:	Question:
		<p>b) If micro siting is not possible then what “alternative construction methods” could be used to protect any archaeological assets, including any that might be subject to the policies for designated heritage assets?</p> <p>c) With reference to paragraph 2.10.137 of NPS EN-1, please could the Applicant update the Outline CEMP <a href="#">[REP1-007]</a> to include a firm commitment (avoiding terms such as “<i>will be able to</i>”) in relation to micro siting where there might be a risk of damage to archaeology, including:</p> <ul style="list-style-type: none"> <li>• identifying which elements of the Proposed Development micro siting would be used for;</li> <li>• identifying which elements it would not be used for; and</li> <li>• justifying why micro siting may not be used?</li> </ul>
8.4	DCC Applicant	<p><u>Draft DCO <a href="#">[REP3-008]</a> Requirement 18 – Archaeology</u></p> <p>This requirement does not apply to the site preparation works, which are excluded from the definition of “commence”. Site preparation works include (amongst other things) intrusive archaeological surveys, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, and the demolition of existing buildings and structures.</p> <p>The Applicant <a href="#">[REP1-025, REP3-032]</a> considers that it is not necessary for the Requirement to apply to the site preparation works and suggests that the site preparation works might be required to inform the Written Scheme of Investigation.</p> <p>The ExA is concerned that some of the site preparation works may have the potential to harm archaeology, including any that might be subject to the policies for designated heritage assets, for which Requirement 18 provides key mitigation. On that basis the ExA is considering whether Requirement 18 should apply to the site preparation works.</p> <p>a) Please could DCC comment?</p> <p>b) Please could the Applicant comment and suggest wording for Requirement 18 to apply to the site preparation works in case the ExA wishes to include it?</p>

Ref:	Question to:	Question:
<b>9. Landscape, visual, glint, and glare</b>		
9.1	Diane Abbott Applicant SDDC	<p><u>Visualisations</u></p> <p>Diane Abbott <a href="#">[REP1-043]</a> has submitted sample images which compare some of the Applicant’s views with her own photos and measurements. She suggests that the Applicant’s visualisations do not seem to be accurately calibrated and misrepresent the actual effects. Diane Abbott recommends that the Applicant’s visualisations are correctly calibrated, that revised images are provided that offer a better degree of accuracy, and that the assessment is revisited accordingly.</p> <p>It appears to the ExA that there are typos in Diane Abbott’ references <a href="#">[REP1-043]</a> to the Applicant’s figures <a href="#">[APP109, APP-110]</a> and that her reference to Figure 5.11c should read Figure 5.10c, and that Figure 5.10gc should read Figure 5.10g.</p> <p>The Applicant <a href="#">[REP3-031]</a> says that the details raised with regard to the viewpoints and visualisations are largely a function of perspective, but also due to the limitations of the digital terrain data used to create visualisations, which provide a proxy for exact ground levels, but have a slight variation from what is ‘true’ to the actual landscape. It says that it complies with Landscape Institute guidance, including the 3rd Edition of the Guidelines on Landscape and Visual Impact Assessment (GLVIA3) (2013). It states that the visualisations are a tool used to help understand the nature of the effects and the slight variations to ground level are normal limitations of the process and do not change the resulting assessment of effects.</p> <p>Paragraph 3.23 of GLVIA3 identifies that it is important that the basis of professional judgements is transparent and understandable, so that the underlying assumptions and reasoning can be understood by others. Paragraph 8.15 states that “<i>Photographs can have an important role to play in communicating information about the landscape and visual effects of a proposed development, although it is acknowledged that they cannot convey exactly the way that the effects would appear on site</i>”. Paragraph 8.16 says that “<i>The predicted changes must be described in the text but should also be illustrated by means of visualisations showing, from representative viewpoints, how the changes in views will appear</i>”.</p>

Ref:	Question to:	Question:
		<p>The ExA is considering the potential for misleading inaccuracies in the Applicant's visualisations and any implications of that for its consideration of the landscape and visual impact assessment.</p> <ul style="list-style-type: none"> <li>a) Does Diane Abbott agree with the ExA's interpretation of typos in her references to the Applicant's figures?</li> <li>b) Please could the Applicant set out the calibration undertaken of the digital terrain model to actual ground levels?</li> <li>c) Please could the Applicant provide a detailed response to the comments made by Diane Abbott <a href="#">[REP1-043]</a> on Figures 10c, 10f, 10g, 10j, 10k, 10o and 10p <a href="#">[APP109]</a> (Viewpoint 1: Coton Road), and Figure 11c <a href="#">[APP-110]</a> (Viewpoint 2: Cross Britain Way), in each case setting out how accurate it considers that its own visualisations are, with reasoning?</li> <li>d) Please could the Applicant comment on the potential for inaccuracies in the other visualisations used for the landscape and visual assessment?</li> <li>e) Please could SDDC comment?</li> </ul>
9.2	Applicant	<p><u>Operation stage mitigation</u></p> <p>The Applicant <a href="#">[REP1-025]</a> Appendix C] provides a detailed justification for why the effects at various locations queried by the ExA <a href="#">[PD-010]</a> question 9.2] would reduce from Year 1 to Year 10 and sets out the specific mitigation measures necessary to achieve that.</p> <p>For clarity, and to assist with the later production of detailed management and mitigation plans, please could the Applicant add its full response to an update of ES Chapter 5 <a href="#">[REP1-013]</a>?</p>
9.3	SDDC The National Forest Company	<p><u>The National Forest</u></p> <p>SDDC <a href="#">[REP1-029]</a> considers that the Proposed Development is consistent with Local Plan Policy INF8 in relation to tree planting and connectivity depending on the amount and extent of necessary tree felling for the safe delivery of the Proposed Development. It requests greater identification of areas that would be subject to tree felling to help identify whether the mitigation measures are adequate.</p>

Ref:	Question to:	Question:
		<p>The Applicant [<a href="#">REP3-030</a>, <a href="#">REP3-032</a>] says that the Arboricultural Survey Report [<a href="#">APP-133</a>] includes a Tree Removal and Retention Plan that identifies where trees would be removed, and anticipates providing an update at Deadline 4.</p> <p>a) Please could SDDC comment on the updated Arboricultural Survey Report at Deadline 5 in relation to its concerns regarding compliance with Local Plan Policy INF8, set out any remaining concerns regarding compliance with Local Plan Policy INF8, and suggest how the issues might be resolved?</p> <p>b) Does The National Forest Company have any remaining concerns? How might they be addressed?</p>
9.4	Applicant SDDC	<p><u>Glint and glare assessment modelling</u></p> <p>In the context of the above questions on the accuracy of the visualisations used for the landscape and visual assessment, please could the Applicant comment on the accuracy of the digital terrain and solar panel models used in the glint and glare assessment?</p> <p>Does SDDC have any related concerns? How might they be addressed?</p>
9.5	Applicant	<p><u>Glint and glare - horse riders, agricultural vehicles and lorries</u></p> <p>Councillor Amy Wheelton [<a href="#">REP1-039</a>] questions whether the assessment considers horse riders, agricultural vehicles and lorries that sit higher on the road than car users.</p> <p>Diane Abbott [<a href="#">REP1-043</a>] suggests that impacts on horse-riders are not analysed. She says that road users are assessed at a height of 1.5m above ground level and considers that this does not come near to the height of horse riders, or drivers of farm equipment, vans, trucks, or HGV. She questions whether the screening would be effective for drivers of tall vehicles.</p> <p>The Applicant [<a href="#">REP3-031</a>] says that it is not aware of any potential for glint and glare to occur which would give rise to issues in relation to the safety of different road users. The Applicant has updated paragraphs 5.43 and 5.44 of the Outline LEMP [<a href="#">REP3-025</a>] to provide for screening for glint and glare effects would be maintained to at least 3m in height.</p> <p>Please could the Applicant clarify its assessment of potential glint and glare effects on horse riders, agricultural vehicles, and lorries, and how it has accounted for any differences in level compared with car users or pedestrians?</p>

Ref:	Question to:	Question:
9.6	Applicant SDDC	<p><u>Glint and glare – anti-reflective coating on the solar panels</u></p> <p>SDDC [REP1-029] recommended that a condition be attached to the consent for the submission of details of the solar panels and confirmation that an anti-reflective coating would be applied to them.</p> <p>The Applicant [REP3-032] has added provisions for anti-reflective coating to Table 4.2 of the Project Description [REP3-023] and Appendix B of the Design Statement [REP3-027].</p> <p>Requirement 6(1)(m) of the made <a href="#">Sunnica Energy Farm Order</a> includes for Local Planning Authority approval of the anti-reflective coating to be used on the solar modules. The ExA is considering whether to add a similar provision to the dDCO [REP3-008] to provide clarity, firmness, and the control suggested by SDDC.</p> <p>Please could the Applicant and SDDC comment?</p>
9.7	Applicant SDDC	<p><u>Glint and glare assessment</u></p> <p>Diane Abbott [REP1-043] raises other concerns about the glint and glare assessment, including (paragraph references in brackets):</p> <ul style="list-style-type: none"> <li>• modelling reflections from mid-height of the panel rather than the top (4.3, 4.4, 4.5);</li> <li>• only considering the ground floor of dwellings as possible receptors (4.9);</li> <li>• only considering receptors within a 1km radius (4.10);</li> <li>• local road users are only given a low sensitivity (4.12);</li> <li>• local residents only have a medium sensitivity (4.13);</li> <li>• significance of effect thresholds not to best practice guidance (4.14, 4.16, 4.17, 4.18); and</li> <li>• assessment of morning glare at properties near Oakland’s Farm (4.21).</li> </ul> <p>The Applicant’s responses [REP3-031] include that:</p>



Ref:	Question to:	Question:
		<ul style="list-style-type: none"> <li>• the midpoint of the solar panel is used to undertake the geometric modelling as the model uses just a single height, but visibility and screening recommendations for glint and glare effects are based on the maximum height of the panels (4.3, 4.4, 4.5);</li> <li>• an observer on the ground floor is used for modelling purposes, but the upper floor is considered when determining the potential impacts of glint and glare (4.9);</li> <li>• a 1km study area for ground-based receptors is adopted because the proportion of an observer’s field of vision taken up by the reflecting area diminishes as separation distance increases and although solar reflections could be experienced from the panels at further distances than this, they are not considered significant (4.10);</li> <li>• the justification for local roads being of low sensitivity is provided in ES Chapter 14 [APP-167], which says that they typically have the lowest traffic densities and low potential impact of a distraction or degradation to safety and/ or operation (4.12);</li> <li>• the justification for dwellings being of medium sensitivity is provided in ES Chapter 14 [APP-167], which says that there is some capacity for observers to experience solar reflections for certain durations throughout the year or on any given day without causing a significant reduction in residential amenity (4.13);</li> <li>• the impact levels have been accepted on several projects in the UK and the assessment approach is considered appropriate (4.14, 4.16, 4.17, 4.18); and</li> <li>• the modelling output for the dwelling can be provided to Diane Abbott (4.21).</li> </ul> <p>a) Please could the Applicant justify how consideration of modelling using the mid-point of the panel is a reasonable worst case rather than modelling using a higher point?</p> <p>b) Please could the Applicant clarify how it considers visibility, screening, and impacts on the upper floors of dwellings if this does not (as the ExA understands) make use of the geometric model?</p> <p>c) Please could the Applicant justify how it concludes low potential degradation of safety to users of local roads, including horse riders, agricultural vehicles, and lorries?</p> <p>d) Please could the Applicant comment on the potential human health and well-being impacts of glint and glare, including on the occupiers of dwellings and horse riders?</p>

Ref:	Question to:	Question:
		e) Does SDDC have any concerns in relation to glint and glare? How might they be addressed?
<b>10. Noise and vibration</b>		
10.1	Applicant	<p><u>Data transcribing errors</u></p> <p>The Applicant [<a href="#">REP3-031</a> response to Diane Abbott] refers to errors transcribing data to Table 14 of ES Appendix 11.1 [<a href="#">APP-157</a>] which is carried forward to Table 11.13 of ES Chapter 11 [<a href="#">APP-160</a>], setting out the necessary corrections.</p> <p>For clarity, and in the interests of the later detailed management and mitigation plans, please could the Applicant update ES Chapter 11 [<a href="#">APP-160</a>] and ES Appendix 11.1 [<a href="#">APP-157</a>]?</p>
10.2	SDDC	<p><u>Assessment criteria</u></p> <p>Diane Abbott [<a href="#">REP1-043</a> paragraphs 3.17 and 3.20] raises concerns about the baseline noise levels used in the assessment and the identification of Lowest Observable Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Levels (SOAEL).</p> <p>In its response the Applicant [<a href="#">REP3-031</a>] says that the assessment criteria are agreed with SDDC.</p> <p>Does SDDC have any concerns in relation to the noise assessment criteria? How might they be addressed?</p>
10.3	Applicant SDDC	<p><u>Piling for the solar panels</u></p> <p>SDDC [<a href="#">APP-160</a> paragraph 11.101] is quoted as identifying piling during construction as the most significant noise impact.</p> <p>The Applicant [<a href="#">REP1-025</a> response to question 10.1] refers to mitigation including scheduling the work at times to minimise impact on nearest receptors, employing multiple rigs to reduce the time taken for piling in a given area before moving on, screening or low-noise plant models. It refers to mitigation measures set out in paragraph 2.2.3 of the Outline CEMP [<a href="#">REP1-007</a>].</p>

Ref:	Question to:	Question:
		<p>Not all of the mitigation mentioned by the Applicant is included in the Outline CEMP [<a href="#">REP1-007</a>] and none of it specifically refers to piling.</p> <ul style="list-style-type: none"> <li>a) Given the potential for noise impacts from piling during construction and SDDC’s comments, and for clarity, please could the Applicant, in discussion with SDDC, update the Outline CEMP [<a href="#">REP1-007</a>] to include the specific mitigation measures for piling?</li> <li>b) Please could SDDC comment at Deadlines 4 and 5?</li> </ul>
10.4	Applicant	<p><u>Construction and delivery hours</u></p> <p><u>Other construction stage mitigation</u></p> <p>Please could the Applicant update the Outline CEMP [<a href="#">REP1-007</a>] to ensure that it is correct, consistent with Requirement 20 of the dDCO [<a href="#">REP3-008</a>] and the ES, and to reflect the firmness of the dDCO. For example, please consider changing:</p> <ul style="list-style-type: none"> <li>a) paragraph 1.15.1 – “<i>are proposed to be</i>” to “<i>are to be</i>”;</li> <li>b) paragraph 1.15.1 – “<i>in exceptional circumstances</i>” to “<i>in emergency circumstances</i>”;</li> <li>c) paragraph 1.15.2 – “<i>likely to cause a disturbance</i>” to “<i>that is audible at the boundary of the Order limits</i>”;</li> <li>d) paragraph 1.15.3 – “<i>will also be scheduled to occur</i>” to “<i>are also to occur</i>”;</li> <li>e) paragraphs 2.2.1.2 and 2.2.1.3 to clarify that the activities referred to outside the construction hours, including directional drilling at night, are not to cause noise that is audible at the boundary of the Order limits; and</li> <li>f) paragraph 2.2.3.9 to refer to BS 5228 rather than BS 522811.</li> </ul>
10.5	Applicant SDDC	<p><u>Operation stage noise limits</u></p> <p>SDDC [<a href="#">APP-160</a> Table 11.2] recommend that a condition be provided for a site noise limit at the boundary to be validated upon completion and maintained thereafter. SDDC [<a href="#">REP1-029</a> response to question 10.2] is satisfied with the proposed site noise limits.</p> <p>The Applicant [<a href="#">REP1-025</a> response to question 10.2] states that it is in discussion with SDDC and will ensure that the position is confirmed through a SoCG.</p>

Ref:	Question to:	Question:
		<p>Requirement 15 of the dDCO [REP3-008] makes provision for an “ ... <i>operational noise assessment containing details of how the design of the authorised development has incorporated mitigation to ensure the operational noise rating levels as set out in the environmental statement are to be complied with ...</i>”.</p> <p>The Outline OEMP [REP1-009 paragraph 4.5.1] refers to the need to submit an operational noise assessment and to Requirement 15, but provides no further detail.</p> <p>The ExA seeks to ensure that the proposed mitigation is secured in the dDCO [REP3-008] and Outline OEMP [REP1-009].</p> <p>a) For clarity, please could the Applicant, in discussion with SDDC, update the dDCO [REP3-008] and Outline OEMP [REP1-009] to ensure that they:</p> <ul style="list-style-type: none"> <li>• are consistent with each other and, between them, clearly secure the necessary mitigation without, for example, having to refer to the ES for operational noise rating levels;</li> <li>• incorporate SDDC’s requirements, including any for validation and maintenance of noise limits; and</li> <li>• ensure that there would not be any materially new or materially more adverse environmental effects compared to those identified in the ES?</li> </ul> <p>b) Please could SDDC comment?</p>
10.6	Applicant	<p><u>Other operation stage mitigation</u></p> <p>Paragraph 2.2.3.3 of the Outline CEMP [REP1-007] states that plant would be selected to provide oversizing and redundancy. Paragraph 2.2.3.7 refers to a stand-off distance of at least 100 m between solar plant and residential properties. Paragraph 2.2.3.8 relates to the location and specification of operational equipment.</p> <p>Should these measures be included in the Outline OEMP [REP1-009] as they are relevant to operation stage mitigation?</p>
<p><b>11. Traffic and transport</b></p>		

Ref:	Question to:	Question:
11.1	Applicant DCC	<p><u>Field surveys for non-motorised users (NMU)</u></p> <p>DCC [REP1-026] say 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.</p> <p>SDDC [REP1-029] consider that the timing of the field work is not detrimental to the assessment work submitted.</p> <p>The Applicant [REP1-025, REP3-032] says that it has adopted a proportional approach to assessing NMU that does not rely on NMU counts. It examines the local walking and cycling facilities and the sensitive receptors that are likely to act as an attractor for NMUs, and analyses the highway operation and the additional traffic, to assess a significance of effect.</p> <p>Does DDC have any remaining concerns in relation to field surveys for NMU? How might they be addressed?</p>
11.2	Applicant DCC SDDC SCC	<p><u>Securing the construction traffic routes</u></p> <p>The Applicant [REP1-025 response to question 11.4] says that subject to responses from others, it is content to amend the Outline CTMP [REP1-009] to secure that:</p> <ul style="list-style-type: none"> <li>• construction route Scenario 2A to only be used if Scenario 1 (using Walton-on-Trent bypass) is not available; and</li> <li>• construction route Scenario 2B to only be used if Scenarios 1 and 2A are not available.</li> </ul> <p>a) Are DCC, SDDC, or SCC content for the Outline CTMP [REP1-009] to be updated to secure the above?</p> <p>b) Please could the Applicant, following discussion with DCC, SDDC, and SCC, update the Outline CTMP [REP1-009] accordingly?</p>
11.3	Applicant DCC SDDC	<p><u>Construction traffic – DCC and SDDC concerns</u></p> <p>DCC and SDDC [RR-078, RR-295, REP1-026, REP2-001] raise concerns including in relation to:</p>

Ref:	Question to:	Question:
		<ul style="list-style-type: none"> <li>• infringement of the 7.5 tonne Environmental Weight Limit in the locality;</li> <li>• further assessments are required to establish the impacts of HGV movements during construction and decommissioning, particularly regarding the impacts of goods vehicle access through urban areas and along relatively quiet country roads;</li> <li>• the Applicant to work in consultation with the Highway Authority and the organisers of events in the locality to ensure that vehicle movement routes and timings can be coordinated for the avoidance of congestion;</li> <li>• weight and width restrictions on bridges, traffic control and monitoring to ensure compliance with routing and timing requirements, working in consultation with the Highway Authority to reduce the potential for related adverse impacts on congestion;</li> <li>• a pinch point at Coton-in-the-Elms with very narrow local roads where residents park on either side of the road (reference construction route Scenario 2B);</li> <li>• disruption to farm traffic and rural business through the increase of road usage by HGVs accessing the site during the construction stage;</li> <li>• safe and satisfactory means of access to each of the individual compounds comprising the wider site;</li> <li>• ensuring that there are no fundamental safety considerations regarding the wider highway network, including that suitable manoeuvring of HGV vehicles (swept-path analysis) can be readily achieved along the narrow country lanes; and</li> <li>• it is anticipated that the Applicant would be responsible for keeping the highway clear of debris, preventing the trafficking of mud onto the road and rectifying of additional harm caused to the network assets demonstrably caused by the Applicant or its contractors to the satisfaction of the Highway Authority.</li> </ul> <p>The Applicant [<a href="#">REP1-025</a>] reports that DCC and/ or SDDC require review or clarification of:</p> <ul style="list-style-type: none"> <li>• cumulative traffic impact - other projects and event management;</li> <li>• communication plans with the local community, stakeholders, and events during construction;</li> </ul>

Ref:	Question to:	Question:
		<ul style="list-style-type: none"> <li>• controls on vehicle movements during highway incidents and emergency road closures;</li> <li>• controls on vehicle movements during school pick up/ drop off times;</li> <li>• remedial measures to address infringement of designated construction vehicle route; and</li> <li>• communication plans with local community, and stakeholders.</li> </ul> <p>The Applicant's responses [<a href="#">REP1-023</a>, <a href="#">REP1-025</a>, <a href="#">REP3-032</a>] include that:</p> <ul style="list-style-type: none"> <li>• paragraph 5.15 of the Outline CTMP [<a href="#">REP1-021</a>] 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;</li> <li>• HGVs would not be permitted to travel through the villages of Walton-on-Trent or Rosliston, table 3-3 of the Outline CTMP [<a href="#">REP1-021</a>] identifies the sensitive built up areas to be avoided by construction traffic including Walton-on-Trent and outlines mitigation in the form of a signing strategy (Section 4), contractor information packs (paragraph 5.36), and compliance measures (paragraph 6.10);</li> <li>• Section 6 of the Outline CTMP [<a href="#">REP1-021</a>] includes for 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;</li> <li>• 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;</li> <li>• DCC confirm that it is reviewing the highway asset provisions and measures and will revert with any concerns; and</li> <li>• it is engaging with DCC and SCC on transport matters to be agreed in a SoCG and additional measures will be added to the Outline CTMP [<a href="#">REP1-021</a>] if needed.</li> </ul> <p>a) Please could the Applicant provide a draft copy of the SoCG with DCC and SDDC at Deadline 4, and set out the construction traffic matters yet to be agreed with DCC and SDDC, and the next steps to be taken to address them?</p>

Ref:	Question to:	Question:
		<p>b) Please could the Applicant submit the updated Outline CTMP <a href="#">[REP1-021]</a>?</p> <p>c) Please could DCC and SDDC set out any remaining construction traffic or highway asset protection concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</p>
11.4	<p>SCC Applicant</p>	<p><u>Construction traffic – SCC concerns</u></p> <p>SCC <a href="#">[REP1-031]</a> raise concerns including in relation to:</p> <ul style="list-style-type: none"> <li>• why routes 2A and 2B could not be used in conjunction with one another to spread the impacts of construction traffic across the network rather than focussing it on a particular route;</li> <li>• consideration to the movement of young pedestrians who would potentially need to cross and/ or walk along the construction traffic route on their way to/from school for which the Outline CTMP <a href="#">[REP1-021]</a> should restrict the movement of HGV traffic on route 6 during the morning and afternoon school runs during term time;</li> <li>• whether the construction of the Drakelow Park development has been accounted for in the impacts of construction traffic;</li> <li>• the consideration given to potential delays at a narrow bridge on Rosliston Road over the railway as construction traffic Route 6 enters Derbyshire;</li> <li>• potential impacts from construction traffic not using prescribed construction routes;</li> <li>• it is not clear whether the dDCO <a href="#">[REP3-008]</a> provides for works to remedy any damage caused and attributable to the solar farm development to be undertaken by the developer or whether there are powers for the local highway authority to agree the detail of the works and approve the workmanship of any work undertaken; and</li> <li>• the Outline CTMP <a href="#">[REP1-021]</a> include provision for recouping of any costs incurred by the local highway authority in undertaking emergency repair work of damage caused by construction traffic.</li> </ul> <p>The Applicant's responses <a href="#">[REP3-031]</a> include that:</p>



Ref:	Question to:	Question:
		<ul style="list-style-type: none"> <li>• during pre-application it was agreed with DCC and SCC that a hierarchy of routes would be supported for HGV, whereas for lighter construction vehicles it was agreed the dispersion of these lighter vehicles across the network would be acceptable;</li> <li>• paragraph 5.5 of the Outline CTMP <a href="#">[REP1-021]</a> has been amended to require all HGV movements to occur outside of the traditional local highway network peak periods, including School Drop off (08:30-09:30) and School Pick up (15:00-16:00);</li> <li>• Drakelow Park is currently being built out and construction traffic has been captured in the baseline traffic surveys that were undertaken in 2022;</li> <li>• the average of 14 HGV movements per day with restrictions to HGV movements to occur outside peak periods mean that there is unlikely to be material delays at the railway bridge above those occurring within baseline condition; and</li> <li>• the Outline CTMP <a href="#">[REP1-021]</a> requires contractors to use the prescribed construction vehicle routes such as contractual agreements and financial penalties for breaches thereby discourage use of non-prescribed construction routes.</li> </ul> <p>a) Please could SCC set out any remaining construction traffic concerns and suggest how their issues might be resolved?</p> <p>b) Please could the Applicant comment?</p>
11.5	LCC Applicant	<p><u>Construction traffic – LCC concerns</u></p> <p>LCC <a href="#">[RR-170, REP1-027, REP2-002]</a> raises concerns in relation to the potential impact of Abnormal Indivisible Loads (AIL) movements on communities within Leicestershire and says that the application is silent on this. It considers that surface protection, culvert reinforcement and temporary removal of street furniture will be required at locations along the AIL route and seeks protection of its assets and recovery of any associated costs through provisions within the DCO. LCC would welcome engagement with The Applicant as soon as possible to address these concerns.</p> <p>The Applicant <a href="#">[REP1-023, REP3-033]</a> says that the environmental effects for AIL are assessed in ES Chapter 10 <a href="#">[APP-155]</a> and related mitigation measures are secured under Requirement 10 (construction and traffic management plan) of the dDCO <a href="#">[REP3-008]</a> and included in the Outline CTMP <a href="#">[REP1-021]</a>. It does not identify any need for surface protection, culvert</p>

Ref:	Question to:	Question:
		<p>reinforcement, and temporary removal of street furniture and says that no mitigation measures are required on section of the AIL route within LCC’s jurisdiction. The Applicant refers to a legal requirement for itself under the Electronic Service Delivery for Abnormal Loads system to provide mitigation and says that AIL movements would be subject to a separate application and permitting scheme, currently administered by National Highways in consultation with the relevant highway authorities and police, a process that would be supported by additional route assessment and validation, including additional surveys as required. The Applicant reports that it will be engaging further with LCC during the Examination and is waiting for a response to correspondence sent on 15th August 2024.</p> <ul style="list-style-type: none"> <li>a) Please could LCC identify where it considers that surface protection, culvert reinforcement and temporary removal of street furniture would be required at locations along the AIL route?</li> <li>b) Please could the Applicant provide more information on the separate application and permitting scheme that it mentions and set out the extent to which it would address LCC’s specific concerns?</li> <li>c) Does LCC consider that the separate application and permitting scheme mentioned by the Applicant would be sufficient for the protection of LCC’s assets and recovery of LCC’s costs rather than these being matters for the DCO to deal with? If not, why not?</li> <li>d) Please could LCC set out any remaining construction traffic or highway asset protection concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> <li>e) Please could the Applicant comment?</li> </ul>
11.6	Applicant	<p><u>Construction stage mitigation</u></p> <p>The Applicant [<a href="#">REP1-025</a> Appendix D] provides detailed justification for why mitigation measures would reduce magnitude of effect from moderate adverse to minor adverse for instances queried by the ExA [<a href="#">PD-010</a> question 11.6] and sets out the specific mitigation measures necessary to achieve that.</p> <p>For clarity, and to assist with the later production of the detailed CTMP, please could the Applicant add its full response to the Outline CTMP [<a href="#">REP1-021</a>] or ES Chapter 10 [<a href="#">APP-155</a>]?</p>

Ref:	Question to:	Question:
11.7	DCC	<p><u>Travel Plan</u></p> <p>DCC [REP1-026] say that a Travel Plan should be provided in outline during the examination and suggests that early consideration of travel planning will enable the Highway Authority to provide advice and traffic management to keep disruption to a minimum.</p> <p>The Applicant [REP1-025, REP3-032] has updated the Outline CTMP [REP1-021] to provide further detail about the content of the Travel Plan.</p> <p>Please could DCC comment on the provisions for a Travel Plan in the Outline CTMP [REP1-021], set out any remaining concerns in relation to travel planning and suggest how their issues might be resolved?</p>
11.8	Applicant	<p><u>Works outside the Order limits</u></p> <p>The Applicant [REP1-025] says that alteration to streets references AS-G1 and AS-E1 on the Streets Access and Rights of Way Plan [AS-004] are both outside the Order Limits, are not necessary and have not been identified as mitigation within the ES.</p> <p>For clarity, please could references to those alterations be removed from the application documents?</p>
11.9	DCC	<p><u>Maintenance of verges – plots 02-045 and 02-048</u></p> <p>The Book of Reference [REP3-017] seeks the acquisition of the freehold of a section of verge on Rosliston Road.</p> <p>DCC [REP1-026] say that the maintenance of the verge, for the purposes of highway safety, must be included in the programme of general site maintenance.</p> <p>The Applicant [REP1-025, REP3-032] say that it is not seeking powers to stop up the adopted highway, that DCC's powers as highways authority would not be interfered with and DCC would continue to be able to maintain the verge as necessary.</p> <p>Does DCC have any remaining verge maintenance concerns? How might their issues be resolved?</p>
11.10	Applicant	<p><u>Draft DCO [REP3-008] Article 9 - Power to alter layout, etc., of streets</u></p>

Ref:	Question to:	Question:
	DCC	<p>Draft DCO <a href="#">[REP3-008]</a> Article 10 – Access to works</p> <p>DCC <a href="#">[REP1-026]</a> expect the Applicant to 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.</p> <p>Applicant <a href="#">[REP3-032]</a> says that Article 9 (power to alter layout, etc., of streets) 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.</p> <p>Draft DCO <a href="#">[REP3-008]</a> Article 9(5) refers to consent not being required where the undertaker is the street authority for a street in which the works are being carried out.</p> <p>Draft DCO <a href="#">[REP3-008]</a> Article 10(a) and 10(b) does not require Highways Authority consent.</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant clarify how DCC’s requirement (as the ExA interprets) for Highways Authority consent would be met?</li> <li>b) Please could DCC set out any remaining concerns at Deadline 5 and set out how they might be resolved?</li> </ol>
<b>12. Water quality, resources, drainage, and flooding</b>		
12.1	Applicant EA	<p><u>Water Framework Directive (WFD)</u></p> <p>The EA <a href="#">[AS-019]</a>, <a href="#">[REP1-033]</a>, <a href="#">[REP3-001]</a> expect an updated WFD Assessment to address matters that have not been agreed:</p> <ul style="list-style-type: none"> <li>• Ecology. Water Environment Report / WFD with regards to potential culverting of Ordinary Watercourses.</li> <li>• Geomorphology. Water Environment Report / WFD.</li> <li>• Groundwater protection. WFD assessment needs to include WFD Groundwater Body.</li> </ul>

Ref:	Question to:	Question:
		<p>The Applicant <a href="#">[REP1-025]</a> advises that it is providing a revised WFD Assessment to the EA for review and will provide an update on the position of those discussions at Deadline 3. It is engaging with the EA to progress and agree a SoCG.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant provide a draft copy of the SoCG with EA at Deadline 4, and set out the WFD Assessment matters yet to be agreed with NE, and the next steps to be taken to address them?</li> <li>b) Please could the Applicant submit the updated WFD Assessment?</li> <li>c) Please could EA set out any remaining WFD concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> </ul>
12.2	DCC	<p><u>Water Quality and Silt Management Plan</u></p> <p>DCC <a href="#">[REP1-026]</a> suggest that Outline Water Quality and Silt Management Plans should be provided in outline during the examination to help 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.</p> <p>EA <a href="#">[REP2-003]</a> do not require an Outline Water Quality and Silt Management Plan.</p> <p>The Applicant has added matters to be included in Water Quality and Silt Management Plan to paragraph 2.6.9 of the Outline CEMP <a href="#">[REP1-007]</a>.</p> <p>Does DCC have any remaining concerns regarding the Water Quality and Silt Management Plan? How might any issues be resolved?</p>
12.3	DCC	<p><u>Stopping up or culverting of water courses</u></p> <p>DCC <a href="#">[REP1-026]</a> say that as Lead Local Flood Authority, it 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.</p> <p>The Applicant <a href="#">[REP3-032]</a> notes that Part 7 of Schedule 10 of the dDCO <a href="#">[REP3-008]</a> 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</p>

Ref:	Question to:	Question:
		<p>works” (as defined in Part 7 of Schedule 10) and allows the drainage authority to impose reasonable requirements on the undertaker.</p> <p>Does DCC have any remaining concerns regarding consultation prior to the stopping up or culverting of water courses? How might any issues be resolved?</p>
12.4	DCC	<p><u>Surface Water Management Plan</u></p> <p>DCC <a href="#">[REP1-026]</a> say that the submission of an Outline Surface Water Management Plan would help to ensure that surface waters are adequately managed for the prevention of flooding, conservation of ecological interest and the prevention of pollution.</p> <p>EA <a href="#">[REP2-003]</a> do not require an Outline Surface Water Management Plan.</p> <p>The Applicant <a href="#">[REP3-032]</a> has updated the Section 2.6 of the Outline CEMP <a href="#">[REP1-007]</a> regarding the management of surface water during construction and suggests that this performs the role of an outline Surface Water Management Plan by identifying the expected measures to be used.</p> <p>Does DCC have any remaining concerns regarding the Surface Water Management Plan? How might any issues be resolved?</p>
12.5	Applicant EA	<p><u>Flood Risk Assessment (FRA)</u></p> <p>The EA <a href="#">[AS-019]</a>, <a href="#">[REP1-033]</a>, <a href="#">[REP3-001]</a> expect an updated FRA to address matters that have not been agreed in relation to the Sequential Test, Exception Test, climate change allowance, and detailed flood modelling.</p> <p>The Applicant <a href="#">[REP1-025]</a>, <a href="#">[REP3-032]</a> expects to submit an amended FRA at Deadline 4. It is engaging with the EA to progress and agree a SoCG.</p> <ol style="list-style-type: none"> <li>a) Please could the Applicant provide a draft copy of the SoCG with EA at Deadline 4, and set out the FRA matters yet to be agreed with NE, and the next steps to be taken to address them?</li> <li>b) Please could the Applicant submit the updated FRA?</li> </ol>

Ref:	Question to:	Question:
		<p>c) Please could EA set out any remaining FRA concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</p>
12.6	EA DCC	<p><u>Obstructions to flood waters</u></p> <p>The EA [REP1-032] say that if it is found that water is at sufficient depth to reach the solar panels then a Maintenance Plan would be required, which should be specified under the Outline OEMP [REP1-009], and include:</p> <ul style="list-style-type: none"> <li>• check periodically for penitential debris which could be moved by flood water (fallen trees etc) and removal;</li> <li>• checks and clearance of all flood debris after a storm event; and</li> <li>• checks of the structural integrity of the solar panels after a storm event to reduce the risk of falling and causing blockages.</li> </ul> <p>The Applicant [REP1-025, REP3-032] considers that 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.</p> <p>a) Does DCC, as Lead Local Flood Authority, consider that the Outline OEMP [REP1-009] should be updated as suggested by the EA?</p> <p>b) Do the EA or DCC have any remaining concerns regarding potential obstructions to flood waters? How might any issues be resolved?</p>
12.7	Applicant EA DCC SDDC	<p><u>Piling and underground cabling</u></p> <p>DCC and SDDC [REP1-026, REP1-029, REP2-001] consider it inevitable that land drains would be compromised by piling and underground cables. They suggest that these may alter localised drainage patterns through the interruption of flows during the construction, operation, and decommissioning stages. Councillor Amy Wheelton [REP1-039] raises related concerns.</p> <p>The Applicant [REP3-031, REP3-033] says that although piling may disturb or break up land drains, the number affected is expected to be minimal and that in the unlikely event that any</p>

Ref:	Question to:	Question:
		<p>significant drainage issue emerges due to construction activity, it would use measures such as SuDS, replacing or repairing land drains to rectify the situation.</p> <p>a) Please, following consultation with the EA, DCC and SDDC, could the Applicant set out how it has assessed the potential for the piling and underground cables to impact on land drainage and flooding at each stage of the Proposed Development, and advise how any necessary mitigation measures, including SuDS, replacing or repairing land drains, are secured?</p> <p>b) Do the EA, DCC, or SDDC have any remaining concerns regarding the potential for the piling and underground cables to impact on land drainage and flooding? How might any issues be resolved?</p>
<p><b>13. Other planning topics</b></p>		
13.1	Applicant	<p><u>Air Quality – Air Quality Management Areas (AQMA)</u></p> <p>Paragraph 5.2.12 of NPS EN-1 states that where a Proposed Development is likely to lead to a breach of any relevant statutory air quality limits, objectives or targets, or affect the ability of a non-compliant area to achieve compliance within the timescales set out in the most recent relevant air quality plan/strategy at the time of the decision, the Applicant should work with the relevant authorities to secure appropriate mitigation measures to ensure that those statutory limits, objectives or targets are not breached. Paragraph 5.2.19 states that consent should be refused if a project will lead to non-compliance with a statutory limit, objective, or target.</p> <p>The Applicant [<a href="#">REP1-025</a> response to question 13.1] refers to <a href="#">East Staffordshire Borough Council's Air Quality Report for 2023</a>, which includes that no exceedances of the Nitrogen Dioxide (NO<sub>2</sub>) objective have occurred for the past three years. It says that there are no non-compliant areas through which traffic associated with the Proposed Development would route. The Applicant says that it will seek to discuss this with East Staffordshire Borough Council.</p> <p>Please could the Applicant provide an update on its discussions with East Staffordshire Borough Council, including in relation to compliance with paragraphs 5.2.12 and 5.2.19 of NPS EN-1?</p>



Ref:	Question to:	Question:
13.2	Applicant	<p><u>Aviation and Defence</u></p> <p>Paragraph 5.5.37 of NPS EN-1 states that an assessment of potential effects should be set out where the Proposed Development may affect the performance of civil or military aviation CNS, meteorological radars and/or other defence assets. Paragraph 5.5.39 says that the Applicant should consult the MOD, Met Office, Civil Aviation Authority, NATS and any aerodrome – licensed or otherwise – likely to be affected by the Proposed Development in preparing an assessment of the proposal on aviation, meteorological or other defence interests.</p> <p>The Applicant [<a href="#">REP1-025</a> response to question 13.3] says that ES Chapter 14 [<a href="#">APP-167</a>] notes that there are no licensed aerodromes within 20km of the site, with some non-licensed aerodromes present within 10km. The Applicant also advises that it has not consulted with the parties identified in paragraph 5.5.39 of NPS EN-1 as no aerodrome is identified as being likely to be affected by the Proposed Development.</p> <p>Paragraph 4.2.2 of ES Appendix 14.1 [<a href="#">APP-166</a>] identifies the unlicensed Grangewood Airfield approximately 4.4km from the Proposed Development. Section 7.2 provides details of three further unlicensed aerodromes and one licensed aerodrome (Tatenhill Airfield) within 10km of the Proposed Development. Section 7.3 says that any solar reflections experienced by pilots at the aerodromes would have intensities no greater than “<i>low potential for temporary after image</i>”, which the Applicant considers acceptable according to guidance and best practice.</p> <p>Paragraph 4.2.2 of ES Appendix 14.1 [<a href="#">APP-166</a>] says that Grangewood Airfield is a general aviation airfield where aviation activity is dynamic and does not necessarily follow the typical approaches / flight paths of a larger licensed aerodrome or airport, but that it is possible to assess the most frequently flown flight paths and the most critical stages of flight.</p> <p>Paragraph 6.2.2 of ES Appendix 14.1 [<a href="#">APP-166</a>] states that “<i>where the solar reflections are not considered significant, a low impact is predicted, and mitigation is not recommended; however, consultation with the aerodrome is recommended to understand their position along with any feedback or comments regarding the proposed development</i>”.</p> <p>a) Please could the Applicant update ES Chapter 14 [<a href="#">APP-167</a>] or ES Appendix 14.1 [<a href="#">APP-166</a>] to ensure that they are consistent in relation to licensed aerodromes within 20km of the site?</p>

Ref:	Question to:	Question:
		<p>b) Please could the Applicant set out how it has identified the most frequently flown flight paths and the most critical stages of flight for Grangewood Airfield and how the assessment can be considered robust?</p> <p>c) Please could the Applicant explain why it has not followed the recommendation of its specialist to consult with the aerodromes where a low impact is predicted and when aviation activity at those aerodromes is dynamic or the aerodrome is licensed? Is such consultation necessary for the Applicant's assessment to be suitably robust and precautionary?</p>
13.3	<p>Applicant DCC SDDC</p>	<p><u>Cumulative effects</u></p> <p>DCC <a href="#">[REP2-001]</a> and SDDC <a href="#">[REP2-001]</a> refer to general concerns regarding cumulative impacts in relation to the number of developments coming forward in the surrounding area.</p> <p>The Applicant <a href="#">[REP3-033]</a> says that it uses a list of developments agreed with the DCC and SDDC and that it is reviewing the cumulative developments with a view of updating the list in agreement with DCC and SDDC through the SoCG.</p> <p>a) Please could the Applicant provide a draft copy of the SoCG with DCC and SDDC at Deadline 4, and set out the cumulative effects matters yet to be agreed with DCC and SDDC, the next steps to be taken to address them?</p> <p>b) Please could the Applicant submit any updates required to relevant chapters of the ES, ensuring that they include consideration of any cumulative developments added to the list?</p> <p>c) Please could DCC and SDDC set out any remaining cumulative effect concerns, including in relation to any other specific development or any specific planning issue, at Deadlines 4 and 5. How might their issues be resolved?</p>
13.4	<p>Applicant EA DCC SDDC</p>	<p><u>BESS fire risk and related emergency response and pollution</u></p> <p>Section 5.6 of the Outline BSMP <a href="#">[APP-093]</a> identifies an additional risk of causing environmental harm from discharge of contaminated water. It says that to prevent this, there would be a drainage system installed around the BESS compound and substation area that will either drain to an underground tank or SuDS pond with shut-off and separating capabilities for containment and testing of water prior to discharge or removal. Paragraph 5.4.7 of the</p>

Ref:	Question to:	Question:
		<p>Outline OEMP [<a href="#">REP1-009</a>] refers to the production of an Emergency Response Plan in consultation with Derbyshire Fire and Rescue.</p> <p>DCC [<a href="#">REP2-001</a>] and SDDC [<a href="#">REP2-001</a>] consider that there is a significant risk that the battery storage fire suppression system would fail, resulting in a major incident requiring a disaster response with the use of water to extinguish the battery fires and thereafter their cooling. Given the presence of the aquifers on site, any spent firewater would be likely to be contaminated and hazardous and would need to be contained to avoid any significant environmental impacts, including to aquifers. They note that emergency calls to the fire service locally are directed to Staffordshire and that in an emergency, fire crews are required to cross the River Trent, which can result in some delay in attending incidents and reducing the potential to limit a damaging environmental incident.</p> <p>The EA [<a href="#">AS-019</a>, <a href="#">REP1-033</a>, <a href="#">REP3-001</a>] consider that the pollution risks of emergency response have not been appropriately assessed and that if the firewater isn't adequately controlled this could result in significant pollution risks and cause detrimental impact to the environment. It says that the Applicant should confirm that the flow control valves would close automatically if a fire were detected by the detection system and include any relevant routine maintenance required, to ensure this system remains functional, within the Outline Drainage Strategy.</p> <p>The Applicant [<a href="#">REP1-023</a>, <a href="#">REP3-033</a>] says that the BESS would be set within a bunded slab which drains to a pollution-controlled attenuation tank to contain any contaminated water in the event of a fire. All rainwater landing on those impermeable areas would be collected and directed to underground tanks, which have been sized to account for larger storm events, with additional contingency for climate change. The tanks would be fitted with a hydrobrake which would manage the flow of water out to the existing watercourse to the north, near Rosliston Road at existing greenfield run-off rates. The tanks would be fitted with automatic control valves which would close in the event of any incident with the BESS or substation and any water contained in order to allow the water to be tested for contaminants and if necessary pumped into a tanker to be taken away from the Site for proper disposal. The Applicant says that the Outline BSMP [<a href="#">APP-093</a>] provides further details on the procedure for dealing with potential contamination issues. It also states that design parameters for the BESS include measures which reduce the risk of fire from the batteries, by providing appropriate spacing between the battery units to mitigate fire spreading between battery units and through locating</p>

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		<p>the BESS in the centre of the Site, away from residential properties. It says that the final BSMP would sit alongside an emergency response plan and provide details of in-built BESS safety features like internal fire suppression systems built into individual battery units, automatic detection and alert systems, remote shut-down, and procedures to alert local emergency services in line with agreed fire-fighting strategy.</p> <ul style="list-style-type: none"> <li>a) Please could the EA, DCC and SDDC set out any remaining concerns in relation to BESS, fire risk and related emergency response and pollution, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</li> <li>b) Please could the Applicant comment?</li> </ul>
13.5	Applicant	<p><u>Socio-economics</u></p> <p>The Applicant [<a href="#">APP-163</a>, <a href="#">REP1-023</a>] refers to measures in relation to the local sourcing of equipment and contractors.</p> <ul style="list-style-type: none"> <li>a) Please could this mitigation be secured in the Outline OEMP [<a href="#">REP1-009</a>] to at least the same level of detail as set out in the ES?</li> </ul> <p>The Applicant [<a href="#">APP-163</a>, <a href="#">REP3-033</a>], DCC [<a href="#">REP2-001</a>] and SDDC [<a href="#">REP2-001</a>] refer to the provision of educational resources. Paragraph 2.10.5 of the Outline CEMP [<a href="#">REP1-007</a>] states that a resource could be provided.</p> <ul style="list-style-type: none"> <li>b) Is the provision of educational resources considered to be relevant to planning? If so, is the detail agreed with DCC and SDDC and can the detail be provided in the relevant outline management plan(s) to improve precision, and in a manner that is firmly secured (avoiding terms such as “could be”)?</li> <li>c) Should a firm commitment be included in the Outline OEMP [<a href="#">REP1-009</a>] together with an undertaking to maintain them throughout the operation stage?</li> </ul>
13.6	Applicant EA	<p><u>Waste Management Strategy</u></p> <p>The EA [<a href="#">REP1-033</a>, <a href="#">REP3-001</a>] says that the Waste Management Strategy is yet to be agreed with the Applicant.</p> <ul style="list-style-type: none"> <li>a) Please could the Applicant set out how the strategy is secured for the construction, operation, and decommissioning stages, including how the final strategy would be</li> </ul>

Ref:	Question to:	Question:
		<p>consulted on and approved? Please could the measures for each stage be included in the Outline CEMP [<a href="#">REP1-007</a>], Outline OEMP [<a href="#">REP1-009</a>], and Outline DEMP [<a href="#">REP1-011</a>]?</p> <p>b) Please could the Applicant provide a draft copy of the SoCG with EA at Deadline 4, and ensure that it sets out the waste management matters yet to be agreed with EA, and the next steps to be taken to address them?</p> <p>c) Please could EA set out any remaining waste management concerns at Deadlines 4 and 5, summarise any related discussions with the Applicant, and suggest how their issues might be resolved?</p>

**END**