

# Heckington Fen Solar Park

EN010123

## Applicant Response to Deadline 4 Submissions

Applicant: Ecotricity (Heck Fen Solar) Limited

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**APPLICANT RESPONSE TO DEADLINE 4 SUBMISSIONS**

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**1. INTRODUCTION**

- 1.1 The purpose of this document is to provide responses from the Applicant to the documents and submissions received from Interested Parties at Deadline 4, including responses to the Examining Authority’s Second Written Questions.
- 1.2 The following documents were submitted by Interested Parties at Deadline 4:
  - Boston Borough Council Responses to ExA’s second written questions (**REP4-054**);
  - Lincolnshire County Council Responses to ExA’s second written questions (**REP4-055**);
  - North Kesteven District Council Responses to ExA’s second written questions (**REP4-056 to REP4-058**);
  - North Kesteven District Council Comments on submissions for Deadline 3 (**REP4-059**);
  - Environment Agency Responses to ExA’s second written questions (**REP4-060**);
  - Historic England Responses to ExA’s second written questions – Accepted at the discretion of the ExA (**REP4-061**);
  - National Grid Electricity Transmission and National Gas Transmission Responses to ExA’s second written questions (**REP4-062**);
  - National Grid Viking Link Limited Responses to ExA’s second written questions (**REP4-063**);
  - Network Rail Responses to ExA’s second written questions (**REP4-064**);
  - Forestry Commission Responses to ExA’s second written questions (**REP4-065**);
  - Schroders Greencoat Responses to ExA’s second written questions (**REP4-066**); and
  - Additional submission (**AS-036**).
- 1.3 The documents received at Deadline 4 as noted above are summarised in the tables below, along with the Applicant’s response.

**Table 1 – Boston Borough Council (BBC) Responses to ExA’s second written questions (REP4-054)**

Question	BBC Response	Applicant Response
GEN 2.1 - Comments on updated NPPF	Solar farms continue to be classed as essential infrastructure in Annex 3. The December version of the NPPF also includes a new reference to solar but not in a context relevant to this application as it relates to buildings. References to ‘renewable’ are unchanged from the September 2023 version of the NPPF.	The Applicant has no further comment to make.
GEN 2.2 - Comments on updated NPS	<u>EN1</u> : Solar is quoted as one of the cheapest generators of electricity, the other is wind, and together they are likely to be the predominant sources in a net zero system in 2050. Storage is also important, but many options are not yet available at scale. <u>EN3</u> : The advice contained in the section on Solar does not appear to raise any issue that has not been considered as part of the application,	The Applicant has no further comment to make in relation to BBC’s comments on EN1 and EN5, other than to confirm they were adopted on 17 January 2024. The Applicant notes BBC’s comment in relation to EN3 paragraphs 3.10.143 to 3.10.153. The Applicant understands the paragraph numbers stated in BBC’s response may refer to 2.10.143 to 2.10.153. The Applicant has no comment on these paragraphs to add. Paragraph 2.10.145 refers to mitigation

Question	BBC Response	Applicant Response
	<p>including the matters the Secretary of State should consider in 3.10.143 to 3.10.153.</p> <p><u>EN5</u>: Relevant owing to 1.6.3i but since the proposed cable is relatively short and underground the impact issues the NPS raise are ameliorated.</p>	<p>measures to minimise impacts on soils or soil resources. The Applicant considers this is achieved by the Outline Soil Management Plan (document reference 7.15, Revision 3 to be submitted at Deadline 5). Paragraph 2.10.146-2.10.153 details the project lifetime and decommissioning. The Applicant has submitted an Outline Decommissioning and Restoration Plan (REP3-023) addressing these considerations.</p>
<p>GEN 2.4; GEN 2.5; GEN 2.7; DCO 2.6; HE 2.3; LUS 2.2; LUS 2.4</p>	<p>BBC offers no comments or is satisfied with the amendments on these issues.</p>	<p>The Applicant thanks BBC for their confirmation on these points.</p>
<p>GEN 2.11 - residual beneficial effects - vegetation</p>	<p>The applicant’s response and the quoted document focus on the landscape impact of the Energy Park. They do comment on the loss of trees at the Bicker Fen substation and that the impact of their loss is balanced with the tree planting proposed at the Energy Park. BBC understand this point of view as at a project level it makes sense. BBC have commented on the loss of trees and the impact on the Borough. The applicants have suggested a resolution to their loss and BBC agrees with it. There are very few, if any, hedges on the cable route and the applicants have offered to provide hedgerow planting as part of the suggested resolution to the tree loss in the Borough in order to provide connectivity of habitat. If the landowners agree to this offer there will also be a landscape benefit.</p>	<p>The Applicant notes this comment and the wording now contained in Revision 5 of the OLEMP (REP4-039) at Deadline 4 deals with the cascade of options to provide planting opportunities in Boston Borough. The financial mechanism will then be secured in a Section 106 Agreement; the agreed heads of terms for which are included at Deadline 5 in the Applicant Response to Rule 17 Letter (document reference: ExA.AppResponseR17-D5.V1). The mitigation is therefore secured in the OLEMP by virtue of Requirement 8 of the DCO (document reference 3.1), with the legal mechanism for delivery of the contribution (if relevant) to be finalised prior to commencement.</p>
<p>BIO 2.2 – BNG Metric and minimum 65%</p>	<p>i) The Statutory Biodiversity Metric and Metric 4.0 are very similar and so BBC do not think there are any substantive issues from choosing Metric 4.0. Although BNG is not a statutory requirement of NSIPs BBC consider it appropriate for BNG to be enhanced as a response to national targets for biodiversity / habitat creation.</p> <p>ii) BBC welcome a BNG target of 65% and would support any further increase.</p> <p>iii) BBC agree to Metric 4.0.</p>	<p>The Applicant notes these comments and has also considered both the Statutory Biodiversity Metric and Metric 4.0. Following the updated version of the Statutory Biodiversity Metric in November 2023, the Applicant has considers that this is the most relevant and up to date metric. The Applicant has engaged in further discussions with the RPAs to demonstrate that there are no material differences between Metric 4.0 and the Statutory Metric. Accordingly, the Applicant understands that this matter is agreed. The 65% habitat units is confirmed and no further increase is proposed.</p>
<p>BIO 2.4 – OLEMP and off-site planting</p>	<p>i) BBC is satisfied with the additional measures as set out in the outline LEMP paragraphs 5.5.11 – 5.5.13.</p> <p>ii) The mechanism for this and for question SE 2.1 II need to be consistent as it includes the payment of money. The SOCG will have the same wording for these requirements</p>	<p>The Applicant notes these comments and has provided an agreed Heads of Terms on the Section 106 at Deadline 5 in the Applicant Response to Rule 17 Letter (document reference: ExA.AppResponseR17-D5.V1).</p>

Question	BBC Response	Applicant Response
	and work on a S106 will be commenced.	
DCO 2.7 – fees	If BBC was paid by application it might be the case that one application included all requirements requiring prior approval of details for £145. Being paid by requirement clearly increases the payments. However, if only part of a requirement’s information is submitted, the remaining details should attract a fee as well, when they are submitted. Similarly any changes during the construction period requiring the approval of modified details, which have already been approved should attract a fee as well. From experience of other NSIP projects the submitted information can be significant and takes time to assess and so payment by requirement and then by application is reasonable. The £145 fee in the regulations does not reflect this. BBC agrees with annual indexation.	The Applicant has agreed to a staggered rate for condition discharge, with a maximum fee of £2535 per application (for key Requirements). Schedule 14 of the DCO (document reference 3.1) has been updated at Deadline 5 accordingly. The Applicant has agreed with the RPAs that no PPA will be available on top of this (in view of the higher fee rate) and, save for archaeology which may take place prior to condition discharge, no consultant costs accrued by the RPAs will be covered by the Applicant.
SE 2.1 – SCES and Section 106	i) BBC understand the figure is derived from the Longfield DCO Community Benefit Fund. ii) See the response to BIO 2.4II above.	The Applicant notes these comments and confirms the same. The agreed Heads of Terms on the Section 106 have been included at Deadline 5 in the Applicant Response to Rule 17 Letter (document reference: ExA.AppResponseR17-D5.V1).

**Table 2 – Lincolnshire County Council (LCC) Responses to ExA’s second written questions (REP4-055)**

Question	LCC Response	Applicant Response
GEN 2.1 - Comments on updated NPPF	The revised NPPF was published on 19 December 2023 and does not contain specific policies for nationally significant infrastructure projects as these are instead set out in National Policy Statements. However, the NPPF is still relevant and so should still be taken into account when making decisions on NSIP projects...a key and notable change which is relevant is the wording contained within paragraph 181 and in particular footnote 62 which states: <i>“Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.”</i>	The Applicant notes LCC comments but would flag they have not evidenced their comment that the yield nor value is a like for like replacement. The Applicant would argue that whilst the options for farming the site are limited with the addition of solar panels, the value is greater with the addition of a sheep enterprise, solar energy production and resting the soil for large number of years. Removing the use of agri-chemicals will also improve water quality. Therefore the value to whom is unclear, and the yield is dependent on what the landowner may choose to grow. The Applicant refers LCC to its previous submissions on land use and agriculture as part of its Written Summary of Oral Case at ISH 3 (REP3-038).  The provision for an extended period of non-generation is now covered in Revision 3 of the Outline Operational Environmental Management Plan (ExA.oOEMP-D5.V3) submitted at Deadline 5. The Applicant understands that this matter is now agreed,

Question	LCC Response	Applicant Response
	<p>In LCC’s view the inclusion and now specific reference to the need to recognise and consider the value of agricultural land for food production is a material planning consideration and reinforces the need to ensure that should the DCO be granted then it is necessary that measures are secured to ensure sheep grazing is undertaken on the land during the 40 year operational period (albeit this is not like for like replacement in terms of potential yield or value in terms of food production). It also reaffirms the need to ensure provision is made for early decommissioning and reinstatement of the land occur in the event the development ceases operating before the 40 year period sought.</p>	<p>as evidenced in the SoCG submitted at Deadline 5.</p>
<p>GEN 2.2 - Comments on updated NPS</p>	<p>The proposal falls within the new definition of Critical National Priority (CNP). The transitional provisions highlight that the 2011 version of the NPSs remain in force until they are replaced. Whilst they are important and relevant considerations and weight should be given to them, they do not yet carry full weight.</p>	<p>The Applicant notes the NPSs were adopted on 17 January 2024 and are important and relevant considerations in the decision-making process. NPS-EN 1 states there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure. The Applicant considers therefore the 2024 adopted NPSs' carry significant weight. The Applicant refers to its response to this question at REP4-047 for a full breakdown.</p>
<p>GEN 2.4; GEN 2.7; HE 2.2; HE 2.3; LUS 2.2; TT2.1</p>	<p>LCC offers no comments or is satisfied with the amendments on these issues.</p>	<p>The Applicant notes these comments and offers no further comment on them. The Applicant thanks LCC for their confirmation on these points.</p>
<p>GEN 2.5 - Decommissioning and restoration</p>	<p>LCC feel the text should be strengthened to confirm that in the event any failures are identified then details of the actions/measures taken to address this will be discussed with the RPA immediately and that these are agreed with the eventual monitoring report still then being submitted quarterly.</p>	<p>The Applicant has updated the Outline Decommissioning and Restoration Plan to a Revision 5 at Deadline 5 to state the RPAs will be given notice of any failures within 72 hours of the Applicant becoming aware of the issue. The Applicant understands this addresses LCC’s concern.</p>
<p>GEN 2.8 - LFR protective provisions</p>	<p>i) LCC’s preference would be for the LFR provisions/fees to be secured as a Protective Provision as this is the same approach that has been promoted by the legal team for the Gate Burton NSIP project and agreed with LCC. The use of a Protective Provision to cover similar matters is also precedented in the Longfield Solar Farm Order 2023. Therefore whilst LCC’s preference would still be to secure this via Protective Provision as indicated in the response to iii) below so long as this is secured by some means we are content.</p>	<p>The Applicant has reverted to this position as a Protective Provision in the draft DCO submitted at Deadline 4 (document reference REP4-014).</p>

Question	LCC Response	Applicant Response
	<p>ii) The Applicant and LCC have agreed the fees outlined and the amounts reflect those also agreed with the promoter of the Gate Burton NSIP project and which LFR will be looking to secure in connection with all large scale solar projects where battery storage is proposed.</p> <p>iii) ...If the funding is not embedded as a Protective Provision then in LCC consider this be secured by way of a S106 Agreement.</p>	<p>The Applicant confirms the figures have been agreed.</p> <p>The Applicant removed the new wording on the fees in the Revision 3 of the Outline Energy Storage Safety Management Plan submitted at Deadline 4 (document reference REP4-042) and reverted to the Protective Provision as per LCC’s preference.</p>
<p>GEN 2.11 – residual beneficial effects - vegetation</p>	<p>LCC would consider it reasonable to apply the ‘time to target condition’ multiplier and assign a different effect significance which takes account of that maturity over time.</p>	<p>The ‘time to target condition’ multipliers are preset in the Metric, so there is nothing further the Applicant proposes changing here. The Applicant has updated Chapter 6: LVIA (Revision 3) to consider GEN2.11 as noted in response to the Examining Authority’s Second Written Questions (document reference REP4-047). Revision 3 of Chapter 6: LVIA is submitted at Deadline 5.</p>
<p>BIO 2.2 – BNG Metric and minimum 65%</p>	<p>i) LCC does not see any significant issue or implications associated with the application of the latest BNG Metric and guidance as it does not differ significantly from the previous versions. Whilst it is accepted NSIPs are not yet required to demonstrate compliance with the statutory BNG requirements we do feel it appropriate for schemes such as this to provide opportunities to secure and enhance BNG nevertheless.</p> <p>ii) LCC welcomes the Applicant’s revision to R8 in the dDCO submitted at DL3 [REP3-004] and commitment to secure a minimum 65% BNG rather than 60% as originally drafted however as stated in our response to Action Point ISH3-AP3 [REP3-052] this is still a significant shortfall from the “over 100% in habitat units” claimed by the Applicant in their previous submissions. Whilst we appreciate the Applicant does not wish to over commit themselves at this stage given the detailed design of the scheme has yet to be confirmed, given the 40% difference between the two figures, we believe there is still scope for a higher % to be agreed that would strike a reasonable balance between giving the Applicant the flexibility they require whilst ensuring one of the key benefits.</p> <p>iii) LCC note the recent correction to the Longfield DCO</p>	<p>The Applicant notes these comments and has also considered both Statutory Biodiversity Metric and Metric 4.0. Following the updated version of the Statutory Biodiversity Metric in November 2023, the Applicant considers that this is the most relevant and up to date metric. The Applicant has engaged in further discussions with the RPAs to demonstrate that there are no material differences between Metric 4.0 and the Statutory Metric. Accordingly, the Applicant understands that this matter is agreed.</p> <p>The 65% habitat units is confirmed and no further increase is proposed.</p>



Question	LCC Response	Applicant Response
	<p>however as stated in our response to Action Point ISH3-AP3 [REP-3-052], LCC has no objection to fixing the use of Metric 4.0 within R8 given that to remove this (or to update to refer to a more generic term of 'Statutory Metric') could introduce future uncertainty in relation to complying with a fixed BNG figure.</p>	
<p>CA 2.3 – lack of engagement</p>	<p>i) Politically LCC does not support the use of BMV land for the large scale solar and renewable energy projects and accordingly the development of land that it holds for such purposes. For these reasons, as an affected landowner, LCC has taken the stance not to engage with Applicants where proposals affect its land.</p> <p>ii) LCC does not consider there to be any significant constraints which would prevent the Rights sought by the Applicant being exercised should the SoS grant the DCO and the powers sought.</p> <p>iii) LCC note the Applicant's recent removal of Plot 299 from the project and can confirm that there are no other areas of LCC land over which the Applicant is seeking rights which would not be needed.</p>	<p>The Applicant has used diligent enquiry and made repeated attempts to engage with LCC's land team. Whilst LCC's position is disappointing the Applicant can do very little if LCC refuse to engage at this stage. The Applicant will keep trying to engage beyond the close of Examination but the compulsory acquisition rights are considered crucial to ensure nationally significant infrastructure schemes can progress in a timely and proportionate manner.</p>
<p>DCO 2.6 – deemed discharge</p>	<p>LCC welcomes the Applicant's agreement to extend the timeframe to give a decision on a Requirement from eight to ten weeks and with the exception of comments relating to fees (set out below), LCC are content with the drafting of Schedule 14 as set out within the draft DCO submitted at DL3 [REP3-004].</p>	<p>The Applicant thanks LCC for this confirmation.</p>
<p>DCO 2.7 – fees</p>	<p>LCC agrees that a fee should be payable per Requirement and not per application given that an application could potentially seek to discharge several Requirements at the same time. However, if there is a need to submit subsequent applications pursuant to a Requirement then this should also be subject of a fee and not be exempt.</p> <p>LCC agree that annual indexation of fees from 1 April 2025 should be reflected within the draft DCO.</p>	<p>The Applicant has agreed to a staggered rate for condition discharge, with a maximum fee of £2535 per application (for key Requirements). Schedule 14 of the DCO (document reference 3.1) has been updated at Deadline 5 accordingly. The Applicant has agreed with the RPAs that no PPA will be available on top of this (in view of the higher fee rate) and, save for archaeology which may take place prior to condition discharge, no consultant costs accrued by the RPAs will be covered by the Applicant.</p>
<p>LUS 2.4 - BMV</p>	<p>LCC have reviewed the Applicants submission and the arguments made are noted but do not alter LCC's concerns and comments made previously in respect of the impact and loss of BMV land as a result of</p>	<p>The Applicant notes LCC's arguments in relation to BMV. Regarding the weight to be placed on the local plans, it is of the Applicant's view that the adopted NPSs on 17 January 2024 should be given significant weight (see REP4-047).</p>

Question	LCC Response	Applicant Response
	<p>this proposal...In relation to comments regarding the weight and relevance of the Central Lincolnshire Local Plan policy on BMV, in LCC’s view this policy is entirely consistent with the approach taken by both draft EN-1 and EN-3 (including the most recent November 2023 versions) and also the amended NPPF in December 2023 and so should not be given minimal weight</p> <p>As indicated in LCC’s response... it is necessary to ensure that measures are secured to ensure that sheep grazing is undertaken on the land during the 40 year operational period (even if this is not like for like replacement in terms of potential yield or value in terms of food production).</p> <p>...A 40 year lifespan is all but equivalent to an entire life time and, on a human scale, is hardly “temporary” in the common use of this word. As recognised by GLVIA3, effects of this longevity should be assessed as essentially permanent effects as that is how they are experienced in reality. In this case the applicant has committed to carrying out sheep grazing during the operational life of the development and whilst this is supported should the DCO be granted, this does not represent a like for like and although the soil resource may eventually become available again, its loss for 40 years is a significant and weighty adverse effect of the proposal. This is particularly so when assessed in combination with other projects in Lincolnshire which are all for similar timescales and as such should be assessed on this basis.</p>	<p>The Applicant has sought to confirm that sheep grazing will be undertaken in the Outline Operational Environment Management Plan (document reference ExA.oOEMP-D5.V3/ Revision 3 submitted at Deadline 5). Furthermore, the Applicant would highlight that LCC has not offered any evidence that the grazing is not like for like in terms of yield or value. For context the site has not been planted yet as it is too wet.</p> <p>As noted in the recent appeal decision for Little Cheveney Farm (reference APP/U2235/W/23/3321094) the Inspector notes at paragraph 51 that “the proposal is for a time limited period (albeit of significant longevity) and that there is nothing to contradict the Appellant’s evidence that the land would benefit from a change in the nature of its use – essentially that a ‘rest’ from intensive arable production would enhance land quality. At the end of the life of the solar farm the operational land could be returned to other forms of use, including arable production if that was deemed appropriate. The temporary loss of BMV is therefore of limited weight.” The Applicant agrees with this commentary and would highlight the cessation of agri-chemicals and fertilisers over the operational lifetime of the project would benefit wildlife, and watercourses which are impacted by chemical run-off. This is detailed further in Chapter 8 – Ecology and Ornithology (PS-063).</p> <p>The Applicant notes in NPS EN-3 that in regard to a time limited consent, 40 years is typical and described as temporary as there is a finite period for which the project will exist (paragraph 3.1056-3.1057).</p> <p>The Applicant reiterates that sheep grazing is secured by virtue of the DCO through Requirement 8 and Requirement 19, and therefore agricultural practices are continuing during the operational phase. The land is currently being used for growing cereals, and the land is not suitable to grow more economic crops such as potatoes or beans. Therefore, there is no loss of such high value food crops. The Applicant therefore considers the economic impact of a move from wheat to renewable generation and grazing is not significant.</p> <p>The other cumulative solar farms within Lincolnshire assessed with the Proposed Development (see ES Technical Heckington Fen Solar Park 30 Note- Updated Information</p>

Question	LCC Response	Applicant Response
		<p>on Cumulative Projects) are not permanent developments, they will not have permanent impact upon the soils. It is estimated 0.01% of BMV land in Lincolnshire will be temporary lost from cumulative development and is assessed by the Applicant as not significant in EIA terms.</p> <p>The Applicant refers LCC to its full submissions on land use at Appendix 2 of its Written Summary of Oral Case from ISH 3 (REP3-038).</p>
SE 2.1 - SCES	<ul style="list-style-type: none"> <li>i) No comment</li> <li>ii) Similar to our response to GEN.2.8</li> <li>iii) LCC do not believe monies can be secured by way of a Requirement or through a control/management plan (much like a planning condition imposed via the TCPA regime) and so this would need to be secured by way of a S106 Agreement.</li> </ul>	<p>The Applicant notes these comments and the Heads of Terms for the Section 106 are agreed with LCC and submitted at Deadline 5 in the Applicant Response to Rule 17 Letter (document reference: ExA.AppResponseR17-D5.V1)</p>

**Table 3 – North Kesteven District Council (NKDC) Responses to ExA’s second written questions (REP4-056 to REP4-058)**

Question	NKDC Response	Applicant Response
GEN 2.1 - Comments on updated NPPF	<p>In NKDC’s opinion the NPPF heightens the need to ensure that appropriate mitigations are in place through the DCO given that those mitigations might reasonably be relied upon for in excess of the 40-year operational period initially sought. This includes provisions for early decommissioning in the circumstances specified above and in securing grazing or other agricultural process interventions as per the Council’s previous submissions.</p>	<p>The Applicant notes the Council’s comments and would reiterate that grazing and non-generation are now secured in the Operational Environmental Management Plan (document reference ExA.oOEMP-D5.V3/ Revision 3 submitted at Deadline 5) and through Requirement 8 and 19 of the DCO.</p>
GEN 2.2 - Comments on updated NPS	<p>NKDC highlight that the 2011 version of the NPSs remain in force until the revised documents are designated in ‘early 2024’. The transitional provisions are noted... and therefore, as a starting point NKDC would point out that the 2011 version of the NPSs remain in force until they are replaced.</p> <p>NKDC note paragraph 5.11.12 of EN1 and that applicants ‘should seek to minimise impacts on the best and most versatile agricultural land...and preferably use land in areas of poorer quality’. Identifying any effects and seeking to minimise impacts on soil health and protect and improve soil</p>	<p>The Applicant has no further comment to make in relation to NPSs and the transitional provisions. The draft NPSs were adopted on 17 January 2024.</p> <p>The Applicant has sought to minimise the impacts by removing some of the higher quality sections of land from development in the south and west of the Energy Park site, as well as locating the on-site substation and energy storage compound on lower quality land. An Outline Soil Management Plan (REP3-017) has been submitted, and updated at Deadline 5 as Revision 3.</p>

Question	NKDC Response	Applicant Response
	<p>quality is noted, along a Soil Management Plan.</p> <p>NKDC references paragraph 5.11.34 of EN-1 that ‘applicants do not site their scheme on the best and most versatile agricultural land without justification’ and that ‘where schemes are to be sited on best and most versatile agricultural land the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.</p> <p>Section 2.10 of EN-3 ‘Agriculture land classification and land type’ - land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land... where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible... it is likely that applicants’ developments will use some agricultural land and therefore applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and ‘low and medium grade agricultural land’. The latter reference is specific to the November 2023 version and therefore emphasises that avoidance of using ‘high grade’ (BMV) land is preferred.</p> <p>Under the ‘Mitigations’ sub-heading of EN-3, NKDC highlight that “the Secretary of State should take into account the economic and other benefits of the best and most versatile agricultural land. The Secretary of State should ensure that the applicant has put forward appropriate mitigation measures to minimise impacts on soils or soil resources”.</p> <p>The Council’s position is that decommissioning should not be restricted to occurring only at the point</p>	<p>The Applicant has provided this clarification in Chapter 3 - Site Description, Site Selection, Iterative Design Process (document reference PS-053).</p> <p>The Applicant notes NKDC’s reference to Critical National Priority and that land type should not be a predominating factor in determining the suitability of a site. NKDC highlight the avoidance of high-grade land being preferred in policy, for which the Applicant would note that the majority of the site is Grade 3b (over 50%), with the next largest proportion of the site being Grade 3a (the lowest of the BMV banding – 30%). With the scale of the site, there are many benefits to weigh into the mix, for example a large scale renewable energy project with associated storage capabilities; residential properties set back from the main solar park development; significant ecological benefits; economic benefits to the local area in the form of business rates and an employment and skills fund to be secured by a Section 106. This should all be framed in the context of a site that is not currently planted as it is too wet, and in recent years has predominantly grown feed wheat for export or to create bioethanol. Furthermore as noted in the Government Food Strategy published in 2022, the UK is largely self-sufficient in wheat.</p> <p>In relation to mitigation the Applicant would refer the Secretary of State to the comprehensive Outline Soil Management Plan that was submitted at Deadline 3 (REP3-017) (and is being further updated and submitted at Deadline 5 to Revision 3 following an update), together with the commitment to sheep grazing in line with NFU densities, which is secured in the oLEMP and oOEMP and Requirement 8 and 19 of the DCO. A Mitigation Schedule (APP-233) has also been submitted listing all mitigation measure commitments made in the Environmental Statement.</p>

Question	NKDC Response	Applicant Response
	of the temporary planning permission expiring and can (and should) therefore engage if there is earlier more prolonged cessation of energy generation.	The provision for an extended period of non-generation is now covered in Revision 3 of the Outline Operational Environmental Management Plan (ExA.oOEMP-D5.V3) submitted at Deadline 5.
GEN 2.4; DCO 2.6; HE 2.2; HE 2.3	NKDC offers no comments or is satisfied with the amendments on these issues.	The Applicant notes these comments and offers no further comment on them. The Applicant thanks NKDC for their confirmation on these points.
GEN 2.5 – Decommissioning and restoration	Whilst quarterly reports should help ensure that the RPAs are appraised and potentially given advance notice of where deviations and remedies outside of previously agreed scope are needed, there should be a mechanism which allows/requires prior written approval to those variations by the RPA (on a case-by-case basis) and further that any variations cannot result in significant environmental effects over and above those previously assessed through the DCO application.	The Applicant has updated the ODRP (document reference 7.9/ Revision 4) at Deadline 5 to state the RPAs will be given notice of any failures within 72 hours of the Applicant becoming aware of the issue. The Applicant understands this addresses the RPAs' concern.
GEN 2.7 – Equality Impact Assessment	NKDC supports these proposals in principle and agrees that, subject to detailed design and agreement, they are proportionate having regard to the Equality Act 2010 and in the application of the Public Sector Equality Duty (PSED).	The Applicant notes these comments and offers no further comment on them.
GEN 2.11 – residual beneficial effects - vegetation	NKDC think that it would be appropriate to assign varying effect significance based on the maturity of planting over time rather than at the point of planting. Soft landscaping detailed species choice and size/specification on planting is ultimately reserved by draft Requirements 6 and 8 and as noted above the applicant has applied a worse case scenario based upon planting being delayed to the end of the construction period. We consider it reasonable to apply the 'time to target condition' multiplier and assign a different effect significance which takes account of that maturity over time.	The 'time to target condition' multipliers are preset in the Metric, so there is nothing further the Applicant proposes changing here. The Applicant has updated Chapter 6: LVIA (Revision 3) to consider GEN2.11 as noted in response to the Examining Authority's Second Written Questions (document reference REP4-047). Revision 3 of Chapter 6: LVIA is submitted at Deadline 5.
BIO 2.1	<p><b>Quail</b> – It is agreed that the proposed pre-commencement surveys are an appropriate means to manage the construction specific risk. Similarly, the timing of works to avoid the risk period would also be a suitable mitigation strategy.</p> <p>The applicant identifies the possible need for mitigation of loss of habitat and proposes to secure this through an update to the CEMP at Deadline 4 (paragraph 2.9 of the Technical Note). AECOM can provide further advice once</p>	The Applicant notes these comments and offers no further comment on them.

Question	NKDC Response	Applicant Response
	<p>this supplementary scheme of mitigation has been provided and also advise that this may need to be addressed in an update to the outline LEMP (if only to place holding text as a reminder of the need for further consideration of this when agreeing the final LEMP).</p> <p><b>Scarce arable flora</b> - the response in the Technical Note is acceptable. The response clarifies that the survey was undertaken at field scale, not at the point locations indicated on the report figure. On that basis, the survey effort was sufficiently extensive to provide reasonable confidence (in combination with the desk study) in the conclusions reached. NKDC has no further comment.</p> <p><b>Skylark mitigation strategy</b> - NKDC have no fundamental disagreement with the narrative in the Technical Note. However, paragraph 4.9 (which relates, worst-case, to loss of approaching one quarter of the number of territories recorded) does not provide confidence that full or substantive mitigation is currently achieved or adequately secured. This is not currently secured via the OLEMP (paragraph 5.5.10) as the contributory strategy has not been defined or a specific proposal made. It is assumed that this further information will be provided within the update to the skylark mitigation strategy at Deadline 5. We therefore defer further comment until this document is submitted.</p>	<p>The Applicant thanks NKDC for their comments and AECOM for this confirmation.</p> <p>The Applicant notes this comment and has provided some further wording in the OLEMP Revision 6 at Deadline 5 which has been shared with NKDC and their advisors. In short this covers the potential shortfall in off-site locations as confirmed by an MOU with the landowner. This position is agreed with NKDC and their advisors.</p>
<p>BIO 2.2 - BNG Metric and minimum 65%</p>	<p>i) The Statutory Biodiversity Metric and its guidance does not diverge markedly from Biodiversity Metric 4.0. So, it is considered that there would be no substantive implications from continued use of Biodiversity Metric 4.0. Further, as this application is not subject to Statutory BNG regimes, there is no requirement for an update to the current metric. This position is consistent with the advice previously published by Natural England when issuing Metric 4.0. Nevertheless, whilst we accept that NSIPs are not yet mandated to demonstrate compliance with the statutory BNG requirements the Council does feel it appropriate for schemes such as this to provide opportunities to secure and enhance BNG.</p> <p>ii) AECOM confirm that Council's previous position on this matter remains applicable. Setting the benchmark at 65% BNG provides the applicant with</p>	<p>The Applicant notes these comments and has also considered both Statutory Biodiversity Metric and Metric 4.0. Following the updated version of the Statutory Biodiversity Metric in November 2023, the Applicant considers that this is the most relevant and up to date metric. The Applicant has engaged in further discussions with the RPAs to demonstrate that there are no material differences between Metric 4.0 and the Statutory Metric. Accordingly, the Applicant understands that this matter is agreed.</p>

Question	NKDC Response	Applicant Response
	<p>some flexibility for detailed design, although the applicant has expressed confidence in the ability to achieve the predicted level of BNG so this figure may still be too precautionary. However, there is a potential benefit to the applicant later from fixing a minimum threshold, as any excess units could potentially be sold later for use by another development. The Government has published guidance on excess on-site gains that may be helpful when formulating a response.</p> <p>iii) NKDC confirms that it is acceptable to fix the use of Metric 4.0 given this was current at the time of submission of the application. This position is consistent with the advice previously published by Natural England when issuing Metric 4.0.</p>	
<p>BIO 2.4 – OLEMP and off-site planting</p>	<p>iii) BBC is satisfied with the additional measures as set out in the outline LEMP paragraphs 5.5.11 – 5.5.13. The mechanism for this and for question SE 2.1 II need to be consistent as it includes the payment of money. The SOCG will have the same wording for these requirements and work on a S106 will be commenced.</p>	<p>The Applicant notes these comments.. The agreed Heads of Terms on the Section 106 have been included at Deadline 5 in the Applicant Response to Rule 17 Letter (document reference: ExA.AppResponseR17-D5.V1).</p>
<p>BIO 2.5 – woodland management plan</p>	<p>NKDC notes the applicant’s confirmation that a woodland management plan will be created for the Final LEMP and that the plan will broadly follow the Forestry Commission’s ‘small woodland plan’ template.</p> <p>AECOM confirm that they do not disagree with paragraph 5.5.2. It is advised that the main or otherwise substantive purpose of these habitats, along with the other habitats contributing to the committed BNG, is biodiversity enhancement. Therefore, this should be the primary consideration when developing the final LEMP, including the management that will deliver the relevant habitat features needed to achieve the target ‘condition’ set for these habitats.</p>	<p>The Applicant notes this comment, and has no further comment to make.</p>
<p>BIO 2.8 – veteran tree</p>	<p>NKDC are satisfied that draft R13 can cover and secure the need for survey work to be undertaken at G39 Veteran Tree.</p> <p>AECOM advise survey is not essential provided that a precautionary approach is taken i.e. assume the tree is veteran. No further action would be needed if the CEMP commits to use of micro-siting to achieve the minimum stand-off distance</p>	<p>The Applicant notes these comments, but has not proposed any further amendments to the Outline CEMP in regards to the veteran tree. As noted by AECOM a minimum stand-off could be achieved.</p> <p>Noting AECOM’s comment the Applicant can confirm that competent persons will undertake these surveys in line with good practice. The OCEMP has been</p>

Question	NKDC Response	Applicant Response
	<p>specified within the Standing Advice on veteran trees.</p> <p>R13 would be acceptable if the CEMP is more explicit on the competent persons required for these surveys, and also the good practice methods and timings that need to be applied (noting the prior comments on quail survey effort) – the survey timings will have specific relevance for the subsequent development of the construction programme. In relation to paragraph 7.35 (ditches) and 7.36 (soil testing) of the CEMP, it is suggested that these matters are specifically relevant to agreement of the final LEMP and therefore may need to be completed earlier than the other surveys detailed in the CEMP. These may be matters better carried over into an update of the OLEMP.</p>	<p>updated with the quail survey effort at Deadline 5 as Revision 6</p> <p>The Applicant acknowledges that some survey work will be completed earlier, and is planned for 2024.</p>
DCO 2.6 – deemed discharge	NKDC has confirmed to the applicant that they are satisfied with the revised proposals for a 10week discharge period with deemed discharge for all Requirements needing prior approval.	The Applicant notes this comment, and has no further comment to make.
DCO 2.7 – fees	<p>NKDC’s position is that a fee should be paid on a per Requirement basis rather than a single fee covering the discharge of multiple Requirements in a single application.</p> <p>NKDC agree that annual indexation of fees from 1 April 2025 (as set out in Regulation 18A) should be reflected within the draft DCO.</p> <p>NKDC do not agree to link the fee amount payable to that set out under the Fee Regulations. The amount proposed undervalues/underestimates the time and significance of the work undertaken to discharge DCO requirements and so needs to be increased to reflect the somewhat ‘abnormal’ nature of the resourcing needed and prioritisation of workloads to reflect the agreed discharge periods.</p>	The Applicant has agreed to a higher rate for condition discharge, of £2535 per application. The Applicant has agreed with the RPAs that no PPA will be available on top of this (in view of the higher fee rate) and, save for archaeology which may take place prior to condition discharge, no consultant costs accrued by the RPAs will be covered by the Applicant.
HE 2.1	10.5.17/10.5.18 – NKDC agree that the elements of setting referred to however the applicant has already stated that “long-ranging views in all directions” contribute to the significance of Kyme Tower. As such, paragraph 10.5.18 contradicts this point by stating that intervisibility is incidental. In the Council’s view no views can and should be classed as ‘incidental’ due to the nature of the asset.	The Applicant notes these comments and has nothing further to add to previous submissions made at Deadline 4, specifically in the Applicant’s Response to Deadline 3 Submission (REP4-046) and in the Applicant’s Response to the ExA’s Second Written Questions (REP4-047) which was supported with photomontages.



Question	NKDC Response	Applicant Response
	<p>10.5.19 – There is an acceptance that the solar park may be contained within the views. There is no explanation of the “distinctly modern character” which is referenced. The open agricultural character is one that has been established for hundreds of years and would not be significantly different from that which that which currently exists.</p> <p>NKDC’s position remains that the impact of the proposed solar park on the setting of Kyme Tower has been insufficiently tested. The applicant acknowledges that long-ranging views in all directions contribute to the significance of the tower, yet there is still an attempt to de-scope the heritage asset by referring to the views as incidental, therefore being contradictory. NKDC’s position remains that the impacts may be negligible and is anticipated to result in less than substantial harm at the lower end of the scale, however there is still a degree of impact in the NKDC’s opinion and that needs to be assessed accurately.</p>	
<p>LUS 2.2</p>	<p>With reference to the additions to the oOEMP, in order to keep the land in good agricultural and environmental condition (GAEC), there needs to be a baseline survey agreed so that it can be measured against this. GAEC is a term used by DEFRA for agricultural subsidy schemes and in the Council’s view this could form the basis of any assessment.</p> <p>With reference to paragraph 2.24 of the outline OEMP an allowance should be made for eventualities, but there should be a plan in place to deal with the reasonably known outcomes such as disease and change of grazier. If the land is left ungrazed for longer than 1 season the grassland quality will quickly deteriorate and a cutting or mowing regime should be in place to deal with this as a minimum. However, grazing should be the priority and cutting should not become the normal regime.</p> <p>NKDC and their advisor offer some modification to paragraphs 2.22 to 2.240</p>	<p>The Applicant notes these comments and responds accordingly:</p> <p>A variety of pre-commencement surveys are already proposed including soil health. GAEC is closely associated with cross compliance which ended last year, so a more appropriate reference would be to link to the BNG condition, as set out in the LEMP and the BNG assessment. The Applicant has made this amendment to the OOEMP (Revision 3) accordingly at Deadline 5.</p> <p>An amendment to 2 to 3 sheep (rather than 2/3) has been incorporated. Raising this to 4 to 8 sheep is not considered appropriate at this time. The commitment to a minimum number of sheep in line with NFU stocking densities already demonstrates this is not a token sheep grazing operation. This minimum number is based on the fenced area to provide a conservative approach. To include a larger number of sheep without assessing the condition of the vegetation is not considered appropriate at this time. The Applicant has confirmed as part of the Statement of Common Ground with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council that this amendment has not been made,</p>

Question	NKDC Response	Applicant Response
		<p>and this remains a point of disagreement between the Applicant and NKDC.</p> <p>The Applicant has amended the oOEMP in Revision 3 at Deadline 5 to confirm that after 12 continuous months of no grazing onsite the Applicant will notify the RPA and provide a plan of how agriculture will continue onsite. Other methods for maintaining the grass will be considered in the notification, such as cutting, mowing or other such suggestion the Applicant considers appropriate.</p>
<p>LUS 2.4 – BMV land</p>	<p>NKDC disagree with the applicant’s continued primary focus on permanent loss/sealing over of BMV land as opposed to the loss of agricultural opportunity over the lifetime of development. Whilst NKDC accept the applicant has removed some areas of Grade 1 and 2 land, they disagree this amounted to ‘prioritising the use of poorer quality land’.</p> <p>In relation to ‘site selection and predominating factors’ whilst we note that the solar park consists of as single site under a single landownership where the landowner is willing to diversify its holding into a renewable energy generation, and that this is ‘opening’ commentary, a ‘willingness or ability to develop’ does not override the application of agricultural land planning policy.</p> <p>NKDC note the pending adoption of EN-1, 3 and 5 and note that the proposal is now defined as CNP infrastructure and Section 4.2 of EN-1 applies a policy presumption that will now in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. However, noting the transitional provisions NKDC highlight that the 2011 version of the NPSs remain in force until they are replaced, in 2024, by the November 2023 versions.</p> <p>NKDC disagree with the applicant’s suggestion that varying (reduced) weight can be applied to Central Lincolnshire Local Plan (CLLP) policies S14 and S67 on the basis of the ‘scale’ of PA2008 NSIP solar proposals versus TCPA 1990 applications and that it is ‘easier’ to comply with BMV policy at local level.</p>	<p>The Applicant and NKDC note in the Statement of Common Ground with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (document reference 7.6a, revision 4) that agreement is not possible on this issue.</p> <p>The Applicant has prioritised the use of poorer quality land for the location of the on-site substation and energy storage compound on Grade 3b.</p> <p>The Applicant would further add the site has already been granted consent for a renewable energy project, and has other factors that weigh in its favour, such as a single contained landholding, with limited local receptors, all placed around the periphery of the site boundary. The project has received very few local objections and would therefore advocate that whilst land quality is an important consideration, the soil resource will remain after decommissioning, and agricultural activity will continue onsite during operation.</p> <p>The Applicant notes NKDC’s comment in regard to the Proposed Development as CNP Infrastructure. The Applicant notes the NPSs were adopted on 17 January 2024, shortly after Deadline 4.</p> <p>The weight to be placed on local policies should be seen in the context of the now adopted NPSs, particularly as noted by NKDC the site is considered a CNP.</p>

Question	NKDC Response	Applicant Response
	<p>The applicant’s statement sets out whilst local planning policies are important and relevant considerations they should be given ‘minimal’ weight in the context of smaller sites being more capable of addressing BMV ‘avoidance’ on the basis of scale. NKDC disagree with this; there is nothing in EN1 or EN3 which suggests that avoidance of impacts is any more or less straightforward purely through the need to ‘scale up’ the consideration of alternative sites or alternative site layout options.</p> <p>The CLLP policy on BMV land is consistent with the national approach in the EN-1 and 3 policy statements (both March and November 2023) and the December 2023 NPPF. The CLLP policy position is entirely consistent with the 2011 EN1, noting paragraph 5.10.8.</p> <p>As set out above, the revised NPPF also references the need to consider food production impacts, albeit in relation to plan making and site allocations. Nevertheless, the addition of this reference is a step up from the previous NPPF version which was silent on the matter of food production and therefore recognises the government’s move towards factoring this matter more explicitly into land use planning principles and the planning balance.</p> <p>NKDC welcome the site layout and DCO boundary revision however do not agree that this has ‘minimised’ the area of land being used through design intervention. NKDC have identified further revisions that could have taken a larger broadly cohesive area of BMV land out of the DCO boundary and further reduced the overall proportions of BMV to non-BMV land with the order limits. NKDC accept that ultimately it is at the applicant’s choice and discretion as to where to draw that boundary in the context of overall scheme energy output and viability.</p> <p>The applicant also references temporary use of the land by way of mitigation... NKDC accept this point, suffice to highlight that there is now an increasing presumption (through the December 2023 NPPF and the November 2023 EN1 and EN3 documents) that CNP schemes will be repowered beyond their initial temporary operational period.</p>	<p>Recent appeal decisions from Land west of Thaxted (reference APP/C1570/W/23/3319421) notes at paragraph 102 that 55ha of BMV will be taken out of production for 40 years. The Inspector concluded there was no compelling evidence that this would have a significant impact on food security, nor was it likely to increase imports from other countries. The Inspector goes onto note the Government Food Strategy published in 2022 states the UK is largely self sufficient in wheat.</p> <p>The Applicant notes these comments and has nothing further to add. NKDC’s amendment was given due regard, as noted in Chapter 3 - Site Description, Site Selection, Iterative Design Process (document reference PS-053), but was not progressed as to retain maximum renewable energy generation and a consolidated and unified layout across the site.</p> <p>The Applicant would note that the Outline Decommissioning and Restoration Plan secures the Proposed Development will be decommissioned after 40 years of operation. It is the intention the Energy Park upon decommissioning is likely to revert to its</p>

Question	NKDC Response	Applicant Response
	<p>In NKDC’s opinion the references contained in the November 2023 EN statements, allied with the NPPF references to renewable energy scheme repowering serve to blur the lines between the consideration of temporary and permanent effects and the mitigations that need to flow from such schemes. In the context of the reinstatement of agricultural land activities pre-development, it is clearly no longer the case that such land uses will automatically revert from year 40.</p> <p>The NPPF promotes the economic and other benefits more broadly of BMV land; including (as validated by the December 2023 version) the role in food production in the overall planning balance.</p> <p>In response to the Applicant’s assessment of CLLP policy S67, the overall ‘need’ is not disputed, mindful of the status conferred through EN1 and EN3, the policy needs to be read in its entirety and alongside the preface text, which when taken together highlight that proposals should protect the best and most versatile agricultural land so as to protect opportunities for food production and the continuance of the agricultural economy.</p> <p>In addition, Policy S14 cross references policy S67, and the need to comply with it, policy S67 taken in isolation is drafted to address the range of development proposals that can come forward under the TCPA 1990 including therefore residential and commercial proposals which do not directly benefit from the ‘presumption in favour’ (of renewable energy development) conferred by CLLP policy S14 or by the national policy documents referred to.</p> <p>Clearly, in the absence of this starting position for non-renewables projects</p>	<p>current use and be used by the landowner for agricultural operations of their choice and determined by the global markets at that time.</p> <p>As noted in the recent appeal decision for Little Cheveney Farm (reference APP/U2235/W/23/3321094) the Inspector notes at paragraph 51 that <i>“the proposal is for a time limited period (albeit of significant longevity) and that there is nothing to contradict the Appellant’s evidence that the land would benefit from a change in the nature of its use – essentially that a ‘rest’ from intensive arable production would enhance land quality. At the end of the life of the solar farm the operational land could be returned to other forms of use, including arable production if that was deemed appropriate. The temporary loss of BMV is therefore of limited weight.”</i> The Applicant agrees with this commentary and would highlight the cessation of application over the operational lifetime of the project of agri-chemicals and fertilisers would benefit wildlife, and watercourses which are impacted by chemical run-off. This is detailed further in Chapter 8 – Ecology and Ornithology (PS-063).</p> <p>As referenced in the Savills Report (APP-220) the energy park site predominantly grows feed wheat, which suffers a blackgrass infestation. Other crops are considered in the report, and explanations regarding drainage, storage, and economic viability of alternatives. Farming to the worst soil type, in this case predominantly grade 3b maximises efficiencies as small pockets of higher grade would not be possible to farm in isolation, for example the grade 1 in the north of the proposed development.</p>

Question	NKDC Response	Applicant Response
	<p>there is a greater imperative to have demonstrated that overall 'need' in the planning balance, set against any BMV land impacts and other applicable development plan policies. NKDC contends therefore part (a) of CLLP S67, whilst still clearly applicable to these proposals, will likely have more traction and materiality in assessing non-renewable energy development proposals.</p> <p>The applicant has referred to the January 2022 IEMA guidance 'A New Perspective on Land and Soil in Environmental Impact Assessment' in the context of discussing significance of impact, however CLLP paragraph 11.8.3 (allied to policy S67) defines a 'significant' loss of BMV either individually or cumulatively as being 1ha or more.</p> <p>The Pegasus Group section of the speaking notes list 10 'beneficial gains' which should be set against BMV impacts and that note states that 'to date the County Council has not concisely stated their position if these benefits outweigh the temporary loss of 3ha of BMV agricultural land'. Whilst this reference is directed more to LCC rather than NKDC nevertheless this is a planning balance which rests with the EXA and the Secretary of State. Whilst NKDC has through its LIR identified a range of positive benefits stemming from the proposals it has invited the decision taker to set these in the context of (in particular) the adverse BMV land impacts that we have identified.</p> <p>The element of the speaking notes attributable to Kernon Countryside Consultants Ltd summarises that local and national planning policy is focussed on the protection of agricultural land as a resource and the opportunities conferred; not its actual use for growing food. The statement notes that current use and intensity does not affect agricultural land grade and that there is no policy requiring land to be actively farmed; nor is there any 'food production' policy. The statement summarises that the 'significant' harm/effect identified by the Councils cannot therefore be based on (planning) policy.</p> <p>Whilst the statement is correct insofar as it identifies that there is no policy</p>	<p>The Applicant is in agreement with NKDC's comments on Policy S67. The Applicant has demonstrated the strongly established need for the development (see Statement of Need and Planning Statement, REP2-060) and it is considered that policy S67 is a positively worded policy which does not preclude the development of BMV land.</p>

Question	NKDC Response	Applicant Response
	<p>position requiring BMV land to be actively farmed and used for growing food, nevertheless there is a consistency of reference from national to local planning policy which highlights the importance of protecting the best and most versatile agricultural land so as to safeguard opportunities for food production and the continuance of the agricultural economy.</p> <p>The December 2023 NPPF (paragraph 124 (b)) notes that undeveloped land, per se, performs a number of roles including for wildlife, recreation, flood risk mitigation, cooling/shading and carbon storage, the paragraph also refers to its use for food production, as does footnote 62 allied to paragraph 181 – which states that <i>‘the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development’</i>.</p> <p>The ‘Powering Up Britain...’ plan confirms that <i>‘meeting energy security and climate change goals is urgent and of critical importance to the country’</i>, and that <i>‘these goals can be achieved together with maintaining food security for the UK’</i>.</p> <p>Noting then that there is no policy position requiring best and most versatile agricultural land to be used for food production, it seems slightly counterintuitive to suggest that in the context of the statements, policy and guidance contained in EN3, the NPPF, the CLLP and ‘Powering Up Britain...’ the envisaged use of such land for food production is not the primary intention and that wildlife, recreation, flood risk mitigation, cooling/shading and carbon storage uses are to be considered secondary/ancillary.</p>	
SE 2.1 - SCES	<p>NKDC’s understanding is that the proposed funding of £50,000 per annum across the lifetime of the development was calculated based on the precedent example of the Longfield DCO.</p> <p>In relation to question 2 the Council has previously highlighted that there is currently no s106 Agreement before the parties nor is there any specific provision in the Revision 5 draft DCO. It is unclear whether the applicant intends to</p>	<p>The Applicant’s preference would be to manage the funds ‘in-house’, however a working group has now been agreed with the RPAs, as reflected in the agreed form Heads of Terms submitted at Deadline 5 in the appendix to the Applicant Response to Rule 17 (document reference: ExA.AppResponseR17-D5.V1).</p> <p>The Outline Supply Chain Employment and Skills Plan (OSCESP) was updated</p>

Question	NKDC Response	Applicant Response
	<p>ultimately release these funds to the RPA/s or retain and manage the overall fund 'in house'.</p> <p>We are aware that the other RPAs agree with this view and that the applicant has now indicated their intention to pursue a S106 and that all three RPAs would be subject of that agreement given that three RPA parties have an interest with regard to how the funding is spent. As a minimum, the Council hopes to be able to agree Heads of Terms and submit these to the ExA before the end of the Examination and work towards a signed/completed S106 with before the ExAs recommendation report is submitted to the SofS.</p> <p>For the avoidance of doubt we recommend that that section 3 of the oSCES is amended to confirm that a s106 Agreement will be the mechanism by which the fund will be secured.</p>	<p>at Deadline 4 to acknowledge that a section 106 agreement would be the appropriate mechanism to deliver the financial payment.</p> <p>The Applicant understands that this matter is now agreed and the mitigation is adequately secured through the OSCESP and Requirement 16 of the DCO, with the s106 agreement to be in place prior to commencement of the DCO.</p>
REP4-057	Agricultural Good Practice Guidance for Solar Farms	The Applicant notes this submission but has no comments to make on it.
REP4-058	Essex County Council – New large solar energy development set for Essex	The Applicant notes this submission but has no comments to make on it.

**Table 4 – NKDC Comments on submissions for Deadline 3 (REP4-059)**

Document	NKDC Comment	Applicant Response
Outline Decommissioning and Restoration Plan	NKDC raises no specific comments on the ODRP at this stage however refers to the provisions of draft Requirement R18 below.	The Applicant notes this submission but has no comments to make on it.
Draft DCO Revision 5 - Requirements	<u>R3 (Phasing)</u> – the revision does not address the comments submitted at deadline 3 'Action Points'. We understand the need for some flexibility to be able to depart from a masterplan in response to matters such as unforeseen supplier issues or local constraints however we still consider it important that broad geographical principles of phasing should be submitted to and should be approved by the RPAs.	The Applicant maintains that the effects have been assessed and therefore it is not appropriate for a further approval by the RPAs in relation to phasing. The Applicant welcomes NKDC's agreement to this, as evidenced in the statement of common ground submitted at Deadline 5.
Draft DCO Revision 5 – Requirements  R6 (Detailed design) and R12 (Archaeology)	R6 now addresses concerns raised by the NKDC advisors; and R12 addressed through the amendment to Requirement 6 (detailed design submission).	The Applicant notes these comments.
Draft DCO Revision 5 – Requirements  R8 (LEMP)	NKDC notes the BNG percentage has increased from 60% to 65 and support the fixing of Metric 4.0. However, the replacement planting period is still at 5 years not 7; as specified in the NKDC Tree Strategy. As set out in out deadline 3 comments the increase to 65% is still	The update to the OLEMP in relation to planting from 5 to 7 years is agreed, and updated in Revision 5 of the OLEMP submitted at Deadline 4 (REP4-039).

Document	NKDC Comment	Applicant Response
	<p>a significant shortfall from the “over 100% in habitat units” claimed as recently as Deadline 2 (DL2) within the Applicant’s response to the LIRs [REP2-078].</p> <p>This is notwithstanding that, in summary, the baseline reports (e.g. the phase 1 habitat survey reports) do not provide detailed accounts of the baseline condition of each relevant habitat (e.g. composition of each of the woodlands and hedgerows included within the calculations) nor the relevant underpinning evidence.</p>	<p>The Applicant updated the BNG Report (REP4-029) and Metric at Deadline 4 (REP4-028) in response to the queries raised. This included more info on woodland and hedgerow condition.</p>
<p>Draft DCO Revision 5 – Requirements R10 (Fencing)</p>	<p>As set out at deadline 3, any details must align with recommendations contained in the LEMP regarding deer fencing/exclusion.</p>	<p>The Applicant confirms that deer will be excluded from the solar panel areas.</p>
<p>Draft DCO Revision 5 – Requirements R16 (Supply chain, employment and skills)</p>	<p>For the avoidance of doubt NKDC recommend that section 3 of the oSCES is amended to confirm that a s106 Agreement will be the mechanism by which the fund will be secured.</p>	<p>The Applicant notes NKDC’s comments and the Heads of Terms for the Section 106 have been confirmed with NKDC and are appended to the Applicant’s Response to Rule 17 Letter (document reference ExA.AppResponseR17-D5.V1) submitted at Deadline 5.</p>
<p>Draft DCO Revision 5 – Requirements R18 (Decommissioning) / R19 (Operational Environmental Management Plan)</p>	<p>NKDC has had post-hearing discussions with the applicant however Revision 5 still makes no reference to decommissioning in event of early cessation of energy export. As drafted in the Outline OEMP, section 6.1, the wording is still based around the Applicant notifying the LPAs of the periods of extended outage and the measures being put into place to rectify the issue along with an expected timeframe for when generation is predicted to recommence. There is no ‘back stop’ clause which would then trigger decommissioning of that part or parts of development as set out in the Mallard Pass OEMP section 2.4 to 2.5 and as we set out at the recent ISHs.</p>	<p>The Applicant has included reference to a period of extended non-generation in Revision 3 of the OOEMP submitted at Deadline 5. This has been agreed with the RPAs and is reflected in the SOCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (document reference 7.6a, revision 4). This is not replicated in the ODRP to avoid duplication, as the OOEMP would trigger the ODRP.</p>
<p>Draft DCO Revision 5 – Requirements R19 (Operational Environmental Management Plan)</p>	<p>Some revisions required to the detailed OEMP. Please refer to the response to ExQ2 question LUS 2.2 for more information.</p>	<p>The Applicant has considered these comments in Table 3 of this document, under Question LUS 2.2.</p>
<p>Draft DCO Revision 5 – Requirements R21 (Community orchard)</p>	<p>The Requirement needs to carry over the 7-year replacement plantings wording, rather than 5 years, consistent with R8.</p>	<p>The Applicant has made this amendment to the Draft DCO (Revision 6) as submitted at Deadline 4 (REP4-016).</p>
<p><b>DCO Schedule 14</b></p>	<p>The 10-week discharge period with deemed discharge for all Requirements needing prior approval is agreed, along with the timings relating to consultation/notification (10 and 20</p>	<p>The Applicant notes NKDC’s comments. The Applicant thanks NKDC for their confirmation on this point.</p>



Document	NKDC Comment	Applicant Response
	working day periods). On that basis these matters are also resolved.	
<b>DCO Schedule 14 (5) - Fees</b>	The Council still does not support the current proposition in Revision 5 that discharge of Requirement fees are capped at the equivalent rate of the discharge of conditions equivalent for TCPA 1990 applications; even with proposed indexation.	The Applicant has agreed to a staggered rate for condition discharge, with the maximum fee of £2535 per application (for key conditions). The Applicant has agreed with the RPAs that no PPA will be available on top of this (in view of the higher fee rate) and, save for archaeology which may take place prior to condition discharge, no consultant costs accrued by the RPAs will be covered by the Applicant.
Outline Supply Chain, Employment and Skills Plan	<p>NKDC welcome that a fund to facilitate training and apprenticeships to a value of £50,000 per annum (index linked) will be provided for the operational lifetime of the Proposed Development... For the avoidance of doubt we recommend that that section 3 of the oSCES is amended to confirm that a s106 Agreement will be the mechanism by which the fund will be secured.</p> <p>NKDC advise that Table 1 could be expanded to reference private sector organisations such as the Federation of Small Businesses, the Chamber of Commerce and the NFU. Section 3 'Recruitment and Training Opportunities' could further reference early engagement with schools, colleges and universities.</p>	<p>Section 3 includes reference to Section 106 Agreement so no further amendments have been included.</p> <p>The Applicant notes the additions; and has added them to Table 1 and Section 3 of the Outline Supply Chain, Employment and Skills Plan submitted at Deadline 5 (document reference 7.12, revision 4).</p>

**Table 5 – Environment Agency (EA) Responses to ExA’s second written questions (REP4-060)**

Theme	Environment Agency Comment	Applicant Response
Land agreement	Unable to confirm if this matter will be completed by D5.	The Applicant and their representative will continue to liaise with the Environment Agency and their solicitors to ensure this agreement progresses.

**Table 6 – Historic England Responses to ExA’s second written questions (REP4-061)**

Question	Historic England Comment	Applicant Response
HE 2.1	<p>i) Refers to answers below:</p> <p>ii) The elements of setting drawn out in 10.5.17 appear to be the main ones of relevance in respect of the present development proposal however as discussed below long range views can still contribute to the significance of the asset albeit to a lesser degree and deserve consideration in the case of an asset of this importance. It will be for the ExA to consider if the applicant has provided them with sufficient information (including any additional visualisations)</p>	The Applicant provided additional photomontages as an appendix to the Applicant Response to the Examining Authority’s Second Written Questions at Deadline 4 (REP4-047) and confirms the Applicant’s assessment position remains unchanged in relation to South Kyme Tower.

Question	Historic England Comment	Applicant Response
	<p>to test the extent to which the introduction of solar arrays and associated infrastructure into views from south of the Heckington Eau, within and across the proposed solar development impact upon significance.</p> <p>iii) Historic England refers back to its concluding paragraph in response to ExA HE 1.2 [REP2-091].</p>	

**Table 7 – National Grid Electricity Transmission and National Gas Transmission Responses to ExA’s second written questions (REP4-062)**

Question	National Grid Electricity Transmission and National Gas Transmission Comment	Applicant Response
DCO 2.1	<p>The Protective Provisions within Schedule 13 are agreed between the parties. The terms of the commercial agreement between the parties are substantially agreed and there are no substantive outstanding issues to report to the ExA. The final drafting of the document is anticipated to be agreed shortly after Deadline 4 and documentation entered into and completed before Deadline 6.</p>	<p>The Applicant agrees with this statement from the National Grid entities.</p>

**Table 8 – National Grid Viking Link Limited Responses to ExA’s second written questions (REP4-063)**

Theme	National Grid Viking Link Limited Comment	Applicant Response
Viking Link	<p>NGVL can confirm that bespoke Protective Provisions will be included at Schedule 13 to the draft DCO. Negotiations in this regard (and the associated Side Agreement) are ongoing between parties. The finalised Protective Provisions will be submitted to the ExA by the Promoter once an agreement has been reached.</p>	<p>The Applicant agrees with this statement from Viking Link.</p>

**Table 9 – Network Rail Responses to ExA’s second written questions (REP4-064)**

Question	Network Rail Comment	Applicant Response
DCO2.4	<p>The Protective Provisions in Schedule 13, part 8 cannot be removed unless an agreement is reached; therefore, the Protective Provisions are not agreed. There are ongoing discussions regarding the Compulsory Acquisition point, but an agreement has not been reached as of this Deadline 4. The Parties are actively engaging in negotiations and are hopeful that an agreement will be reached by Deadline 6. We acknowledge the Applicants response in table 8 of the "APPLICANTS RESPONSE TO DEADLINE 2 SUBMISSIONS" in respect of the inclusion of paragraph 85 of the Protective</p>	<p>An agreement has been reached in principle with Network Rail on the commercial terms. The Applicant is, however, unable to include a restriction on its CA powers unless and until the commercial and land agreement is entered into. The Applicant explains this position further in the SoCG with Network Rail and within the Schedule of Negotiations at Deadline 5.</p>

Question	Network Rail Comment	Applicant Response
	Provisions, and we will provide a substantive response to this at Deadline 5.	

**Table 10 – Forestry Commission Responses to ExA’s second written questions (REP4-065)**

Question	Forestry Commission Comment	Applicant Response
Question BIO2.5	The Forestry Commission note that the LEMP will now include a woodland management plan for both the community orchard and replacement woodland, are satisfied and have no further comment to make.	The Applicant notes this comment and welcomes the confirmation from the Forestry Commission.

**Table 11 – Schroders Greencoat Responses to ExA’s second written questions (REP4-066)**

Question	Schroders Greencoat Comment	Applicant Response
CA2.5	Schroders Greencoat LLP (“SG”) lodged a relevant representation on 20 April 2023 in relation to the potential impact of the proposed Heckington Fen development on the existing windfarm at Bicker Fen which is owned in majority by SG. SG has been in discussions with the applicant regarding the negotiation of an asset protection agreement to ensure that the assets of the Bicker Fen wind farm are adequately protected during the construction and operation of the proposed development. Discussions have been productive and the parties are close to a concluded agreement, although, at time of writing, the agreement has not been finalised. SG are optimistic that the asset protection agreement will be finalised shortly. However, in the unlikely event that this is not the case then SG requires to reserve the right to make submissions in relation to any remaining matters at Deadline 5.	The Applicant notes this comment and confirms the asset protection agreement has now been reached and the Applicant expects that SG will be able to confirm the same to the Examiner at or before Deadline 6.

**Table 12 – Additional submission (AS-036)**

Topic	Interested Party’s Comment	Applicant Response
Solar heat island effect	Research published in Nature has shown that solar farms in desert regions can cause a 4-5 degrees Celsius increase in local air temperatures. This effect, termed the "solar farm heat island effect," is a critical environmental consideration. Moreover, it's plausible to believe that this heating effect could be more pronounced in areas where solar panels replace vegetation, which naturally cools the environment through processes like evapotranspiration.	The Applicant notes this research and has reviewed the Nature article with interest. The baseline of the land use and the climatic conditions of the Proposed Development differ greatly from the desert sites assessed in the research within the Nature article. The Proposed Development is located within Lincolnshire and is currently used for arable agriculture. Once operational the Proposed Development will still be used for agriculture and will continue to have

Topic	Interested Party's Comment	Applicant Response
		<p>vegetation across the majority of the Energy Park. It is also being proposed that considerable extents of additional planting will be present on the Energy Park site because of the Proposed Development. The desert environment baseline as seen in the Nature article will be more arid and have greater reflective qualities than the fenland landscape of the Proposed Development. The differences between the sites studied in the Nature article and the Proposed Development are clear to see and therefore any assumption that similar effects will occur at both should be approached with extreme caution. It is the Applicant's view that the weight that can therefore be afforded to such study is considered extremely limited at best.</p>
<p>Extent of Atmospheric Heating</p>	<p>What are the projected increases in local air temperatures due to the proposed solar farm, especially considering the replacement of vegetative land cover? Detailed climatic impact assessments should be conducted to understand the extent of this heating effect.</p>	<p>An air quality assessment and climate change assessment is considered in the application documentation (PS-076/ PS-071). The land beneath the panels will not be bare of vegetation as suggested in the Interested Party's comments. The areas around and under the panels will be set to grass and productive in growth in order to enable agricultural rotation grazing on the land. As well as the grassland on most of the Energy Park site there will be the addition of further hedgerows and trees across the Proposed Development. The reflective land qualities of bare earth within a desert environment as assessed in the submitted Nature article are therefore not comparable to grassland within Lincolnshire. No further climatic impact assessments are considered necessary.</p>
<p>Impact on Local Residents</p>	<p>How will this increase in temperature affect the local residents and ecosystem? It is vital to evaluate the potential health and environmental implications of higher local temperatures, especially during the summer months.</p>	<p>The nearest residential properties are over 200m from the proposed development. The impacts on them have been considered throughout the Environmental Impact Assessment. Temperature (humidity, rainfall etc) are being exacerbated by the impact of the climate crisis, which renewable energy schemes such as this one are seeking to address. As stated above, the operational ground cover of the Site will be grassland not bare desert and therefore the 'solar farm heat island effect' as named within the Nature article will not occur, hence there will be no effect on Local Residents. The Scoping Opinion for</p>

Topic	Interested Party's Comment	Applicant Response
		<p>the Proposed Development issued by the Planning Inspectorate confirmed that it is unlikely that significant climate change effects on socio-economics and human health would arise as a result of the Proposed Development and this matter can be scoped out of the assessment at this stage. Accordingly, assessment in respect of interrelation between climate change effects and socio-economics was scoped out of the ES.</p>
<p>Balance of CO2 Reductions vs. Heating Effect</p>	<p>Does the expected reduction in CO2 emissions from the solar farm justify the potential increase in local air temperatures? It is essential to weigh the benefits of CO2 reduction against the possible adverse effects of atmospheric heating.</p>	<p>The local air temperature assumptions in the Nature article relate to a study within a desert climate and not comparable to this scheme.</p>
<p>Conclusion</p>	<p>While the transition to renewable energy is a critical component of our environmental strategy, it should not be pursued without a thorough understanding of the potential negative impacts. The proposed solar farm development warrants a comprehensive evaluation to ensure that its environmental benefits do not come at the expense of local ecosystems and communities.</p>	<p>The Applicant notes this comment and would reiterate the extensive survey and reporting undertaken to submit the application documentation and the consideration of that documentation by statutory consultees. Very few residual impacts remain following mitigation and on balance the Applicant considers that permission should be granted for the Proposed Development.</p>