

# Heckington Fen Solar Park

EN010123

## The Applicant's Closing Submissions

Applicant: Ecotricity (Heck Fen Solar) Limited

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## THE APPLICANT'S CLOSING SUBMISSIONS

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Table of Contents:

**THE APPLICANT'S CLOSING SUBMISSIONS** .....1

Table of Contents: .....2

1 Introduction .....3

2 National Policy Statements for Energy Infrastructure .....4

3 Need For and Benefits of the Scheme.....5

4 Final Position on Key Issues.....7

5 Final Draft Development Consent Order..... 13

6 Final Position with the Relevant Planning Authorities and Statements of Common  
Ground ..... 13

7 Statutory Undertaker Updates..... 15

8 Other Land Interests..... 17

9 Conclusions..... 18

10 Appendix 1 – Applicant’s Response to GEN 2.3 ..... 19

11 Appendix 2 – Section 127 and Section 138 Statement ..... 27

    Table 1: Section 127 PA 2008 Tests ..... 29

    Table 2: Preferred Drafting for Protective Provisions (Schedule 13 of the DCO) ... 47

12 Appendix 3 – Summary of Key Residual Effects and Mitigation Assessment..... 51

    Table 3: Summary of Key Residual Effects and Mitigation Assessment ..... 51

# 1 INTRODUCTION

## Purpose of this document

- 1.1 These Closing Submissions have been produced by Ecotricity (Heck Fen Solar) Limited (the "**Applicant**") to summarise its submissions and clarify the Applicant's position on any matters that remain outstanding from the Examination of the proposed Development Consent Order ("**DCO**") for the Heckington Fen Solar Park (the "**Proposed Development**").
- 1.2 These Closing Submissions summarise and reiterate principal submissions made by the Applicant in its application for the DCO for the Proposed Development (the "**DCO Application**") and throughout the Examination.
- 1.3 The Closing Submissions include a background to the Proposed Development, an evaluation of the Proposed Development's compliance with the designated suite of National Policy Statements, the need for and benefits of the Proposed Development, the final position on key issues, an update on the Applicant's negotiations with relevant statutory undertakers (including the Applicant's case pursuant to s127 and s138 of the Planning Act 2008 ("**PA 2008**") and finally the Applicant's position on engagement with the Crown where an agreement with the Crown has not been finalised.
- 1.4 The Applicant has also included within this document information that responds to the Examining Authority's Second Written Questions and request for information (**ExQ2**) where those questions requested submission at Deadline 6 (**D6**) including in response to question GEN 2.3 (at **Appendix 1** of this document), with updates on the position in response to question CA 2.5-2.8 (at Section 7 and 8 below). The Statutory Undertaker Update (Section 7) covers questions addressed to others (DCO 2.1; DCO 2.2 and DCO 2.3).

## The Proposed Development

- 1.5 The Proposed Development consists of ground mounted solar panels, an energy storage facility, below ground grid connection to, and extension at, the National Grid Bicker Fen Substation ("**Bicker Fen Substation**") and all associated infrastructure works. The Proposed Development is being promoted by the Applicant.
- 1.6 The Proposed Development constitutes a Nationally Significant Infrastructure Project ("**NSIP**") as an onshore generating station in England with a capacity of over 50MW, and therefore requires an application for a DCO to be submitted to the Planning Inspectorate for determination by the Secretary of State. The DCO Application was submitted on 15 February 2023 and the Examination stage opened on 19 September 2023.
- 1.7 The Applicant submitted a change request application to the Examining Authority on 25 August 2023 to reflect the additional works required to connect the Applicant's project including an increased footprint to the Bicker Fen Substation extension to the south of the existing Bicker Fen Substation and a new cable sealing end and compound on the land to west of the existing Bicker Fen Substation (the "**Change Request**").
- 1.8 The need for the proposed changes to the Proposed Development arose from further engagement with National Grid Electricity Transmission ("**NGET**") where it became apparent that such additional works were required to connect the

Applicant's project. The Examining Authority published its decision to accept the Change Request as part of the Rule 8 letter dated 26 September 2023.

**Continued Engagement**

- 1.9 The Applicant has undertaken extensive and positive engagement with stakeholders – particularly the relevant planning authorities - and has made significant progress in reaching agreement and/or narrowing areas of disagreement as far as possible. The Applicant explains this further within the Final Position on Key Issues section below.
- 1.10 The Applicant is committed to ongoing engagement with all stakeholders, including the relevant planning authorities, relevant statutory bodies, statutory undertakers and the general public. The Applicant recognises the importance of continuing to progress matters post-Examination including agreeing land rights with affected landowners for the grid connection and any outstanding protective provisions and, where relevant, will provide an update to the Planning Inspectorate and/or the Secretary of State.

**2 NATIONAL POLICY STATEMENTS FOR ENERGY INFRASTRUCTURE**

- 2.1 The Applicant proposes that two suites of energy National Policy Statements ("**NPSs**") are relevant to this application. First, the 2011 suite of NPSs (the "**2011 Suite**") and second, the newly designated January 2024 suite (the "**2024 Suite**") of NPSs that were laid before Parliament in November 2023 and which came into force on 17 January 2024.
- 2.2 Summaries of the 2011 Suite and March 2023 draft revised suite of NPSs are set out in Section 4 of the Statement of Need and Planning Statement (**REP2-060**) and within Sections 2 – 4 of the Addendum (**REP2-062**).
- 2.3 A detailed response on the potential effect of the changes set out in the 2024 Suite was provided in the Applicant's response to GEN 2.2 of the Examining Authority's Second Written Questions (**REP4-047**). In summary, the Applicant noted the following key points:
  - 2.3.1 The 2024 Suite confirms at 1.2.4 that the NPS are primary policy for the Secretary of State in decision making – this clarifies that the NPS are an important and relevant consideration, and that significant weight should be afforded to them.
  - 2.3.2 The amendments to the NPS (outlined in the 2024 Suite) reflect recent Government statements which underline the strong and urgent need for additional renewable energy generation. The 2024 Suite reconfirms the commitment to net zero and reduction in greenhouse gas as well as confirming the urgent need for new electricity NSIPs to be brought forward.
  - 2.3.3 The inclusion of low carbon infrastructure as Critical National Priority ("**CNP**"), meaning that the urgent need for CNP infrastructure will outweigh other residual impacts in all but exceptional cases, and that CNP infrastructure should be progressed as quickly as possible.
  - 2.3.4 In introducing solar to the CNP infrastructure, the Government has shown recognition of the urgent need for solar NSIPs and provides a clear tilted balance in favour of consenting the Scheme, provided other policy tests are met.

- 2.4 Paragraph 1.6.2 of the updated NPS EN-1 confirms that the Secretary of State has decided that for any application accepted for examination before the designation of the 2024 Suite, the 2011 Suite of NPS' shall have effect – this includes the Proposed Development. However, the weight afforded to the 2024 Suite is substantial because they provide guidance on decision making on solar NSIPs, something no other document has written to do. They also present the most up to date Government policy and guidance, so are highly relevant to the Application; accordingly, whilst the 2011 Suite must be followed the 2024 Suite is an important and relevant consideration which should be given significant weight in the planning balance.
- 2.5 The Statement of Need and Planning Statement (**REP2-060**) and the Statement of Need and Planning Statement Addendum (**REP2-062**) demonstrate that the Application accords with NPS policy. Changes to the NPS arising from the 2024 Suite do not introduce additional policy requirements that would alter this conclusion.
- 2.6 In the context of the definition of CNP infrastructure (meaning the urgent need outweighs other residual impacts), the Key Issues section below confirms that the only significant residual adverse effect(s) of the Proposed Development is related to landscape and visual effects during the construction phase only noting that these are highly localised. The identified significant adverse effects during the operational phase are mitigated down to "not significant" from year 5 when the hedgerow planting and screening has matured. The Applicant has prepared a Summary Table of Key Residual Effects and Mitigation at **Appendix 3** of this document, together with a detailed response to ExQ2 written question GEN 2.3 at **Appendix 1** of this document.
- 2.7 Given the significant benefits of the Proposed Development and the urgent need (as outlined in Section 3 below), the Applicant considers that the residual adverse effects are outweighed by the Proposed Development's benefits.

### **3 NEED FOR AND BENEFITS OF THE SCHEME**

#### **Need**

- 3.1 In the Statement of Need and Planning Statement Addendum (**REP2-062**) and in Issue Specific Hearing 2 ("**ISH 2**"), the Applicant set out a detailed case on the need for the Proposed Development. In brief, the Applicant noted in ISH 2 that there is an urgent and overwhelming need to deliver the Proposed Development to contribute to the generation and supply of renewable energy. Since ISH 2, the recent inclusion of solar schemes as CNP in the 2024 Suite of NPS's has served to heighten the need and urgency for the Proposed Development.
- 3.2 The Applicant noted in ISH 2 that whilst the government has a legally binding target to reach net zero carbon emissions by 2050, reaching 70GW of solar generation by 2035 is a stretching target and delay is a significant risk. This risk and therefore the need for the Proposed Development's 400MW of export capacity is exacerbated by the delay to some offshore wind schemes (including that consented under the Norfolk Boreas Offshore Wind Farm Order 2021) and doubt over delivery of new nuclear.
- 3.3 As noted above, the 2011 Suite of NPS's (which omits solar generation) would still apply, meaning that the Secretary of State must have regard to matters in relation to development of the description of the application, and other matters that they consider important and relevant as per section 105 of the PA 2008.

- 3.4 As set out above, the 2024 Suite of NPS's are important and relevant considerations, as such the Applicant asserts they should be given significant weight.
- 3.4.1 Paragraph 3.3.58 of the 2024 NPS EN-1 notes the urgent need for new electricity infrastructure and the requirement for low carbon electricity NSIPs to be brought forward as soon as possible. Further, paragraph 4.1.3 provides that the Secretary of State will start with a presumption in favour of granting consent to energy NSIPs.
  - 3.4.2 Paragraph 3.3.62 of the 2024 NPS EN-1 notes the "*critical national priority (CNP) for the provision of low carbon infrastructure*" including all onshore and offshore renewable generation (paragraph 4.2.5), meaning that this Proposed Development would constitute CNP infrastructure if the 2024 Suite is to be followed. The 2024 NPS EN-1 also sets out that the delivery of CNP infrastructure is strongly supported by the Government, and this "*should be progressed as quickly as possible*".
  - 3.4.3 Paragraph 4.1.7 of the 2024 NPS EN-1 provides that the need case for CNP infrastructure schemes is likely to outweigh the residual effects of the scheme in all but exceptional circumstances. The Applicant asserts that this would be the case for this Proposed Development.
  - 3.4.4 Paragraph 3.3.65 of the 2024 NPS EN-1 also establishes the urgent need for new electricity network infrastructure to be brought forward at pace to meet energy objectives. The new electricity network infrastructure – which is relevant in the context of the Applicant's offsite cable corridor and the National Grid extension works - also constitutes CNP infrastructure (paragraph 4.2.5).
  - 3.4.5 Paragraph 2.10.9 of the 2024 NPS EN-3 provides that the government is committed to sustained growth in solar capacity to enable meeting net zero emissions by 2050 and that solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector.
- 3.5 At ISH 2 and in the Written Summary of the Applicant's Oral Case at ISH 2 (**REP1-020**), the Applicant set out the benefits expected to arise from the Proposed Development. In summary, these included:
- 3.5.1 A timely and significant contribution to renewable energy generation resulting from a viable grid connection and willing landowner and developer;
  - 3.5.2 Assisting the government aims of decarbonisation, security of supply and affordability;
  - 3.5.3 Biodiversity Net Gain including enhancements of habitats, the creation of species rich grasslands, significant lengths of new and enhanced hedgerows and a community orchard. There will also be enhancements of 0.4ha of woodland of native species in the Energy Park. A permissive path will also be provided;
  - 3.5.4 Economic benefits relating to the construction phase of the Proposed Development include the creation of temporary jobs and opportunities for local businesses through the supply chain. During this phase, the Proposed Development could support 1,016 direct/indirect jobs, and an overall GVA impact associated with this phase is estimated at £182.9 million, together with a skills and supply chain plan including £50,000 per annum to the local area for individuals in the renewable energy (etc.)

sector which may include the provision of training and apprenticeships and/or education payments;

- 3.5.5 Up to 436 construction workers are anticipated to be on site during peak times, those from outside the local area will be accommodated in hotels and non-serviced accommodation;
- 3.5.6 The Proposed Development could then generate up to £1.3 million per annum in business rates, generating a total of up to £29.3 million over the 40 year lifespan of the Proposed Development; and
- 3.5.7 The Proposed Development's decommissioning phase will also create temporary jobs with 200 workers on site during peak times – also bringing an accommodation demand. The overall GVA associated with this phase is estimated at £52.5 million over the decommissioning phase.

## **4 FINAL POSITION ON KEY ISSUES**

### **Agricultural Land Use**

- 4.1 Some Relevant Planning Authorities have contended that the temporary loss of BMV is significant in various submissions (including their Local Impact Reports – **REP1-028** (LCC) and **REP1-033** (NKDC) and Written Representations **REP2-104** (LCC) and **REP2-109**, Section 3 (NKDC)) and that the Applicant has not justified the use of BMV land. The Applicant notes that:
  - there is no prohibition in policy (NPS and Local Planning Policy) on the use of BMV Land for solar farm development and the scheme accords with relevant policy;
  - there is no loss of soil resource; and
  - substantial justification has been given for the use of BMV land within the Proposed Development.
- 4.2 The Applicant set out the key considerations in relation to BMV Agricultural Land matters in Appendix 3 of the Applicant's written summary of its oral submissions to Issue Specific Hearing (ISH) 3 (ExA.WSISH3-D3.V1), in which no substantive response was provided by Interested Parties.
- 4.3 The Applicant has considered the concerns stated primarily by North Kesteven District Council (NKDC) and Lincolnshire County Council (LCC) in their LIRs (**REP1-028** (LCC) and **REP1-033** (NKDC)) and also in responses to ExA Questions (**REP2-092** and **REP2-101**) and further Written Representations made at Deadline 2 (**REP2-104** and **REP2-109**). The Applicant's statements at Deadline 3 respond to these points.
- 4.4 The Applicant considers that in justifying the use of BMV land significant weight should be given to the sites' selection, including that:
  - The Energy Park consists of as single well-contained site under a single landownership where the landowner is willing to diversify its holding into renewable energy generation.
  - The Energy Park has an accepted grid connection with National Grid for supply of 400MW of generation.
  - The site has very minimal opposition, some of which relates to the use of BMV, and that without the BMV issue the site is generally uncontentious.
  - The site is predominantly Grade 3b.



- Through design mitigation only 3ha of BMV land will be unavailable for ongoing agriculture during the operational phase of the Proposed Development.
- 4.5 In this context, it is also worth noting the current practical issues of farming on the BMV land at the Energy Park Site. Due to the scattered nature of the BMV land with field boundaries defined by sizeable ditches and not demarcated by fence line the land is being farmed as a single block based on the lowest ALC grading and not the highest within each field (**REP2-028** and **APP-220**).
- 4.6 The Applicant considers that the primary policy considerations are those in the recently designated Energy National Policy Statements (EN-1 and EN-3). These policies should be given significant weight. The NPPF is an important and relevant policy consideration which should be given some weight.
- 4.7 The Applicant notes in particular that NPS EN-1 confirms that the *“Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure”* and that *“the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy.”* It is also confirmed that the *“Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible”* (EN-1 paragraphs 3.3.62 & 3.3.63).
- 4.8 It is confirmed in Section 4.2 of the designated EN-1 that CNP applies to *“all onshore and offshore generation that does not involve fossil fuel combustion”* and *“all power lines in scope of EN-5 including network reinforcement and upgrade works, and associated infrastructure such as substations”* (EN-1 para 4.2.5).
- 4.9 Consequently, the Applicant concludes that the scope of the application at Heckington Fen would fall within the definition of CNP.
- 4.10 The Applicant has set out consideration of the wider matters relating to the CNP policy in the answer provided to the Examining Authority’s SWQ GEN 2.3 (see **Appendix 1**).
- 4.11 Figure 2 of EN-1 confirms that *“Where residual non-HRA impacts remain after the mitigation hierarchy has been applied, these impacts are unlikely to outweigh the urgent need for this type of infrastructure. Therefore, in all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of these residual impacts.”*
- 4.12 The exceptions to the above approach are identified as being where residual impacts present an unacceptable risk to, or interference with:
- Human health and public safety,
  - Defence,
  - Irreplaceable habitats, or
  - The achievement of net zero.
- 4.13 The Applicant notes that whilst the transitional provisions set out in the designated EN-1 state that the 2023 amendments to the NPS will *“have effect only in relation to those applications for development consent accepted for examination, after the designation of those amendments”* it is also noted that NPSs which are designated but not having effect are potentially capable of being important and relevant considerations in the decision making process.

- 4.14 In view of the recent designation of the NPS, it is the Applicant's view that the weight to be afforded to the designated NPS and the CNP policy as important and relevant considerations is significant. The NPS is the primary consideration and the NPPF and Local Plans should be considered to carry lesser weight than the NPS.
- 4.15 The CNP policy is the appropriate approach to take in relation to the Heckington Fen Application. In applying the CNP approach to the BMV land issue, the Applicant acknowledges that an element of BMV land is being used in the proposal, however the mitigation hierarchy approach has been adopted, in that:
- BMV land has been avoided where possible;
  - An agreed grazing scheme is proposed, as set out in the Outline Operational Environmental Management Plan (ExA.oOEMP-D5.V3);
  - Decommissioning and restoration of the site (with it being returned to agricultural use and/or available for unrestricted farming operations of the landowner's choice determined by the global markets at the time); and
  - There will be a negligible permanent loss of c.3ha of BMV agricultural land (being 15% of the 20ha threshold which would trigger the requirement for consultation with Natural England) (**REP2-028**).
- 4.16 No residual risk arises from the proposal's effect in relation to BMV land which would incur applying the exceptions (i.e., those set out in paragraph 4.12 of this Closing Submission above) to the general principle outlined in EN-1 that the residual impact should not outweigh the need for the proposal.
- 4.17 The approach of the Applicant in relation to BMV land should be deemed acceptable and the Secretary of State should not be recommended to refuse the Application in respect of impact of the proposal on BMV agricultural land.

#### **Landscape & Visual Impacts**

- 4.18 The Proposed Development has been subject to a robust iterative design process. A number of potentially significant effects had been initially identified and the layout of the Proposed Development evolved, addressing the findings of the landscape and visual assessment effectively mitigating against the identified long term significant effects. The residual landscape character and visual effects are geographically localised and not significant.
- 4.19 The construction phase would result in significant effects, which cannot be mitigated against, but these would be highly localised, affecting a small number of receptors. Such effects would be temporary and reversible.
- 4.20 The design iterations included a reduction in height of the proposed solar modules, centralising the substation and energy storage facilities, and perimeter hedgerow of varying height around the Energy Park. Smaller substations and overhead lines were not progressed following the Statutory Consultation between June and September 2022.
- 4.21 Further design changes were incorporated to address the tree removal around the National Grid Bicker Fen Substation, with additional hedgerow trees and woodland planting offsetting the quantum of the removed structural vegetation. This resulted in modest, yet beneficial, but not significant effects, upon the tree resource.
- 4.22 The hedgerow planting and enhancement to public access within the proposed Energy Park were judged to bring about significant beneficial effects.

- 4.23 Whilst there remains a difference of opinion on the classification of the level of impact significance in EIA terms, regardless, at Year 5 the proposed mitigation measures (namely the 3m-3.5m high perimeter hedgerow with sections of taller c. 5m high hedgerow), would reduce the scale of effects to 'not significant'. Therefore, none of the identified residual effects will be significant.

**Flood Risk**

- 4.24 The Proposed Development has been designed to a 1,000 year breach flood level (+ 20% climate change impact) flood event as indicated as necessary by the Environment Agency in early consultation. The Environment Agency has reviewed and agreed to the detailed hydraulic flood modelling along with the Black Sluice Internal Drainage Board (BSIDB).
- 4.25 Protective provisions are agreed with Anglian Water, the Environment Agency, and BSIDB; these are included at Part 3, 5, and 7 of Schedule 13 of the DCO.
- 4.26 Mechanisms are included within the DCO and the associated management plans to control and/or mitigate effects on or from the water environment including with a surface water drainage strategy to be submitted prior to commencement of each phase (Requirement 11 of the DCO) and embedded design measures within the Outline Design Principles (secured by Requirement 6 of the DCO) including for the substation control rooms to be at or above 2.25m AOD and the height of the lowest part of panels a minimum of 1m above ground level.

**Ecology**

- 4.27 There is an increasing body of evidence that demonstrates how well-designed solar energy projects can have a lasting positive impact upon local biodiversity<sup>1</sup>. In general terms this is achieved through the inclusion of areas specifically targeted for biodiversity enhancements within the order limits, alongside a series of secondary benefits delivered via the arable reversion to grassland within the developable solar array footprint.
- 4.28 The Applicant considers that the scheme design has been informed by a sound ecological baseline and has been designed alongside the development of a mitigation strategy that ensures the Proposed Development can be delivered whilst safeguarding and enhancing local biodiversity. This mitigation strategy has been designed to follow the mitigation hierarchy and includes elements of on-site and off-site interventions, including a thorough approach to skylark mitigation that will seek to safeguard local skylark populations whilst also delivering a suite of landscape-scale enhancements in partnership with landowners across Lincolnshire.
- 4.29 This approach has also been quantified through the use of Biodiversity Net Gain calculations (**REP4-029**) which demonstrate how the site is capable of delivering a 113% net gain in habitat units, a 393% net gain in hedgerow units and a 36% net gain in watercourse units.
- 4.30 The Applicant submitted a Shadow Habitats Regulations Assessment (sHRA) (**APP-049**) with the application documentation in February 2023. This document concluded that the Proposed Development would not result in any adverse effects to the integrity of any nearby designated sites. Following constructive discussions during issue specific hearings this document was updated to ensure compliance

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<sup>1</sup>Report entitled 'Solar Habitat: Ecological trends on solar farms in the UK' by Solar Energy UK available to download from Solar Energy UK's website. Accessed February 2024.

with Planning Inspectorate guidance and to ensure all relevant sites were included as part of the cumulative assessment (**REP2-022**). These updates did not materially alter the findings presented in the original submission and were subsequently agreed by Natural England (**AS-035**). The Applicant acknowledges the publication by the ExA of their 'Report on the Implications for European Sites' (**PD-014**) and agrees with its conclusions.

- 4.31 The Summary of the ES (**APP-072**) confirms that there are no residual effects to biodiversity during all phases of the Proposed Development. During the course of the Examination, and in collaboration with stakeholders including NKDC's ecological advisors and Natural England, the Applicant has continued to iteratively build upon the ecological mitigation proposals originally set out in the Outline CEMP (**APP-238**), Outline LEMP (**APP-239**) and Figure 6.2 - Landscape Strategy Plan (**APP-135**). This has resulted in both Statements of Common Ground submitted in collaboration with Natural England, and the Relevant Planning Authorities at Deadline 5 (**REP4-048** and **REP5-037**) agreeing to the level of mitigation proposed and a 'letter of no impediment' (LONI) being secured from Natural England in relation to potential future species mitigation licencing.
- 4.32 The Applicant considers that setting a minimum Biodiversity Net Gain target of 65% in habitat units, (in lieu of mandatory targets for NSIP projects through BNG legislation, which is expected in 2025), is both pragmatic and achievable. Whilst this point has not been agreed with North Kesteven District Council, nor Lincolnshire County Council, the Applicant notes that Natural England has not raised concern in relation to the Applicant's proposed approach.
- 4.33 The Applicant concludes that the Proposed Development will not result in any significant negative impacts to local ecology in both EIA or HRA terms and will deliver a Biodiversity Net Gain of at least 65%. As such, the Applicant considers that the Proposed Development is compliant in terms of any relevant policies which may reduce or prevent the Proposed Developments progression through the DCO process.

### Co-ordination and interaction with other schemes

- 4.34 Whilst recognising that the projects are at different stages of the design and consenting process (meaning that they may not overlap), the Applicant has engaged with Beacon Fen Energy Park to agree a set of protective provisions, which are included at Part 11 of Schedule 13 of the DCO.
- 4.35 The Applicant submitted a Joint Position Statement with Beacon Fen (**REP5-010**) at Deadline 5 to explain this as well as to confirm that the parties will continue discussions and expect to enter into a private Co-Operation Agreement.
- 4.36 The Applicant has also included a commitment in its outline Construction Traffic Management Plan (**CTMP**), within Section 4 (**REP5-060**), to engage with Beacon Fen on the development and finalisation of the CTMP where there is potential for overlapping construction traffic between the projects.

### Heritage and Archaeology

- 4.37 With regards to Kyme Tower, as the Applicant outlines in **REP3-039**, the Applicant concludes that the Proposed Development will not result in harm to the significance of the asset. The Applicant recognises that North Kesteven District Council considers that the proposals may cause lower end "*less than substantial harm*" to the setting / significance of Kyme Tower but, regardless, the public benefit test under paragraph 202 of the NPPF would be met. The Applicant

provided further visualisations and viewpoints at Appendix 1 and 2 of its response to HE2.1 at Deadline 4 (**REP4-047**) to support their position of no harm.

- 4.38 The screened zone of theoretical visibility (sZTV) (appended to **REP4-047**) indicated that there will be very limited to no visibility of the Energy Park from ground level within the curtilage of Kyme Tower, and this was supported by the Viewpoint B photomontage, which shows only a tiny glimpse of the Energy Park in the backdrop of views of Kyme Tower from the public road to its north. Meanwhile, the Viewpoint A photomontage illustrated that there would only be oblique co-visibility of the Energy Park in long-ranging views of Kyme Tower from the A17. The Applicant considers that such limited visibility of the Proposed Development will not compromise the ability to appreciate Kyme Tower and thus, there will be no harm to its significance.
- 4.39 The EXA also undertook their own unaccompanied site visit to Kyme Tower to review this point. The undertaking of this site visit by the ExA was discussed in ISH4 and noted in **EV-001b** on 8<sup>th</sup> January 2024.
- 4.40 In respect of archaeology and trial trenching, the Applicant has undertaken extensive trial trenching across the entirety of the Energy Park, and across the area of greatest archaeological potential within the Cable Route Corridor. As outlined in row 6.2 of the Statement of Common Ground (**REP5-037**), the Relevant Planning Authorities agree with the position and note that the Applicant has undertaken sufficient trenching on the Energy Park site to inform a detailed mitigation strategy and that the completion of the trial trenching along the cable route (and the subsequent formulation of a detailed mitigation strategy) is appropriately secured by Requirement 12 of the DCO.

#### **Construction Traffic & Access**

- 4.41 The Applicant included embedded mitigation within its design of the Proposed Development by incorporating the Triton Knoll access track within its Order Limits so that the Applicant's construction traffic would avoid Bicker village. Notwithstanding this, until Deadline 5, National Grid's construction traffic associated with the Bicker Fen Substation extension works required use of links four to six (Cowbridge Road, Bicker Drove, and Vicarage Drove).
- 4.42 The Applicant received very few objections and representations to the Proposed Development. Of the few received, the author of Relevant Representation 008 (**RR-008**) expressed concern over the use of Cowbridge Road by National Grid. Whilst the proposed package of traffic mitigation measures on these links were considered acceptable and there was agreement with Lincolnshire County Council of the same (**REP3-030**), the Applicant worked hard with National Grid to consider alternative mitigation options.
- 4.43 At Deadline 5, the Applicant presented an additional measure within paragraph 1.8 and 4.4 of the outline Construction Traffic Management Plan (**REP5-060**) to commit both the Applicant and National Grid to route construction traffic via the Triton Knoll access track for the purposes of the National Grid Bicker Fen Substation works (Work No. 6A, 6B, and 6C). There may be occasions (in the event of an emergency or matters outside of the parties' control (including the Triton Knoll access track being blocked or impassable) where construction traffic may need to utilise the existing access arrangements from the A52, but the Applicant considers that the measures proposed at Deadline 5 address the concerns from residents raised within representations noted above.

**Summary of environmental impacts and assessment**

- 4.44 The Applicant has considered the likely environmental effects of the Proposed Development and has provided a residual effects and mitigation assessment at **Appendix 3**. This assessment considers the residual impacts of the Proposed Development and concludes that the impacts are acceptable.
- 4.45 In terms of the Secretary of State decision making the Applicant submits that the Secretary of State should consider the test in the 2024 EN1 in that any residual effects which cannot be avoided, reduced or mitigated further are unlikely to outweigh the urgent need for the development. Only in the most exceptional circumstances (Para 4.2.15 EN1) should such residual effects outweigh the urgent need and, in the case of the Proposed Development, the Applicant submits that this test should be given substantial weight in considering the planning balance positively in favour of the Proposed Development.

**5 FINAL DRAFT DEVELOPMENT CONSENT ORDER**

- 5.1 The Applicant has responded to feedback and input from stakeholders throughout the Examination process, as can be seen from the Development Consent Order – Tracked against the Application Version (**REP5-022**), with some of the more noteworthy points as follows:
  - 5.1.1 agreement as to the process to follow and detail required for street and access works together with additional drafting under Articles 9-12 and Requirement 6 of Schedule 2;
  - 5.1.2 additional certainty and completeness, together with robust DCO controls/requirements, through including the National Grid Electricity Transmission (NGET) works within the DCO (Work No. 6B and 6C);
  - 5.1.3 introduction of new standalone outline plans (the outline operational environmental management plan and the outline soil management plan) secured by new standalone Requirements 19 and 20;
  - 5.1.4 agreement with the Relevant Planning Authorities on the Requirements and wording of the Requirements within Schedule 2 of the DCO (as evidenced in the Statement of Common Ground submitted at Deadline 5 (**REP5-037**)); and
  - 5.1.5 agreement with the Relevant Planning Authorities on the timeframes for discharge and a bespoke higher fee rate for discharge of applications under Schedule 14 of the DCO (as evidenced in the Statement of Common Ground submitted at Deadline 5 (**REP5-037**)).

**6 FINAL POSITION WITH THE RELEVANT PLANNING AUTHORITIES AND STATEMENTS OF COMMON GROUND**

- 6.1 Throughout the development process the Applicant has involved the Relevant Planning Authorities (RPAs) with regular progress meetings and, where possible, has incorporated their comments and/or amendments to the Proposed Development. The earliest examples being in response to the Statement of Community Consultation whereby attendance at The Heckington Show was

- requested, the removal of land around the perimeter of the Energy Park, and undertaking extensive trial trenching across the Energy Park.
- 6.2 During the Examination the Applicant has continued this trend and has incorporated further Requirements specific to the Community Orchard; Outline Soil Management Plan; and Outline Operational Environmental Management Plan. Furthermore whilst the Applicant has always been clear the Energy Park would be grazed, the Applicant has increased its commitment with a minimum number of sheep grazing at the Energy Park over a given year. Whilst Lincolnshire County Council accepted the grazing as mitigation for the use of best and most versatile land, North Kesteven District Council still wish for further commitments to minimum sheep numbers (from 2 to 3, increasing to 4 to 8) once the grassland has been established. The Applicant maintains, as per submission **REP5-002**, to lock in a larger number of sheep in the Outline Operational Environmental Management Plan, without assessing the condition of the vegetation, is not considered appropriate or viable at this time. Notwithstanding this, the Applicant contends that its current commitment ensures that agricultural practices are continuing at the site.
- 6.3 During the Examination the Applicant has also developed the Outline Supply Chain, Employment and Skills Plan to include a £50,000 per annum fund. The Purpose of the fund, as outlined in the Heads of Terms for the Section 106 (appended to **REP5-003**), is to be used for increasing employment and skills opportunities in the local area for individuals in the renewable and sustainable development sector (including with the purpose of reducing carbon emissions in line with the key values of Ecotricity relating to food, energy, and transport carbon emissions), and which may include the provision of training and apprenticeships.
- 6.4 Following the Change Request Application, the Applicant has considered comments from statutory consultees, including the RPAs, and The Forestry Commission about the loss of woodland at National Grid Bicker Fen Substation. Whilst significant hedgerow planting was already incorporated, along with the Community Orchard, further trees have been incorporated into the hedgerow along the northern boundary of the Energy Park, as well as over 0.4ha of additional woodland planting. As this is within North Kesteven boundary and the woodland is to be removed in Boston Borough, the Council were not satisfied. To alleviate their concerns the Applicant has proposed a cascade approach to planting within Boston Borough, which will consider connectivity opportunities with landowners on the cable route or, if this cannot be secured, via a contribution to Boston Borough Council for them to facilitate planting. This is secured in the Outline Landscape Ecological Management Plan through Requirement 8 of the DCO and the Heads of Terms for the Section 106 (appended to **REP5-003**).
- 6.5 Further commitments have been enhanced in the Outline Management Plans submitted during the Examination - for example Skylark Mitigation, Monitoring, Woodland Management Plan, and a Building Survey Assessment for the old Six Hundred Farm buildings.
- 6.6 The Applicant, at Lincolnshire County Council's request, has incorporated protective provisions for Lincolnshire Fire and Rescue Service in regards to the energy storage proposed onsite.
- 6.7 As introduced in section 4 above, the Applicant has also worked with the RPAs to agree a fee structure for the discharge of Requirements, which replicates that proposed by Cottam Solar Farm (**EN010133 – REP-013**).

- 6.8 The key areas of disagreement between the parties remain the use of best and most versatile land. The Applicant understands that any use of best and most versatile land (Grades 1, 2, and 3a) would warrant the same response from both North Kesteven and Lincolnshire County Council, and in particular the cumulative projects coming forward in the County remain a concern for their members. North Kesteven District Council reference that the overall proportion of BMV land of nearly 50% of the energy park site represents a particular concern for them. The total composition of land grades is lower end best and most versatile with over 80% of the site being Grade 3. The total breakdown following over 450 augers is 11.1% Grade 1 (58ha); 7.4% Grade 2 (39ha); 30.5% Grade 3a (160ha); 50.6% Grade 3b (265ha) with 0.4% non-agricultural (2ha).
- 6.9 In response to concerns over food production, the Applicant notes that neither the RPAs nor Interested Parties have presented any compelling evidence as to how the Proposed Development may impact food production/security nor that it is likely to increase imports from other countries. This should all be framed in the context of a time-limited (temporary) permission for 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. The Applicant asserts that whilst the number of options for 'traditional' farming may be more 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 a number of years. Removing the use of agricultural chemicals will also improve water quality.
- 6.10 A final Statement of Common Ground with the RPAs (**REP5-037**) was submitted at Deadline 5, with a signature from Boston Borough submitted at Deadline 6. Other Statements of Common Ground with key parties as listed in the Rule 8 Letter (**PD-010**) have also been submitted and show cooperation and significant progress with key stakeholders by the Applicant to resolve matters satisfactorily for both parties. An example of this is the number of side agreements which support the protective provisions - for example Black Sluice IDB (as confirmed by **REP5-039**). Objections from National Gas Transmission and National Grid Electricity Transmission are due to be removed shortly; with good progress made with Viking Link, Triton Knoll, and Network Rail (as explained further within Section 7 and **Appendix 3**). The Environment Agency have removed their objection, and subsequent land agreements are at an advanced stage.

## **7 STATUTORY UNDERTAKER UPDATES**

- 7.1 Interests in the Order land which are held by each statutory undertaker are identified in the Book of Reference (**REP5-029**). The Applicant has been and continues to engage with statutory undertakers to ensure the Proposed Development can be developed without serious detriment to any statutory undertaking, including the provision of protective provisions in Schedule 13 of the draft DCO. The status of negotiations with statutory undertakers as at Deadline 5 is included in the Schedule of Negotiations provided at Deadline 5 (**REP5-031**).
- 7.2 Protective provisions for the benefit of statutory undertakers are included in the final draft DCO (**REP5-020**) (Article 40 and Schedule 13). Protective provisions have been successfully agreed with all statutory undertakers save for:
- 7.2.1 **Network Rail Infrastructure Limited** – The preferred form of wording required by Network Rail at Paragraph 85 of the protective provisions at Part 8 of Schedule 13 cannot be agreed by the Applicant (until the voluntary land agreement has been entered into by the parties as explained at **Appendix 2** to these Closing Submissions). The Applicant's



preferred wording for Paragraph 85 is included in the DCO submitted at Deadline 5 and is outlined in Table 2 of **Appendix 2** of this document. The protective provisions are otherwise agreed with Network Rail and the Applicant considers that they are sufficient to protect Network Rail's interests in their current form, as explained in the section 127 statement accompanying these Closing Submissions. The Applicant also understands that there is now an agreement in principle for the voluntary land agreement with Network Rail. The Applicant is continuing to liaise with Network Rail in order to finalise the commercial agreement and will update the Secretary of State (as necessary) after the close of the Examination if/when the commercial agreement has been completed. In any event, in view of the reasoning put forward below and the protections within Part 8 of Schedule 13, the Applicant considers that the Secretary of State can proceed to make a decision notwithstanding the status of the commercial agreement.

- 7.2.2 **National Grid Viking Link Limited** – The preferred form of wording required by Viking Link at Paragraph 112 of the protective provisions at Part 10 of Schedule 13 cannot be agreed by the Applicant. The Applicant's preferred wording for Paragraph 112 is included in the DCO submitted at Deadline 5 and is outlined in Table 2 of **Appendix 2**. The protective provisions are otherwise agreed with Viking Link and the Applicant considers that they are sufficient to protect Viking Link's interests in their current form, as explained in the section 127 statement accompanying these Closing Submissions. The Applicant is continuing to liaise with Viking Link in order to reach a commercial agreement and will update the Secretary of State (as necessary) after the close of the Examination if/when the commercial agreement has been completed. In any event, in view of the reasoning put forward below and the protections within Part 10 of Schedule 13, the Applicant considers that the Secretary of State can proceed to make a decision notwithstanding the status of the commercial agreement.
- 7.2.3 **Triton Knoll OFTO Limited** – The position for Triton Knoll is similar to that described for Network Rail above. The preferred form of wording required by Triton Knoll OFTO at Paragraph 134 of the protective provisions at Part 12 of Schedule 13 cannot be agreed by the Applicant (until the voluntary land agreement for the Triton Knoll Access Track has been entered into by the parties as explained at **Appendix 2** to these Closing Submissions). The Applicant's preferred wording for Paragraph 134 is included in the DCO submitted at Deadline 5 and is outlined in Table 2 of **Appendix 2**. The protective provisions at Part 12 of Schedule 13 are otherwise agreed with Triton Knoll and the Applicant considers that they are sufficient to protect Triton Knoll's interests in their current form, as explained in the section 127 statement accompanying these Closing Submissions. The parties are in the process of finalising the legal form of the voluntary land agreement with Triton Knoll in respect of the Triton Knoll Access Track. The Applicant is continuing to liaise with Triton Knoll in order to reach a commercial agreement and will update the Secretary of State (as necessary) after the close of the Examination if/when the commercial agreement has been completed. In any event, in view of the reasoning put forward below and the protections within Part 12 of Schedule 13, the Applicant considers that the Secretary of State can proceed to make a decision notwithstanding the status of the commercial agreement.

- 7.3 In light of the above and the existing protections that are already included within the final draft DCO (**REP5-020**), the Applicant considers that the compulsory acquisition powers being sought should be granted, notwithstanding any outstanding representations. Please see the Applicant's full statement pursuant to s127 and s138 of the PA 2008 at **Appendix 2** to these Closing Submissions.

## **8 OTHER LAND INTERESTS**

- 8.1 The Schedule of Negotiations (**REP5-031**) submitted at Deadline 5 remains correct and there are no substantive updates to make, despite further chasers from the Applicant's land team. The Schedule was updated at Deadline 5 to provide an update on the status of negotiations with each affected party and any reasons why agreements are unlikely to be concluded until after the end of Examination.
- 8.2 As outlined in the introductory text for The Schedule of Negotiations (**REP5-031**), the Applicant will continue to engage with those landowners affected in attempts to conclude private agreements. It is not unusual for negotiations to continue right up to the need to implement powers to facilitate the commencement of construction. The ExA can therefore be assured that negotiations will continue following the close of Examination.
- 8.3 The Applicant has demonstrated that the land rights being sought are required for the Proposed Development, and that there is a compelling case in the public interest for compulsory acquisition powers to be granted (see Statement of Reasons (**REP5-027**) and Written Summary of the Applicant's case at Compulsory Acquisition Hearing (**REP3-037**)). All statutory and policy tests for the inclusion of compulsory acquisition powers in the DCO have been met.
- 8.4 In relation to plots of land that still contain an unknown interest, a response was provided in the Applicant's response to the second round of written questions (**REP4-047**) in response to question CA 2.6. The position remains as set out in response to that question, that there are two plots of land (313 and 317) where the freehold owner remains unknown. These plots are access tracks where rights of access are sought. Site notices requesting information have been retained on site but no further information has been received by the Applicant. The Applicant's land referencing team will continue to seek to identify any owners prior to the exercise of Compulsory powers.

### **Crown Land**

- 8.5 As confirmed in its Applicant Response to Rule 17 Letter at Deadline 5 (**REP5-003**) the Applicant confirms that no compulsory purchase of an interest in Crown Land held otherwise than by or on behalf of the Crown is being sought and therefore no consent is necessary pursuant to Section 135(1) Planning Act 2008.
- 8.6 The Crown Estate owns two plots of land on the cable route, and the mineral rights in land affected by a portion of the Proposed Development at the Energy Park. The Applicant understands from very recent discussions with the Crown Estate that the Crown Estate has no intention of frustrating a Nationally Significant (renewable energy) Infrastructure Project that is of Critical National Priority in achieving the Government's Net Zero targets. Therefore, the Applicant remains certain that any consent necessary pursuant to Section 135(2) will be delivered by the Crown Estate in good time for the Secretary of State to make her decision. Since Deadline 5 further progress has been made with a meeting held between the respective parties' advisors on 13<sup>th</sup> February 2024, and another meeting diarised for the 22<sup>nd</sup> February 2024. Therefore, the Applicant expects to be able

to communicate the agreed position to the Examining Authority/Secretary of State in good time for the decision.

## **9 CONCLUSIONS**

- 9.1 In conclusion, there is a clear and compelling need for the Proposed Development which outweighs its limited residual adverse effects.
- 9.2 The Proposed Development can be classified as "critical national priority" infrastructure for which there is an urgent need.
- 9.3 The Applicant considers that the Examining Authority and Secretary of State have all the necessary information to inform a decision. Accordingly, and for the reasons outlined within this document and during the Examination, the Applicant considers that the case has been made for the ExA to recommend that the DCO be made and that the Secretary of State can make the DCO in the form submitted by the Applicant at Deadline 5 (**REP5-020**).
- 9.4 The Applicant thanks interested parties and the ExA for their engagement to date and for a positive Examination process. The Applicant looks forward to working with interested parties and stakeholders following the close of Examination.

## 10 APPENDIX 1 – APPLICANT’S RESPONSE TO GEN 2.3

10.1 The Examining Authority (ExA) issued Second Written Questions (ExQ2) on 19 December 2023. The ExA requested that the Applicant provides a response on GEN 2.3 at Deadline 6 (**PD-013**), with the remainder of responses submitted at Deadline 4 (**REP4-047**).

10.2 GEN 2.3 states:

*"Overarching NPS for Energy EN1 (November 2023) paragraphs 4.2.10 to 4.2.13, illustrated in Figure 2, requires Applicants for CNP infrastructure to demonstrate how their application meets the requirements in NPS EN1 and the relevant technology specific NPS, with application of the mitigation hierarchy as well as any other legal and regulatory requirements.*

*The Applicant is asked to provide a summary of how they have applied the mitigation hierarchy (to demonstrate that all residual impacts are those that cannot be avoided, reduced or mitigated) setting out clearly how any mitigation measures will be agreed and monitored, as well as any other legal and regulatory requirements.*

*This should be provided as part of the Applicants summary statement which is required at D6."*

### **NPS and Critical National Priority for Renewable Energy**

10.3 The Applicant considers that the primary policy considerations are those in the recently designated Energy National Policy Statements EN-1 & EN-3. These policies should be given significant weight.

10.4 The Applicant notes in particular that NPS EN-1 confirms that the:

*"Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure"*

and that:

*"the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy."*

10.5 It is also confirmed that the:

*"Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible" (EN-1 paragraphs 3.3.62 & 3.3.63).*

10.6 It is confirmed in Section 4.2 of the designated EN-1 that CNP applies to:

*"all onshore and offshore generation that does not involve fossil fuel combustion" and "all power lines in scope of EN-5 including network reinforcement and upgrade works, and associated infrastructure such as substations" (EN-1 para 4.2.5).*

10.7 Consequently, the Applicant concludes that the scope of the application at Heckington Fen would fall within the definition of CNP.

10.8 Figure 2 of EN-1 confirms that:

*"Where residual non-HRA impacts remain after the mitigation hierarchy has been applied, these impacts are unlikely to outweigh the urgent need for this type of infrastructure. Therefore, in all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of these residual impacts."*

- 10.9 The exceptions to the above approach are identified as being where residual impacts present and unacceptable risk to, or interference with:
- Human health and public safety;
  - Defence;
  - Irreplaceable habitats, or
  - The achievement of net zero.
- 10.10 The Applicant notes that whilst the transitional provisions set out in the designated EN-1 state that the 2023 amendments to the NPS will *"have effect only in relation to those applications for development consent accepted for examination, after the designation of those amendments"* it is also noted that NPSs which are designated but not having effect are potentially capable of being important and relevant considerations in the decision making process.
- 10.11 In view of the recent designation of the NPS, it is the Applicant's view that the weight to be afforded to the designated NPS and the CNP policy as important and relevant considerations is significant. The NPS is the primary consideration and the NPPF and Local Plans should be considered to carry lesser weight than the NPS.

**How they have applied the mitigation hierarchy (to demonstrate that all residual impacts are those that cannot be avoided, reduced or mitigated)**

- 10.12 The Applicant has undertaken an Environmental Impact Assessment (EIA) and the Environmental Statement (ES) provides the various technical assessments which have been undertaken as part of the EIA (Environmental Impact Assessment) process (Chapter 6-18). Likely significant effects, mitigation and residual effects assessed in the technical chapters of this ES, cumulative effects (in-combination effects of the Proposed Development and other developments) have been assessed and are presented in the ES (Chapters 6-18).
- 10.13 The residual effects listed within the technical chapters of this ES (Chapters 6 to 18) are described with reference to the scale of effect (i.e., moderate or major) and whether this is significant or not, and the nature of the effect (i.e., adverse, negligible or beneficial). Chapter 19: Summary (**REP2-030**) identifies only significant residual adverse effects for the Proposed Development alone remain in relation to Landscape and Visual during the construction phase. ES Technical Note- Updated Information on Cumulative Projects (**REPS-004**) identifies significant residual adverse cumulative effects remain in relation to Landscape and Visual during the construction and decommissioning phases in accumulation with Beacon Fen Energy Park, and in regard to permanent loss of agricultural land in accumulation with Lincolnshire Reservoir. However, the Lincolnshire Reservoir proposal alone is potentially of major adverse significance, and the Proposed Development does not trigger the significance impact. **Appendix 3** of this document summarises the key residual effects and mitigation assessment for the Proposed Development.
- 10.14 Avoidance, reduction and mitigation of effects has been included in the process of Site Selection, which is explained in Chapter 3: Site Description, Site Selection,

Iterative Design Process and includes a 'Back Check and Review' in the ES (**PS-053**) and through the design evolution, explained in the Design and Access Statement (**REP2-064**).

- 10.15 A table of key effects (significant and non-significant in EIA terms, beneficial and harmful) has been prepared and is attached at **Appendix 3** of the Closing Submissions, submitted by the Applicant at Deadline 6 of the Examination. The table demonstrates that the Applicant has addressed impacts arising from the proposal, including cumulative impacts and where appropriate mitigated the impacts. Residual negative impacts which cannot be avoided, reduced or mitigated are summarised in this table. Those residual impacts relate only to Landscape and Visual effects and Land Use and Agriculture as detail above in paragraph 10.13 of this document.
- 10.16 The residual impacts identified do not present an unacceptable risk to, or interference with the factors identified at paragraph 10.9 above as circumstances where an exception should be made to the general presumption that impacts are unlikely to outweigh the urgent need for CNP infrastructure.
- 10.17 The Mitigation Schedule (**PS-140**) sets out the details of all embedded and additional mitigation and how this is secured through the Development Consent Order (DCO) process and drafting of the DCO as presented to the ExA for consideration.

**How any mitigation measures will be agreed and monitored**

- 10.18 Mitigation measures have been incorporated into the proposals through the design evolution process noted above within the Design and Access Statement (**REP2-064**) and the specification of the proposal is controlled by the Outline Design Principles (**REP2-051**), secured under Requirement 6 of the DCO.
- 10.19 Furthermore, a set of Outline Management Plans specific to technical areas and phases of the Proposed Development is included within the DCO application to control mitigation and monitoring measures. The Outline Management Plans are secured within the draft DCO (**REP5-020**) at various Requirements. The following Outline Management Plans supporting the DCO application are listed below:
- Outline Construction Environmental Management Plan (**REP5-054**), secured under Requirement 13 of the Draft DCO (**REP5-020**). This Outline Plan identifies necessary mitigation measures to reduce or prevent potential effects upon the environment and nearby sensitive receptors during the construction phase of the Proposed Development. Monitoring environmental control measures during the construction phase are set out under various technical disciplines at Section 7 of the document.
  - Outline Landscape Ecological Management Plan (**REP5-056**), secured under Requirement 8 of the Draft DCO (**REP5-020**). This Outline Plan set out the landscape and ecological management and maintenance procedures during the operational phase of the Proposed Development. A land manager (likely as part of the Operations and Maintenance Team) will carry out the objectives of the OLEMP and an ecologist to undertake monitoring and provide professional advice to the land manager. New planting will be checked regularly throughout the growing season for pests and diseases and treated as necessary. Plant losses will be recorded. Wildlife enhancements will be checked by an ecologist for signs of use and ensure their continued suitability for the focal species. On-site and off-site habitat provision for skylarks will be monitored for the 40-year operational life of the Proposed Development. Monitoring will include regularly

validating the BNG calculations to check that 65% BNG in habitat units is being achieved (using The Statutory Biodiversity Metric published by Department for Environment Food and Rural Affairs on 29 November 2023).

- Outline Decommissioning and Restoration Plan (**REP5-058**), secured under Requirement 18 of the Draft DCO (**REP5-020**). This Outline Plan provides a provisional framework for the decommissioning of the Proposed Development. Monitoring measures during the decommissioning phase are set out under various technical disciplines at Section 1.16 of the document. As part of the monitoring process the decommissioning contractor will allocate a designated Environmental Manager(s), who will be present onsite throughout the decommissioning works and when new activities are commencing. The Environmental Manager will observe decommissioning activities and report any deviations from the measures set out within the DRP(s), along with the action taken and general conditions at the time.
- Outline Construction Traffic Management Plan (**REP5-060**), secured under Requirement 14 of the Draft DCO (**REP5-020**). This Outline Plan provides a framework for the construction activities including site access arrangements, routing for construction traffic and vehicle numbers, size and frequency. Monitoring measures include a pre-commencement walk-over Condition Survey on the local highway network will be carried out to assess the baseline condition of the adopted highway before construction activities commence. This would be followed by a further Condition Survey with a further photographic record covering the same extents as previously assessed at the end of construction activities, in order to identify and agree any remedial works reasonably attributable to construction activities.
- Outline Operational Management Plan (**REP5-011**), secured under Requirement 19 of the Draft DCO (**REP5-020**). This Outline Plan provides a framework for the operational and maintenance activities of the Proposed Development. Monitoring measures during the operational phase are set out under various technical disciplines at Section 3 of the document. As part of the monitoring process a designated Environmental Manager will observe site activities and report any deviations from the OEMP (s) in a logbook, along with the action taken and general conditions at the time.
- Outline Energy Storage Safety Management Plan (**REP4-042**), secured under Requirement 7 of the Draft DCO (**REP5-020**). This Outline plan details the approach and methodology for the safety assurance activities required to support a safety justification for the Energy Storage System section of the Proposed Development. The system will be continuously monitored during operations, which would include detection of: off-gases; carbon monoxide; and an early warning fire detection system.
- Outline Supply Chain, Employment and Skills Plan (**REP5-062**), secured under Requirement 16 of the Draft DCO (**REP5-020**). This Outline plan details the supply chain, employment, training and learning opportunities available during the construction and operation of the Proposed Development. Monitoring reports are proposed to include a summary of activities completed, including any qualifications gained. These would be provided annually to the RPAs, and would be coordinated by the Project Manager.
- Outline Written Scheme of Investigation- Evaluation (**REP2-055**), secured under Requirement 12 of the Draft DCO (**REP5-020**). This Outline Plan

details the methods and standards that will be employed in determining the archaeological potential of the Energy Park site. Monitoring measures including informing the Senior Historic Environment Officer at Heritage Lincolnshire and the Historic Environment Officers at Lincolnshire County Council of the evaluation and its progress, allowing reasonable access for site visits to inspect and monitor the progress of the evaluation, and any variations of the WSI are to be agreed in advance is set out in the plan.

- Outline Written Scheme of Investigation- Mitigation (**REP2-057**), secured under Requirement 12 of the Draft DCO (**REP5-020**). This Outline Plan details the options for mitigation, and the methods and standards that will be employed for any strip, map and record excavations and watching briefs for the Energy Park site and Cable Route Corridor. Monitoring measures including informing the Senior Historic Environment Officer at Heritage Lincolnshire and the Historic Environment Officers at Lincolnshire County Council of the start of the excavation and its progress, allowing reasonable access for site visits to inspect and monitor the progress of the excavation, and any variations of the WSI are to be agreed in advance is set out in the plan.
- Outline Soil Management Plan (**REP5-064**), secured under Requirement 20 of the Draft DCO (**REP5-020**). This Outline Plan identifies the importance and sensitivity of the soil resource and to provide specific guidance to ensure that there is no significant adverse effect on the soil resource as a result of the Proposed Development. Monitoring measures include the grazing of grassland under the PV panels by sheep.

10.20 The proposals have been assessed by the RPAs and statutory consultees. Where appropriate, Statements of Common Ground have been agreed and these set out our agreed mitigations including:

- Statement of Common Ground with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (**REP5-037**); key mitigation measures agreed include badger strategy, skylark strategy, BNG compliance located within the Outline Landscape Ecological Management Plan (**REP5-056**), appropriate schemes of investigation for archaeology provision (Outline Written Scheme of Investigation-Evaluation (**REP2-055**) and Outline Written Scheme of Investigation-Mitigation (**REP2-057**)), provision for sheep grazing during the operational phase, fire and safety hazards mitigation measures (Outline Energy Storage Safety Management Plan (**REP4-042**), the Flood Risk Assessment and Drainage Strategy (**AS-021/ AS-023**), the Outline Soil Management Plan (**REP5-064**), the Outline Supply Chain, Employment and Skills Plan (**REP5-062**), the Outline Construction Traffic Management Plan (**REP5-060**), Outline Construction Environmental Management Plan (**REP5-054**) and the Outline Decommissioning and Restoration Plan (**REP5-058**);
- Statement of Common Ground with Anglian Water (**REP1-009**); protective provisions are agreed to protect AW's operational network;
- Statement of Common Ground with Black Sluice Internal Drainage Board (**REP5-039**); protective provisions are agreed to protect BSIDB's operational network;
- Statement of Common Ground with Environment Agency (**REP5-040**); the drafting of the OCEMP (**REP5-056**) and the subsequent mitigation measures (i.e. best practice methods being followed in respect of pollution



prevention; as well as the relevant water abstraction licences and discharge permits being obtained prior to construction commencing for that activity) has been agreed with the Environment Agency;

- Statement of Common Ground with Lincolnshire Wildlife Trust (**REP1-012**); the drafting of the OLEMP (**REP5-056**) and the subsequent mitigation measures (i.e. skylark mitigation, BNG compliance and monitoring by an ecologist) has been agreed with Lincolnshire Wildlife Trust;
- Statement of Common Ground with National Gas Transmission Plc (**REP5-042**); protective provisions are agreed to protect NGT's operational network including Feeder Main 7 Hatton to Gosberton;
- Statement of Common Ground with National Grid Electricity Transmission Plc (**REP5-044**); protective provisions are agreed to protect NGET's assets and apparatus;
- Statement of Common Ground with National Grid Electricity Ventures (Viking Link Ltd) (**REP5-046**); protective provisions are to be agreed to protect NGVL's assets and apparatus;
- Statement of Common Ground with Natural England (**REP5-048**); the drafting of the Outline Soil Management Plan (**REP5-064**), OCEMP (**REP5-056**) and OLEMP (**REP5-056**) has been agreed with Natural England;
- Statement of Common Ground with Network Rail Infrastructure Ltd (**REP5-050**); protective provisions are to be agreed to ensure the safe and efficient operation of the railway; and
- Statement of Common Ground with Triton Knoll OFTO Limited (**REP5-053**); protective provisions are in place to ensure that the construction of the offsite cable route does not cause a serious detriment to Triton Knoll's undertaking.

10.21 The development will also be subject of a number of Requirements which will ensure that the development is undertaken in accordance with the agreed mitigations and specifications. The Draft DCO (**REP5-020**) includes the proposed Requirements at Schedule 2.

### **Any other legal and regulatory requirements**

10.22 In reference to legal and other regulatory requirements, the Applicant notes footnote 99 of paragraph 4.2.10 of EN-1 states:

*"The Secretary of State will continue to comply with any legislative requirements, such as those contained in regulations 3 and 7 of the Infrastructure Planning (Decisions) Regulations 2010, section 40 of the Natural Environment and Rural Communities Act 2006 and section 6 of the Environment (Wales) Act 2016 and section 126 of the Marine and Coastal Access Act 2009."*

10.23 Regulation 3 of the Infrastructure Planning (Decisions) Regulations states:

*"3 Listed buildings, conservation areas and scheduled monuments*

*(1) When deciding an application which affects a listed building or its setting, the [Secretary of State] must have regard to the desirability of preserving the listed*

*building or its setting or any features of special architectural or historic interest which it possesses.*

*(2) When deciding an application relating to a conservation area, the [Secretary of State] must have regard to the desirability of preserving or enhancing the character or appearance of that area.*

*(3) When deciding an application for development consent which affects or is likely to affect a scheduled monument or its setting, the [Secretary of State] must have regard to the desirability of preserving the scheduled monument or its setting”.*

10.24 In this respect no Listed buildings, conservation areas and scheduled monuments are within the Order Limits, and none were scoped into the EIA as requiring to be assessed. A Cultural Heritage and Archaeology Chapter is included within the ES setting out the relevant considerations (**REP2-024**) and heritage impacts are considered in the table at **Appendix 3**.

10.25 Reg 7 of the Infrastructure Planning (Decisions) Regulations state:

*"7 Biological diversity*

*When deciding an application for development consent the [Secretary of State] must have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992 and where the application is for development in Scotland the [Secretary of State] must also have regard to any strategy designated under section 2(1) of the Nature Conservation (Scotland) Act 2004."*

10.26 Only the first part of the Regulation is relevant as the second part is in reference to development in Scotland. The Ecology and Ornithology Chapter of the ES (**PS-063** and **REP3-027**) refers to the United Nations Environmental Programme Convention on Biological Diversity of 1992 under the legislation and framework that has guided the production of the Chapter.

10.27 With regard to Section 40 of the Natural Environment and Rural Communities Act 2006, the Secretary of State should have regard to the "general biodiversity objective" for the conservation and enhancement of biodiversity. The Applicant notes that the Outline Landscape and Ecological Management Plan (OLEMP - **REP5-057**) has the following purposes:

- To ensure that clear objectives for this new solar park at Heckington Fen are agreed.
- To set clear standards for the performance of landscape maintenance work prior to the handover to the operations and maintenance team.
- To develop work programmes and schedules for landscape maintenance staff for the first year after completion and thereafter for a period of 40 years.
- To preserve and enhance the site biodiversity.
- To help in the allocation of financial resources for landscape maintenance.
- To help monitor success and progress against management targets.

10.28 The Applicant considers that the OLEMP addresses the legislative requirements in respect of the Section 40 of the Natural Environment and Rural Communities Act 2006.

- 10.29 In respect of other legal and regulatory requirements outside of those specified in footnote 99, the Applicant has had regard to this and prepared a document dealing with Consents and Licences Required Under Other Legislation (**REP5-035**). This outlines the consents incorporated into the DCO and provides a table of additional consents and licences likely to be required and the relevant timescales and process for obtaining them.

**Conclusions**

- 10.30 The Applicant has applied the mitigation hierarchy approach to the design and evolution of the proposal. This has been demonstrated through the supporting application documentation submitted for examination and in the Statements of Common Ground agreed with relevant parties.
- 10.31 The implementation and monitoring of the mitigations will be ensured through the Design Principles, management plans, and Requirements under the DCO.
- 10.32 Appropriate mitigations have been applied where relevant to ensure that residual negative impacts are only those that cannot be avoided, reduced or mitigated.
- 10.33 No residual risk arises from the proposal's effect which would incur applying the exceptions (i.e. those set out in paragraph 10.9 of this Note above and **Appendix 3** to the Closing Submissions of the Applicant at Deadline 6 of the Examination) to the general principle outlined in EN-1 that the residual impact should not outweigh the need for the proposal.

## 11 APPENDIX 2 – SECTION 127 AND SECTION 138 STATEMENT

### Legislative Position

- 11.1 Section 127 ("s127") of the PA 2008 applies where:
- (a) the land or interest has been acquired by statutory undertakers for the purposes of their undertaking;
  - (b) a representation has been made about an application for an order granting development consent before the completion of the examination of the application, and the representation has not been withdrawn; and
  - (c) as a result of the representation the Secretary of State is satisfied that the land is used for the purposes of carrying on the statutory undertakers' undertaking, or an interest in the land is held for those purposes.
- 11.2 Section 127(2) of the PA states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that:
- (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
  - (b) the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.
- 11.3 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that:
- (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or
  - (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.
- 11.4 Section 138 ("s138") of the PA 2008 applies if a DCO authorises the acquisition of land (compulsorily or by agreement) and:
- (a) there subsists over the land a relevant right (defined in s138(2)); or
  - (b) there is on, under or over the land relevant apparatus (defined in s138(3)).
- 11.5 Section 138(4) of the PA 2008 states that an order may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates.

**Position and cases under s127 and s138 for the end of Examination**

- 11.6 The Applicant sets out below at Table 1 its case on serious detriment and the safeguards that are proposed for the respective undertakers.

**Table 1: Section 127 PA 2008 Tests**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
63A, 63B, 63C, 63D, 72, 73A, 73B, 76A, 76B, 284, 289, 294, 295, 296, 298, 299, 307, 324, 335, 337, 341, 347, 348	Anglian Water Services Limited (" <b>Anglian Water</b> ")	<p>Anglian Water submitted representations in respect of the DCO application (<b>RR-012</b>) and (<b>AS-032</b>).</p> <p>The final Statement of Common Ground ("<b>SOCG</b>") with Anglian Water (<b>REP1-009</b>) confirms that all matters are agreed between the Applicant and Anglian Water.</p> <p>The SOCG notes that the draft DCO includes agreed protective provisions at Part 3 of Schedule 13.</p> <p>Therefore, the Applicant considers that s127 of the PA 2008 is not engaged as objections are considered withdrawn due to the SOCG.</p>	<p>Agreed protective provisions for the benefit of Anglian Water are included at Part 3 of Schedule 13 of the final draft DCO submitted at Deadline 5.</p> <p>Due to the protective provisions, the Applicant considers that any compulsory acquisitions granted in the draft DCO will not result in serious detriment to the carrying on of Anglian Water's undertaking.</p> <p>The content of the signed SOCG demonstrates that its representations have been withdrawn.</p>
99F	Vodafone Limited (" <b>Vodafone</b> ")	<p>Vodafone did not submit any representation or objection regarding the DCO Application and therefore s127 of the PA 2008 is not engaged.</p> <p>After discussions between the Applicant and Vodafone, it was confirmed on 15 May 2023 that Vodafone's assets would not be impacted by the Proposed Development.</p> <p>As a result of the Change Application, the Applicant consulted with Vodafone further and Vodafone provided a list of Special Requirements which the Applicant intends to comply with.</p>	<p>General protective provisions for the benefit of operators of the electronic communications code are included under Part 2 of Schedule 13 to the draft DCO.</p> <p>These will operate to protect Vodafone's interests and, additionally, the Applicant intends to comply with the list of Special Requirements provided by Vodafone.</p> <p>Therefore, the Applicant considers that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of Vodafone's undertaking.</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
63A, 63B, 63D, 73A, 73B, 94, 99A, 99C, 99F, 99I, 104B, 282, 283, 284, 286, 287, 288, 289, 290, 293A, 293B, 294, 295, 296, 298, 299, 313, 322, 324, 334, 335, 338, 339, 341, 347, 348	BT Group Plc (" <b>BT</b> ")	<p>BT did not submit any representation or objection regarding the DCO Application and therefore s127 of the PA 2008 is not engaged.</p> <p>BT issued the Applicant with a Letter of Proximity which set out their protective provision requirements and BT's required process for delivering any relocations, diversions and alterations which may be required as a result of the Project's impact on BT's assets.</p>	<p>General protective provisions for the benefit of operators of the electronic communications code are included under Part 2 of Schedule 13 to the draft DCO.</p> <p>These operate to protect BT's interests and, additionally, the Applicant intends to comply with the issued Letter of Proximity and BT's requirements contained within it.</p> <p>Therefore, the Applicant considers that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of BT's undertaking.</p>
99A, 99B, 99C, 99D, 99E, 99F, 99G, 99H, 99I, 101A, 101B, 101C, 104A	National Grid Electricity Transmission Plc (" <b>NGET</b> ")	<p>NGET submitted a representation in respect of the DCO Application (<b>RR-017</b>). As at Deadline 6, this representation has not been withdrawn.</p> <p>The final SoCG with NGET (<b>REP5 -044</b>) confirms that all matters are agreed between the Applicant and NGET. A signed version of the final SoCG has been submitted as part of Deadline 6.</p> <p>The SoCG confirms that the form of protective provisions included in Part 6 of</p>	<p>NGET has interests in the Order land for the purposes of its undertaking as an Electricity Act 1989 licence holder.</p> <p>Agreed protective provisions for the benefit of NGET are contained at Part 6 of Schedule 13 to the draft DCO.</p> <p>The final SoCG confirms that all matters with NGET are now agreed and that the withdrawal of NGET's representation will follow shortly upon legal completion of the commercial agreement.</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
		<p>Schedule 13 to the draft DCO submitted at Deadline 5 are agreed.</p> <p>It also notes that the commercial agreement with NGET is in agreed form and subject to the usual signing and legal completion processes.</p>	<p>The Applicant considers that the protective provisions afford NGET adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of NGET's undertaking.</p>
<p>67A, 68B, 75I, 75J, 76A, 76B, 282, 289, 307, 335, 337</p>	<p>National Grid Gas Plc ("<b>NGG</b>")</p>	<p>NGG submitted a representation in respect of the DCO Application (<b>RR-016</b>). As at Deadline 6, this representation has not been withdrawn.</p> <p>The final SoCG with NGG (<b>REP5-042</b>) confirms that all matters are agreed between the Applicant and NGG. A signed version of the final SoCG has been submitted as part of Deadline 6.</p> <p>The SoCG confirms that the form of protective provisions included in Part 4 of Schedule 13 to the draft DCO submitted at Deadline 5 are agreed.</p> <p>It also notes that the commercial agreement with NGG is in agreed form and subject to the usual signing and legal completion processes.</p>	<p>NGG has interests in the Order land for the purposes of its undertaking as a Gas Act 1986 licence holder.</p> <p>Agreed protective provisions for the benefit of NGG are contained at Part 4 of Schedule 13 to the draft DCO.</p> <p>The final SoCG confirms that all matters with NGG are now agreed and that the withdrawal of NGG's representation will follow shortly upon legal completion of the commercial agreement.</p> <p>The Applicant considers that the protective provisions afford NGG adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of NGG's undertaking.</p>
<p>63A, 63B, 63C, 63D, 72, 73A, 73B, 245, 286</p>	<p>Environment Agency ("<b>EA</b>")</p>	<p>The Environment Agency submitted representations in respect of the DCO Application (<b>RR-009</b>) and (<b>REP2-103</b>).</p> <p>The final SoCG with the EA (<b>REP5-040</b>) confirms that all matters are agreed between the Applicant and the EA, save for the ongoing negotiations for voluntary</p>	<p>Agreed protective provisions for the benefit of the EA are contained at Part 5 of Schedule 13 to the draft DCO, as evidenced through the SoCG (<b>REP5-040</b>).</p> <p>The EA, by way of letter dated 13 February 2024, withdrew its objection (<b>REP5-068</b>).</p>



Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
		<p>land rights agreements between the parties.</p> <p>The SOCG notes that the draft DCO submitted at Deadline 5 includes agreed form protective provisions in Part 5 of Schedule 13.</p> <p>Therefore, the Applicant considers that s127 of the PA 2008 is not engaged as objections are considered withdrawn due to the SOCG and <b>REP5-068</b>.</p>	<p>The Applicant considers that the protective provisions afford the EA adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of the EA's undertaking.</p>
190	Network Rail	<p>Network Rail submitted representations in respect of the DCO Application (<b>RR-001</b>) and (<b>REP2-106</b>).</p> <p>As at Deadline 5, these representations have not been withdrawn.</p> <p>The final SoCG with Network Rail (<b>REP5-050</b>) notes that the protective provisions included in Part 8 of Schedule 13 to the final draft DCO submitted at Deadline 5 are agreed, save for the inclusion of wording at Paragraph 85 which if included would restrict the compulsory acquisition of rights and interests in land from Network Rail.</p> <p>The parties preferred respective positions on Paragraphs 85 are set out in <b>Table 2</b> to these Closing Submissions.</p> <p>The parties are currently negotiating a voluntary land agreement and commercial framework agreement which</p>	<p>Network Rail owns land and has apparatus and interests within the Order land for the purposes of its railway undertaking as a railway operator for the Grantham to Skegness line and verges, which lies to the south of Heckington Fen (the "<b>Railway</b>").</p> <p>In its representations, Network Rail raised concerns regarding works being carried out in proximity to its apparatus and the use of compulsory acquisition powers unless and until: (1) adequate protective provisions and/or requirements are included within the DCO; and (2) an agreement is entered to ensure that the new rights sought are exercised in a regulated manner to prevent adverse impacts to the Railway.</p> <p>As reflected in the final SoCG, the protective provisions are in agreed form subject to the wording of Paragraph 85, which relates to a restriction on the Applicant from compulsorily acquiring rights and interests without Network</p>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
		<p>the Applicant understands will enable Network Rail to formally withdraw its representations.</p>	<p>Rail's prior consent (which is to be reasonably provided save for in respect of safety concerns).</p> <p>The Applicant's position to date has been that, unless the parties have a voluntary land agreement in place which grants the Applicant all the rights it requires for the delivery of the Proposed Development, the restrictions on compulsory acquisition required by Network Rail under paragraph 85 should not be included as it could prevent the Applicant from delivering the Project.</p> <p>The Applicant and Network Rail recently reached a commercial agreement in principle for the voluntary land agreement. Therefore, it is anticipated that the Applicant will not be required to exercise its compulsory acquisition powers under the DCO over Network Rail's land.</p> <p>However, until legal completion of the voluntary land agreement has taken place, the Applicant requires the certainty that it can deliver the crossing of the Railway which is necessary for the operation of the Proposed Development. Therefore, paragraph 85 of the protective provisions (as required by Network Rail and shown in <b>Table 2</b> below) should not be included as it could put the delivery of the Applicant's Project at risk by, in essence, giving Network Rail a commercial ransom position.</p> <p>To provide Network Rail with comfort, the Applicant has proposed a contractual mechanism in principle, under which the form of wording for Paragraph 85 required by Network Rail will become operative and</p>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>bind the Applicant following completion of the voluntary land agreement.</p> <p>In any event (regardless of the compulsory acquisition position), Network Rail will still have the benefit of the form of protective provisions (included at Part 8 of Schedule 13 to the DCO submitted at Deadline 5).</p> <p>The Applicant notes the following protective provisions in particular:</p> <ul style="list-style-type: none"> <li>• the definition of "railway property" (at paragraph 83) includes references both to any assets or apparatus owned by Network Rail or linked to an Network Rail railway, and any property right or interests of Network Rail, its licencees and tenants which relate to an Network Rail railway;</li> <li>• the Applicant must provide Network Rail with plans of its specified works (i.e. works in proximity to "railway property") for approval by an engineer prior to undertaking any works on Network Rail's land not less than 56 days before commencement of the works (paragraph 86, Schedule 13 Part 8);</li> <li>• Network Rail may require such modifications and protective works as reasonably necessary to protect any railway property and to <i>"ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways"</i> (paragraph 86(4), Schedule 13 Part 8);</li> </ul>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<ul style="list-style-type: none"> <li>• The ability for Network Rail to require step in rights for Network Rail to undertake any works (at the Applicant's cost) (paragraph 86(3), Schedule 13 Part 8);</li> <li>• The requirement for the Applicant to provide Network Rail's engineers access to the crossing works to inspect these during their construction, and to supply them with all information reasonably required in respect of the crossing works or method of constructing them (paragraph 88, Schedule 13 part 8); and</li> <li>• The requirement for the Applicant to design the Proposed Development, consult with Network Rail, modify the Proposed Development, and carry out pre-operation testing to prevent the impact of electromagnetic interference on Network Rail's railway and to ensure the continued safe operation of the railway (paragraph 92, Schedule 13 Part 8).</li> </ul> <p>Accordingly, the Applicant considers that the protective provisions (as currently drafted) provide adequate safeguards and these include the ability for Network Rail to approve plans and method statements for the Applicant's works. This position has previously been supported by Examining Authorities, and endorsed by the Secretary of State, in both the Hinkley Point C Connection and the Hornsea Project Three Offshore Wind Farm Order.</p> <p>The rights to use compulsory acquisition powers are a distinct and separate issue from the notion of</p>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>public safety and/or serious detriment to Network Rail's undertaking.</p> <p>The two issues should not, in the Applicant's view, be conflated. Compulsory acquisition rights go to the heart of the viability case for the project because without these the Applicant could be ransomed by Network Rail.</p> <p>This in itself could put the delivery of the project at risk and create a dangerous precedent for all NSIPs where statutory undertakers claimed that they should be treated differently to any other landowner.</p> <p>Compulsory acquisition is therefore needed in order to ensure the deliverability of the Project. Any ransom value that Network Rail could excerpt should not be a material consideration for the Secretary of State in deciding whether compulsory powers are confirmed, per Section 106(1)(c) Planning Act 2008.</p> <p>The Applicant considers that the progress made to date in respect of the voluntary land agreement/commercial framework agreement, and the substantially agreed form protective provisions afford Network Rail adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of Network Rail's undertaking.</p>
99A, 99B, 99C, 99D, 99E, 99F,	National Grid Electricity Distribution (East Midlands) Plc (" <b>NGED</b> ")	No relevant representations or objections have been made by NGED to date.	General protective provisions for the benefit electricity, gas, water and sewerage undertakers

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
99G, 99H, 99I		Therefore, the Applicant considers that s127 of the PA 2008 is not engaged.	are included under Part 1 of Schedule 13 to the draft DCO.
60C, 63A, 66B, 67B, 67D, 68C, 68E, 100A, 101A, 101C, 104A, 104B, 104C, 104D, 104E, 108B, 109A, 109B, 265, 266A, 282, 283, 287, 288, 289, 294, 295, 296, 322, 325, 329, 330, 339, 341	National Grid Electricity Distribution Plc (" <b>NGED</b> ")	The Applicant contacted NGED as part of the consultation process in June 2022 and has attempted to engage with NGED regarding its protective provision requirements, but has received no engagement further to the consent provided by NGED relating to the Change Application ( <b>PS-003</b> ).	These will operate to protect NGED's interests meaning that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of NGED's undertaking.
12, 60A, 60B, 60C, 67A, 68C, 68E, 69, 75D, 75G, 75I, 76B,	Black Sluice Internal Drainage Board ("the <b>IDB</b> ")	The IDB submitted a representation in respect of the DCO Application ( <b>RR-003</b> ). As at Deadline 6, this representation has been dealt with, as evidenced in the SOCG with the IDB which is agreed and	Agreed protective provisions for the benefit of the IDB are contained at Part 7 of Schedule 13 to the draft DCO, as evidenced through the SOCG ( <b>REP5-039</b> ).  The Applicant considers that the protective provisions afford the IDB adequate protection so

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
<p>89, 94, 99A, 99C, 99D, 99E, 100B, 101B, 101C, 104B, 104C, 104D, 104E, 108A, 184, 248, 255, 282, 283, 289, 290, 293A, 293B, 294, 295, 296, 298, 313, 316, 317, 322, 323, 331</p>		<p>was submitted at Deadline 5 (<b>REP5-039</b>).</p> <p>This notes that the form of protective provisions included in Part 7 of Schedule 13 to the draft DCO submitted at Deadline 5 are agreed.</p> <p>The parties have also agreed a supplementary legal agreement which was completed and concluded by Deadline 5.</p> <p>Therefore, the Applicant considers that s127 of the PA 2008 is not engaged as objections are considered withdrawn due to the SOCG.</p>	<p>that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of the IDB's undertaking.</p>
<p>12, 60B, 64, 66A, 66B, 67A, 67B, 67C, 67D, 68A, 68B, 68C, 68D, 68E, 68F, 69, 75A, 75B, 75C, 75D, 75E, 75F,</p>	<p>Triton Knoll Wind Farm Limited ("<b>TKWF</b>")</p>	<p>TKWF submitted a representation in respect of the DCO Application (<b>RR-007</b>). As at Deadline 5, this representation has not been withdrawn.</p> <p>The legal representatives for TKWF and Triton Knoll OFTO have confirmed that the transfer of assets and interests from TKWF to Triton Knoll OFTO has now completed.</p>	<p>Following confirmation that the assets and interests of TKWF have transferred to Triton Knoll OFTO, the Applicant recognises that protective provisions are now only required in favour of Triton Knoll OFTO.</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
75G, 75H, 75I, 75J, 89, 90, 94, 97, 99A, 99F, 104A, 104B, 104C, 104D		<p>In line with TKWF's representation (<b>RR-007</b>), the Applicant recognises that it is now Triton Knoll OFTO which has apparatus within the Order land (not TKWF).</p> <p>On this basis and following express confirmation of the same from the legal representatives for TKWF and Triton Knoll OFTO, the Applicant understands that protective provisions are now only required for Triton Knoll OFTO (see below).</p> <p>Therefore, the Applicant considers that s127 of the PA 2008 is not engaged for TKWF due to the asset and interests transfer.</p>	
104E, 107A, 108C, 109A, 173, 273, 274, 294, 301, 317, 349	Triton Knoll OFTO Limited (" <b>Triton Knoll OFTO</b> ")	<p>Triton Knoll OFTO submitted a representation in respect of the DCO Application (<b>RR-007</b>).</p> <p>As at Deadline 6, this representation has not been withdrawn.</p> <p>The final SoCG with Triton Knoll OFTO (<b>REP5-052</b>) notes that the protective provisions included in Part 12 of Schedule 13 to the final draft DCO submitted at Deadline 5 are agreed, save for the wording of Paragraph 134 which would restrict the compulsory acquisition of rights and interests in land from Triton Knoll OFTO save in respect of an access</p>	<p>Triton Knoll OFTO own and operate the transmission infrastructure which connects the Triton Knoll Offshore Windfarm to the UK electricity network, and which runs across the Order land.</p> <p>In its representations, Triton Knoll OFTO raised concerns about the granting of compulsory acquisition powers under the Order over land in which it has interests and apparatus, until a satisfactory commercial agreement and protective provisions have been agreed between the parties.</p> <p>As reflected in the final SoCG, the protective provisions are in agreed form subject to the wording of Paragraph 134, which relates to a restriction on the Applicant from compulsorily</p>



Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
		<p>track privately owned by Triton Knoll OFTO (the "<b>TK Access Track</b>").</p> <p>The parties' preferred respective positions on Paragraph 134 is set out in <b>Table 2</b> to these Closing Submissions.</p> <p>The parties are currently negotiating a commercial side agreement which the Applicant understands will enable Triton Knoll OFTO to formally withdraw its representation.</p>	<p>acquiring rights and interests in land from Triton Knoll OFTO.</p> <p>As set out at <b>Table 2</b>, the Applicant agrees to be subject to a restriction on compulsory acquisition in respect of Triton Knoll OFTO interests, save in respect of the Triton Knoll Access Track.</p> <p>The Applicant's position to date has been that, unless the parties have a voluntary land agreement in place which grants the Applicant a right of access over the Triton Knoll Access Track, the restriction on compulsory acquisition required by Triton Knoll OFTO under paragraph 134 should not apply to the Triton Knoll Access Track as it could prevent the Applicant from delivering the Project.</p> <p>The Applicant and Triton Knoll OFTO have been progressing the negotiation of the voluntary land agreement for the Triton Knoll Access Track during Examination and the voluntary land agreement is now in near final form. Therefore, it is anticipated that the Applicant will not be required to exercise its compulsory acquisition powers under the DCO over the Triton Knoll Access Track.</p> <p>However, until legal completion of the voluntary land agreement has taken place, the Applicant requires certainty that it can access the Triton Knoll Access Track which is necessary for the construction of the Proposed Development (specifically the extension works needing to be carried out at Bicker Fen Substation).</p> <p>Therefore, the scope of paragraph 134 of the protective provisions (as required by Triton Knoll OFTO and shown in <b>Table 2</b> below) should not</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>include the Triton Knoll Access Track as it could put the delivery of the Applicant's Project at risk.</p> <p>To provide Triton Knoll OFTO with comfort, the Applicant has proposed a contractual mechanism in principle, under which paragraph 134 as required by Triton Knoll OFTO will become operative and bind the Applicant (in respect of the Triton Knoll Access Track) following completion of the voluntary land agreement.</p> <p>In any event (regardless of the compulsory acquisition position for the Triton Knoll Access Track), Triton Knoll will still be offered protections in the form of the protective provisions (included at Part 12 of Schedule 13 to the DCO). The protective provisions provide safeguards for Triton Knoll OFTO including the following:</p> <ul style="list-style-type: none"> <li>• the definition of "apparatus" (at paragraph 131) includes "access to apparatus" (ie the Triton Knoll Access Track);</li> <li>• the Applicant must provide Triton Knoll OFTO with plans of its specified works (i.e. works in proximity to "apparatus") for approval by an engineer prior to undertaking any works on the Access Track not less than 56 days before commencement of the works (paragraph 137, Schedule 13 Part 12);</li> <li>• Triton Knoll OFTO may require such modifications as reasonably necessary to protect its apparatus (i.e. Access Track) and to secure a proper and convenient means of</li> </ul>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>access to its apparatus (paragraph 137(5), Schedule 13 Part 12);</p> <ul style="list-style-type: none"> <li>• The ability for Triton Knoll OFTO to require protective works and/or step in rights for Triton Knoll OFTO to undertake any works (at the Applicant's cost) (paragraph 137(7), Schedule 13 Part 12); and</li> <li>• The covenant on the Undertaker to ensure the position of equivalence for Triton Knoll OFTO in accessing its apparatus "no less effectively" (paragraph 142, Schedule 13 Part 12).</li> </ul> <p>Accordingly, the Applicant considers that the protective provisions (as currently drafted) provide adequate safeguards and these include the ability for Triton Knoll OFTO to approve plans and method statements for the Applicant's works.</p> <p>The Applicant considers that the rights to use compulsory acquisition powers are a distinct and separate issue from the notion of serious detriment to Triton Knoll OFTO's undertaking.</p> <p>The two issues should not, in the Applicant's view, be conflated. Compulsory acquisition rights go to the heart of the viability case for the project because without these the Applicant could be ransomed by Triton Knoll OFTO. This in itself could put the delivery of the project at risk. Compulsory acquisition is therefore needed in order to ensure the deliverability of the project, particularly in respect of the use of the Triton Knoll Access Track which is a key mitigation measure for the Proposed Development.</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>The Applicant considers that the near final position in respect of the voluntary land agreement for the Triton Knoll Access Track/the commercial side agreement and the substantially agreed form protective provisions afford Triton Knoll OFTO adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of Triton Knoll OFTO's undertaking.</p>
<p>60A, 99A, 99C, 99E, 99F, 99G</p>	<p>National Grid Viking Link Limited ("<b>Viking Link</b>")</p>	<p>Viking Link has submitted representations in respect of the DCO Application (<b>RR-018</b>) and (<b>REP2-105</b>).</p> <p>As at Deadline 6, these representations have not been withdrawn.</p> <p>The final SoCG with Viking Link (<b>REP5-046</b>) notes that the protective provisions included in Part 10 of Schedule 13 to the final draft DCO submitted at Deadline 5 are agreed, save for the wording of Paragraph 112 which would restrict the compulsory acquisition of rights and interests in land from Viking Link, unless agreed by Viking Link with such agreement not to be unreasonably withheld. A signed version of the final SoCG has been submitted as part of Deadline 6.</p> <p>The parties' preferred respective positions on Paragraph 112 is set out in <b>Table 2</b> to these Closing Submissions.</p>	<p>Viking Link has cable rights which run across the Order land.</p> <p>In its representations, Viking Link has confirmed that a bespoke form of protective provisions need to be provided for the benefit of Viking Link on the face of the DCO. Similarly, Viking Link recently provided (on 2 February 2024) a form of commercial side agreement and confirmed in the final SoCG that it requires both this side agreement and the protective provisions for the adequate protection of Viking Link's undertaking.</p> <p>As reflected in the final SoCG, the protective provisions are in agreed form subject to the wording of Paragraph 112, which relates to a restriction on the Applicant from compulsorily acquiring rights and interests in land from Viking Link (unless agreed by Viking Link).</p> <p>The Applicant accepts the principle of the compulsory acquisition restriction set out in Paragraph 112 but considers it necessary that any further agreement/deed of consent to be entered into between the parties for the purpose of crossing Viking Link's assets (or which is otherwise</p>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
		<p>The parties are currently negotiating a commercial side agreement which the Applicant understands will allow Viking Link to formally withdraw its representations.</p>	<p>required) cannot be "unreasonably withheld" by Viking Link.</p> <p>In short, the Applicant considers it necessary and proportionate that Viking Link should be required to act reasonably when it requires a crossing agreement and/or act reasonably when negotiating the terms of such agreement.</p> <p>This is because, under the bespoke protective provisions in favour of Viking Link, the Applicant cannot commence construction of the Proposed Development until the crossing agreement has been entered into by the parties.</p> <p>Therefore, the Applicant needs to ensure that, if its ability to compulsorily acquire rights from Viking Link is restricted by way of Paragraph 112, then the Applicant is not unreasonably prevented (i.e. on unreasonable terms or commercial terms akin to a ransom) from entering into the crossing agreement to deliver the Proposed Development.</p> <p>This is an important point for the Applicant and it goes to the heart of the viability of the Project because without an obligation on Viking Link to act reasonably in respect of the crossing agreement the Applicant could be ransomed by Viking Link.</p> <p>This in itself could put the delivery of the project at risk.</p> <p>The additional drafting for Paragraph 112 (as shown in <b>Table 2</b>) included by the Applicant is therefore needed in order to ensure the deliverability of the Project.</p>

**THE APPLICANT'S CLOSING SUBMISSIONS**

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
			<p>In addition to the protective provisions, the parties are continuing to negotiate and progress the commercial side agreement recently required by Viking Link.</p> <p>The Applicant intends to enter into the side agreement for the benefit of Viking Link once terms can be agreed which are acceptable to both parties. The parties expect to reach agreement on the side agreement shortly.</p> <p>In any event, and in the meantime, Viking Link has the benefit of all the protections included within the Protective Provisions which have been included as part of the final DCO submitted as part of Deadline 5 (Part 10, Schedule 13). The Applicant considers that this form of protective provisions already provides adequate safeguards for Viking Link's apparatus and the continued operation of its statutory undertaking.</p> <p>Therefore, the Applicant considers that s127 and s138 of the PA 2008 are satisfied due to the substantially agreed form protective provisions include within the DCO and the progress made to date in respect of the commercial side agreement.</p> <p>The Applicant considers that the substantially agreed form protective provisions included within the draft DCO and the progress made to date in respect of the commercial side agreement afford Viking Link adequate protection and that the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of Viking Link's undertaking.</p>

Plot Numbers	Statutory Undertaker or other apparatus owner	Engagement of Section 127	Applicant's Position
104A, 104B, 104C, 104D, 104E, 109A, 109B	Bicker Fen Windfarm Limited (" <b>BFWF</b> ")	<p>BFWF submitted a representation in respect of the DCO Application (<b>RR-023</b>).</p> <p>As at Deadline 6, this representation has been withdrawn.</p> <p>The parties have agreed that bespoke protective provisions will take the form of a separate commercial agreement that will not be part of Schedule 13 to the draft DCO.</p> <p>This commercial agreement was completed and concluded by Deadline 5.</p>	<p>BFWF now has the benefit of the contractual protections secured under the completed commercial agreement; and Schroders Greencoat (on behalf of BFWF) confirmed the same to the Examining Authority at Deadline 5 (<b>REP5-070</b>).</p> <p>BFWF also has the benefit of the general protective provisions for the protection of electricity, gas, water and sewerage undertakers are included under Part 1 of Schedule 13 to the draft DCO.</p> <p>These provisions and the terms of the commercial agreement will operate to protect BFWF's interests meaning the compulsory acquisition provisions in the draft DCO can be granted without serious detriment to the carrying on of BFWF's undertaking.</p>

**Table 2: Preferred Drafting for Protective Provisions (Schedule 13 of the DCO)**

11.7 Table 2 below sets out the preferred drafting to be included in Schedule 13 of the final DCO for both the Applicant and the relevant Statutory Undertakers (where there remains any outstanding disagreement).

11.8 Additional/alternative drafting required by the relevant party is shown below in italicised underlined text in the table.

Statutory Undertaker's Preferred Drafting	Applicant's Preferred Drafting (as included in the final DCO)
<b>Network Rail Infrastructure Limited</b>	
<p>Network Rail's position is that Paragraph 85 of Part 8 of Schedule 13 to the dDCO should read as follows:</p> <p><b><u>85.—(1) The undertaker must not exercise the powers conferred by—</u></b></p> <ul style="list-style-type: none"> <li>(a) <u>article 3 (development consent granted by the Order);</u></li> <li>(b) <u>article 5 (maintenance of authorised development);</u></li> <li>(c) <u>article 14 (discharge of water);</u></li> <li>(d) <u>article 17 (authority to survey and investigate the land);</u></li> <li>(e) <u>article 18 (compulsory acquisition of land);</u></li> <li>(f) <u>article 20 (compulsory acquisition of rights);</u></li> <li>(g) <u>article 23 (acquisition of subsoil only);</u></li> <li>(h) <u>article 21 (private rights);</u></li> <li>(i) <u>article 24 (power to override easements and other rights);</u></li> <li>(j) <u>article 27 (temporary use of land for carrying out the authorised development);</u></li> <li>(k) <u>article 28 (temporary use of land for maintaining the authorised development);</u></li> </ul>	<p>The Applicant's position as currently reflected in Paragraph 85 of Part 8 of Schedule 13 to the dDCO submitted at Deadline 5 is as follows:</p> <p><b><i>85. The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.</i></b></p>



Statutory Undertaker's Preferred Drafting	Applicant's Preferred Drafting (as included in the final DCO)
<p><i>(l) <u>article 29 (statutory undertakers);</u></i></p> <p><i>(m) <u>article 36 (felling or lopping of trees and removal of hedgerows);</u></i></p> <p><i>(n) <u>article 37 (trees subject to tree preservation orders);</u></i></p> <p><i>(o) <u>the powers conferred by section 11(3) (power of entry) of the 1965 Act;</u></i></p> <p><i>(p) <u>any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;</u></i></p> <p><i><u>in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.</u></i></p> <p><i><u>(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.</u></i></p> <p><i><u>(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 29 (statutory undertakers), article 25 (power to override easements and other rights) or article 21 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.</u></i></p> <p><i><u>(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property within the Order land, except with the consent of Network Rail.</u></i></p> <p><i><u>(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.</u></i></p>	

Statutory Undertaker's Preferred Drafting	Applicant's Preferred Drafting (as included in the final DCO)
<p><u>(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).</u></p> <p>(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.</p>	
<b>National Grid Viking Link Limited</b>	
<p>Viking Link's position is that Paragraph 112 of Part 10 of Schedule 13 to the dDCO should read as follows:</p> <p><b>112.</b>—(1) <i>Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Viking Link otherwise than by agreement.</i></p>	<p>The Applicant's position as currently reflected in Paragraph 112 of Part 10 of Schedule 13 to the dDCO submitted at Deadline 5 is as follows:</p> <p><b>112.</b>—(1) <i>Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Viking Link otherwise than by agreement (such agreement not to be unreasonably withheld).</i></p>
<b>Triton Knoll OFTO Limited</b>	
<p>Triton Knoll's position is that Paragraph 134 of Part 12 of Schedule 13 to the dDCO should read as follows:</p> <p><b>134.</b>(1) <i>Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to</i></p>	<p>The Applicant's position as currently reflected in Paragraph 131 of Part 12 of Schedule 13 to the dDCO submitted at Deadline 5 is to include the following defined term:</p>

<p><b>Statutory Undertaker's Preferred Drafting</b></p>	<p><b>Applicant's Preferred Drafting (as included in the final DCO)</b></p>
<p><i>the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus of Triton Knoll or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Triton Knoll otherwise than by agreement (such agreement not to be unreasonably withheld).</i></p>	<p><u>"Triton Knoll access track" means the area of the Order land comprised of plots 64, 66A, 67A, 67B, 67C, 67D, 68A, 68B, 68D, 68E, 90, 97, 273, 274, 301, 317 and 349 contained in the book of reference to the Order connecting the A17 to Doubletwelves Drove required in connection with Work No.10"</u></p> <p>The Applicant's position as currently reflected in Paragraph 134 of Part 12 of Schedule 13 to the dDCO submitted at Deadline 5 is as follows:</p> <p><b>134.(1)</b> <u>Save for in respect of the Triton Knoll access track (to which the restrictions of this paragraph do not apply for the avoidance of doubt), the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus of Triton Knoll or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Triton Knoll otherwise than by agreement (such agreement not to be unreasonably withheld).</u></p>

## 12 APPENDIX 3 – SUMMARY OF KEY RESIDUAL EFFECTS AND MITIGATION ASSESSMENT

**Table 3: Summary of Key Residual Effects and Mitigation Assessment**

Topic/Issue	Mitigation	Residual Effect
<i>Landscape and Visual</i>		
<p>Impacts on Landscape and Visual</p>	<p>The Applicant has completed a Landscape and Visual Assessment (<b>REP5-033</b>), Residential Visual Amenity Assessment (<b>PS-061</b>) as well as a Glint and Glare assessment (<b>APP-070</b>). The Landscape and Visual Assessment (<b>REP5-033</b>) is supported with a variety of photomontages (<b>PS-096-101</b>). The Applicant acknowledges that the Proposed Development results in some receptors / receiving environments with significant adverse effects in the construction phase. Significant adverse residual effects are not anticipated during the operational or decommissioning phase after mitigation and enhancement measures.</p> <p>The LVIA Methodology was questioned in the ExA's First Written Questions and the Applicant responded in detail in the Applicant's Response to ExA's First Written Questions (<b>REP2-077</b>). The LVIA Methodology was written with regard to the current industry standards, namely the Guidelines on Landscape and Visual Impact Assessment 3rd Edition (GLVIA3).</p> <p>The design of the Proposed Development is set out in Chapter 3 – Site Description, Site Selection and Iterative Design (<b>PS-053</b>) and Chapter 4 – Proposed Development (<b>REP4-024</b>). Landscape constraints are set out in the description of the site (Chapter 3 paragraphs 3.2.25 to 3.2.31) and these were</p>	<p>Chapter 6 - Landscape and Visual (<b>REP5-033</b>) details no residual significant effects are anticipated within the operational phase with mitigation in place. Within the first five years some limited viewpoints from nearby PRow users, residential properties and road users along a small section of Sidebar Lane will experience significant visual effects as proposed vegetation matures with time and this reduces to no significant visual effects experienced by Year 5, on the basis that the proposed planting has been successfully established and the vegetation has reached the desired height. Mitigation is embedded into the design of the Proposed Development and through measures that are secured in the OLEMP (<b>REP5-056</b>) secured under Requirement 8 of the draft DCO (<b>REP5-020</b>).</p> <p>The additional hedgerow resource within the Energy Park site is considered a major beneficial (significant) effect. The Forestry Commission are satisfied that a Woodland Management Plan for the community orchard and the woodland to replace that lost at Bicker Fen Substation will be incorporated in the final LEMP.</p> <p>During the construction phase significant adverse effects are anticipated, although it should be</p>

Topic/Issue	Mitigation	Residual Effect
	<p>considered in the design process, with a 'landscape led' design approach adopted. No landscape designations affect the site of the Energy Park and visibility of the Energy Park from the wider landscape is limited. The design of the Proposed Development has evolved and improved as part of the DCO process, in response to continued technical analysis and stakeholder feedback.</p> <p>Mitigation by design to minimise landscape and visual effects includes:</p> <ul style="list-style-type: none"> <li>• refinements to the layout to provide physical separation from the nearby residential and commercial properties, and public highways;</li> <li>• height of the solar modules reduced from 4.5m to 3.5m;</li> <li>• Onsite Substation and Energy Storage System located centrally within the Energy Park, increasing the distance to nearest residential receptors and the settlement of East Heckington;</li> <li>• Removal of the proposed 132kV substations and change to a centralised Substation utilising the existing built form and tree vegetation to assimilate this part of the Proposed Development into the landscape and views;</li> <li>• use of metal mesh perimeter fencing instead of palisade fencing;</li> <li>• Additional planting including new hedgerows along site boundaries to strengthen local landscape character (by reinforcing field patterns), provide visual screening of development, and increase ecological connectivity. Internal retained field</li> </ul>	<p>noted these effects are limited, temporary and geographically localised. As per NPS EN-1 (January 2024) where residual impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of CNP infrastructure. The residual effect in relation to impacts on landscape and visual does not present an unacceptable risk to human health, public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero, as per Figure 2: Application of CNP in decisions relating to Environmental Impact Assessments of NPS EN-1.</p>

Topic/Issue	Mitigation	Residual Effect
	<p>hedgerows are proposed to be cut to a maximum of 3m high and site boundary hedgerows will be retained and maintained at either 3m, 3.5m or 5m to ensure views into the site are filtered. The height of the hedgerows around the perimeter are different to help assimilate them into the landscape;</p> <ul style="list-style-type: none"> <li>• At the Change Application stage of the DCO process, further hedgerow tree planting included on the northern boundary and woodland planting in the north-west corner of the Energy Park site to compensate the tree plantation removal at National Grid Bicker Fen Substation;</li> <li>• Habitat enhancement of community orchard; this enhancement is wholly in keeping with the landscape character; and</li> <li>• Public Right of Way enhancements, with a permissive path from Heck/15/1 providing a circular 4km route around the Energy Park.</li> </ul> <p>See Chapter 6 - Landscape and Visual (<b>REP5-033</b>) for full list of mitigation details. The proposed permissive path and community orchard is a benefit to the proposal and is not required to mitigate impacts. The additional hedgerow resource within the Energy Park site is considered a major beneficial (significant) effect.</p> <p>The design of the Proposed Development has evolved and improved as part of the DCO process, in response to continued technical analysis and stakeholder feedback. In response to section 42 Statutory Consultation this included the removal of 62ha of BMV land from the south / south-west areas of the</p>	

Topic/Issue	Mitigation	Residual Effect
	<p>proposed Order Limits - see Chapter 3 – Site Description, Site Selection and Iterative Design (<b>PS-053</b>) for full details.</p> <p>The OLEMP (<b>REP5-056</b>) detailing the mitigation measures that are not embedded in the design (i.e. new planting and community orchard) to ensure landscape and visual impacts is minimised is secured under Requirement 8 of the draft DCO and ensures the landscape and ecology measures will be managed, maintained, and monitored during the operational life. A Woodland Management Plan will be created for the Final LEMP. The permissive path is secured under Requirement 17 of the draft DCO (<b>REP5-020</b>).</p>	
Compensatory Tree Planting	<p>Prior to the Examination commencing, a Change Request Application was submitted due to additional land being required to accommodate extension works to National Grid’s Bicker Fen Substation in an area of tree plantation located immediately to the south of the existing Substation. The plantation, in Boston Borough needs to be removed to facilitate the extension works. It is not possible to propose any new planting at Bicker Fen Substation area to mitigate against this loss due to restrictions posed by potential new and existing utilities within this area (see Appendix 4 of <b>REP2-077</b>). However, the Applicant is including an area within the Energy Park site for 4200m<sup>2</sup> of woodland tree planting and 55 no. of small-scale hedgerow trees to offset the loss – see Figure 6.2: Landscape Strategy Plan (<b>REP3-012</b>). Additionally, the Applicant has committed to plant further trees (hedgerow, or other connectivity functions) in Boston Borough. The backstop to this position is a contribution to planting within Boston</p>	<p>The tree plantation is considered low value with its function being primary a mitigation planting associated with the planning permission for the Bicker Fen Substation which was approved in 2005 (under Boston Borough Council reference B/05/0046), and not associated with the traditional field pattern. Although the tree plantation adds to the amount of tree cover in the landscape and helps interrupt and screen views, it is a recent man-made feature and only appreciated from a very limited number of public vantage points, adding very little to the overall landscape character. The area south of the tree plantation is largely devoid of any receptors (approximately 1.6km south to the nearest residential receptor), and Vicarage Drove immediately south is a dead-end lane that does not serve any settlements or dwellings, and does not connect to any PRoWs.</p>

Topic/Issue	Mitigation	Residual Effect
	<p>Borough, or a payment to Boston Borough Council to facilitate tree planting (<b>REP5-056</b>).</p> <p>The mitigation measures outlined are secured under Requirement 8 in the draft DCO and detailed in the OLEMP (<b>REP5-056</b>). Boston Borough Council have confirmed they are in agreement with the mitigation measures and there is common ground – see SoCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (<b>REP5-037</b>).</p>	<p>In terms of ecology, whilst the woodland compartment has some localised structural value in terms of providing connectivity within and around the substation it is considered to have a limited value in terms of ecological functionality, mainly due to the woodland compartments' age and current unmanaged state. Therefore, its partial removal is not considered to be materially harmful / or significant in terms of ecological function and landscape character.</p>
<p>Tree Planting Height</p>	<p>At Deadline 3, the tree planting height was amended from a minimum of 2.5m to 1.5m within the planting schedules in Figure 6.2: Landscape Strategy Plan (<b>REP3-012</b>) and also replicated in the OLEMP (<b>REP5-056</b>). Trees at heights of 2.5m are difficult to procure and it is not certain that they will be available. The Applicant was advised that trees at 1.5m height are more readily available, hence the proposed change.</p> <p>The implication of a lower tree stock planted at Year 1 was re-assessed by the Applicant, and based on estimated growth rate 0.5m / year for hedgerow vegetation (of which similar growth rate would be applicable to the proposed tree vegetation), it is anticipated that at Year 5 the maturing tree canopies would be approximately 4m high. Therefore, the residual effects assessment within Chapter 6- Landscape and Visual (<b>REP5-033</b>) can be relied upon and mitigation can be achieved as maturing canopies grow and become sufficiently dense to provide screening.</p>	<p>The residual effects assessment within Chapter 6- Landscape and Visual (<b>REP5-033</b>) did not alter with the change in tree planting height, and mitigation can be achieved adequately provide visual screening of the Proposed Development.</p>
<p><b>Residential Amenity</b></p>		



Topic/Issue	Mitigation	Residual Effect
<p>Impacts on Residential Visual Amenity</p>	<p>The Applicant has completed a Residential Visual Amenity Assessment (<b>PS-061</b>), Landscape and Visual Assessment (<b>REP5-033</b>) as well as a Glint and Glare assessment (<b>APP-070</b>). The Residential Visual Amenity Assessment determines that no properties scoped into the assessment are visually affected to a major adverse (significant) extent with mitigation in place, and the Proposed Development would not fail the Residential Visual Amenity Threshold and Lavender Test.</p> <p>Mitigation in the form of large lengths of hedgerows are designed within the Energy Park site perimeter to limit views into it and residential properties are set back from the Energy Park. The closest residential property assessed is 134m from the Energy Park site – see RVAA Assessment Table (<b>APP-189</b>). Internal retained field hedgerows are proposed to be cut to a maximum of 3m high and site boundary hedgerows will be retained and maintained at either 3m, 3.5m or 5m to ensure views into the site are filtered. The height of the hedgerows around the perimeter are different to help assimilate them into the landscape. These heights are shown on the Landscape Strategy Plan shown in the OLEMP (<b>REP5-056</b>). The Onsite Substation and Energy Storage System is located centrally within the Energy Park, increasing the distance to nearest residential receptors and the settlement of East Heckington.</p> <p>The OLEMP (<b>REP5-056</b>) detailing the mitigation measures to ensure visual amenity impacts is minimised is secured under Requirement 8 of the draft DCO (<b>REP5-020</b>) and ensures the landscape and</p>	<p>Chapter 7 – Residential Visual Amenity (<b>PS-061</b>) details no significant effects are anticipated on assessed residential receptors. Moderate adverse effects are identified after mitigation, considered not significant in EIA terms. As per NPS EN-1 (January 2024) where residual impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of CNP infrastructure. The residual effect in relation to impacts on residential visual amenity does not present an unacceptable risk to human health, public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero, as per Figure 2: Application of CNP in decisions relating to Environmental Impact Assessments of NPS EN-1.</p>

Topic/Issue	Mitigation	Residual Effect
	ecology measures will be managed, maintained, and monitored during the operational life.	
<b>Ecology and Ornithology</b>		
Skylark Mitigation	<p>At Deadline 3 and 5, further information was provided in relation to the design of the skylark mitigation strategy as set out in the ES Technical Note: Additional Ecology Information (<b>REP3-027</b>). The OLEMP (<b>REP5-056</b>) include mitigation measures proposed of:</p> <ul style="list-style-type: none"> <li>• Enhanced on-site foraging resource through landscape scale arable reversion;</li> <li>• On-site territory retention through habitat creation;</li> <li>• Off-site territory absorption through displacement;</li> <li>• The provision of habitat, including skylark plots, on land outside of the Order Limits but under option and within the Applicant’s control (Figure 1.4 Field Plan <b>APP-077</b>); and</li> <li>• The ‘landscape scale’ provision of a further 0.25ha of skylark plots across Lincolnshire within approximately 77ha of suitable land.</li> </ul> <p>The OLEMP (<b>REP5-056</b>) detailing the mitigation measures to ensure ecological impacts is minimised is secured under Requirement 8 of the draft DCO (<b>REP5-020</b>) and ensures the landscape and ecology measures will be managed, maintained, and monitored during the operational life.</p>	<p>The breeding bird population of skylarks within Lincolnshire is in the region of 70,000 breeding pairs, it is considered that the Proposed Development has incorporated a strategy that ensures that impacts arising from habitat loss upon ground nesting birds have been minimised to the point of no residual adverse effects occurring (<b>REP3-027</b>).</p>

Topic/Issue	Mitigation	Residual Effect
Biodiversity Net Gain	Securing biodiversity net gain is a policy objective set out in NPSs, NPPF and Local Plan policy, in addition to the requirements of the Environment Act which are expected to be brought into force in the near future for NSIPs. During the course of Examination it has been confirmed in the DCO application that the proposals will deliver in excess of the policy requirement for 10% biodiversity net gains. At Deadline 3, the Applicant confirmed the minimum of 65% biodiversity net gain in habitat units will be delivered across the authorised development. This is secured under Requirement 8 of the draft DCO ( <b>REP5-020</b> ) and set out in the OLEMP (REP5-056) that monitoring will include regularly validating the BNG calculations to check that 65% BNG in habitat units is being achieved.	The residual effects are beneficial through the compliance with achieving 65% biodiversity net gain in habitat units.
Shadow Habitat Regulations to Inform Appropriate Assessment	Concern was raised during the course of Examination over the Shadow HRA methodology to ensure that all potential cumulative sites were captured. A revised version was submitted ( <b>REP4-023</b> ). Natural England agreed with the conclusions of the Shadow HRA, and confirmed it is unlikely that the Proposed Development will have an adverse effect on the integrity of the Wash SAC, SPA and Ramsar alone or in combination ( <b>AS-035</b> ).	The conclusions of the Shadow HRA ( <b>REP4-023</b> ) confirm no adverse effects are anticipated on the integrity of the North Norfolk Coast and Wash SAC, the Wash SPA and The Wash Ramsar.
<b>Hydrology, Hydrogeology, Flood Risk and Drainage</b>		
Flood resilience	Chapter 9 – Hydrology, Hydrogeology, Flood Risk and Drainage ( <b>PS-065</b> ) and the Flood Risk Assessment ( <b>AS-021 / AS-023</b> ) assess the flood resilience of the Proposed Development.	The assessment of flood resilience for the Proposed Development show negligible effect ( <b>PS-065</b> ). The EA has no objection to the principle of the Proposed Development and has stated the assessment of risk from a fluvial

Topic/Issue	Mitigation	Residual Effect
	<p>The design level has been defined based upon site specific hydraulic modelling of a breach of the Head Dike/Skerth Drain embankment during the 1 in 1,000 year plus 20% allowance for climate change flood event. The hydraulic modelling was undertaken in accordance with the methodology approved by the Environment Agency (EA) in April 2022. Building floor levels will be set at an appropriate freeboard above the modelled breach flood level of the Head Dike, with flood sensitive equipment further raised compared to floor levels. The design of the Energy Park site has ensured that there are no panels expected to be within 9m of any surface water drain operated by the Black Sluice Internal Drainage Board (BSIDB) and 8m for all other drainage ditches. In any event, protective provisions are included within the DCO for the benefit of drainage authorities (including the BSIDB) to govern the procedure to follow for specified works in proximity to BSIDB/drainage authority drainage assets. Additionally, there will be the implementation of SuDs across the Proposed Development to capture run-off from solar panels.</p>	<p>perspective is appropriate to the scale, nature and location of the development (<b>RR-009</b>). No objection has been put forward by the RPAs (including Lincolnshire County Council acting as Lead Local Flood Authority) in relation to the Flood Risk Assessment (<b>AS-021/ AS-023</b>)- see SoCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (<b>REP5-037</b>).</p>
<b>Cultural Heritage</b>		
<p>Grade I Listed Kyme Tower assessment</p>	<p>Chapter 10- Cultural Heritage (<b>REP2-024</b>) includes a setting assessment of the Grade I listed Kyme Tower and assesses the Proposed Development does not contribute through setting to the significance of Kyme Tower, therefore, no effect (or harm) is anticipated. NKDC (<b>REP2-101</b>) and Historic England (<b>REP2-091</b>) consider harm would arise to its setting towards the lower end of 'less than substantial' (engaging NPPF paragraph 202). The ExA carried out a further</p>	<p>The Applicant considers that the assessment in Chapter 10- Cultural Heritage (<b>REP2-024</b>) and further information provided in the Applicant's Response to Second Written Questions (<b>REP4-047</b>) is an accurate assessment of of Grade I listed Kyme Tower, showing no harm and can be relied upon by the ExA.</p>

Topic/Issue	Mitigation	Residual Effect
	<p>Unaccompanied Site Inspection in order to assist in assessing the setting of Kyme Tower (<b>EV-001b</b>).</p> <p>The Applicant maintains its position, however, further information was provided in the Applicant's Response to Second Written Questions (<b>REP4-047</b>), including a 'Screened Zone of Theoretical Visibility (sZTV) and Viewpoint' plan and photomontages at Appendix 2. The graphics at Appendix 2 supported there will be very limited to no visibility of the Energy Park from ground level within the curtilage of Kyme Tower, and will not compromise the ability to, or otherwise adversely affect the, experience of Kyme Tower.</p> <p>The Applicant would stress that even if paragraph 202 of the NPPF is engaged, then the public benefit test has been satisfied, as demonstrated in various places, primarily the provision of a renewable energy scheme to meet net zero targets, local benefits such as the permissive path and a community orchard, and benefits to the local economy during construction. The Applicant notes North Kesteven District Council agree with this position as set out at Section 6.1 of the SoCG (<b>REP5-037</b>).</p>	
<p>Archaeological areas of sensitivity</p>	<p>Extensive trial trenching and archaeological evaluation of the Energy Park (main site) has been completed in full to inform the Outline Written Scheme of Investigation - Evaluation (<b>REP2-055</b>) and the Outline Written Scheme of Investigation -Mitigation (<b>REP2-058</b>), secured under Requirement 12 of the draft DCO. Identified areas of archaeological sensitivity from the trial trench evaluation are mitigated as appropriate through:</p>	<p>Buried archaeological remains are a finite resource and so harm cannot be entirely mitigated. The buried historic agricultural remains in the Energy Park and the offsite Cable Route Corridor identified to date are considered non-designated heritage assets of low to moderate significance, and residual effects are identified as 'minor harm'- see Chapter 10- Cultural Heritage (<b>REP2-024</b>). Both Outline Written Scheme of</p>

Topic/Issue	Mitigation	Residual Effect
	<ul style="list-style-type: none"> <li>• archaeological watching brief during construction groundworks;</li> <li>• strip map record excavation prior to construction (or exclusion of development); or</li> <li>• avoidance of topsoil stripping, levelling, unmatted heavy plant movements, and excavations.</li> </ul> <p>Trial trenching has been completed on the cable route where the Applicant has been able to secure agreements with landowners. Under Requirement 12, Schedule 2 of the draft DCO (REP5-020) it secures that trenching for the remainder of the cable route corridor must be completed before commencing the cable route works.</p> <p>No designated heritage assets are located within the land being considered for the Proposed Development. Within the Energy Park, the upstanding buildings of Six Hundreds Farm, the boundary wall to the west of Elm Grange, and the drainage pump at Head Dike (all non-designated heritage assets- see Applicant response to QHE 1.1 of <b>REP2-077</b>) will be retained. These assets are to be protected by fencing during the construction phase, as detailed in the Outline Construction Environmental Management Plan (OCEMP) (<b>REP5-054</b>). Additionally, historic building recording surveys will be undertaken for the brick-built cottages and barn of Six Hundreds Farm and the drainage pump at Head Dike prior to commencement of enabling works, as secured in the OCEMP. Planting has been included along the northern boundary of the Energy Park to partially screen the Proposed Development in designed views from the non-Listed Mill Green Farmhouse. No mitigation by design is</p>	<p>Investigations (<b>REP2-055</b> and <b>REP2-058</b>) are agreed with the RPAs (see Table 4 of <b>REP5-037</b>).</p> <p>With mitigation in place of planting to provide screening of the Proposed Development in relation to the setting of non-Listed Mill Green Farmhouse, the residual effects in 'minor harm'- see Chapter 10- Cultural Heritage (<b>REP2-024</b>).</p>

Topic/Issue	Mitigation	Residual Effect
	required with regard to the setting of any other heritage asset.	
<b>Socio-Economics</b>		
Economic contribution from the Proposed Development	No mitigation is required as the effects are beneficial. During the construction phase it is estimated £182.9million of gross value will be added over the 30-month construction programme. During the operational phase £815,137 of gross value will be added per annum or £18.1million over 40-year lifespan of the project (January 2024). Business rates are estimated during the operational phase as £1.3million per annum and £29.3million over the 40-year project lifespan (January 2024). During the decommissioning phase £57.1million of gross value will be added over the 18-month decommissioning programme.	Chapter 11- Socio Economics ( <b>REP4-026</b> ) identified the economic contribution effects as beneficial, ranging between minor/moderate-major depending on the phase of development.
Employment effects from the Proposed Development	No mitigation is required as the effects are beneficial. During the construction phase it is estimated 436 on-site construction jobs will be generated, over the 30-month construction programme, with an estimated peak of 109. During the decommissioning phase 218 peak on-site construction jobs over the 18-month decommissioning programme.	Chapter 11- Socio Economics ( <b>REP4-026</b> ) identified the employment effects during the construction and decommissioning phase as moderate beneficial.
Proposed Development could affect the viability of the business that currently farms the land, with the possibility of job losses,	No jobs will be lost with the provision of the Energy Park, this is due to landholdings elsewhere. Furthermore, at least 5 FTE jobs are predicted, in addition to 1.5 FTE for managing the sheep.	Chapter 11- Socio Economics ( <b>REP4-026</b> ) identified the operational effect of employment impact as negligible.

Topic/Issue	Mitigation	Residual Effect
affecting the local economy.		
Accommodation demand effects from the Proposed Development	<p>Accommodation demand will increase during construction and decommissioning phase, with an increase (of up to 327 construction workers) in the construction phase and increase (up to 164 construction) in demand on Serviced and Non-Serviced Accommodation in North Kesteven and Boston in the decommissioning phase.</p> <p>The accommodation demand effects are adverse but not significant and therefore do not require mitigation.</p>	Chapter 11- Socio Economics ( <b>REP4-026</b> ) identified the accommodation demand effects as minor/moderate adverse.
Maximisation of benefits for local people and businesses for hosting the Proposed Development.	<p>An Outline Supply Chain, Employment and Skills Plan (OSCESP) (<b>REP5-062</b>) is included with the DCO application and is secured by Requirement 16 of the draft DCO (<b>REP5-020</b>). The objectives of the plan will utilise local labour where possible and commercially viable, procure goods and services from local contractors, sub-contractors and suppliers to support local employment, provide recruitment and training opportunities involved in the Proposed Development and support the development of skills in the local area.</p>	<p>The OSCESP was submitted with the DCO application (<b>APP-243</b>) and revised at various deadlines in response to the RPA's comments. The latest version was submitted at Deadline 5 (<b>REP5-002</b>).</p> <p>The OSCESP is now agreed with the RPAs- see SoCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (Table 4, <b>REP5-037</b>).</p>
<b>Noise and Vibration</b>		
Sensitive Noise Receptors	<p>The Proposed Development has a limited number of close range sensitive receptors- less than 200m to the Energy Park site and 500m from the Cable Route Corridor and National Grid Bicker Fen Substation. Build-A-Future East Heckington based at Elm Grange will accommodate young people with Autistic</p>	<p>No significant adverse effects are predicted for any sensitive receptors assessed -see Chapter 12: Noise and Vibration (<b>PS-069</b>).</p>



Topic/Issue	Mitigation	Residual Effect
	<p>Spectrum Disorder (ASD) or learning difficulties, potentially sensitive to noise.</p> <p>The design of the Proposed Development has been developed to generally maximise the distance between the proposed noise-generating equipment and noise-sensitive receptors. For example, the Onsite Substation and Energy Storage System was relocated centrally within the Energy Park, increasing the distance to nearest residential receptors and the settlement of East Heckington after the PEIR stage. Requirement 13 of the draft DCO secures the OCEMP (<b>REP5-054</b>) to implement mitigation and monitoring measures such as restriction of construction and piling working hours, good practice measures to minimise construction noise and vibration. The OCEMP (<b>REP5-054</b>) additionally provides provision to specifically alert Build-A-Future East Heckington school and notify them in advance of certain works in proximity of the school. Requirement 15 of the draft DCO contains controls on the operational noise of the equipment at the Energy Park.</p>	
<b>Climate Change</b>		
<p>Net Greenhouse Gas (GHG) impact of the Proposed Development</p>	<p>No mitigation is required as the effects are beneficial.</p> <p>Chapter 13- Climate Change (<b>PS-071</b>) includes an emissions reduction assessment considering the potential effects of the Proposed Development on emissions of GHGs.</p> <p>Over the 40-year operational lifetime, the Proposed Development is estimated to produce a cumulative energy generation of 14,000,000 MWh. The estimated annual operational GHG intensity of the Energy Park</p>	<p>Chapter 13- Climate Change (<b>PS-071</b>) has identified the global atmospheric effects (i.e. net GHG emissions impact) during the operational phase as moderate beneficial.</p>

Topic/Issue	Mitigation	Residual Effect
	<p>is assessed as considerably less than the relevant annual projected decarbonised grid GHG intensity - see paragraph 13.3.85-13.3.89 of Chapter 13-Climate Change (<b>PS-071</b>). The operational phase of the Proposed Development on GHG emissions is considered to have a moderate beneficial (significant) effect.</p> <p>The total lifetime GHG emissions of the Proposed Development is 594,000 tCO<sub>2</sub>e. The lifetime GHG intensity of the Proposed Development is 42.4 gCO<sub>2</sub>e/kWh. When comparing against estimated emissions that would result from sourcing the equivalent energy supply from the grid (1,910,000 tCO<sub>2</sub>e), this would therefore result in a total GHG emissions saving of 1,317,000 tCO<sub>2</sub>e.</p> <p>The Applicant's GHG assessment reflect a conservative approach to project lifetime emissions, representing a robust worst-case approach, and therefore the Proposed Development will likely be an underestimate, with the true lifetime carbon benefit being higher.</p>	
<b>Transport and Access</b>		
Routing of Construction Vehicles	<p>The Outline Construction Traffic Management Plan (OCTMP) (<b>REP5-060</b>) confirms routing of the construction vehicles associated with the main Energy Park site are likely to arrive site from the west via the A17. Access for the construction of the cable route is proposed in three locations. Access from the north of the South Forty Foot Drain is proposed via an existing junction with the A17 located approximately 430 metres north of the junction with the A1121; and</p>	<p>No significant adverse effects are predicted for any transport links assessed -see Chapter 14-Transport and Access (<b>PS-073</b>), ES Transport and Access Technical Note- Sensitivity of Cowbridge Road, Bicker Drove and Vicarage Drove (<b>REP3-030</b>) and ES Transport and Access Technical Note – Assessment of Triton Knoll Access Track, Doubletwelves Drove and Bicker Drove (<b>REP5-006</b>).</p>

Topic/Issue	Mitigation	Residual Effect
	<p>access to the south of the drain is proposed via the Triton Knoll access with the A17. Localised access is also proposed via Royalty Lane and Timms Drive. However, the Triton Knoll access track will predominantly form the southern access. Chapter 14- Transport and Access (<b>PS-073</b>) confirmed with the provision of a OCTMP in place with mitigation measures, negligible effects (not significant) are anticipated on the routings. The OCTMP is secured under Requirement 14 of the draft DCO (<b>REP5-020</b>).</p> <p>Concern was raised during Examination of routing construction traffic associated with National Grid Bicker Fen Substation Extension Works through the A52 access road, Ing Drive, Bicker Drive (south of Vicarage Drive) and Cowbridge Road links. Chapter 14- Transport and Access (<b>PS-073</b>) confirmed with the provision of a OCTMP in place, negligible effects (not significant) are anticipated on this routing.</p> <p>The Applicant prepared ES Transport and Access Technical Note- Sensitivity of Cowbridge Road, Bicker Drive and Vicarage Drive (<b>REP3-030</b>) to assess a worst-case scenario of 'high' sensitivity after Lincolnshire County Council comments as ISH4 (<b>REP3-039</b>). It was determined the package of mitigation will ensure that the Proposed Development is acceptable and that there will be no adverse significant effects at Cowbridge Road, Bicker Drive and Vicarage Drive, even when classifying the sensitivity as 'high'.</p> <p>At Deadline 5, the Applicant and National Grid Electricity Transmission Plc (NGET) made a further commitment that HGVs associated with the construction of the Bicker Fen National Grid</p>	<p>Lincolnshire County Council (LCC) (Highway Authority) have commented that the impact of the traffic and transport provision is considered neutral with no fundamental concerns, once the mitigation measures from the Construction Traffic Management Plan and Construction Environmental Management Plan are implemented. No comment has been provided by BBC or NKDC in relation to the traffic and transport given that the remit falls to LCC as Highway Authority - see SoCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (<b>REP5-037</b>).</p>

Topic/Issue	Mitigation	Residual Effect
	<p>Substation extension works from the Applicant and NGET will be routed via the Triton Knoll access track, to avoid as much as possible the use of Cowbridge Road. The Applicant prepared ES Transport and Access Technical Note – Assessment of Triton Knoll Access Track, Doubletwelves Drove and Bicker Drove (<b>REP5-006</b>) and updated the OCTMP accordingly. It is concluded that the proposed package of mitigation will ensure that the agreed route for the Bicker Fen National Grid Substation extension works is acceptable and that there will be no adverse significant effects at links eight to ten (Triton Knoll Access Road, Doubletwelves Drove and Bicker Drove (north of Vicarage Drove), even when considering the sensitivity of the links as high.</p>	
<b>Land Use and Agriculture</b>		
<p>Use of BMV agricultural land</p>	<p>The Proposed Development has been designed to minimise the impact on BMV agricultural land. Chapter 16- Land Use and Agriculture (<b>REP2-028</b>) confirms that less than 3ha of BMV land will be sealed over or lost from any form of ongoing agricultural practice on the Energy Park site for the operational lifetime. This loss is 15% of the 20ha threshold for consultation with Natural England. The design of the Energy Park site has ensured the access tracks and fixed equipment such as Onsite Substation and Energy Storage System is within Grade 3b land. This design mitigation is implemented within the Figure 2.1 - Indicative Site Layout (<b>APP-078</b>).</p>	<p>No significant adverse effects are predicted for loss / sealing of BMV agricultural - see Chapter 16- Land Use and Agriculture (<b>REP2-028</b>).</p>
<p>Continued Agricultural Use</p>	<p>The land for the Energy Park is currently used for agricultural production. This land will continue to be</p>	<p>During the operational stage of the Proposed Development there will be a reduction in flexibility</p>

Topic/Issue	Mitigation	Residual Effect
	<p>used for agricultural production when the Energy Park is operational. The option agreement between the Applicant and the landowner provides the ability to graze the land.</p> <p>Requirement 19 of the draft DCO secures the Outline Operational Environmental Management Plan (OOEMP) (<b>REP5-011</b>) providing provision for grazing management to ensure the land will be kept in good agricultural and environmental condition. The Applicant has confirmed the grazing density across the site over the year is in line with NFU stocking densities (i.e. 2 to 3 sheep per hectare on newly established grassland, calculated using the fenced solar panel areas). The OOEMP additionally confirms that if after 12 continuous months of no grazing onsite the Applicant will notify the RPAs and provide a plan of how agriculture will continue onsite.</p> <p>The incremental difference between the crop yields for using the BMV land within the Energy Park for sheep grazing rather than for cereal or industrial oilseed production, compared to the crop yields were poorer quality land to be used instead, is less than 360 tonnes per annum. This difference in crop yields is approximately a 0.02% reduction in Lincolnshire County's annual wheat yield and is a minor reduction – see Chapter 16- Land Use and Agriculture (<b>REP2-028</b>) for further details. Land in the Energy Park site is currently farmed as a block ("block cropped"), a common practice of farming multiple contiguous fields with the same crop to maximise physical efficiency and economies of scale. A block is farmed according to its most limiting characteristics rather than its most favourable, i.e. worst soil type. Therefore the Energy</p>	<p>in optionality for ongoing agricultural practices, arable farming cannot take place. The Applicant has confirmed agricultural practices (sheep grazing) will be continuing at the Energy Park site, and this fact should be given weight. The economic impact of a move from wheat to renewable generation and grazing is not significant.</p>

Topic/Issue	Mitigation	Residual Effect
	Park site is farmed to the lower grade (3) and working higher grades dispersed across the Energy Park site is impractical -see Appendix 16.1 Farming Report Savills ( <b>APP-220</b> ) for further details.	
Effects on soils	<p>Chapter 16- Land Use and Agriculture (<b>REP2-028</b>) sets out benefits of reduced-intensity use of the land and soil with arable soils reverting to pasture allowing for a build-up of organic matter. Therefore, in terms of soils, there will be a benefit from the use of the land as grassland for the operational phase. Overall, slight adverse effects (not significant) on soils and land quality during the operation of the Energy Park will be limited to the areas of fixed equipment and access tracks. At the point of decommissioning the likelihood is that the land will be returned with the land quality unaltered, soil structure retained, and with an enhanced organic matter content, and available for unrestricted farming operations of the landowner's choice determined by the global markets at the time.</p> <p>An Outline Soil Management Plan (OSMP) (<b>REP5-054</b>) is secured under Requirement 20 of the draft DCO (<b>REP5-020</b>) providing mitigation measures to identify the importance and sensitivity of the soil resource and to provide specific guidance to ensure that there is no significant adverse effect on the soil resource as a result of the Proposed Development.</p>	<p>No significant adverse effects are predicted for soil quality - see Chapter 16- Land Use and Agriculture (<b>REP2-028</b>). The soil resource will remain after decommissioning and will be available for agricultural use.</p> <p>The OSMP is now agreed with Natural England – see SoCG with Natural England (<b>REP4-026</b>) and the RPAs- see SoCG with Boston Borough Council, North Kesteven District Council and Lincolnshire County Council (<b>REP5-037</b>).</p>
<b>Cumulative Effects</b>		
LVIA Cumulative Effects	Mitigation and Enhancement in respect of landscape and visual effects is set out in Chapter 6 - Landscape and Visual ( <b>REP5-033</b> ). See 'Impacts on Landscape	ES Technical Note- Updated Information on Cumulative Projects ( <b>REP5-004</b> ) identifies significant cumulative effects remain in the construction and decommissioning phases of the

Topic/Issue	Mitigation	Residual Effect
	<p>and Visual' in Appendix 2 for summary of the mitigation measures.</p> <p>The cumulative effects identified in conjunction with the Beacon Fen Energy Park development in ES Technical Note- Updated Information on Cumulative Projects (<b>REP5-004</b>), do not give rise to further mitigation or enhancement measures considered to be necessary.</p>	<p>Proposed Development in conjunction with the Beacon Fen Energy Park development. The construction and decommissioning stages of both projects have potential for overlap, and therefore a worst-case scenario is assessed. However, it is unlikely these phases will exactly align and therefore the realistic effects are not expected to be as pronounced. Visual effects are expected to be temporary and reversible. Cumulative views of the Beacon Fen Energy Park and the Energy Park Site are shown to have very limited to no-intervisibility.</p> <p>It should be noted these effects are limited, temporary and geographically localised. As per NPS EN-1 (January 2024) where residual impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of CNP infrastructure. The residual effect in relation to impacts on landscape and visual does not present an unacceptable risk to human health, public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero, as per Figure 2: Application of CNP in decisions relating to Environmental Impact Assessments of NPS EN-1.</p>
Socio-Economics Cumulative Effects	No mitigation is required as the effects are beneficial.	ES Technical Note- Updated Information on Cumulative Projects ( <b>REP5-004</b> ) identifies significant (beneficial) cumulative effects remain in all phases of the Proposed Development in conjunction with a number of other cumulative developments scoped into the zone of influence in regard to socio economics. Major beneficial effects

Topic/Issue	Mitigation	Residual Effect
		are anticipated to be experienced in relation to increase in local employment and economic contribution (construction and decommissioning phase) and increase in business rates (operational phase).
Climate Change Cumulative Effects	No mitigation is required as the effects are beneficial.	ES Technical Note- Updated Information on Cumulative Projects ( <b>REP5-004</b> ) identifies significant (beneficial) cumulative effects remain in regard to Climate Change- GHG Emissions Reduction. The cumulative developments scoped into assessment (including the Proposed Development) are estimated to represent a minimum of 4.91% (5,258 MW) of the total national projections for newly installed renewable energy generation by 2040. This shows the beneficial effects of the Proposed Development and its contribution towards meeting the UK's net zero targets, and the importance of the local area to contributing to these targets on a national scale.
Land Use and Agriculture Cumulative Effects	ES Technical Note- Updated Information on Cumulative Projects ( <b>REP5-004</b> ) identifies significant cumulative effects remain for permanent loss of agricultural land in regard to Lincolnshire Reservoir and the Proposed Development. There is no mitigation or enhancement that the Proposed Development can offer to reduce this significant cumulative impact, as this proposal alone is of major adverse significance due to the permanent removal of approximately 972ha of BMV land. The Proposed Development is estimated to have 3ha of BMV land sealed over or 'lost' for the duration of the Proposed Development-	ES Technical Note- Updated Information on Cumulative Projects ( <b>REP5-004</b> ) identifies significant cumulative effects remain for permanent loss of agricultural land in regard to Lincolnshire Reservoir and the Proposed Development. As per NPS EN-1 (January 2024) where residual impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for this type of CNP infrastructure. The residual effect in relation to impacts on land use and agriculture does not present an



Topic/Issue	Mitigation	Residual Effect
	<p>this loss alone is not significant (see Chapter 16- Land Use and Agriculture (<b>REP2-028</b>)).</p>	<p>unacceptable risk to human health, public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero, as per Figure 2: Application of CNP in decisions relating to Environmental Impact Assessments of NPS EN-1.</p> <p>All cumulative developments scoped into the assessment (including the Proposed Development) collectively would cause a temporary disturbance of up to 63.42ha of BMV land. In most cases the land will be restored fully at decommissioning, such that there is no permanent loss. The temporary change of 63.42ha of BMV land is equivalent of 0.01% of BMV land in Lincolnshire. When this temporary change (i.e. not permanent sealing or downgrading) is placed into context with the BMV resource within the Lincolnshire County, the cumulative effect would be not significant in EIA terms.</p>