



Mallard Pass Solar Farm Project

Planning Inspectorate Reference: EN010127

**Written Representations by
the Environment Agency
Unique Reference Number: 20036496**

15 June 2023

1.0 Introduction

1.1 On 2 March 2023 the Environment Agency made Relevant Representations to the proposal by Mallard Pass Solar Farm Limited to construct a solar farm on land either side and in the vicinity of the East Coast Main Line, near the village of Essendine, in Rutland and South Kesteven. These Written Representations provide an update to issues raised in the Relevant Representations where the Applicant has responded, or we have further details to add.

2.0 Scope of these Representations

2.1 These Written Representations contain an overview of the project issues which fall within our remit. They are given without prejudice to any future detailed representations that we may make throughout the examination process. We may also have further representations to make if supplementary information becomes available in relation to the project.

3.0 6.1 ES Volume 1 Chapter 7: Ecology and Biodiversity and 7.9 Outline Landscape and Ecology Management Plan

3.1 We have no updates to present for this section. Please refer to our Relevant Representations.

4.0 6.1 ES Volume 1 Chapter 11: Water Resources and Ground Conditions

4.1 The Environment Agency has been considering its land interests in more detail and this has revealed the presence of a borehole (or boreholes) at grid reference TF 05070 11630 – we are not able to confirm if these are adjacent boreholes or a single dual purpose borehole. However, the information we hold states:

- For monitoring the Lincolnshire Limestone (ref 3/911, Essendine RailBr. 1), the sample point is listed as 28.5m deep and 250mm diameter.
- For monitoring the alluvial drift deposits (ref 8/925, Essendine RailBr. 2), the sample point is listed as 3m deep and 100mm diameter.

4.2 These boreholes were used to calibrate a groundwater model and monitor groundwater levels in the limestone and superficial deposits between 2000 and 2011.

4.3 These boreholes are not recorded on the British Geological Survey records and they are, therefore, not included in Appendix 11.4, Water Resources and Ground Conditions – Baseline Data [APP-085]. It may be that these boreholes are not immediately visible due to overgrowth. However, it is extremely important that they are given appropriate consideration as the proposed cable laying works have the potential to impact the structures, which could create a direct pathway to groundwater and cause pollution.

4.4 We are satisfied that the wording of Requirement 15 provides an appropriate mechanism to protect groundwater, providing their presence is acknowledged in appropriate application documents.

4.5 Please also see paragraph 10.3 below in respect of the Environment Agency's land interest for these boreholes.

5.0 6.2 ES Volume 2 Appendix 11.5: Water Resources – Flood Risk Assessment

5.1 We have no updates to present for this section.

6.0 6.1 ES Volume 1 Chapter 15: Other Environmental Topics

6.1 We have no updates to present for this section.

7.0 7.12 Outline Soil Management Plan (including Outline Excavated Materials Management Plan

7.1 In response to our advice regarding temporary soil heaps and the risk to water quality, the updated Outline Soil Management Plan (PDA-007) includes a statement that these should be stored at least 10 metres from any watercourse. This addition is welcomed and resolves our previous concern regarding this matter.

8.0 3.1 Draft Development Consent Order (DCO)

8.1 The applicant seeks to disapply the flood risk permitting regime by way of Article 6 in the draft Development Consent Order (DCO) which is before the Examining Authority. The protective provisions included within the draft DCO are substantially in a form which is acceptable to the Environment Agency but there are some points we wish to discuss with the applicant. It is hoped these points can be resolved before Deadline 3 and that we will then be in a position to give consent under s150 Planning Act 2008 to the disapplication of the Environmental Permitting Regulations 2016 in relation to flood risk activities. The applicant also seeks to disapply local legislation listed in Schedule 3 of the draft DCO and should explain the rationale for the disapplications sought in each case.

8.2 In response to our Relevant Representation, the Environment Agency has been added as a specific consultee to Requirement 18 in the draft DCO (PDA-003) submitted at Procedural Deadline A.

8.3 ***Schedule 16 (Article 44) – Procedure for discharge of requirements***
We note that Part 1 of this procedure does not define the term "*working day*". However, the procedures in Parts 3 and 4 use the term "*working days*". It would be helpful if this term could be defined in paragraph 1, interpretation, and we suggest "*working day*" means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking Financial Dealings Act

1971. This would align with other definitions set out in orders such as The Keadby 3 Order 2022 and The Immingham Open Cycle Gas Turbine Order 2020.

- 8.4 The Environment Agency also requests that paragraphs 3(2) and 3(3) are amended to allow the relevant planning authority 20 working days in which to notify the applicant of any further information required. This is needed to provide adequate consultation timescales that align with those in the Development Management Procedure Order 2015, i.e. 21 days (equivalent to 15 working days) in addition to the 5 working days allocated for the relevant planning authority to issue the consultation.

9.0 3.3 Consents and Licences required under other legislation

- 9.1 We have no updates to present for this section.

10.0 4.3 Book of Reference – Environment Agency Land Interests

- 10.1 The applicant seeks possession (though we understand on a temporary basis in most, if not all, cases) of various plots of land where the Environment Agency is listed as either Occupiers or Reputed Occupiers, or person enjoying easement or right over land – these are all recorded as being “*in respect of right of way and West Glen River*”.
- 10.2 In our Relevant Representation (10.1) we explained that we were making further enquiries regarding these plots of land and whether the powers sought would result in any detriment to the carrying out of our undertakings, particularly in relation to the operation of the Gwash-Glen water transfer scheme.
- 10.3 We note the applicant’s response to the Environment Agency’s Relevant Representation, which states that Plots 02-136, 04-06, 04-17 and 04-19 are required for ecological mitigation, cabling, and the installation of solar arrays. Plots 02-142 and 02-144 are required for the installation of cabling along Bourne Road.
- 10.4 Further investigations have revealed that the Environment Agency has had the benefit of a lease on plot 04-19 for the installation of, and access to, groundwater monitoring boreholes (details of which are provided in paragraph 4.1 above). Although these boreholes are not currently being used, we wish to maintain access to them should they be needed in future. We are aware that this land could be impacted by Works no 4, i.e. “works to lay electrical cables including electrical cables connecting Work No. 1 to Work No. 2”. The applicant has advised us that as they do not yet have a detailed cable design, it is unknown what the impact on this land could be but assures us that our unrestricted access would remain, and we will seek to secure this through an appropriate mechanism during the Examination.
- 10.5 We will also be seeking similar protection in respect of access for plots 2-136, 04-06, 04-17, 02-142 and 02-144 to ensure the Environment Agency is able to continue its statutory operations without hindrance.

- 10.6 Following investigations regarding plot 04-06 we can provide further details in relation to the Gwash-Glen water transfer scheme. There is an underground Environment Agency owned pumping main (pipeline), which follows the field edging from the southern tip of plot 04-16 down to 04-10. This pumping main is part of the Gwash-Glen scheme, which serves to transfer water resources from Rutland Water to the River Gwash and then to the River Glen, under private agreement with Anglian Water Services Limited – see plan attached as Appendix 1 below. This asset is necessary for the purpose of conserving, redistributing or otherwise augmenting water resources. We will need to discuss the presence of this pumping main in relation to the proposed Works nos. 4, 5 and 7, which could take place on this land, together with appropriate provisions for its protection, with the applicant. We will continue to provide updates to the Examining Authority on this issue at appropriate points during the examination.
- 10.7 Please note that we are of the view that any interference with the pumping main could cause serious detriment to the Environment Agency's ability to carry out its statutory undertakings in terms of managing water resources. The Environment Agency is a statutory undertaker within the meaning of s.127 and s.138(4A) of the Planning Act 2008.
- 10.8 The Environment Agency takes action to conserve and secure proper use of water resources, preserve and improve the quality of rivers through its powers and duties under the Environment Act 1995.

11.0 Further representations

- 11.1 We reserve the right to add to or amend these representations, including requests for DCO requirements and protective provisions, should further information be forthcoming during the examination.
- 11.2 If you have any questions regarding these representations, please contact me via the details provided.

APPENDIX 1

Location plan – River Gwash/River Glen water transfer pipeline

R.Gwash/R.Glen water transfer pipeline location

Legend

