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Your ref: **EN010127**

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BY EMAIL ONLY

Dear David Cliff & Mark James

NSIP Reference: EN010127
Consultation: Examining Authorities Second Written Questions
Location: Lincolnshire & Rutland

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Please find Natural England's responses to the Examining Authorities second written questions at **Annex A** below.

For any further advice on this consultation please contact the case officer Robbie Clarey and copy to consultations@naturalengland.org.uk.

Yours sincerely

Robbie Clarey
Planning & Environment Lead Adviser

Annex A

Question Reference	Question	Natural England response
Q1.2.1	a) Having regard to the preference expressed in national policy to use poorer quality agricultural land except where this would be inconsistent with other sustainability considerations, should soil surveys have been undertaken outside of the proposed Order limits to inform the site selection process and boundary of the Order limits? b) To what, if any, extent does the absence of this survey work reduce the weight that should be attributed to the consideration of alternative sites?	Where developments have not been considered in a local development plan, it would not be proportionate to request detailed ALC surveys for all alternative sites. However, it would be expected that a competent soil scientist/consultant would utilise existing information (i.e. Provisional ALC mapping; Likelihood BMV mapping; post-1988 mapping (where available); and soils mapping), to inform the site selection process. The weight attributed to the decision would depend on the scale of mapping available and / or the mapped grades. ALC surveys can and should inform master planning within a site, including permanent infrastructure location and route placement (i.e. for cables and access)
Q1.2.3	Paragraph 3.10.14 of the draft National Policy Statement for Renewable Energy (EN-3) states the following; "While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land (avoiding the use of "Best and Most Versatile" agricultural land where possible)." The first sentence of this paragraph states that land type should not be a predominating factor in determining the suitability of the site location. Should this be interpreted as applying to the use of agricultural land, including land classified as Best and Most Versatile (BMV)? In other words, should the agricultural use (and extent of BMV land) be considered as a predominant factor in the site selection process or not?	Natural England consider that NPS EN-3 para 3.10.14 is indicating that whilst land type (being developed, undeveloped, etc) is not a predominating factor, the quality of agricultural land should still be a factor in determining the site location. Natural England advises that the decision maker should determine whether agricultural land quality should be considered a predominating factor on a case by case basis, based upon the local constraints, opportunities and priorities. NPS EN-3 para 3.10.15 also states that 'Whilst the development of ground mounted solar arrays is not prohibited on agricultural land classified 1, 2 and 3a…the impacts of such are expected to be considered…' .
Q3.0.1	The latest version of the draft Development Consent Order	The delivery of Biodiversity Net Gain (BNG) is not currently a

	(dDCO) submitted at Deadline 4 [REP4-026] amends Requirement 7 (2) (f) to commit to a minimum of 65% biodiversity net gain. This figure allows for a 10% contingency for allow for changes that may occur at the detailed design stage. No amendments are proposed to confirm which version of the biodiversity metric that should be applied. The reasons given for this by the Applicant are centred around the uncertainty over future iterations of the metric and potential implications that this may have in terms of compliance with the outline Landscape and Ecology Management Plan (oLEMP) [REP4-014], the DCO and potential materially new or different effects from those assessed in the Environmental Statement (ES) [REP4-041] that may arise. It is noted that Objective 1 of the oLEMP still refers to a minimum of 10% net gain. a) Would the local authorities seek to apply the latest available version of the metric at the time of approval in the absence of any clarity on the matter in the DCO? b) Do Natural England have any further comments to make on this matter given the recent publication of version 4.0 of the metric? c) Can the Applicant provide further clarification of the basis for the 10% contingency? d) Should Objective 1 of the oLEMP be updated to refer to 65% biodiversity net gain?	mandatory requirement. Until BNG becomes mandatory, there is no requirement to use the DEFRA Biodiversity Metric. It is only once it is mandatory that the statutory metric must be used. Therefore, Natural England can only offer advice upon, and cannot insist upon, the use of any particular metric. As such, our comments are as below: Whilst it would be advisable to use the most up to date metric, the key factor at this stage is that the same version of the metric is used throughout the application, for consistency. Given the circumstances, and as BNG is not yet mandatory, Natural England suggests that use of the most up to date version **at the time of the calculation** would be satisfactory. It should be noted, however, that there will not be a transition period following the future mandate of BNG. This means that once BNG becomes mandatory (currently scheduled to be 2025 for NSIPs), users will only be able to submit the statutory biodiversity metric.
Q3.0.2	The Applicant's Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2) [REP4-041] provides a post-hearing note in response to a query raised by the Examining Authority (ExA) regarding possible effects on the Ryhall Pasture and Little Warren Verges SSSI and species rich grassland verges from Light Goods Vehicles (LGVs) and cars during construction. It acknowledges that whilst there are no	Natural England are unable to answer part a) of this question, and would refer this to the applicant. Based on the information provided to date, NE considers that impacts to this SSSI are unlikely. However, if the road is too narrow to accommodate two passing LGVs, there is a possibility for impacts to the SSSI via compaction (i.e. vehicle mounting the verge in order to pass).

	restrictions proposed in relation to the routing of such vehicles, the Transport Assessment [APP-074] identified that the majority of staff that drive to the site will use alternative routes from the Strategic Road Network although it is acknowledged that there may be some trips from local staff. These are considered not to any have material impact. However, it is noted that the outline Construction Traffic Management Plan (oCTMP) [REP4-016] acknowledges that assumptions regarding all staff and LGV trips will be reviewed within the CTMP once the origin of construction staff has been confirmed. a) Is the carriageway width along the length of Holywell Road that passes through the Ryhall Pasture and Little Warren Verges SSSI sufficient to accommodate two passing LGVs? b) Should the oCTMP and outline Construction Environmental Management Plan (oCEMP) make provision for possible introduction of measures to avoid harm to the Ryhall Pasture and Little Warren Verges SSSI once the origin of construction staff has been confirmed? If so, what measures should be earmarked for implementation should the need arise?	The implementation of measures to offer additional protection to the SSSI during the construction period would be welcomed. Measures could include the use of signage and 'toolbox talks' to ensure drivers and construction workers are aware of the location of the SSSI, and avoid mounting the verges at any time.
Q3.0.4	Paragraph 3.1.14 of the oLEMP [REP4-014] makes provision for the installation of 50 bird and 50 bat boxes across the Order limits. Rutland County Council has raised concerns that this number is insufficient given the size of the Proposed Development [REP2-044]. The Applicant's response at Deadline 3 states that boxes will need to be installed on mature trees due to their size and therefore provision is appropriate given the number of such trees within the Order limits [REP3-026]. a) Do Natural England, Lincolnshire County Council, South Kesteven District Council, Lincolnshire Wildlife Trust and the Mallard Pass Action Group consider the number of bird and	Where a licence is required from Natural England, appropriate mitigation would need to be provided and accepted by Natural England before work can go ahead. In the absence of the need for a licence, Natural England have no comment to make on this matter.

	bat boxes to be provided to be sufficient? b) If deemed necessary, please comment on possible means to increase provision.	
Q3.0.5	Section 6.2 of the oLEMP [REP4-014] provides outline details for monitoring arrangements. Does this provide sufficient detail at this stage to address the requirements of draft NPS EN-3 paragraph 3.10.121? If not, what detail should be added?	Section 6.2 of the oLEMP indicates that the LEMP will be monitored every 5 years by a qualified ecologist and landscape architect. It also states that where delivery of the LEMP is not being met, appropriate action will be identified and taken to rectify any failings. Whilst no detail is provided regarding how the success of the LEMP will be monitored (i.e. how the success/failure to meet LEMP objectives will be measured), the requirement for the monitoring of the LEMP to be undertaken by a suitably qualified ecologist and landscape architect provides some level of assurance that the ongoing management of the site will continue to deliver towards the objectives of the plan and nature. Nonetheless, the inclusion of further detail regarding indicators of success/failure in the detailed LEMP would be welcomed, to ensure the objectives of the plan are upheld for the lifetime of the development.
Q3.0.6	Concerns have been raised that the mitigation measures for Skylarks are insufficient [REP2-208]. Specifically, it is suggested that measures aimed at providing food for chicks during Spring and Summer and over Winter for adults should be taken forward. Is additional mitigation required for Skylarks? If so, should it comprise of measures for providing food or other proposals?	Mitigation for impacts to Skylark is not a subject Natural England would usually advise upon. However, in response to this question, Natural England consider that additional mitigation is unlikely to be necessary for this project. The decline in Skylark population is largely due to agricultural intensification, rather than habitat loss. With a key issue being the switch to autumn sown cereals, as the crop grows too high earlier in the breeding season. Skylark are known to prefer short grass or bare ground for nesting. Another issue is pesticide use leading to lack of food (invertebrates etc). Alongside the specific measures included to mitigate any

		adverse impact on skylarks, the landscape proposals for the development include buffers around the edges of fields/between rows of panels, planted with seed mixes that are likely to attract insects. This is likely to provide good foraging and/or nesting habitat for skylarks, providing it is well managed.
Q3.1.1	The Mallard Pass Action Group has raised concerns regarding potential nutrient run off from the creation of wildflower grassland and storage of arisings that may result in adverse effects on the Baston Fen Special Area of Conservation (SAC). The Applicant's response states that nutrients leaching into the soil will be minimal compared to what is added to arable land for farming under its current use. Grasslands will also manage run off [REP4-041]. Do Natural England and the local authorities have any comments to make on this issue and the Applicant's response?	Whilst storage of arisings on the site may give rise to some nutrient runoff, this is likely to be a considerably smaller nutrient load than that introduced to the land via arable agriculture.
Q3.1.3	At Issue Specific Hearing 2 the Applicant was asked whether there was scope to update the sHRA in response to Natural England's suggestion that further rationale was required for the in-combination assessment. The Applicant stated that it deemed this to be unnecessary and disproportionate and that it had not yet heard back from Natural England on this position [REP4-041]. The latest draft Statement of Common Ground between the Applicant and Natural England suggests that the matter is still under discussion [REP4-039]. The Applicant has not provided a list of the plans and projects which are considered within the in-combination assessment undertaken. a) Can Natural England confirm their current position on this issue? b) Can Natural England, the Environment Agency and local authorities please comment on which other plans or projects should be included within the sHRA?	Natural England have discussed this point with the applicant whilst developing the Statement of Common Ground. Natural England's current position is set out within the latest SoCG. It is as below: NE acknowledge that whilst multiple insignificant effects may add up to cause a significant effect – in this case, the possible impact of the Scheme on Baston Fen SAC is so small it is immeasurable and embedded mitigation further reduces the magnitude of any effect. As such, the rationale that this project cannot add any measurable effect to another project's effect is considered appropriate.

Q5.2.6	Requirement 14 (Soil management plans) The updated version of the outline soil management plan [REP4—017] includes coverage of both construction (and immediate aftercare), operation (part 12) and decommissioning activities. However, R14(2) only refers to the need for the construction phase(s) to be carried out in accordance with the approved soil management plan and excavated materials management plan. a) Does the drafting of R14(2) therefore need to be extended in order to properly ensure that the approved soil management and excavated materials management plans are also adhered to during the operation and decommissioning phase(s)? b) Does paragraph 1.8 of the outline soil management plan also need revising in this regard as it only refers to construction?	Yes, both R14(2) and oSMP 1.8 should be amended to ensure the plan is adhered to during construction, operation and decommissioning.
Q7.0.5	Should food security be deemed “important and relevant” to the consideration of the Proposed Development? Please provide reasoning, including reference to any relevant policy or relevant planning decisions.	Natural England consider food security to be a matter beyond our remit. However, planning policy to protect Best and Most Versatile (BMV) land aims to protect our most suitable land for food (and fuel and fibre) production (i.e. BMV). The Agricultural Land Classification (ALC) grades agricultural land "according to the degree to which its physical characteristics impose long-term limitations on agricultural use". Therefore, BMV land (ALC Grades 1, 2, and 3a) has the greatest potential to give a high yield or output; has a wide range and versatility of use; produces the consistent yields; and requires less input. There is a finite amount of BMV agricultural land. The current agricultural use of the land does not influence the

		grade nor does the grade necessarily reflect the current economic value of the land. Planning policy protects agricultural land with the greatest potential so that all options for the use of that land remain open for future generations to decide what is the best use and management of that land when planning consent or other requirements cease. For development to be truly sustainable, we should be mindful that the needs and priorities of future generations should not be unnecessarily compromised by our actions today.
Q7.0.6	The Applicant has submitted revised versions of the oSMP at Deadlines 3 and 4 [REP3-018 & REP4-017]. They include various additional references to take account of comments made by Natural England and other Interested Parties. The Deadline 3 (and subsequent version) of the outline Operational Environmental Management Plan (oOEMP) [REP3-012] also incorporated a requirement for the detailed OEMP to include the measures set out in the oSMP for managing soils during the operational phase. Please specify if you have any outstanding concerns with these documents or any others in relation to soil management, including the extent to which soil quality and compaction matters are adequately addressed and whether sufficient mitigation is identified in the event that establishment of a grass sward is not appropriate or is unsuccessful. If deemed necessary, please identify recommended amendments.	Natural England are largely satisfied with the outline soil management plan, which has been amended in line with comments made within our representations. Nonetheless, in response to this question, our soil specialists have offered below some further refinements which could be included within the detailed SMP, primarily focussed around soil compaction: The oSMP key principles include good soil handling, movement and trafficking. Further detail could be included with regard to soil handling, including: - No trafficking/driving of vehicles/plant or materials storage to occur outside designated areas. - No trafficking/driving of vehicles/plant on reinstated soil (topsoil or subsoil). - Only direct movement of soil from donor to receptor areas (no triple handling and/or ad hoc storage). - No mixing of topsoil with subsoil, or of soil with other materials. - Soil only to be stored in designated soil storage areas. oSMP paragraphs 4.21-4.26 describe compaction alleviation measures. NE advise that soils pits should be excavated

		following alleviation to confirm the compaction has been successfully restored. oSMP paragraph 4.31 notes that land should be restored to the same areas from which it came, and the same profile as the land adjacent. Natural England advise that the ALC survey data could be used to ensure the soil is restored to its baseline condition (i.e. the soil profile as described during the ALC survey). oSMP paragraph 5.5 notes that 10-15cm of topsoil will be removed prior to laying of any temporary access and compounds. Whilst it is acknowledged that this practise is intended to remove topsoil to avoid damage, it is noted that topsoil depth may vary across the site. The full depth of topsoil should be stripped for all temporary access and site compounds. This can be determined from the ALC survey results. oSMP paragraph 5.10 notes that '*It may be difficult to ascertain whether this area needs to be loosened prior to topsoil being spread back over the site'.* Natural England recommend that prior to topsoil replacement, the subsoil should always be loosened, as per the Defra Construction Code (2009). oSMP paragraph 11.11 mentions remediation of small rutting. It should be noted that rutting is a sign of compaction; the measures included are unlikely to prevent further compaction of the soil. These areas should be monitored to ensure no further compaction occurs. oSMP paragraph 13.17 states that topsoil will be reinstated to the depth removed. This can be determined from the ALC survey results. The quality of the soil reinstatement will need to be verified by

		a competent soil surveyor. Post-restoration surveys are also recommended across all land reinstated, to determine whether target soil profile specifications have been met. A period of aftercare is then also recommended to ensure the soil characteristics achieve the restoration standard.
Q7.0.7	Natural England made reference to an "omission" when commenting on the draft Development Consent Order (dDCO) in its Written Representations [REP2-093]. It was stated that "Natural England's comments regarding the non-time limited nature of this consent remain unchanged. Although we acknowledge the content of the draft NPS EN-3, we maintain that the implementation of a time limit for the DCO would reduce the potential long-term impact on agricultural & BMV land.". Natural England's Relevant Representation [RR-0823] indicates that this relates to a potential permanent reduction in agricultural production. a) Can Natural England confirm if this remains its position? b) Please comment on the extent to which the measures identified in the latest oSMP [REP4-017] may maintain or restore soil quality. To what extent would a time limit on the operational period of the Proposed Development be beneficial in this regard?	a) Natural England's comments regarding the non-time limited nature of this consent remain unchanged. However, the wording can be updated to state that: 'During the life of the proposed development it is likely that there will be a reduction in potential agricultural production over the development area subject to the solar panel arrays and habitat enhancement. It is acknowledged that the retained arable fields to the east of the site, which largely correspond to ALC Grade 2 land, will retain the potential to be managed for intensive, productive agricultural land.' If not time limited as described, the areas subject to a change in land use or land management (i.e. The land under the solar arrays and the land subject to habitat enhancement) has the potential to lead to the permanent reduction in the lands potential agricultural production. b) Retained arable fields to the east of the site correspond largely to areas of ALC Grade 2. However there remains areas of Subgrade 3a subject to solar panel array installation. It is considered that as the solar panels would be secured to the ground by steel piles with limited soil disturbance, they could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. However, the potential impact on agricultural land and BMV could be lessened if the Proposed Development was time limited.

		This is because, although arable reversion to grassland has been shown to benefit soil quality (through increased Soil Organic Matter (SOM)), it is unclear what impact solar arrays will have on soil properties such as carbon storage, structure and biodiversity. For example, as a result of changes in shading; temperature changes; preferential flow pathways; micro-climate; and vegetation growth caused by the panels. Therefore, it is currently unknown what the overall impact of a temporary Solar development will have on soil health. In the absence of this information, we suggest that the developer could commit to a programme of soil health monitoring for the lifetime of the project to support development of the evidence base around long-term impacts to soil health from solar. The use of a time limit would ensure the BMV land remains open for future generations to decide what is the best use and management of that land when planning consent or other requirements cease.