

**DERBYSHIRE COUNTY COUNCIL'S ANSWERS
TO THE EXAMING AUTHORITY'S THIRD WRITTEN QUESTIONS**

Oaklands Farm Solar Farm NSIP

(Construction and operation of a solar farm plus energy storage with
associated infrastructure and connection to the grid)

Application by Oaklands Farm Solar Ltd

PINS Reference: EN010122

EN010122 - Oaklands Farm Solar Park NSIP – DCC’s Answers to the ExA’s Second Written Questions

Ref:	Relevant to...	ExA’s Question	DCC Response
3	General and Cross-Topic Planning Matters		
3.2	Applicant DCC SDDC	<p><u>Local Planning Authority (LPA) resources</u></p> <p>a) Please could the Applicant, DCC, and SDDC provide an update about discussions about council resources for the consideration of any submissions, approvals and monitoring necessary for impact mitigation?</p> <p>b) Please could the Applicant set out how it is proposed that any resources are secured, for example through a Deed of Obligation or Planning Performance Agreement, and demonstrate that it is secured?</p> <p>c) Please could DCC and SDDC also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	<p>a) As requested by SDDC and DCC, the Applicant has signposted the LPAs towards other similar developments citing the approach they have taken as being appropriate. The applicant’s latest proposal is to set fees as per the TCPA charging schedule and for this to be supplemented by addressing the provision of additional resourcing through flexible mechanisms such as PPAs or agreements under Section 111 of the Local Government Act 1972. SDDC and DCC are considering these proposals.</p> <p>Derbyshire County Council was successful with a bid in 2023 for the (then) Department for Levelling Up, Housing and Communities’ NSIP Innovation and Capacity Fund. Part of this funding has been used to commission a number of specialist studies to support DCC’s and SDDC’s position on the Oaklands Solar Farm scheme, particularly through the DCO examination process. DCC is currently exploring with the new DHCLG whether any underspend from its NSIP Capacity Funding can be used to support the two Council’s on-going involvement with the Oaklands DCO, particularly the post DCO approval phase such as processing consultations on the Discharge of Requirements and monitoring mitigation proposals. A meeting with DHCLG is scheduled for 8th January 2025.</p>
5	Project lifetime and decommissioning		
5.1	Applicant SDDC DCC	<u>End state after decommissioning</u>	a) DCC agree that further description of the end state is not necessary, it is adequately discussed in the ODEMP and SRMP.

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	EA NE	<p>Section 3.1 and paragraph 1.7 of Appendix A of the Outline Decommissioning Environmental Management Plan (Outline DEM) [REP5-015] set out the anticipated end state after decommissioning.</p> <p>The Applicant [REP5-024, REP5-025] considers that it is not necessary to review and agree updates to the description of the end state through the construction and operational phases.</p> <p>a) Do SDDC, DCC, EA, or NE have any comments?</p> <p>b) Please could the Applicant set out the consideration given to potential conflicts between restoring land to agricultural use after operation with any habitats established on the same land at that time, and how these potential conflicts are addressed by the Outline DEM [REP5-015]?</p> <p>c) Please could SDDC, DCC, EA, NE also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	c) Deadlines 7 and 8
6	Agriculture, land use, soils, ground conditions, minerals, and geology		
6.3	Applicant DCC SDDC	<p><u>Item from 2nd questions for comment at deadline 5:</u></p> <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 [APP-169 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</p>	<p>b) DCC accepts the undertakings as set out in the OSMP which commits the applicant to restoration of the ‘pre-construction ALC grade, without exception.’ OSMP para 1.7.</p> <p>e) DCC has considered the applicant’s submissions [REP5-025 and REP5-026] and accepts that these measures will address the concerns relating to the land drainage impacts associated with damage to existing agricultural land drains. DCC note that the applicant undertakes to review drainage issues throughout the construction, operation and decommissioning phases and to amend plans as the assessment of the conditions progresses.</p>

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		<p>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 [REP1-025, REP3-032] 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 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> <p>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?</p> <p>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?</p> <p>DCC and SDDC [REP1-026, REP1-029, REP2-001] 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</p>	

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		<p>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 [REP1-039] 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 [REP3-031, REP3-033] 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 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 [REP3-008]?</p>	

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		<p>d) Please could the Applicant suggest how the condition of the land after decommissioning can be secured by the dDCO [REP3-008]?</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>	
7	Biodiversity		
7.2	SDDC DCC	<p><u>Draft DCO [REP5-003] Article 38 - Trees subject to Tree Preservation Orders (TPO) Ancient/ veteran trees</u></p> <p>SDDC [REP4-014] and DCC [REP4-012] raised concerns about impacts on ancient/ veteran trees.</p> <p>The ExA [EV4-002] referred to Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects, and suggested that the Applicant identify trees subject to a TPO that would be affected and the works permitted to each tree (e.g. fell, lop, or cut back its roots) in a schedule to the dDCO [REP5-003].</p> <p>The Applicant [REP5-024, REP5-026] responds to the concerns and has revised Article 38 (trees subject to tree preservation orders) of the dDCO [REP5-003] to limit the powers granted by that article to the trees identified in Schedule 13 of the dDCO. Schedule 13 identifies trees within the area identified as W4 in SDDC’s TPO No. 122.</p> <p>a) Please could SDDC and DCC comment?</p> <p>b) Please could SDDC and DCC also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	<p>a) The DCC arboricultural officer has stated that the appropriate methodology for the assessment of ancient and veteran trees has been applied and accepts the results of the survey. However, an ancient Oak, T56, requires a greater root protection zone than is indicated. The arboricultural officer suggests that the root protection zone should be fenced to ensure adequate protection.</p> <p>DCC maintains the view that prior works on trees within the TPO, consent of the LPA should be required for proposed works and further, that ancient and veteran trees should be afforded absolute protection as an irreplaceable resource.</p> <p>DCC consider that the applicant has identified the Trees in a TPO that are to be affected by the proposal and therefore, SDDC has been made aware of that potential impact and is in a position to secure mitigation.</p>
7.3	Applicant SDDC	<u>Habitat Constraints Plan</u>	DCC welcomes the inclusion of the habitats constraints plans referenced in the OCMP at 2.8.5 including buffer

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	DCC	<p>SDDC [REP4-014] and DCC [REP4-012] referred to the need for a Habitat Constraints Plan with interpretable maps to provide the necessary details and extent of site clearance works relating to buffer zones to sensitive features such as ancient/ veteran trees, other retained trees, ponds, watercourses, hedgerows and woodlands.</p> <p>The Outline CEMP [REP5-011] includes provisions for a Habitats Constraint Plan [Section 2.8.5] and buffers [Sections 2.6.4, 2.6.5, 2.8.2, 2.8.3, 2.8.5, and 2.8.6]. The Applicant provides a series of interpretable maps of habitat constraints [REP5-030].</p> <p>a) Please could the Applicant add the draft interpretable maps to the Outline CEMP [REP5-011] and secure that interpretable maps be included in the final CEMP?</p> <p>b) Please could SDDC and DCC comment?</p> <p>c) Please could SDDC and DCC also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	zones, and requirement 9 for approval of the LPA prior to construction.
7.11	Applicant DCC SDDC	<p><u>Draft DCO [REP3-008] Requirement 21 – Protected Species</u></p> <p>Species Protection Plans</p> <p>SDDC [REP1-029] consider that the Outline CEMP [REP1-007] should provide Species Protection Plans for Otter, Great Crested Newt/ /Ponds, Hedgerows & Trees and Woodland and identify important zones for each species to feed into mitigation strategies. DCC [REP1-026] suggest that outline Species Protection Plans. should be provided in outline during the Examination.</p>	c) DCC accepts the additions to the outline CEMP and would defer to the comments made by the ecologist at SDDC regarding protected species.

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		<p>The Applicant has updated paragraph 2.81 of the Outline CEMP [REP1-007] to set out the high-level contents for a Species Protection Plan to be included in the final CEMP.</p> <p>The ExA notes the series of concerns raised by SDDC [REP1-029, REP2-001] in relation to scoping, surveys and potential impacts on a number of protected species, including skylark, barn owl, great crested newt, and otter.</p> <p>a) Please could the Applicant, in consultation with SDDC and DCC, submit an updated Outline CEMP [REP1-007] 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?</p> <p>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 [REP1-007]. Should Species Protection Plans be required for the site preparation works?</p> <p>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?</p>	
8	Historic Environment		
8.3	Applicant DCC	<p><u>Draft DCO [REP5-003] Requirement 18 – Archaeology</u></p> <p>DCC [REP5-037] comments on Requirement 18 and provides reasoning for suggested alternative wording:</p> <p><i>“(1) No phase within the authorised development, and no part of the site preparation works for that phase, is to be</i></p>	<p>b) The DCC archaeologist has no further comments on archaeology following the inclusions identified as paragraphs 1- 3 and subject to the approval of the WSI by the LPA and County Archaeologist prior to commencement.</p>

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		<p><i>commenced until an archaeological written scheme of investigation (WSI) for that phase has been submitted to and approved in writing by the local planning authority in consultation with the county archaeologist.</i></p> <p><i>(2) Any archaeological works or programme of archaeological investigation carried out under the approved WSI must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute, and the nominated organisation and its relevant specialists will be identified and agreed within the WSI.</i></p> <p><i>(3) All archaeological works must be carried out in accordance with the approved WSI, including post-excavation analysis, reporting, publication and archiving.”</i></p> <p>a) Please could the Applicant comment and update the dDCO [REP5-003] accordingly?</p> <p>b) Please could DCC set out any remaining concerns about archaeology at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	
11	Traffic and Transport		
11.1	Applicant DCC SDDC	<p><u>Construction traffic – DCC and SDDC concerns</u></p> <p>a) Please could the Applicant submit an update to the Outline Construction Traffic Management Plan (Outline CTMP) [REP4-032] in relation to its reference to using Walton bypass if it opens during construction [REP5-025, REP5-026]?</p> <p>b) Please could the Applicant respond to DCC’s request [REP5-037] for the provision of an explicit mechanism to enable the Highway Authority to recover costs for maintenance works should these</p>	c) Deadlines 7 and 8

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		<p>be carried out by the Highways Authority rather than the Applicant’s contractor?</p> <p>c) Please could DCC and SDDC summarise any outstanding traffic and transport concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	
12	Water Quality, Resources, Drainage and Flooding		
12.1	Applicant EA DCC	<p><u>Battery Energy Storage System fire risk and related emergency response and pollution</u></p> <p>The EA [REP5-043] said that the pollution risks of emergency response had not been appropriately assessed.</p> <p>a) Is the EA satisfied that the submitted Outline Drainage Strategy included in the updated Flood Risk Assessment (FRA) [REP5-017] addresses its concerns?</p> <p>DCC [REP4-012] suggested that the Applicant consult with the Derbyshire Fire and Rescue Service regarding site safety and particularly fire-fighting response at the BESS. The Applicant [REP5-026] set out the consultation undertaken with the Derbyshire Fire and Rescue Service and said that it will arrange a short letter from Derbyshire Fire and Rescue Service confirming its position.</p> <p>b) Please could the Applicant advise on the progress with Derbyshire Fire and Rescue Service and provide evidence of Derbyshire Fire and Rescue Service’s position?</p> <p>c) Do DCC have any comments?</p> <p>d) Please could DCC also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	<p>c) The applicant has consulted with DFRS and DCC is content that the advice and views of the DFRS have been received.</p> <p>d) Deadlines 7 and 8</p>
12.3	Applicant DCC	<u>Potential damage to existing land drainage</u>	d) The LLFA have been consulted within DCC and have made no adverse comments regarding the proposals for

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	SDDC	<p>The ExA [EV4-002] requested that the Applicant demonstrate whether damage to existing land drains could be mitigated to avoid increasing flood risk and asked it to respond to SDDC’s concerns regarding the potential for water no longer in the existing land drains to be directed more towards areas with higher flood risk. The Applicant was requested to secure the necessary mitigation.</p> <p>The Applicant [REP5-024, REP5-026] states that:</p> <ul style="list-style-type: none"> • it broadly knows where the land drains are based on information from the landowner and that several of its team had been through the site field by field and recording them; • it provides a map identifying where land drains are understood to be present [REP5-017 paragraph 4.2.5]; • the land drainage is generally at lower parts of fields, nearer watercourses, where farmers try to speed up water flow through a land drain; • due to the expected low number of land drains on the Site, and the very small area of the Site affected by cable trench excavations (approximately 2% of Site, with trenches almost exclusively routed around the perimeter of fields), the main source of damage to any existing land drains is expected to be piling for the solar panel mounting structure legs; • water flow would be slowed if there is any damage to the drains; • some of the detailed information regarding depth of pipes would need to be investigated and identified using a digger but that this could be dealt with in detail post-consent in the Soil Management Plan; 	<p>the potential reinstatement of land drainage where this is identified as necessary following the proposed monitoring. The applicant states that the OSMP will be updated prior to commencement and will consider specific issues as part of the agricultural drainage design works [REP5-011 and REP5-015].</p> <p>c) Deadlines 7 and 8</p>

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		<ul style="list-style-type: none"> • any problem post-construction would become obvious as there would be a damp area; • if there are patches these can be rectified in the same manner as farmers would, which would not affect flood risk; • new land drains and other drainage features can be installed under and around the piling for the solar panels and buried cables to address any issues identified from land drains found to have been damaged during construction; and • the exact locations of piles and buried cables installed by the Applicant would be known and recorded, and these features can therefore be avoided by careful design and installation of the new drainage. <p>Paragraph 2.6.9 of the Outline CEMP [REP5-011] includes that <i>“During construction of the Proposed Development, piling of solar panel mounts and / or the installing underground electrical cabling via trenching may result in disturbance or damage to existing land drains. Where this occurs and creates an unacceptable surface drainage issue, other measures (e.g., repairing or installing new land drains) would be available to rectify such drainage issue. Once established, the drainage on-site will be monitored, and drainage measures altered or improved as necessary.”</i></p> <p>Paragraph 1.6 of the Outline DEMP [REP5-015] includes that <i>“The Applicant commits to the repair of land drains or the installation of new land drains where removal of solar panel mounts and/or the removal of underground electrical cabling results in damage or disturbance to existing land drains and where an unacceptable surface water issue occurs as a result. Once established, the drainage on-site will be monitored for up to 5 years, and drainage measures altered or improved as necessary.”</i></p>	

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		<p>a) Please could the Applicant ensure that any mitigation required for damage to existing land drainage that is not identified until post-construction is secured in the Outline OEMP [REP5-013]?</p> <p>b) Do DCC (as Lead Local Flood Authority) or SDDC have any comments?</p> <p>c) Please could DCC and SDDC also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	
13	Other Planning Topics		
13.2	Applicant SDDC DCC EA NE	<p><u>Cumulative Effects</u></p> <p>The Applicant [REP5-024, REP5-025] says that it is reviewing the position on all cumulative projects, reviewing the assessment undertaken in the ES of cumulative effects, and will submit an Addendum to the ES assessing the effects of any additional cumulative sites.</p> <p>a) Please could the Applicant submit the updated cumulative impact assessment and ensure that it is added to Schedule 12 of the dDCO?</p> <p>b) Please could SDDC, DCC, EA, and NE set out any concerns about the cumulative impact assessment at Deadlines 7 and 8 with suggestions about how they might be addressed?</p>	b) Both SDDC and DCC have discussed cumulative impacts with the applicant and consider that these have been identified and adequately considered. Any further cumulative matters that may be identified will be raised at deadlines 7 and 8.

END