

The Planning Inspectorate
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Our ref: XA/2024/100196/01-L01
Your ref: EN010122
Date: 31 October 2024

Dear Sir/Madam

**EXAMINATION DEADLINE 5 - ACTION POINTS FOR ISSUE SPECIFIC HEARING 1.
OAKLANDS FARM SOLAR PARK, DERBYSHIRE.**

Please find below our response to the action points directed to us from Issue Specific Hearing 1, held on 22 October 2024.

Item 3 (c) Comments on the updated Flood Risk Assessment and submission of any concerns about compliance with the Overarching National Policy Statement NPS EN-1

Flood Risk Assessment

On 22nd of October 2024, the Applicant submitted to us an updated Flood Modelling Report, referenced P20209_R5 and dated October 2024, for review.

We have completed our review of this document and confirm that this addresses our previously raised concerns regarding maintenance of panels to ensure that they remain clear of debris and don't increase flood risk as a result. It also demonstrates that the Applicant has mitigated for any blockage concerns in regards to the crossings, by raising the soffit levels and including a freeboard.

However, this document also tests the impact of raising the proposed access track crossings to be above the 1% (1 in 100) annual exceedance probability (AEP) plus climate change flood levels. Unfortunately, we note that the off-site impacts, particularly in the pond area in the 3.3% (1 in 30) AEP scenario remain as in the previous submission, where the bridge soffit levels were lower. Whilst we note that there are areas of betterment outside of the order limits for the development, given the increase in water levels within the pond area of around 0.17 metres in the 3.3% (1 in 30) AEP scenario, and the areas of additional flooding outside of the order limits, we cannot accept an increase of that magnitude without further mitigation or landowner agreement. We suggest the following considerations as a way forward for the Applicant:

1. At Issue Specific Hearing 1, on Tuesday 22 October, the topic of the three

proposed access crossings was discussed. This raised some questions about the need for these crossings - are they essential for the development, or could existing crossings be used instead? Removal of these new crossings from the proposals entirely will mean there are no resulting offsite flood risk impacts.

2. If new crossings are required, could these be limited to two crossings rather than three? The modelling shows that it is the most downstream crossing that appears to impact on offsite flood risk the most. If this crossing were removed from the proposals, this could potentially result in no notable increases to offsite flood risk.
3. If all three crossings are essential, are there any onsite mitigations which could limit the flow route on the right bank at the downstream crossing and hence reduce the associated off-site impacts?
4. Additionally, is there the opportunity to make all new crossings temporary, to be in situ for only the construction and decommission phases?
5. Finally, if the above options are not viable, can landowner consent be sought with respect to the offsite impacts? It should be noted that this is the least favourable of the options from the perspective of the Environment Agency.

Compliance with National Policy Statement EN-1

Sequential Test

In our Relevant Representation [[AS-019](#)] we raised concerns that the Applicant has not demonstrated within their submission that the Sequential Test had been passed. In the Applicant's response to our RR [[REP1-023](#)], they stated that a revised flood risk assessment [[AS-014](#)] "was submitted at part of the Section 51 submission which sets out how infrastructure within the Site has been steered to areas of lowest flood risk." Section 3.2 of this document discusses the vulnerability of the proposed development as 'essential infrastructure' and confirms that, according to the Planning Practice Guidance (PPG), it is appropriate for location within Flood Zone 3, subject to the Exception Test. It also goes on to describe how a sequential approach has been applied to the layout of the site.

As the Environment Agency (EA) confirmed at Issue Specific Hearing 1, it is not within the remit of the EA to determine whether the Sequential Test has been passed as we are unable to advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate.

However, we refer the Examining Authority and Councils to Paragraph 5.8.7 of National Policy Statement EN-1, which is clear that new energy infrastructure should only be necessary in flood risk areas in the exception, for example where there are no reasonably available sites in areas at lower risk. According to the PPG (Paragraph: 024 Reference ID: [7-024-20220825](#)), new development should be steered to areas with lowest risk of flooding, taking all sources of risk and climate change into account.

Chapter 3 of the submitted Environmental Statement [[APP-086](#)] indicates that some consideration was given to flood risk in the site selection process, with paragraph 1.28 stating that "an initial assessment of flood risk was undertaken and was considered

generally low". It goes on to say that one minor watercourse was noted along the north-eastern boundary, with a narrow strip of Flood Zones 2 and 3 alongside it. It is not clear exactly what information was used for this initial assessment, but it should be noted that flood zones shown on the Environment Agency's Flood Map for Planning only show risk from tidal and fluvial sources and do not include consideration of climate change. The Councils' Strategic Flood Risk Assessment may be useful in that respect.

Exception Test

Paragraph 5.8.11 states that both of the following must be satisfied for the Exception Test to be passed:

the project would provide wider sustainability benefits to the community that outweigh flood risk; and

the project will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall.

We are only in a position to provide advice in relation to the second part. To that end, we refer you back to our comments above on the latest flood modelling report, which outline our outstanding concerns on flood risk.

Item 4 (e) Set out evidenced implications in relation to contamination and waste of underground cables being left in place after decommissioning

Our comments in relation to this were provided in a separate response for Deadline 5, submitted on 25 October 2024.

We trust this advice is useful.

Yours faithfully

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