

Application by Mallard Pass Solar Farm Limited for an Order Granting Development Consent for the Mallard Pass Solar Project

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 15 June 2023

Please find below answers to the Examining Authority's written questions from the Environment Agency (EA) [ref no 20036496].

Ref No.	Question	EA response
	Design, parameters and other details of the Proposed Development	
Q1.0.19	<p>The Applicant has submitted the following outline management plans:</p> <ul style="list-style-type: none"> a) Outline Construction Environmental Management Plan [PDA-005] b) Outline Operational Environmental Management Plan [APP-208] c) Outline Decommissioning Environmental Management Plan [APP-209] d) Outline Landscape and Ecology Management Plan [APP-210] e) Outline Employment, Skills and Supply Chain Plan [APP211] f) Outline Construction Traffic Management Plan [APP-212] g) Outline Soil Management Plan [PDA-007] h) Outline Water Management Plan [APP-214] i) Outline Travel Plan [APP215] <p>Please comment as appropriate to your interests on any of these outline plans. This should include any potential amendment that</p>	<p>The Environment Agency has reviewed the following plans in relation to those matters within our remit. We note that PDA-005 and PDA-007 are updated versions of the equivalent plans originally submitted.</p> <ul style="list-style-type: none"> a) Outline Construction Environmental Management Plan [PDA-005] b) Outline Operational Environmental Management Plan [APP-208] c) Outline Decommissioning Environmental Management Plan [APP-209] d) Outline Landscape and Ecology Management Plan [APP-210] e) Outline Soil Management Plan [PDA-007] f) Outline Water Management Plan [APP-214] <p>We are satisfied with the plans reviewed and do not wish to propose any amendments at this stage.</p> <p>With reference to the Outline Construction Environmental Management Plan [PDA-005], we advise the Applicant that</p>

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	<p>may, in your view, be required in order to secure appropriate environmental outcomes and mitigation of effects.</p>	<p>surface water discharges during the construction phase of the development will need to comply with our guidance 'Temporary dewatering from excavations to surface water: RPS 261'. Details can be found here (https://www.gov.uk/government/publications/temporary-dewatering-from-excavations-to-surface-water/temporary-dewatering-from-excavations-to-surface-water). If the conditions of the RPS cannot be met a water discharge activity permit may be required.</p>
Articles		
Q5.0.22	<p>Article 44 (Procedure in relation to certain approvals etc) Under this Article, applications for consent submitted by the undertaker will be deemed to be granted if notice is not given of their refusal by the consenting authority within six weeks of the submission of the application (unless a longer period has been agreed). a) Whilst a precedent for this Article has been cited, please provide justification for and circumstances why this is specifically required for the Proposed Development? b) Comments are sought from interested parties on the merits of this clause along with the proposed time period of six weeks for determination (unless a longer period has been agreed).</p>	<p>With reference to question b), it is likely that consents required from, or requiring input from, the Environment Agency will be covered by Schedule 16 (procedure for discharge of requirements) or by protective provisions and therefore exempted under section (4) of Article 44.</p> <p>However, please note our comments in our Written Representations regarding Schedule 16 (Article 44) Parts 1, 3 and 4, requesting clarification and additional time to allow the relevant planning authority to notify the applicant of any further information needed.</p>
Q5.4.1	<p>The procedure for the discharge of requirements is set out in Schedule 16. a) Has the Applicant consulted with the relevant discharging authorities on the</p>	<p>a) No, consultation has not taken place on this so far.</p>

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	<p>approach and procedure to discharging requirements?</p> <p>b) Please set out which matters are agreed and/or disagreed, including any suggested alternative drafting as appropriate.</p>	
Q5.4.2	<p>Part 2(1) of Schedule 16 requires that the relevant planning authority must give notice of its decision within a period of six weeks (subject to the criteria set out in 2(1) (a), (b) and (c).</p> <p>a) Is a determination period of six weeks generally appropriate, including when taking account of the likely content of the submissions to be considered, the relevant procedures of each relevant planning authority and the possible need for publicity and consultation?</p> <p>b) Where new or different environmental effects are reported in any application under part 2(3) of Schedule 16, would a longer determination period be appropriate, including when taking into account circumstances where the relevant planning authority might need to carry out further publicity and consultation?</p>	<p>Please note our comments in our Written Representations regarding Schedule 16 (Article 44) Parts 1, 3 and 4, requesting clarification and additional time to allow the relevant planning authority to notify the applicant of any further information needed.</p>
Water Environment		
Q12.0.2	<p>Section 2.4 of the outline Surface Water Drainage Strategy (oSWDS) [APP-087] details that surface water flows will be directed to existing outfalls along existing topography towards the West Glen River. It is further stated that as the West Glen River is an Environment Agency (EA) Main River an Environmental Permit will be sought at least</p>	<p>We understand that Section 2 of the Strategy relates to the substation only, where there will be hardstanding.</p> <p>It is not clear what activity is being referred to as requiring an Environmental Permit. As the surface water will be discharged via existing surface water outfalls, there may be no works classified as a 'flood risk activity' in respect of this within 8 metres of the River West Glen.</p>

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	<p>three months prior to the construction phase. Article 6 (e) of the draft Development Consent Order (dDCO) [APP-017] seeks to disapply Environmental Permitting in “respect of a flood risk activity only”.</p> <p>a) Does the Applicant, EA or LLFA foresee any potential impediments in connection with gaining such a permit for this activity?</p> <p>b) Can the Applicant clarify how this relates to provisions in Article 6 (e) of the dDCO [PDA-003]?</p>	<p>It is the responsibility of the lead local flood authority to determine if the proposed rate of discharge of surface water would be appropriate.</p> <p>It is possible that an Environmental Permit would be needed to discharge contaminated surface water, usually during the construction phase. This would not be classified as a flood risk activity (and therefore would not fall under the part of the Environmental Permitting Regulations that the applicant wants to disapply), so a specific water discharge permit application would be needed.</p> <p>We ask that the applicant confirm what is being referred to here.</p> <p>On the basis of the information contained in the Environmental Statement and without prejudice to any decision it may take on the Environmental Permit application once it is made, the Environment Agency is not currently aware of anything that would preclude the grant of a permit; however, we would also point out that this view could change depending on the content of the permit application when this is received.</p>
Q12.0.07	<p>(Question to the Applicant) Section 5 of the oSWDS [APP-087] refers to the potential for onsite foul water storage and states that either a cesspit or porta-loo will be required. It is not clear on what basis a cesspit will be required.</p>	<p>Temporary use of a portaloos is of low concern (providing sensible pollution prevention measures are followed).</p> <p>Any sewage discharges will need to be compliant with the General Binding Rules, otherwise a permit may be required.</p>

