

Heckington Fen Solar Park

EN010123

Cover Letter Deadline 3

Applicant: Ecotricity (Heck Fen Solar) Limited

Document Reference: ExA.CL-D3.V1

Deadline 3: 5th December 2023

December 2023



Susan Hunt
Examining Authority
By Email

Dear Ms Hunt

5 December 2023

Heckington Fen Solar Park Development Consent Order (application reference: EN010123)

Ecotricity (Heck Fen Solar) Limited (the “Applicant”)

Applicant Response to Deadline 2 (our document reference – ExA.CL-D3.V1)

Introduction

Following Deadline 2, the Compulsory Acquisition Hearing, Issue Specific Hearings (3 & 4) and the Accompanied Site Inspection (ASI) the Applicant has reviewed the actions, and the Rule 8 letter, and provides responses below and within the enclosed Deadline 3 submission documents.

Deadline 3 submission documents

Document Reference	Title
ExA.WSCAH-D3.V1	Written Summary of Applicant Oral Case at Compulsory Acquisition Hearing on Tuesday 21st November 2023
ExA.WSISH3-D3.V1	Written Summary of Applicant Oral Case at Issue Specific Hearing 3 on Tuesday 21 November 2023
ExA.WSISH4-D3.V1	Written Summary of Applicant Oral Case at Issue Specific Hearing 4 on Wednesday 22 November 2023
ExA.ResponseIPFWQ-D3.V1	Applicant Response to Interested Parties' First Written Question Submissions at Deadline 2
ExA.ResponseD2Sub-D3.V1	Applicant Response to Deadline 2 Submissions
1.4 Revision 6	Guide to the Application
3.1 Revision 5	Draft DCO
3.3 Revision 5	Explanatory Memorandum
ExA.SCHDCO-D3.V1	Schedule of Changes to the draft Development Consent Order
4.3 Revision 5	Book of Reference
4.4 Revision 5	Schedule of Negotiations with Statutory Undertakers and Landowners
6.2.6 Figure 6.2 Revision 4	Figure 6.2 - Landscape Strategy Plan
ExA.ESTN-Cumulative-D3.V2 Revision 2	ES Technical Note - Updated Information on Cumulative Projects
ExA.ESSTATN.D3.V1	ES Transport and Access Technical Note - Sensitivity of Cowbridge Road, Bicker Drove and Vicarage Drove
ExA.ESATNE.D3.V1	ES Ecological Technical Note – Additional Ecology Information
ExA.IRReport-D3.V2 Revision 2	Interrelationship with other Nationally Significant Infrastructure Projects
7.7 Revision 5	Outline Construction Environmental Management Plan
7.8 Revision 4	Outline Landscape and Ecological Management Plan
7.9 Revision 3	Outline Decommissioning and Restoration Plan
7.11 Revision 2	Outline Energy Storage Safety Management Plan
7.12 Revision 2	Outline Supply Chain, Skills and Employment Plan
7.15 Revision 2	Outline Soil Management Plan
ExA.oOEMP-D3.V2 Revision 2	Outline Operational Environmental Management Plan
ExA.EIA-D3.V1	Equality Impact Assessment

The Applicant has included tracked change versions of the above documents where relevant, and would kindly refer readers to the Guide to the Application (document reference 1.4, revision 6) for a full list of the documents enclosed.

The Applicant has provided a summary of the documents below:

1. Actions Points:

Following the Hearings held on 21 and 22 November 2023 a number of Action Points were requested from the Examining Authority (ExA) on 24 November 2023. Those applicable to the Applicant and for Deadline 3 are covered in Appendix 1 to this letter.

2. Interrelationship with other Nationally Significant Infrastructure Projects Report

The Interrelationship with other Nationally Significant Infrastructure Projects Report has been reviewed to assess if further updates are required. This document is now aligned with the ES Technical Note- Updated Information on Cumulative Projects on relevant projects that overlap between the reports. The projects assessed within the Interrelationship with other Nationally Significant Infrastructure Projects Report have been updated with the most up to date publicly available information (correct as of December 2023).

3. ES Technical Note - Updated Information on Cumulative Projects

The ES Technical Note- Updated Information on Cumulative Projects has been updated so that Best and Most Versatile Land statistics are aligned with those contained within the Interrelationship with other Nationally Significant Infrastructure Projects Report. Two further projects were confirmed by North Kesteven District Council following the Issue Specific Hearing 4 on the 22 November 2023, however both are over 20km away and in pre-planning (Tier 3) so they are contained on the longlist but not the shortlist. Following the close of the Hearings the Applicant agreed with the RPAs that Deadline 4 would be the final deadline for submitting further new projects to be considered in the Interrelationship with other Nationally Significant Infrastructure Projects Report and ES Technical Note- Updated Information on Cumulative Projects.

4. Progress Schedules

The following Progress Schedules are provided:

- Land and Rights related matters including Protective Provisions and Statutory Undertakers: Document Reference 4.4 (Revision 5) - Schedule of Negotiations with Statutory Undertakers and Landowners (with tracked and clean versions); and
- Schedule of the latest versions of the Applicant's submission documents and documents to be certified: Document Reference 1.4 (Revision 6) - Guide to the Application (with tracked and clean versions).

There are no additional updates to provide on the Schedule of progress in securing other consents (document reference 7.5 – Consents and Licences Required Under Other Legislation, the "**Consents and Licences**") since submission of Revision 2 of the Consents and Licences at Deadline 1. The Applicant has not therefore submitted the Consents and Licences Required Under Other Legislation document at Deadline 3. The Applicant will, however, continue to seek progress and report to the Examining Authority on the status of other consents at a subsequent deadline.

5. Statements of Common Ground

Good progress is being made on reaching agreement with key stakeholders whereby Statements of Common Ground were requested in the Rule 8 Letter. In some cases the agreements are moving forward but the changes are not substantial enough to warrant an update to the Statement of Common Ground at Deadline 3 - for example Black Sluice IDB; National Grid Electricity Transmission and National Grid Gas. A further revision to the Statement of Common Ground with the Relevant Planning Authorities (RPAs) is proposed to be submitted at Deadline 4 once the RPAs have been able to further consider the amendments made at Deadline 3. The majority of the proposals and changes put forward at Deadline 3 have been made in response to comments from the RPAs and the Applicant has shared these with the RPAs in advance of Deadline 3. The Applicant understands that the RPAs are in support

of the changes but the Applicant recognises that the RPAs wish to reserve judgement until their legal counsel and advisors have been able to review in full following Deadline 3 (for example on the additional commitment to secure a minimum number of sheep as part of the grazing strategy). Where agreement has been reached - for example on a period of 10 weeks for discharge of Requirements coupled with deemed discharge - the Applicant has made updates to the draft Development Consent Order (document reference 3.1, revision 5). Further details of the points agreed can be found in the Schedule of Changes of the DCO (ExA.SCHDCO-D3.V1) and, where applicable, in the Outline Plans submitted at Deadline 4.

The Statement of Commonality will also be updated at Deadline 4.

A position in relation to the Bicker Fen Substation planting has been agreed with Boston Borough Council and this update is made to the Outline Landscape and Ecological Management Plan (document reference 7.8).

6. Any Other Information

Where possible tracked change and clean versions are provided, however this is not possible for Figures and Plans, as such the following clarification and errata are provided at Deadline 3:

- i) A discrepancy was noted in the Outline Landscape and Environmental Management Plan in relation to the route of the permissive path. This has been corrected. Furthermore, discussions with nurseries have shown that transplanting large trees, with a minimum height of 2.5m could result in them being less versatile to change, as such the minimum starting height (i.e. at the time of planting) is reduced to 1.5m. The hedgerow planting remains the same 60-80cm. The Landscape and Ecological specialists have confirmed this does not change any element of their assessments.
- ii) As discussed at the Compulsory Acquisition Hearing on the 21 November 2023, and replicated in the Actions List provided by the ExA, the Applicant has removed plots 275A, 275B and 299 from the Lands Plan. A further plot 345 is also removed, this is shown on Figure 1 of this Cover Letter. The reason for these changes is summarised in the Action Point list below (CAH – AP1) at Appendix 1.

Updated Guidance and Policy

- iii) The Applicant notes the draft National Policy Statements were published on 22 November 2023 and are expected to be designated in due course (anticipated in January 2024). The Applicant has not provided further information on them at this time, however the Applicant would note they are important and relevant to the determination of Heckington Fen Solar Park, and therefore anticipates making further representations on these before the end of the Examination.
- iv) Following the release of the Town and Country Planning statutory biodiversity metric tools and guides on Wednesday 29 November further consideration will be given to these documents, and an update prepared for Deadline 4.

Please let us know if there is any clarification or further detail you require.

Yours sincerely,

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Appendix 1 - Issue Specific Hearing (ISH) Actions

#	Action	Party	ExA Proposed Deadline	Addressed
Compulsory Acquisition				
CAH – AP1	Consider whether to remove plots 275A, 275B and 299 from the Order Limits or to keep greyed out on the Land Plans, and provide a justification.	Applicant	D3	An update to the DCO Plans (document reference 2.1 – 2.10) will be included with the Deadline 4 submission. The Applicant is no longer seeking to acquire rights over these plots as this land is no longer required as an access to the Proposed Development. As this is a minor amendment inward on the Plans no further consultation or procedural steps are deemed necessary. The Applicant also proposes to remove Plot 345 on the grid connection route. This plot comprises a ditch as an isolated plot whereby the Applicant was seeking rights to the lay the cable. Following further review and looking at this plot in isolation, it was determined rights were not strictly necessary as it would be impossible for the cable to pass through it without straying outside of the Order Limits.
CAH – AP2	Provide an update on unidentified/unknown interests.	Applicant	D3	A full response to this is provided at Appendix 2 of this Cover Letter.
CAH– AP3	Provide an Equalities Impact Assessment.	Applicant	D3	This document is submitted at Deadline 3 (document reference ExA.EIA-D3.V1).
Draft Development Consent Order				
ISH3 – AP2	R8 (<i>Landscape ecological management plan</i>) Provide examples of other Development Consent Orders that have included a minimum percentage of Biodiversity Net Gain (BNG) and the Metric referred to within relevant Requirements.	Applicant	D3	The Applicant has checked six other recent solar DCOs (both made and draft Orders) in relation to whether these schemes secure an exact BNG % and specify the precise metric. The Applicant has provided a table at Appendix 2 of the Written Summary of Applicant’s Oral Case for ISH3 (document reference ExA.WSISH3-D3.V1) with a breakdown. In summary, there is no consistent approach and only one of the schemes (Longfield) refers to a 'live' metric. In view of this the Applicant considers that its approach (in specifying an exact metric) is proportionate and justifiable.

#	Action	Party	ExA Proposed Deadline	Addressed
ISH3 – AP4	R17 (Permissive path) Consider redrafting wording of first part of R17 to make the trigger clearer.	Applicant	D3	The Applicant has reverted to the term "construction" in version 5 of the draft DCO submitted at Deadline 3 (document reference 3.1 Revision 5).
ISH3 – AP6	R18 (Decommissioning and restoration) Provide further justification or rewording to reflect comments regarding non-generation of electricity prior to the expected decommissioning date following discussion with the RPAs.	Applicant	D3	Following further discussion with LCC and NKDC, the Applicant has provided an update to the Outline Operational Environmental Management Plan to include a section on the steps to be taken following a period of non-generation (document reference ExA.oOEMP-D3.V1). This does not require the Proposed Development to be decommissioned early (for the reasons outlined in the Written Summary of Applicant's Oral Case for ISH3 (document reference ExA.WSISH3-D3.V1)) but the Applicant agrees to keep the RPAs updated of any downtime longer than 12 months.
ISH3- AP7	R8 Landscape ecological management plan and R19 Operational environmental management plan Further consider maintenance to be agreed by RPAs and further detail in respect of sheep grazing following discussion with the RPAs.	Applicant	D3	An update to the Outline Operational Environmental Management Plan (document reference ExA.oOEMP-D3.V1) is made at Deadline 3 to cover this Action Point. In short, the land will be kept in good agricultural and environmental condition. This will be maintained by the management of the land predominantly by the grazing of sheep. Sheep will be grazed at a grazing intensity that does not result in visual damage to the grass sward from poaching (trampling). The Applicant thereby agrees that the grazing density across the site over the year will not fall below an average (calculated on the number of sheep grazing per month across the year) of 833 sheep in total calculated on the fenced areas of the solar park (Work No. 1) and the NFU Guidance of 2/3 sheep per hectare on newly established grassland, unless otherwise agreed in writing by North Kesteven District Council or in the event of specific circumstances.
ISH3 – AP8	Schedule 13 Protective Provisions Consideration of additional Protective Provisions for the Lincolnshire Fire and Rescue Service.	Applicant LCC	D3	The Applicant is agreeable to the suggested scheme but the Applicant considers that it sits better in the Outline Energy Storage Safety Management Plan (document reference 7.11). The commitment is therefore secured in the outline plan and by virtue of Requirement 7 of the DCO. The Applicant has made clear (and agreed with LCC) that the exact mechanism of how this

#	Action	Party	ExA Proposed Deadline	Addressed
				contribution is paid (i.e. through a unilateral undertaking or a similar mechanism) will be agreed between the parties for the final version of the plan submitted for approval under Requirement 7 This update has been included in the Outline Energy Storage Safety Management Plan at Deadline 3 as a Revision 2.
ISH3 – AP9	Article 37 (Trees subject to tree preservation orders) Clarify whether there are any tree preservation orders within the order limits and the need for Article 37.	Applicant	D3	The Applicant confirms there are no tree preservation orders (TPOs) within the order limits. Article 37 is included should any TPOs be made.
ISH3 – AP10	Article 42 and Schedule 14 (Procedure for discharge) Revisit timescales for approval by RPAs, deemed discharge, fees and refund clause with reference to other DCOs both approved and emerging, following discussion with the RPAs.	Applicant	D3	The Applicant is willing to agree a 10 week approval timescale, but cannot remove the reference to deemed discharge; the Applicant understands that the RPAs are in agreement with this approach. This is reflected in the draft DCO (document reference 3.1, Revision 5).
ISH3 – AP11	R16 (Supply chain, employment and skills) Consideration of how funding of apprenticeships will be secured, following discussion with RPAs	Applicant	D3	The Applicant is agreeable to the provision of an apprenticeship fund, but suggests it sits better in the Outline Supply Chain, Employment and Skills Plan, with a further commitment to what this looks like to be agreed with NKDC and BBC in the Final Plan (in a similar manner to the financial contribution to LFR).. The Outline Supply Chain, Employment and Skills Plan (document reference 7.12) is secured by DCO Requirement 16. This update has been included at Deadline 3 as a Revision 2.
Environmental Matters: Land Use and Soils				
ISH3 – AP12	Provide written copies of summaries from Tony Kernon and Isobel Hollands regarding use of Best and Most Versatile (BMV) land and assessment of significance.	Applicant	D3	Written copies of the summaries provided were supplied to the RPAs on Thursday 23 rd November 2023. A summary copy of these are included in the Written Summary of Applicant Oral Case – ISH 3 (document reference ExA.WSISH3-D3.V1) at Appendix 3.
ISH3 – AP14	Provide further clarification as to how a contract with a grazier for sheep on the solar park site will be delivered and secured, including minimum requirements as suggested by NKDC.	Applicant	D3	An update to the Outline Operational Environmental Management Plan is provided at Deadline 3 as a Revision 2, which includes a minimum number of sheep over the year (document reference ExA.oOEMP-D3.V2).
Environmental Matters				

#	Action	Party	ExA Proposed Deadline	Addressed
ISH4 – AP1	Historic Environment Provide a plan/details of where public access can be gained for the Examining Authority to carry out a future Unaccompanied Site Inspection at Kyme Tower.	Applicant North Kesteven District Council	D3	A plan was agreed with NKDC and appended at Figure 2 of this Cover Letter.
ISH4 - AP2	Historic Environment Consider how building recording of non-designated heritage assets can be secured, following discussion with NKDC.	Applicant	D3	Following further discussion with NKDC, an update to the Outline Construction Environmental Management Plan to include the historic building record (level 1) of the two non-designated heritage assets is included at Deadline 3 (document reference 7.7 Revision 5).
ISH4 – AP3	Biodiversity Provide further clarity on flora and quail as requested by NKDC	Applicant	D3	An ES Ecological Technical Note – Additional Ecological Information is submitted at Deadline 3 which provides this clarity (document reference ExA.ESTNE.D3.V1).
ISH4 – AP4	Trees Provide an update on compensation for tree loss at Bicker Fen in the Boston Borough area following discussions with Boston Borough Council.	Applicant	D3	Following further discussion with BBC, an update to the Outline Landscape Ecological Management Plan (OLEMP) to include provision for connectivity is included at Deadline 3 (document reference 7.8, Revision 4). The Applicant and BBC have agreed these measures prior to Deadline 3. The Applicant therefore understands that the additional measures included in the OLEMP address the concerns from BBC on tree loss and connectivity.
ISH4 – AP5	Biodiversity Net Gain (BNG) Provide further written justification for the 60% BNG as secured by Requirement (R) 8 (Landscape ecological management plan) of the draft Development Consent Order (DCO) and its consideration in the planning balance.	Applicant	D3	A BNG of 60% has been selected because the Applicant considers that it strikes the right balance between preserving flexibility for detailed design as well as giving more secured benefit to the scheme, which should be weighed in the planning balance. Since ISH 4 the Applicant has been able to update the minimum percentage of BNG to 65%. The draft DCO and oLEMP have been updated at Deadline 3 accordingly.
ISH4 – AP8	Water Environment Provide clarification regarding set-back distance from watercourses following discussions with Black Sluice IDB.	Applicant Black Sluice IDB	D3	The Applicant notes this for detailed design and is working towards the 9m setback. Black Sluice IDB's preference for 10m is noted, but noting 9m is agreed within the Protective Provisions this will cover off their concerns in relation to encroachment into the 9m buffer. The Applicant explains this further in its Written Summary of Applicant Oral Case at Issue Specific Hearing 4 (ExA.WSISH4-D3.V1).

#	Action	Party	ExA Proposed Deadline	Addressed
ISH4 – AP9	Soil Management Plan Provide a response to Natural England’s answers to ExQ1 LUS 1.2 and LUS 1.3 in their correspondence dated 22 November 2023 [AS-035].	Applicant	D3	The Applicant has noted Natural England’s comments and has provided a further update to the Outline Soil Management Plan (document reference 7.15 Revision 2). It has not been possible to undertake soil sampling on the grid route, however this can be completed post-consent to inform the specific parameters of soil management within the Outline Soil Management Plan.
ISH4 – AP10	Traffic and Transport Provide further explanation regarding the sensitivity assessment of Cowbridge Road, Bicker Drove and Vicarage Drove as referred to in LCC response to ExQ1 TT 1.6 [REP2-093] with reference to the amended Institute of Environmental Management and Assessment (IEMA) guidance.	Applicant	D3	An ES Transport and Access Technical Note - Sensitivity of Cowbridge Road, Bicker Drove and Vicarage Drove is submitted at Deadline 3 which provides this clarity (document reference ExA.ESATN.D3.V1). The Technical Note concludes when applying the July 2023 IEMA Guidance, that the proposed package of mitigation will ensure that the Proposed Development is acceptable and that there will be no adverse Significant effects at Cowbridge Road, Bicker Drove and Vicarage Drove, even when classifying the sensitivity of the links as 'high'. This reflects Lincolnshire County Council’s conclusion at page six of its response to the ExA’s first questions (document reference REP2-092), that subject to the routing and mitigation measures proposed, the traffic and transport impacts during the construction, operation, and decommissioning periods would be Negligible (i.e. Not Significant).

Appendix 2 - Update on unidentified / unknown interests

Since Deadline 2 the Applicant has continued to undertake diligent enquiry to try to confirm any unidentified / unknown interests as demonstrated in Table 3 of the Schedule of Negotiations with Statutory Undertakers and Landowners.

Specifically, on all plots which are unregistered but form watercourses and / or drainage ditches, the assumed riparian owners have been identified on the basis that they own the immediately adjacent land. These assumed riparian owners have been contacted and asked to confirm their ownership and if they are aware of any other parties with interests in the land. These plots include 173, 248, 255, 265, 266A, 266B, 269, 302A, 302B, 303, 316, 322, 323, 324, 325, 326, 329, 333, 346. The Applicant continues to chase on a weekly basis to try to confirm the exact nature of these unregistered interests.

For the unregistered Plot 245, the Environment Agency have previously confirmed that they are the riparian owner of the land. The Applicant has again asked them to confirm if they are aware of any other parties which may have interests in the land.

For Plot 312, an unregistered thin strip of land around 1 metre in width, the landowner has been assumed on the basis that the land forms part of an access track crossing an immediately adjacent registered parcel of land. The owners of this adjacent parcel have again been contacted and asked to confirm their ownership and if they are aware of any other parties that may have interests in Plot 312. The Applicant continues to chase on a weekly basis to try and confirm both the landowner and any possible other interests.

For Plots 313 and 317, which are unregistered and the owners of which are still unknown, the neighbouring landowners have been contacted and asked to confirm if they are the owners of the identified land and, if they are, whether they are aware of any other parties that may have interests in the identified plots. The Applicant continues to chase on a weekly basis to try to confirm both the landowner and any possible other interests.

With regard to Plots 255, 329, 333 and 346, these previously each had two separate parties identified as the assumed riparian owners of each half of the ditch / water course. On further detailed review of these plots, it has been noted that one of the parties in each case has already registered their ownership of a respective half of the watercourse and would therefore not have an interest in the other half of the plots. On this basis, National Grid Electricity Transmission PLC have been removed from the Book of Reference for Plot 255, A. Firth and S. J. Bettinson have been removed from the Book of Reference for Plots 329 and 346, and Bramall Properties Limited removed from the Book of Reference for Plot 333.

Previously unregistered Plots 301 and 349 are now no longer “unknown” as these plots have recently been registered with the Land Registry and these titles have been obtained and reviewed. As a result, S. A. Pugh has been removed as a Riparian Owner of Plot 301, as Triton Knoll Offshore Wind Farm Limited are the registered owners of both Plots 301 and 349. Both plots have therefore been removed from Table 3 of the Schedule of Negotiations.

In regard to Plots 330, 331, 337 and 339 these have been confirmed as being land within the control of Bramall Properties Limited. Plots 330 and 331 are in the area covered by the Option Agreement with Bramall Properties Limited. An application for the first registration of plot 337 has been made at the Land Registry, and the Option Agreement with Bramall Properties Limited will, if necessary, be amended to include plots 337 and 339 following registration by the Land Registry. These plots have now been removed from Table 3 of the Schedule of Negotiations.

In regard to plots where there are identified interests but the beneficiaries of those interests are not known, all the landowners have been asked to confirm again if they know who the beneficiaries might be. This situation applies to Plots 60A, 60B, 60C, 63A, 63B, 63C, 63D, 72, 73A, and 73B. The Applicant continues to chase on a weekly basis to try and confirm the beneficiaries of these known interests.

In respect of Plot 282, on legal review by the Applicant's solicitor, the unknown interest in respect of yearly rentcharges referred to in a conveyance dated 06.04.1942 was found to relate to a chancel repair liability which the development will not interfere with, hence it has been removed from the Book of Reference.

Finally, as explained above, Plots 345, 275A and 275B are all due to be removed from the Order Limits at Deadline 4 and no further enquires into their unidentified / unknown interests are being made.

Figure 1 – Plots (x4) to be removed from DCO Plans at Deadline 4

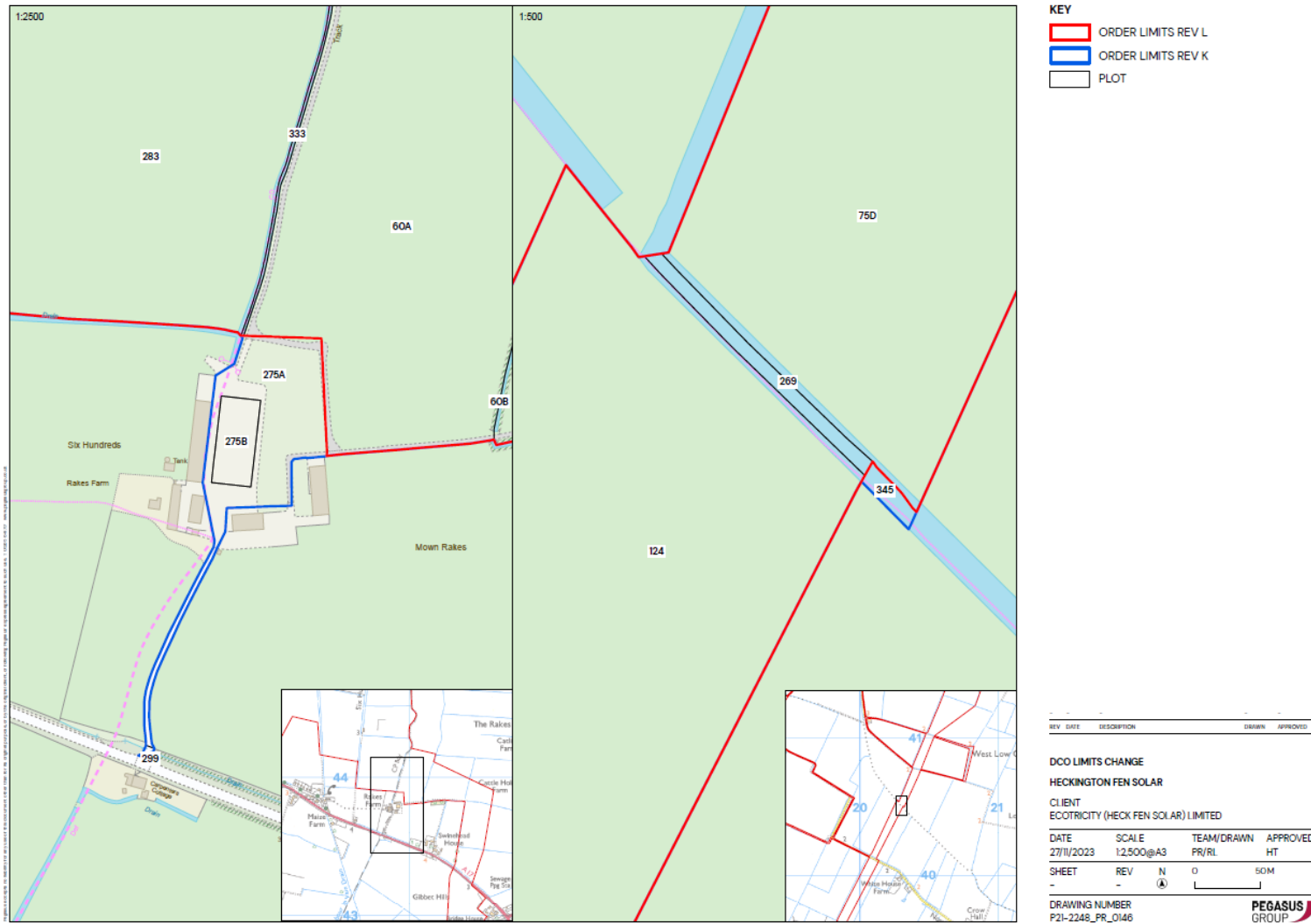
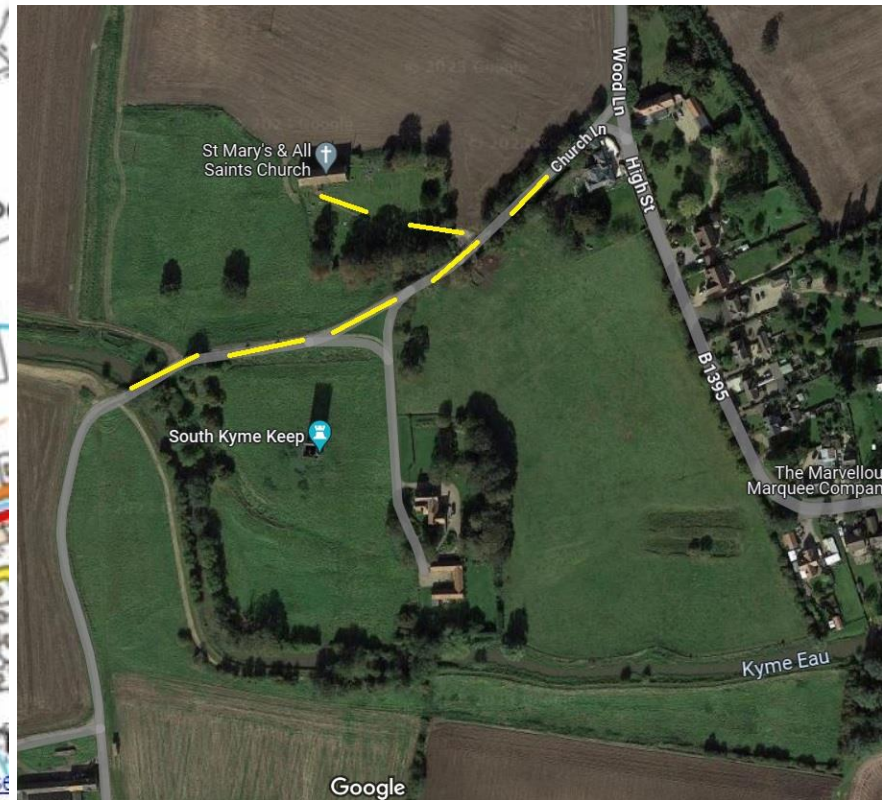


Figure 2 – Publicly accessible routes near South Kyme Tower



Small area to park at St Mary's & All Saints Church

Map data © 2023 Google