

Please find below the responses from RCC in relation to the Examining Authority's second written questions.

Q1.0.1	Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	Paragraph 3.10.56 of the draft National Policy Statement (NPS) EN-3 (March 2023) says that an upper time limit of 40 years is typical, although applicants may seek consent without a time period or for differing time periods of operation. Any Requirement within a DCO should only be imposed (amongst other things) where it is necessary to make the Proposed Development acceptable and is reasonable in all other respects. If you consider that an operational time-period should be imposed within the DCO, please concisely set out details of why you consider it to be necessary and reasonable, including with reference to any relevant national or local planning policies.
		<p>RCC considers that a time-limit is necessary in this instance. The applicant has provided drafting within their DCO and stated at the issue specific hearings that it was their intention to ensure that any consent granted does not allow for wholesale replacement of the panels on the site. Consequently it is evident from this position that any re-powering of the site would require a further consent. It is therefore logical and reasonable to impose a time-limit on any consent granted proportionate to the expected lifetime of the panels to be installed (indicated in NPS EN-3 as typically being 40 years). With the rapid advancements of technology in the energy sector it is reasonable that significant changes in the energy industry could take place over the operational lifetime of the development that renders the long-term use of the site for solar power generation unnecessary and therefore it is reasonable to limit the period of consent to allow for commercial and land-use decisions to be taken in respect of the site and the need for the development at the time when the useful life of the solar panels has expired. Without such a limit the site has the potential to be so reduced in effectiveness and need as to become a large-scale impact on the countryside around it without generating the benefits currently associated with the scheme.</p> <p>A time limit also provides certainty regarding decommissioning and restoration of the site in line with the Environmental Assessment.</p> <p>It is understood that the applicant has now confirmed they will be seeking a 60-year time limit to the proposal. However it is unclear why a 60 year period has been used and not 40 years as per the ES.</p>
Q1.0.2	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	Paragraph 3.10.58 of draft NPS EN-3 indicates that a time limited consent would not prevent the Applicant at a later date from seeking to extend the period of consent. Please comment on this scenario, including whether or not it would be a preferable option in this instance given that it would i) allow the Applicant to consider at a later stage whether or not it wishes to seek such an extension and

		(ii) would allow for the matter to be considered in the light of the relevant planning policies and material considerations that would be applicable at that time.
		RCC considers that this is both the key benefit, and justification for the need for imposing a time-limited consent. With large-scale solar power only having been introduced to the UK in 2012, the scope for the energy industry to change over the lifetime of the development is high, with no guarantee that solar development of this scale will need to form part of the energy make-up at the time when extending the period of consent would need to be considered. Sustainable development is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs and in that regard it would seem entirely reasonable to require the development to be time-limited allowing for a review of need at that later stage.
Q1.0.5	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	In the event that the Secretary of State was minded to impose a restriction in the dDCO on the operational time period of the Proposed Development, please state, along with relevant justification, what you consider a reasonable time period would be in this case?
		In the absence of any evidence to the contrary, RCC considers that the indication in paragraph 3.10.56 of the draft National Policy Statement (NPS) EN-3 (March 2023) saying that an upper time limit of 40 years is typical would be a reasonable time period. It is understood the applicant has now confirmed a 60-year time limit to the proposal however information should be provided to demonstrate why this time period is appropriate in place of the more typical 40-year limitation.
Q1.0.10	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	<p>Mallard Pass Action Group (MPAG) has provided details at Deadline 4 [REP4-054] regarding security issues faced by solar farms along with implications for the type and form of fencing that might be required.</p> <p>a) The Applicant and other parties are invited to provide comments on MPAG's submission, including any implications that arise for the Proposed Development.</p> <p>b) Has any engagement and/or consultation been carried out for the Proposed Development with any relevant 'Designing Out Crime Officer' or similar post holder, with particular regard to proposed security matters, including the type of fencing proposed? Please provide details of this as applicable.</p> <p>c) If no such engagement has been carried out to date, it is requested that such a response(s) is/are now sought and reported to the Examination, bearing in mind the concerns raised by MPAG.</p> <p>d) Can the Applicant provide any further substantive evidence to support its position that the proposed fencing would be suitable for the Proposed Development in the light of relevant crime risks.</p>

		<p>e) With particular regard to fencing, what reassurance can be provided that details to be submitted for approval under Requirement 8 of the draft DCO will accord with those provided in the illustrative material</p> <p>f) Are any enhancements required to the Design Guidance [REP2-018] in this respect? Please provide suggested drafting as applicable.</p> <p>g) Does the Applicant have any comments to make on MPAG's submission on the potential need to assess the ecological effects of the Proposed Development with high security fencing without mammal passes?</p>
		<p>a) RCC response not required</p> <p>b) no specific consultation of this nature has been carried out by RCC</p> <p>c) RCC has requested comments from its DOCO consultee, and will provide any response received at deadline 6.</p> <p>d) RCC response not required</p> <p>e) RCC response not required</p> <p>f) RCC response will be provided following receipt of comments sought under c).</p> <p>g) Para 7.5.32 of Chapter 7 of the ES states that suitable gaps for mammals (30x30cm) will be incorporated into all lengths of security fencing. Unless this has changed, or is likely to, there is no need to assess the ecological impacts of the security fencing, because mammals will still be able to access the areas beneath the PV arrays.</p>
Q1.0.12	<p>The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group</p>	<p>The implications of decisions made on other solar farm schemes, including the Nationally Significant Infrastructure Project at Longfield and the planning appeal for the Town and Country Planning Act scale development in Hambleton [REP-037] were discussed at the Issue Specific Hearings [REP4-022]. The Examining Authority notes the recent appeal decision issued on 21 July 2023 for a solar farm in South Derbyshire (appeal reference: APP/F1040/W/22/3313316) that was dismissed.</p> <p>a) Can the Applicant comment on whether they consider the appeal decision has any implications for the consideration of the Proposed Development?</p> <p>b) Do the local authorities and Mallard Pass Action Group have comments to make on the decision?</p> <p>c) Are there any other recent decisions that may be of particular relevance to the Proposed Development?</p>
		<p>b) paragraph 9 of the South Derbyshire decision sets out three requirements of the Written Ministerial Statement and the linked NPPG in relation to loss of BMV land. These are</p> <ol style="list-style-type: none"> 1. showing that the use of agricultural land is necessary, 2. whether poorer quality land has been used in preference to higher quality land and

		<p>3. whether a proposal would allow for continued agricultural use.</p> <ol style="list-style-type: none"> 1. RCC accepts that it would not be possible to develop a solar farm of this magnitude on previously developed land and therefore some use of agricultural land will be necessary in relation to the proposal. 2. The scheme will result in the loss of BMV land, with over 42% of the site falling within the BMV grades. In light of the South Derbyshire appeal decision it is evident that this loss, which would in itself represent a smaller proportion of the site but a larger total area of land (360 Hectares by the applicant’s calculation in APP-201), would be significant and represent a weighty consideration for the Examining Authority. Clearly in that appeal decision, the Inspector concluded that the loss of agricultural land was of such significance that it outweighed the contribution made to renewable energy targets by the proposed development. In that regard, this proposal represents a greater loss of BMV land than was deemed sufficient to justify dismissal of that appeal, and in light of that decision the loss of BMV land proposed is therefore considered to be a matter of considerable weight in the determination of the current application. 3. The applicants have indicated that the development would allow for continued grazing of the land by sheep, an argument also advanced in favour of the project considered in the South Derbyshire appeal. This is not secured in any formal way however and it would not be practical to attempt to enforce this on the site as part of the DCO and therefore RCC considers that it can only be assigned limited weight in relation to the consideration of the proposal.
Q1.1.1	Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	<p>At Deadline 4 the Applicant submitted the Climate Change Committee Progress Report to Parliament - 28 June 2023 [REP4-23] and the Future Energy Scenarios Report - 10 July 2023 [REP4-024] as raised by them at Issue Specific Hearing 1 (ISH1). Table 1 of the former specifies that Solar PV is “significantly off track” in relation to progress. The latter also provides commentary in respect of the need for solar and considers the implications of a range of possible scenarios from “falling short” to “leading the way” in terms of the speed of decarbonisation and the level of societal change. For solar, on page 132, the leading the way scenario is described as the maximum solar generation scenario – “solar generation is colocated with flexible technologies at different connection voltages (i.e. with electrolysis or gridscale battery storage for solar farms...” Grid capacity and connections are cited as factors that may limit potential. Do the local authorities and Mallard Pass Action Group have any specific comments to make regarding the implications of these two reports for the consideration of the Proposed Development?</p>

		<p>RCC accepts that the practicalities of the site are that a connection to the grid is available in close proximity to the proposal. This provides benefits to the project in terms of the potential to connect to the grid sooner than would otherwise be the case, and at less capital construction costs. The latter of these points however has no bearing on the acceptability of the proposal and in respect of the former the existing grid connection point was not provided in the expectation at the time that it would provide connection for power to be fed into the grid. The scheme was necessitated to provide power to the east coast mainline and in line with the consideration of such applications was determined on its own merits. It is not incumbent therefore to give any weight to the existence of the connection point in terms of a resultant expectation that it would be used for any other purpose than that for which permission was granted.</p> <p>The existence of the grid connection can therefore be considered as a benefit of the site, however this can only be considered as one of many issue to be weighed in the planning balance and should only be given limited weight in the overall assessment of a scheme.</p>
Q1.1.3	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	Does the announcement made on 31 July 2023 by Government of its commitment to undertake future oil and gas licensing rounds have any implications in relation to the case for the need for Proposed Development?
		No significant implications other than to suggest that there will be potential for oil and gas to contribute to power generation.
Q1.2.1	The Applicant Natural England Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group	<p>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?</p> <p>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?</p>
		<p>a) Yes</p> <p>b) As with the response to question 1.0.12, the South Derbyshire appeal decision places greater emphasis on the consideration of the loss of BMV land in relation to solar development proposals. The additional survey proposed would have resulted in a more detailed picture being available of the availability of BMV land across and surrounding the application site, and the lack of such information must therefore reduce the weight that can be given to the consideration of alternative sites as the lack of detail on BMV land results in a lack of a complete picture as to whether those</p>

		<p>alternative sites would have resulted in a lesser impact on such land. In that regard therefore, and in light of the significance attributed to the loss of BMV land in the South Derbyshire appeal, RCC would suggest that the consideration of alternative sites can only be given limited weight where BMV survey data is unavailable.</p>
Q1.2.2	Rutland County Council	<p>Rutland County Council’s Deadline 4 post hearing submission [REP4-045] states that “In respect of the emerging local policy and evidence the Planning Policy and Housing Manager at Rutland County Council has confirmed that the emerging policy is intended to apply to both TCPA and NSIP level projects.”</p> <p>a) Please confirm if the above statement refers to the evidence commissioned by the Council to identify areas that may be suitable for renewable energy schemes as referenced in response to the Examining Authority’s First Written Questions [REP2-050].</p> <p>b) If applicable, is this evidence now available for consideration in the context of the Proposed Development? If so, please set out the implications for the scheme.</p>
		<p>A final report has now been issued and published on the Council’s website regarding the renewable energy study commissioned to support the development of the Rutland Local Plan.</p> <p>Details of the report are attached.</p> <p>A report is scheduled to go to the County Council’s Cabinet meeting on 17th October to approve a “Preferred Options” Local Plan for public consultation under Regulation 18 of the Local Plan Regulations. Consultation is expected to take place for a 6-week period from 3rd November to 18th December 2023.</p> <p>Cabinet will also be recommended to agree that elements of the Local Plan evidence base – including the Renewable Energy Study - _are considered to be potential material considerations for the determination of planning applications.</p> <p>The “Preferred Options” Local plan includes a draft policy with respect to renewable energy, appended to this response.</p> <p>As such, the County Council considers that the evidence and proposed draft policy should be considered as material considerations in the determination of the scheme.</p>

Renewable Energy Generation

The generation and use of renewable energy reduces demand for fossil fuels, thus reducing harmful greenhouse gas emissions. Renewable energy technologies include:

- Photovoltaic solar panels - for electricity generation
- Thermal solar panels- for heating
- Wind turbines - for electricity generation
- Ground source heat pumps – for heating
- Air source heat pumps – for heating

The use of renewable energy not only reduces carbon emissions – and so help address climate change - but it also has other benefits such as:

- it is sustainable - renewable energy will not run out, unlike fossil fuels which are finite;
- the renewable energy sector creates jobs in the short and long term, for example, project planning, installation, operation and maintenance;
- onshore wind offers the most cost-effective choice for electricity in the UK and these cost savings can be passed onto the consumer;
- onshore wind technology is getting more efficient whilst maintaining the same footprint, and land between wind turbines can be used for other productive purposes, such as food production
- generating energy locally for local consumption reduces the local exposure to volatile prices or supply interruptions caused by disruptions elsewhere, enhancing the degree of control Rutland has over its own decisions and ability to thrive (energy sovereignty).

The Local Plan therefore seeks to maximise appropriately located renewable energy generated in Rutland, as confirmed in Policy CC8 below.

Policy CC8 - Renewable Energy

The Council is committed to supporting the transition to a net zero carbon future and will seek to maximise appropriately located renewable energy generated in Rutland.

Proposals for renewable energy schemes, including ancillary development, will be supported where the direct, indirect, individual, and cumulative impacts on the following considerations are, or will be made, acceptable. To determine whether it is acceptable, the following tests will have to be met:

		<ul style="list-style-type: none"> • The impacts are acceptable having considered the scale, siting and design, and the consequent impacts on landscape character; visual amenity; biodiversity; geodiversity; flood risk; townscape; heritage assets, their settings, and the historic landscape; and highway safety; and • The impacts are acceptable on aviation and defence navigation system/communications; and • The impacts are acceptable on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic. <p>Compliance with part (a) above will be via applicable policies elsewhere in a development plan document for the area (i.e., this Local Plan or a Neighbourhood Plan, if one exists); and any further guidance set out in a Supplementary Planning Document.</p> <p>Compliance with part (b) above will require, for relevant proposals, the submission by the applicant of robust evidence of the potential impact on any aviation defence navigation system/communication, including documented areas of agreement or disagreement reached with appropriate bodies and organisations responsible for such infrastructure.</p> <p>Compliance with part (c) above will require, for relevant proposals, the submission by the applicant of a robust assessment of the potential impact on such users, and the mitigation measures proposed to minimise any identified harm.</p> <p>For meeting the above criteria (a)-(c), the County Council may commission its own independent assessment of the proposals, to ensure it is satisfied what the degree of harm may be and whether reasonable mitigation opportunities are being taken.</p> <p>In areas that have been designated for their national importance, as identified in the National Planning Policy Framework, renewable energy infrastructure will only be permitted where it can be demonstrated that it would be appropriate in scale, located in areas that do not contribute positively to the objectives of the designation, is sympathetically designed and includes any necessary mitigation measures.</p> <p><u>Community renewable energy proposals</u></p> <p>Weight in favour will be afforded to renewable energy proposals where community ownership or significant benefits to local communities are demonstrated.</p> <p><u>Additional considerations for solar based energy proposals</u></p>
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		<p>Proposals for the installation of solar thermal or photovoltaics panels and associated infrastructure on an existing building will be under a presumption in favour of permission unless there is clear and demonstrable significant harm arising.</p> <p>Proposals for ground based solar thermal or photovoltaics and associated infrastructure, including commercial large scale proposals, will be supported where they are within an area identified as a “ground mounted solar PV opportunity area” as identified on the Policies Map and address all matters in (a) – (c) above, as well as the additional requirements of national planning policy, unless:</p> <ul style="list-style-type: none"> • there is clear and demonstrable significant harm arising; or • the proposal is (following a site specific soil assessment) to take place on Best and Most Versatile (BMV) agricultural land, the proposal is part of a wider scheme to protect or enhance a carbon sink of such land or unless the agricultural production can continue during the operation of the energy generation or can recommence after the end of life of the energy generation equipment without significant impact on the quality of that agricultural land ; or • the land is allocated for another purpose in this Local Plan or other statutory based document (such as a Nature Recovery Strategy or a Local Transport Plan), and the proposal is not compatible with such other allocation. <p><u>Additional matters for wind-based energy proposals</u></p> <p>Proposals for a small to medium single wind turbine, which is defined as a turbine up to a maximum of 40m from ground to tip of blade, are, in principle, supported throughout Rutland. Such proposals will be tested against criteria (i)-(iii) and the additional requirements of national planning policy.</p> <p>Proposals for medium (over 40m from ground to tip of blade) to large scale wind turbines (including groups of turbines) will, in principle, be supported only where they are within an area identified as a “broad area suitable for Larger Scale Wind Energy Turbines” as identified on the Policies Map and address all matters in (a) – (c) above, as well as the additional requirements of national planning policy.</p> <p>Medium to large scale wind turbines should not be within 500m of any settlement or individual residential property. Any proposal for a medium to large scale wind turbine located between 500-2000m of residential property will need clear evidence of no significant harm arising. This would include assessment of:</p> <ul style="list-style-type: none"> • noise
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- flicker
- overbearing nature of the turbines (established by visual effects from within commonly used habitable rooms)
- any other amenity which is presently enjoyed by the occupier

Decommissioning renewable energy infrastructure

Where permitted, proposals will be subject to a condition that will require the submission of an End-of-Life Removal Scheme within six months of the facility becoming non-operational, and the implementation of such a scheme within one year of the scheme being approved. Such a scheme should demonstrate how the biodiversity net gain that has arisen on the site will be protected or enhanced further, and how the materials to be removed would, to a practical degree, be re-used or recycled in line with Policy CC1.

Why is this policy needed?

In June 2015 Government issued a Written Statement on wind energy development (<https://www.parliament.uk/globalassets/documents/commons-vote-office/June-2015/18-June/1-DCLG-Planning.pdf>) stating that, when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a local or neighbourhood plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

This wording was echoed in the National Planning Policy Framework (NPPF) up to the 2021 edition of the NPPF. At the time of drafting this local plan policy wording, the Government recently proposed to update the NPPF in 2023 to specify instead that the community's identified impacts must be "satisfactorily" or "appropriately" addressed (rather than 'fully') and that wind energy development should have "community support" rather than "their backing". Although subtle, these changes would recognise that there can be diversity of opinion within the community on the acceptability of wind energy development, and therefore that there may be situations where wind energy development can be deemed permissible without it being practical to 'fully' address every concern that each community

		<p>member may hold.</p> <p>The proposed NPPF changes also include that wind energy development could also be granted through Local Development Orders, Neighbourhood Development Orders or Community Right to Build Orders. Rutland Council will monitor the outcome of these proposed NPPF changes and will make any necessary or appropriate adjustments to the emerging local plan policies to reflect these changes should they be confirmed by Government before the Local Plan goes to examination.</p> <p>This Local Plan identifies potentially suitable areas for wind turbine development. Not identifying potentially suitable areas for wind turbine development would potentially make the goal of net zero carbon, whether by 2050 (UK legal requirement) or earlier (and the UK's legislated carbon budgets before 2050) harder to achieve, and result in greater pressure to adopt more revolutionary measures elsewhere. In principle, therefore, this Local Plan supports and helps facilitate the delivery of wind turbines. in addition to other forms of renewable energy generation, storage, and distribution.</p> <p>Policy CC8 differentiates between small to medium scale turbines and medium to large turbines.</p> <p>This Local Plan establishes that the whole of the Rutland area is potentially suitable for small to medium wind turbine development, while only the limited areas shown indicatively on diagram below (and defined on the Policies Map) are potentially suitable for the development of medium to large scale turbines.</p> <p>Full details of the approach used to identify areas potentially suitable for medium to large wind turbine development are set out in separate evidence document available on our website.</p> <p>It is important to stress that the areas on Map and the Policies Map are only 'potentially suitable' for medium-large scale wind turbines: being within these locations does not mean that an application for a wind turbine or turbines would automatically be approved. It is not possible to map qualitative considerations easily and comprehensively, so such matters are considered at the point of application: all applications for wind turbines will be assessed against the detailed policy criteria set out in Policy CC8, and all other relevant policies in this Local Plan, as well as policies in any relevant Neighbourhood Plan.</p>
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		<p>Sites that are potentially suitable for solar renewable energy are also identified on the Policies Map.</p> <p>In addition, applicants will also have to demonstrate that any planning impacts identified by affected local communities have been appropriately addressed, in order to satisfy national policy (See NPPF (2021) paragraph 158 and footnote 54). Whether a proposal has the backing or support of the local community is a judgement the Council will make on a case-by-case basis.</p> <p>Beyond the specific issue of wind to consider renewable energy generation as a whole, it is clear that further action (beyond existing national policy) is needed based on evidence from the Committee on Climate Change Progress Report (2023) which flags that although some progress has been made recently on reducing the carbon intensity of electricity, “The Government is still lacking a credible overall strategy for delivering its objective of decarbonising the sector by 2035” and “credible plans are in place for [only] around 30% of the emissions reduction required [in this sector] by the Sixth Carbon Budget”.</p> <p>The CCC 2023 report also notes that although renewable energy generation capacity grew in the past year, this is still behind the levels needed to hit government targets. The growth that occurred was primarily through offshore wind, while “both onshore wind and solar deployment are progressing more slowly ... in part due to barriers in the planning system.”</p> <p>What you told us about this topic</p> <p>The Issues and Options consultation highlighted a need to ensure that a positive strategy for the delivery of low carbon and renewable energy is brought forward to ensure this approach is achieved. Many respondents said that delivering net zero carbon was an important issue for them.</p> <p>What alternatives have we considered?</p> <p>The evidence base on climate change has considered a number of options that the Council could consider.</p> <p>Supporting Evidence</p>
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		<p>Climate change evidence base; Renewable energy evidence base.</p> <p>Which existing policies will be replaced by this policy?</p> <p>CS20 – Energy efficiency and low carbon generation Wind Turbines SPD.</p> <p>There are no current adopted planning policies in place with respect to other forms of renewable energy.</p>
Q1.2.3	The Applicant Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group	<p>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?</p>
		<p>RCC would consider that paragraph 3.10.14 should be interpreted as follows: Applications must demonstrate that the use of agricultural land is necessary (second sentence). The first sentence indicates a preference for use of other land types such as previously developed land but not an outright ban on agricultural land types if that necessity is proven. The second sentence then goes on to impose a further preference for lower quality agricultural land if agricultural land is required. The first sentence makes it clear that land type is not a predominant factor, but what is also clear is that BMV land is the least preferred option of all those available and the need for its use should therefore demonstrate that the preferred types are not available or viable.</p> <p>The statement seems to imply that the use of greenfield land as opposed to previously developed land should not be a predominating factor.</p>

		It is however considered that the statement is concluding that the use of BMV land should be a predominant factors in the site-selection process.
Q2.0.1	Rutland County Council Lincolnshire County Council South Kesteven District Council	The Applicant's response to the Examining Authority's First Written Question Q2.0.1 [REP2-037] confirmed that a Dust Management Plan (DMP) will be prepared and that this is secured in the outline Construction Environmental Management Plan (oCEMP) [REP3-010]. Table 3-6 of the oCEMP also outlines monitoring provisions. Preparation of the DMP will involve further detailed evaluation of the risk of dust generating activities using the detailed construction information that will be available to inform the preparation of the detailed CEMP. Do the local authorities have any specific comments to make on the provisions made for the DMP and future monitoring and liaison with them on dust and air quality?
		Dust monitoring locations and inspections are to be submitted to the Local Planning Authority for approval as part of the CEMP and DMP, which will ensure dust is managed satisfactorily with the provisions outlined in Table 3-6.
Q3.0.1	The Applicant Rutland County Council South Kesteven District Council Natural England	The latest version of the draft Development Consent Order (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?
		a) Yes b) N/A c) N/A

		d) RCC Considers that it should be, yes.
Q3.0.2	The Applicant Rutland County Council South Kesteven District Council Lincolnshire County Council Natural England Mallard Pass Action Group	<p>In relation to the reinstatement of grassland verges used for passing points during construction, Table 3-2 of the updated outline Construction Environmental Management Plan (oCEMP) [REP4-008] now includes measures to store seeds collected within the remaining areas of verges with efforts made to translocate any orchids found within the footprint of the passing points.</p> <p>a) Should the oCEMP provide further details of how these commitments will be implemented?</p> <p>b) Can the Applicant clarify if there is there a potential need for the passing points to be put back in place during the operational phase to facilitate major maintenance works? If so, what effects would this have on the reinstated verges and how would they be managed?</p>
		<p>a) RCC would expect the final CEMP to provide the detail on this, not the outline CEMP.</p> <p>b) Two Local Wildlife Site (LWS) verges will be impacted by the proposals. Passing points should not be created in these two locations at any stage.</p>
Q3.0.3	The Applicant Rutland County Council South Kesteven District Council Lincolnshire County Council Mallard Pass Action Group	<p>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 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.</p> <p>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?</p> <p>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?</p>
		a) Due to the nature of the route it is a very typical rural road in terms of width, which varies along its length, and can generally accommodate two LGVs passing one another. Whilst there may be

		<p>odd locations where passing could be tight, due to frequency and length of the route this is unlikely to result in any overrunning in a particular location which would result in harm to the verges in our opinion. Any evidential verge overrunning appears to be of a minor and seasonal nature, within the first 300mm of the verge, and caused by a tractor type vehicle presumably pulling over to allow the approaching vehicle to pass.</p> <p>b) This is most likely a question for Natural England.</p>
Q3.0.4	<p>Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Lincolnshire Wildlife Trust Mallard Pass Action Group</p>	<p>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].</p> <p>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 bat boxes to be provided to be sufficient?</p> <p>b) If deemed necessary, please comment on possible means to increase provision.</p>
		<p>RCC have not been asked for their opinion on this. However, I think this is a sufficient number, since it is primarily an enhancement, rather than a compensation, measure. The bat and bird boxes should be of the woodcrete type, to ensure longevity (rather than wooden).</p>
Q3.0.5	<p>The Applicant Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Lincolnshire Wildlife Trust Mallard Pass Action Group</p>	<p>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?</p>
		<p>Ecology surveys are normally valid for 2 years, RCC considers therefore that this should be the preferred time period for monitoring.</p> <p>It considers there should also be an allowance for reactive monitoring to take place if requested. 5 years (or even 2) is a long time to wait if an effect happens just after monitoring takes place.</p> <p>The monitoring set out in the oLEMP should be specific as to what is being monitored and how it is proposed to undertake such monitoring so as to ensure that appropriate outcomes can be identified if action is required to be taken.</p>

Q3.0.6	The Applicant Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Lincolnshire Wildlife Trust Mallard Pass Action Group	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?
		The ES (Chapter 7, para 7.7.10) states that plots will be left for skylarks, but I cannot find the detail on how large these plots will be. Whether supplemental feeding for this species will increase their breeding success, as a result of their breeding territories being reduced, I cannot comment on. This would require specialist ecological advice.
Q3.1.1	Natural England Rutland County Council South Kesteven District Council Lincolnshire County Council	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?
		RCC agrees that nutrient run-off will be significantly reduced when the site is permanent grassland, rather than arable. There is no reason why the creation of species-rich wildflower grassland should have an adverse impact on an SAC. The creation of species-rich grassland can require the soil to be inverted (if it is very nutrient rich), but usually the necessary reduction in nutrient levels of the soil is achieved through the collection of all arisings when the grassland is cut, or by grazing, over a number of years.
Q3.1.3	Natural England Environment Agency Rutland County Council Lincolnshire County Council South Kesteven District Council	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?
		No comment to make
Q4.0.9	Lincolnshire County Council Rutland County Council	Please set out if either local highway authority has any outstanding issues or concerns relating to the proposed compulsory acquisition powers sought by the Applicant?
		Rutland County Council Local Highway Authority have no outstanding issues or concerns.
Q5.0.3	The Applicant Lincolnshire County Council Rutland County Council	Article 9 (Power to alter layout, etc. of streets) a) Taking account of the concerns raised by Rutland County Council [REP4-046], the Applicant is requested to justify how the details provided in relation to the works provided for under paragraph (1) (a) of this Article are sufficient to provide the level of certainty required to ensure that the proposed alterations to streets are acceptable in highway terms? b) Notwithstanding the Applicant's response to the ExA's first written question 5.0.10 [REP2-037], in the event that the Secretary of State was to consider it inappropriate to extend the power under Article 9 (2) to 'any street outside of the Order limits', what, if any, alternative drafting be appropriate in this respect?
		a) Whilst this question is directed at the Applicant, Rutland County Council Local Highway Authority have recently met with the Applicant who have agreed to follow the authorities Section 278 process under the Highways Act 1980 and enter a quasi Section 278 legal agreement to ensure all highway works meet the authorities requirements. b) Rutland County Council Local Highway Authority do not consider it likely for any works to be required beyond the scope included within the Order limits. If the Secretary of State considered it inappropriate to extend the power under Article 9 (2), we are unsure of what other wording could be used. That said, if the Applicant did find that other highway works were required, it would not necessarily need planning consent in our view and they could apply to carry out works in the public highway under a formal Section 278 legal agreement of the Highways Act 1980 in any event. As such, we are of the view that no further wording is required.
Q5.0.9	The Applicant Rutland County Council South Kesteven District Council	Article 38 (Felling or lopping of trees and removal of hedgerows) Part 4 of this Article allows the undertaker to undertake works to or remove any hedgerows within the Order land that may be required for or in connection with the purposes of the authorised development. There is no requirement for approval of such works within the Article other than for the removal of hedgerows

		within the extent of the publicly maintained highway. Given that the removal of hedgerows not shown on the hedgerows plans is to be included within the details approved under Requirement 7 (Landscape and ecology management plan) is there need for this to be reiterated or cross reference under Article 38 for clarity and consistency across the DCO?
		Yes, a tree, hedge and shrub removal plan should be included by the developer in line BS5837:2012 for the sake of clarity.
Q5.1.1	The Applicant Rutland County Council Mallard Pass Action Group	<p>Work No.4 in Schedule 1 of the dDCO [REP4-027] refers to ‘works to lay electrical cables including electrical cables connecting Work No.1 to Work No.2. This includes the cables that would need to cross the East Coast Main Line. Details of the options are set out in paragraph 5.7.7 of the Project Description with the locations shown in Figure 5.8 of the ES [APP-128] (although confusingly the crossing options in paragraph 5.7.7 of the Project Description have different numbering to those set out in Figure 5.8 of the ES).</p> <p>a) It is noted that the Applicant is going to consider further dDCO drafting in respect of the implementation of only the chosen option (please provide this by Deadline 5). Notwithstanding this, should the wording of Work No.4 be expanded to include particular reference to the relevant railway cable crossing options given that the only other details are indicative, along with the need for specificity for the proposed crossing location(s)?</p> <p>b) Is further drafting necessary (potentially in Schedule 2 - Requirements) to ensure that</p> <ul style="list-style-type: none"> (i) the crossing through the existing railway archway is considered as the preferred option and (ii) that the final choice of the railway cable crossing is to be approved by the relevant local planning authority, with the details submitted for approval to include clear justification for the chosen option in the event that the railway archway is not the Applicant’s final choice?
		<p>a) Yes – greater clarity in this respect would be welcome.</p> <p>b) i) Again yes, greater clarity and the specification of the railway archway as the preferred option would be beneficial.</p> <p>ii) Yes. Clarity over any justification for not utilising the railway arch would be beneficial and allow for a proper understanding of the choices made in that regard.</p>
Q5.2.2	The Applicant Rutland County Council South Kesteven District Council	Requirement 5 (Approved details and amendments to them) As discussed at ISH3, this Requirements covers not just amendments to the details approved under the Requirements but also those documents that would be certified under Article 39 (certification of plans and documents etc.) of the draft DCO. In 2015 the Government published Guidance on Changes to Development Consent Orders (December 2015) which sets out processed for both non-material and material changes to a

		<p>Development Consent Order. The Infrastructure Planning (Changes to, and Revocation of, Development Consent Order) Regulations 2011 (as amended in 2015) are also relevant.</p> <p>a) Can the Applicant provide its justification for the provisions in Requirement 5 in the context of this Guidance and the Regulations? Why is a different process required in this case?</p> <p>b) Can the Applicant clarify, where Requirement 5.1 refers to ‘the documents certified under Article 39’ is this intended to relate only to the ‘documents’ in Schedule 13, or is it intended to also include ‘plans’ which are also set out in Schedule 13.</p> <p>c) Do the local authorities have any further comments on this Requirement, particularly where it makes provision for amendments to be considered to the documents certified under Article 39?</p> <p>d) In terms of fairness for all parties, what risk is there, that changes may be approved that have not had the opportunity to be the subject of consultation and publicity?</p>
		<p>c) It would be useful for the Local Planning authorities if this requirement were to be specific as to time periods within which proposed amendments are to be considered, similar to the specification of time periods for the discharge of various requirements. Such a time period would need to include provision for the relevant Local Planning Authorities to consult with advisors on specific changes as necessary and there should be no provision for those changes to be deemed acceptable without positive confirmation of this from the relevant LPA.</p> <p>d) If the changes set out in RCC’s response to point c) are incorporated, then there should be minimal risk of this occurring.</p>
Q5.2.3	The Applicant Rutland County Council Lincolnshire County Council	<p>Requirement 6 (Detailed design approval) The Applicant’s Deadline 4 submission explains that paragraph 3.2.11 of the Outline CTMP explicitly provides that the detailed CTMP will explain when the access works will take place, which must be provided prior to the commencement of construction of the Proposed Development.</p> <p>a) It appears that paragraph 3.2.11 only refers to certain highway improvement works but not to the proposed vehicular accesses to the actual Order Land which are listed in Schedule 7 of the dDCO (and referred to under section 3.3 of the Outline CTMP). Therefore, should the Requirements not include provision to ensure that the proposed accesses (the detail of which would be approved under Requirement 6) are carried out and completed prior to the commencement of the relevant phase of works?</p> <p>b) The reference in paragraph 3.2.11 generally refers generally to ‘these works’, which other than the works included in Appendix C of the Outline CTMP are not specifically referenced. Please consider if amendment is required to specifically refer to the highway works provided for in the dDCO [REP4-027].</p>

		For simplicity this could be wrapped up into one Requirement which covers the implementation of highway improvement and access works.
		<p>a) Yes, Rutland County Council Local Highway Authority would request that the full extent of all highway works, including all proposed access, be included.</p> <p>b) Yes, Rutland County Council Local Highway Authority would request that all highway works are included and can be covered by one single Requirement.</p>
Q5.2.5	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	<p>Requirement 10 (Archaeology)</p> <p>a) The parties are requested to provide an update on their discussions regarding the drafting of this requirement. Where there remains to be disagreement, setting out the reasons for this disagreement, how it might be resolved and any preferred revised drafting that is sought.</p> <p>b) The attention of the parties is also drawn to WQ 6.0.2 (below) on the drafting of Requirement 10. The parties are therefore asked to engage and submit updates on two versions of a draft Requirement 10 – one on the basis of their being no necessity for additional trial trenching prior to construction and one (without prejudice) that includes additional trial trenching prior to construction</p>
		<p>a) No discussion has been had directly with the applicant since submission of the application.</p> <p>b) We cannot recommend a viable version of Recommendation 10 that fails to make provision for trial trenching as a pre-cursor to the design of a suitable programme of mitigation. The scope and extent of mitigation has not been established, as is acknowledge in the developer’s submitted Outline Written Scheme of Investigation (Para 1.5), in its provision for a phase of further trial trenching.</p> <p>With regard to the second scenario, the completion of trial trenching prior to construction of the scheme, as currently drafted the existing Requirement is inadequate. In order to address the staged nature of the archaeological programme, for each phase of the development, the Requirement must make provision for at least two stages of discrete archaeological investigation, comprising initial evaluative trial trenching, followed by a mitigation stage responding to the results of the trenching. Both stages will require a specific Written Scheme of Investigation.</p> <p>The necessary archaeological mitigation may encompass a range of archaeological responses from attendance (a watching brief) through to area excavation, and/or design modification. The latter may include exclusion of development from areas of archaeological sensitivity, to (re)design of the scheme to allow development, but without impact upon underlying archaeological remains (e.g. the use of</p>

		<p>'shoes' and shallow or above ground cabling). It is very possible that individual development phases will require a combination of techniques, each of which must be detailed within an appropriate written scheme and submitted to the relevant determining authority/authorities.</p> <p>The applicant has provided a draft Outline Written Scheme of Investigation (OWSI) for the development site. The document is intended to present the scope, parameters and methodological approaches to the archaeological programme secured by Requirement 10 of the Development Consent Order (DCO) for the Scheme.</p> <p>We have a number of concerns regarding aspects of this document (see response to the OWSI), specifically regarding its proscriptive approach to the deployment of both further trial trenching, subsequent mitigation and the role of the LPA. However, the document provides an overarching understanding of the suitable methods of archaeological investigation and mitigation (by archaeological excavation and/or design solution). It is recommended that any such document is retitled Outline Archaeological Mitigation Framework, to avoid confusion with the need for trial trenching and mitigation WSIs to be prepared for each phase or group of phases of the development (OWSI, Paragraph 3.5). The Framework should be submitted to the LPA for approval to inform the overarching mitigation programme and should be appropriately referenced in a revised Requirement 10.</p> <p>With regard to a revision of Requirement 10 that, without prejudice, could be worded suitably to address the need for a further stage of pre-construction trial trenching, the following is proposed:</p> <ol style="list-style-type: none">1) <i>An Outline Archaeological Mitigation Framework (OAMF) shall be submitted to and approved in writing by the relevant planning authority or authorities (South Kesteven, Rutland and Lincolnshire), such approval to be in consultation with Historic England.</i>2) <i>No phase of the authorised development may commence other than in accordance with the approved OAMF (1. above) and:</i><ol style="list-style-type: none">a) <i>as informed by a programme of archaeological trial trenching, which has been undertaken in accordance with a written scheme of investigation, submitted to and approved in writing by the relevant planning authority or authorities (South Kesteven, Rutland and Lincolnshire), and where relevant in consultation with Historic England.</i>b) <i>where shown necessary by the results of the pre-determination assessment and evaluation, and/or the post-determination trial trenching (a) above), a programme of mitigation has been</i>
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		<p><i>undertaken and all on-site mitigation completed. The mitigation must be undertaken in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the relevant planning authority or authorities, where relevant in consultation with Historic England. The development shall be undertaken in accordance with the provisions of the programme of mitigation b) above.</i></p> <p>The wording makes reference to the ‘relevant planning authority’, which is intended to include Rutland County Council, where those development works occur within the authority area.</p> <p>Reference is also made to consultation with Historic England. HE in their SoCG have stated that ‘Historic England refers the Applicant to the expertise of the Local Authority, archaeological curators with regard to the sufficiency of pre-determination / post-determination archaeological surveys.’</p> <p>The proposed Requirement retains the original reference to phased development. In the event that development will be undertaken in phases, the archaeological programme will need to reflect the development sequence as well as the two-stage character (trenching followed by mitigation) of the archaeological investigation.</p>
Q5.2.6	<i>The Applicant Natural England (included for reference)</i>	<p><i>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.</i></p> <p><i>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)?</i></p> <p><i>b) Does paragraph 1.8 of the outline soil management plan also need revising in this regard as it only refers to construction?</i></p>
Q5.2.7	The Applicant Rutland County Council South Kesteven District Council	<p>Requirement 16 (Operational noise) This Requirement has been amended to include reference to operational noise rating levels not exceeding 35 dB at residential properties. Can this Requirement be reviewed to address the following:</p> <p>a) Why is only noise at residential properties included when noise levels are referred to elsewhere for public rights of way and permissive paths?</p>

		<p>b) Should the appropriate noise rating/time period be included?</p> <p>c) Should the Requirement also refer to monitoring measures needing to be included for approval to ensure that the relevant noise levels are continually adhered to?</p> <p>d) The ExA requests that the Applicant engages further with the relevant Environmental Health/Protection Officers at Rutland County Council and South Kesteven District Council on the detailed wording of this Requirement and related operational noise levels.</p>
		<p>a) As shown in Appendix 10.5 the noise levels for majority of the public rights of way are modelled at a level of 30-35dB, and are not expected to be at high level (below 55 dB LAeq) and is relatively constant in nature so significant disturbance is considered unlikely.</p> <p>b. The rating noise level is appropriate for considering the impact on local residents in line with BS4142:2014 methodology. Tonality has been considered in the Noise Impact Assessment and appropriate penalties applied which have determined that the resulting rated noise levels would not exceed 35 dB.</p> <p>c. Where reasonable noise complaints are received by the Local Authority appropriate investigations would be required to ensure compliance with the determined limits.</p>
Q5.5.1	The Applicant Rutland County Council South Kesteven District Council Lincolnshire County Council	<p>Schedule 16 of the draft DCO has been updated at D4 following ISH3 [REP4-026].</p> <p>a) The Applicant is requested to set out the latest position on Schedule 16 following any further engagement with the relevant authorities.</p> <p>b) The relevant authorities are requested to set out whether each is in agreement with the drafting of Schedule 16 or to set out any part where there is still disagreement. The later should include the reasons for this along with preferred alternative drafting.</p> <p>c) For applications where the subject matter crosses the boundary between relevant planning authorities, what happens in the event that one of the relevant planning authorities does not determine the application within the prescribed period whilst the other refuses the application within the prescribed period?</p>
		<p>b) Discussions have taken place and although the Applicant has proposed a longer timeframe of 10 weeks for certain matters, RCC maintains the timeframe should be the same for ALL requirements - this being 10 weeks and not 8 weeks.</p> <p>A single period of 10 weeks has been applied in the Longfield DCO and so sets a precedent that periods longer than 8 weeks is reasonable despite being a nationally significant infrastructure project. It is understood the Applicant feels certain matters justify a shorter timeframe due to the issues they</p>

		<p>cover, however, under the TCPA system no such distinction is given for the approval of details pursuant to a planning condition where the timeframe is the same regardless of the subject matter. NSIP projects are much larger in size and as such the issues requiring approval are much greater in detail and extent. Therefore a timeframe longer than the 8 weeks given under the TCPA system is justified.</p> <p>Furthermore, a single, universal timeframe for all requirements to be determined will enable the approving authorities to adopt procedures that are consistent and clear when consulting and discharging requirements and avoid the risk of deadlines being missed by consultees and/or decisions being issued late resulting in the consequential accidental 'deemed approval' of certain matters.</p> <p>c) The appeal provisions as set out in paragraph 4 of the Schedule 16 would take effect and wording could perhaps be include making clear that in the event the circumstances identified occurs then no works shall take place until the appeal relating to the matter that has been refused has been determined.</p>
Q5.6.1	<p>The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Other Interested Parties</p>	<p>The ExA notes that several written submissions have been made at Deadline 4 on the content of various parts of the draft DCO. The ExA encourages that discussions and engagement continues between the relevant parties on such matters so that updated positions on the relevant matters can be submitted at Deadline 5 (5 September 2023). Where any disagreements remain, the ExA requests that these are clearly set out along with the reasons for any such disagreement and any preferred alternative drafting where appropriate. This information may be presented within the relevant Statements of Common Ground.</p>
		<p>Will be submitted as part of deadline 5.</p>
Q6.0.2	<p>Lincolnshire County Council Rutland County Council</p>	<p>Paragraph 3.10.101 of Draft NPS EN-3 (March 2023) states that solar PV developments may have a positive effect, for example archaeological assets may be protected by a solar PV farm as the site is removed from regular ploughing and shoes or low-level piling is stipulated. Paragraph 3.10.106 goes onto state that the extent of investigative work should be proportionate to the sensitivity of, and extent of proposed ground disturbance in, the associated study area.</p> <p>a) What bearing should this have on the assessment, most particularly with regard to the adequacy of the archaeological evaluation in this case?</p> <p>b) Draft NPS EN-3 indicates that any field evaluation should only be required 'where necessary'. Taking into consideration known information, including Historic Environment Records and the Applicant's desk-based assessment, please describe and explain with justification which particular areas of the site which have not been the subject of trial trenching, you consider require further field evaluation?</p>

		<p>a) We accept that a range of evaluation techniques have been utilised, however we do not agree that it has concluded into an acceptable archaeological assessment. In the absence of adequate archaeological assessment, it is not possible to evidence the statement that the proposed scheme will offer any greater protection to the archaeological resources than currently afforded by the on-going land use. It is likely that the impact of the scheme will vary across the site, based upon local ground conditions, current and future land use, and the character and sensitivity of the archaeological resource and the impact of decommissioning works. As it is not possible to predict with sufficient certainty the impact of existing land use upon archaeological remains, future impacts in the context of the inadequate information submitted by the developer cannot be properly evaluated. Proportionate investigation of the application area should amount to a level of investigation that achieves the above outcome, i.e. an understanding of the impact of development upon the significance of the underlying archaeological resource. There are large areas of the application area that have not had any intrusive archaeological investigation to confirm the results of the non-intrusive investigations (geophysics, etc) as discussed below in b).</p> <p>The extent of the scheme's ground disturbance, most notably the proposes piles and subsequent decommissioning, etc., is not, in our opinion, directly comparable to the percentage of the proposed archaeological evaluation and mitigation, due to the very different outcome they generate. Archaeological investigations have an archaeological outcome (report, finds, community outreach, etc.), whereas piling, putting aside the variable sensitivity and significance of any archaeological deposits, cannot be satisfactorily mitigated, as no useful or meaningful archaeological record can be made in the context of the works proposed.</p> <p>b) The current trial trenching has been targeted upon areas of focus geophysical response. However, the spread/extent of both the geophysical responses and underlying archaeological remains, has not been adequately examined. It is likely that archaeological remains occur around the periphery of the geophysical clusters and trenching is needed to determine the boundary of appropriate mitigation areas.</p> <p>In addition to those areas targeted by the trenching programme, a significant proportion of the anomalies detected have not been examined by any intrusive investigation, it is therefore unclear</p>
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		<p>whether the detected anomalies represent underlying archaeological remains, and similarly uncertain as to the significance of those remains where present.</p> <p>It should also be recognised that geophysical survey is neither a definitive indicator of archaeological remains, nor can it characterise the nature of the remains detected. Geophysical survey does not determine depth or quality of survival and cannot be used with certainty to determine the significance of the underlying archaeological evidence. Geophysical survey is particularly weak at characterising features with a lower differential to the background geology and soils. This occur where features/fills have a lower magnetic response, or where the natural geology or soils obscure the legibility of the archaeological remains. Notably in the local area and across much of Rutland is the difficulty to identify the presence of earlier prehistoric (Palaeolithic, Mesolithic and Early Neolithic) and Anglo-Saxon archaeological remains. This difficulty to identify archaeological remains solely by geophysical survey, can extend to feature types, such as burials, discrete pits and post-built structures.</p> <p>It is therefore expected that trial trenching should be undertaken to corroborate and clarify the results of the geophysical survey, examining anomalies that cannot definitively be attributed to non-archaeological origins and additionally testing areas of negative geophysical response. As has been repeatedly stated, it is considered that the level of trial trenching undertaken so far is inadequate. Typically c.2-5% sample of a rural development area will be examined, in order to understand the archaeological significance and development impact of a given scheme. The anticipated character of the archaeological resource (known and potential), the nature of the development impact, and the results of on-site investigations will determine the methodology and intensity of the archaeological investigation. The amount of trial trenching, with the exception of areas P12, PF1 and PF7, falls well below an adequate investigation of the archaeological significance of the application site.</p>
Q6.0.6	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	<p>The Applicant's response to ExQ1.6.0.7 [REP2-037] explains why it is unable to provide drawings of the concrete shoes at this stage. How will the final design detail of the concrete shoes be secured through the dDCO? Is any further wording required in the relevant documentation to secure them, particularly to ensure that any ground disturbance from their construction is minimised?</p>
		<p>RCC considers that Requirement 6 would be the preferred location for details to be provided, alongside discharge of the details of the layout, levels, hard surfacing materials etc.</p> <p>Such details should also be specified within the WSI if they are required for the purposes of archaeological mitigation.</p>

Q6.0.7	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	<p>Further to discussions at ISH2 the Applicant has provided within section 11 of its Summary of Applicant's Oral Submissions at ISH2 [REP4-041] alternative (without prejudice to its position on this matter) drafting of draft DCO Requirement 10 (Archaeology) to provide for further trial trenching.</p> <p>a) Notwithstanding, other submissions that have been made on this Requirement, comments are sought on the acceptability of this alternative drafting.</p> <p>b) The attention of the parties is also drawn to WQ 5.2.4 (above) on the drafting of Requirement 10. The parties are therefore asked to engage and submit updates of two versions of a draft Requirement 10 – one on the basis of their being no necessity for additional trial trenching prior to construction and one (without prejudice) that includes additional trial trenching prior to construction. As an aside to this, it is noted that the current alternative drafting refers to the need for an outline written scheme of investigation being approved and implemented.</p> <p>c) Please comment on the acceptability of such a requirement as suggested in the Applicant's alternative drafting, given that it is normally expected that assessment and evaluation should take place before an application is determined in order to predict the presence of archaeological remains and assess their potential significance.</p> <p>d) To what extent would an acceptable package of mitigation within a Written Scheme of Investigation be capable of overcoming the Council's concerns regarding the Applicant's evaluation?</p>
		<p>The Applicant has provided the following revised wording for Requirement 10 (Summary of Applicant's Oral Submissions at ISH2, Section 11 [REP4-041]):</p> <p>(1) The authorised development must not commence until</p> <p>a. a scheme for additional trial trenching has been submitted to and approved by the Secretary of State, in consultation with both relevant planning authorities, Lincolnshire County Council and Historic England;</p> <p>b. additional trial trenching has been carried out in accordance with the scheme approved under subparagraph (b); and</p> <p>c. updates are made to the outline written scheme of investigation to account for the results of the additional trial trenching carried out and the updated outline written scheme of investigation is submitted to and approved by both relevant planning authorities in consultation with Lincolnshire County Council and Historic England.</p>

		<p>(2) The authorised development must be carried out in accordance with the updated outline written scheme of investigation approved under paragraph (1)(c).</p> <p>a) discussed above</p> <p>b) as discussed above</p> <p>c) as discussed above. Our advice has been for pre-determination archaeological evaluation to ensure a suitable mitigation strategy can be implemented and the development informed by the archaeological results and not just react to it. If for example archaeological remains that are often missed during non-intrusive evaluation, are located within the areas that have not been archaeological trial trenched, then there would be impacts by the proposed development.</p> <p>d) As has been outlined above, the risk is that without adequate pre-determination trial trenching, decisions made around viability of the scheme and the impact of the proposals upon the known and potential resources cannot be made with confidence. Forming a WSI for unknown archaeological variables is difficult and could lead to unknown impacts, these risks may impact upon the timelines and outcomes of the project as a whole but are most likely to put at risk the archaeological significance of the development area, bringing into question the sustainability of the development.</p>
Q6.0.9	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	The Applicant [REP3-030] explains that intervisibility (and/or co-visibility) is critical to the understanding of the effects on the setting of heritage assets and refers to paragraph 56 the Court of Appeal judgment R (Williams) v Powys [2017] EWCA Civ 427. In this context, please comment on the relevance of and extent to which the judgment in Steer v Secretary of State for Communities and Local Government Catesby Estates Limited, Amber Valley Borough Council [2018] EWCA Civ 1697 also provides clarification on the meaning of ‘setting’, particularly the extent to which it is capable of extending beyond the purely visual?
		RCC did not identify within its LIR any negative impacts from the proposal on the setting any of the heritage assets within its area of responsibility. The judgement within Steer makes it clear in the view of RCC that an assessment of effects on setting should not be solely limited to a consideration of visual relationship, but also include other factors such as historic association of a site and the relevant heritage asset and that such a wider assessment is considered to be best practice.

		Notwithstanding that however, RCC maintains its position that the proposal does not result in impacts beyond neutral in terms of the relationship of the site and the proposals to the heritage assets within its area of responsibility.
Q6.0.12	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	In order that the positions of the parties on archaeology evaluation, assessment and mitigation can be clearly understand, please provide a position statement (which can form part of an SoCG provided it is of sufficient detail) setting out (i) the outstanding areas of disagreement between the respective parties, (ii) a justification for each parties position where there is disagreement, and (iii) what needs to be done to overcome the disagreement (as applicable).
		<p>i) It is accepted that the developer has prepared and submitted an adequate desk-based assessment and geophysical survey of the development area and has undertaken an evaluation by trial trenching of the application site. The outstanding areas of disagreement relate to the level of trial trenching undertaken, rather than to the competence of that work. It is our opinion that the trial trenching fails to adequately evidence and determine the significance of the archaeological resource. As such the works completed to date fail to establish the impact of the development upon the known and potential archaeological resource likely to be affected by the proposals.</p> <p>ii). Our position is outlined above, and relates to extensive experience of similar developments undertaken within the county and further afield.</p> <p>iii) The applicant should be required to undertake a further phase of trail trenching, to enable an appropriate mitigation plan, including provision for exclusion of areas from development, prior archaeological excavation and/or appropriate archaeological monitoring and investigation during the development.</p>
Q7.0.5	The Applicant Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group	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.
		RCC Considers that food security is an issue that is important and relevant to the consideration of the proposed development. The matter is considered within the South Derbyshire appeal (appeal reference: APP/F1040/W/22/3313316) at paragraph 20, where the Inspector noted the United Kingdom Food Security Assessment 2009 identified important issues affecting this topic were climate

		<p>change and soil degradation and that these topics emphasised the importance of maintaining higher quality agricultural land. Subsequently to that document, DEFRA produced the UK Food Security Report 2021 which also concludes that domestic food production faces challenges from a number of risks, including soil degradation and the negative impact of climate change on the amount of high-grade arable farmland available within the UK.</p> <p>Paragraph 174 of the National Planning Policy Framework identifies that both planning policies and decisions should recognise the benefits of the countryside including the economic and other benefits of the best and most versatile agricultural land.</p>
Q7.0.6	<p>Natural England Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group</p>	<p>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.</p>
		<p>No comments to make on this aspect.</p>
Q7.0.9	<p>The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group</p>	<p>In response to queries raised by the Mallard Pass Action Group at Deadline 3 as well as by the ExA during Issue Specific Hearing 2 regarding the economic and operational feasibility of sheep farming, the Applicant provided responses at Deadline 4 which appears to focus primarily on operational matters [REP4-025].</p> <p>a) Can the Mallard Pass Action Group confirm if this response addresses any of their concerns? b) Can the Applicant provide any further information specifically in relation to the economic viability of a sheep farming operation envisaged?</p>
		<p>RCC are identified as being a respondent to this question but neither section of the question seeks a specific response from them.</p> <p>The LPA is aware that sheep grazing is an activity that is often undertaken on solar farm sites but has no detailed information regarding feasibility or economic viability of such operations.</p>

Q8.0.5	The Applicant (a) Lincolnshire County Council (b) Rutland County Council (b) South Kesteven District Council (b) Mallard Pass Action Group (MPAG) (b)	<p>Paragraph 5.10.36 of the draft NPS EN-1 states that the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by appropriate mitigation.</p> <p>a) Notwithstanding the other matters as summarised on pages 68 and 69 of Appendix 3 – Policy accordance tables of the Planning Statement [APP4-020], the Design Parameters [REP2-106] and Design Guidance [REP2-018] are obviously key documents in determining the final appearance of the Proposed Development. Please explain in further detail how these have been drafted in order to seek to ensure that harm to the landscape would be minimised.</p> <p>b) Are the Councils and MPAG satisfied that the Design Guidance as suitably drafted to minimise harm to the landscape?</p>
		<p>b) This will depend on the detail of any submission made for detailed design proposals and how the design guidance is used to influence that detailed design.</p> <p>The design parameters are useful for understanding the potential maximum impact however it is noted that good design often comes with accompanying increased costs and that as a commercial project there will be pressure to minimise costs. There is no provision within the Design Parameters or the Design Guidance to indicate that efforts will be made (or evidence provided to demonstrate that such efforts have been made) to minimise the impact beyond the stated parameters or ‘worst case’ scenario. RCC would therefore like to see a commitment to design beyond the ‘cheapest possible alternative’ in relation to the project.</p>
Q9.0.3	The Applicant Rutland County Council South Kesteven District Council	<p>Table 3-5 of the outline OEMP [REP4-009] states that cumulative noise rated noise levels L_{ar}, including the applicable character correction, should not exceed 35dB at neighbouring properties as secured by DCO Requirements. For the avoidance of doubt, should this make clear that this noise level should be measured externally rather than internally at residential properties?</p>
		<p>The rated noise level in line with BS4142 methodology is determined at 1m externally from the facade of the property.</p>
Q9.0.5	The Applicant Rutland County Council South Kesteven District Council	<p>Table 3-5 of the outline Operational Environmental Management Plan [REP4-009] sets out measures relating to noise and vibration including brief details of monitoring requirements.</p> <p>a) The Applicant is asked to set out in further detail how operational noise levels will be monitored and controlled across the site, including the process that will be followed in the event that noise levels exceed the maximum permitted.</p>

		<p>b) Do the Local Authorities (including as relevant their Environmental Protection/Health Officers) have any further comments on the measures proposed in the outline OEMP?</p> <p>Also Note Q5.2.6 in the draft DCO section above regarding the operational noise levels requirement (R16)</p>
		<p>The OEMP(s) will set out a complaints procedure for members of the public to report noise disturbance at residential properties. Where reasonable complaints are received, monitoring would be undertaken in accordance with the latest version of the BS 4142 to determine if noise levels are above 35dB. If noise levels are in excess of these limits, then remedial action would be undertaken. It is satisfactory that on the receipt of reasonable complaints that a noise impact assessment is conducted by a competent and qualified person to determine if the limits are exceeded and submitted to and reviewed by the Local Authority to ensure compliance.</p>
Q10.0.3	<p>The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council Mallard Pass Action Group</p>	<p>In response to a question raised by the Examining Authority at Issue Specific Hearing 2, Appendix C of the Applicant's summary of oral submissions [REP4-041] provides updated noise modelling to illustrate predicted noise levels during the operational phase identifying the proposed permissive paths as well as Public Rights of Way (PRoW). It is stated that "In some instances, short portions of some PRoWs or permissive paths are located in closer proximity to potential inverter locations (Solar Stations) or the Onsite Substation. However, even in these instances, predicted worst-case noise levels will not exceed 50 dB LAeq, which is below the 55 dB threshold of significance derived (on a precautionary basis) in Appendix 10.2 [APP-078] of the ES"</p> <p>a) Can the Applicant confirm if there is any scope to reduce noise effects on PRoW and the permissive paths at the detailed design stage or by revising the 50m offset of solar stations from PRoW as set in the Design and Access Statement [REP2-018]?</p> <p>b) Do the local authorities or Mallard Pass Action Group have any comments on the new information provided in Appendix C?</p>
		<p>The modelling undertaken as part of the Noise Impact Assessment has not identified any concerns regarding the PRoW, and as stated the noise will be transient for those using PRoW, therefore no mitigation measures are required.</p>
Q10.0.4	<p>Rutland County Council Lincolnshire County Council South Kesteven District Council</p>	<p>The Applicant has updated Table 3-4 of the outline Operational Environmental Management Plan (oOEMP) [REP4-010] to state that "The detailed OEMPs will require that if at any time in the operational phase, the existing PRoWs or new permissive paths need to be diverted or temporarily</p>

		closed to facilitate maintenance activities, this will require approval of the local planning authority.” Do the local authorities have any comments on this?
		<p>The applicant will require the consent of the local highway authority for Temporary Traffic Regulation Orders (TTRO) if they wish to temporarily divert or close PROW. There are costs and minimum notice periods associated with this process and the LPA have discretion to grant, or not.</p> <p>It is difficult to estimate the potential impact of this change without some measure of the likely frequency and duration of the temporary closures / diversions.</p>
Q10.0.5	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council	<p>At Issue Specific Hearing 2, the Examining Authority sought opinions on whether on PROW Management Plan should be prepared as envisaged by paragraph 3.10.30 of the draft National Policy Statement (NPS) EN-3 (March 2023) [REP4-041]. The Applicant confirmed that such details are already provided in a single table in the outline Construction Environmental Management Plan (oCEMP) [REP3-010]. The local authorities confirmed that they were content for this information to be retained within the CEMP. However, relevant details also appear to be set out in the oOEMP (Table 3-4), outline Decommissioning Environmental Management Plan (oDEMP) (Table 3-10) [REP4-012] and outline Landscape and Ecology Management Plan (oLEMP) [REP3-014].</p> <p>a) In the context of the provisions of draft NPS EN-3, can the local authorities please confirm if they consider the draft management plans provide sufficient detail to inform the management of PROW?</p> <p>b) In light of the above, can the Applicant please comment further on its position that a PROW Management Plan is not required as all details are set out in a single table in the oCEMP?</p> <p>c) Do the local authorities have any further comments to make on the requirement for a PROW Management Plan?</p>
		<p>At this stage the detail is likely to be sufficient. As the detailed plans and work plans are progressed greater level of detail may be required, and perhaps it would be better to present this information in a separate document.</p> <p>The applicant has stated that a ‘minimum 15m spacing (either side) between the centreline of the PROW and security fencing will be provided’ and also that ‘a minimum 3m wide undeveloped passageway’ will be retained for each PROW. RCC would prefer if actual widths for each path were stated; whilst 3m is generally very good for a footpath it may be less than currently available on some bridleways (regardless of definitive width).</p>

		<p>Presumably planting will occupy some of the (up to 15m) space between the edge of the passageway and the security fencing. Will this be set back far enough from the edge of the passageway so that encroachment by seasonal growth is minimal? As stated previously, this level of detail might be excessive at outline stage.</p> <p>To summarise, RCC supports the requirement for a PRow management plan and it would be preferable for the applicant to set out all information related to PRow management in separate document.</p>
Q10.0.6	Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group	<p>Appendix B to the Applicant's summary of oral submission at Issue Specific Hearing 2 [REP4- 041] provides a copy of the British Horse Society's advice note for solar farm near routes used by equestrians. This includes guidance to avoid the creation of narrow corridors with fencing. A minimum width of 4m is specified (preferably 5m) irrespective of the width of the right of the with vegetation cut through the full width. The Applicant states that the Proposed development far exceeds this guidance with an offset of 15m set in the Design and Access Statement [REP2-018]. Fencing type and the provision of permissive paths are also considered to align with the guidance by the Applicant [REP3-022]. Can the local authorities and Mallard Pass Action Group please comment on the extent to which they consider that the guidance has been adhered to?</p>
		<p>RCC considers that in general the guidance appears to have been adhered to. Some improvements may be made in some respects, such as the limitation of construction hours later in the evenings and at weekends when it would be more likely that riders will be out however it is acknowledged that any restriction in construction hours is likely to result in an increase in the length of the construction period and therefore there is a balance to be struck in this regard. RCC has previously commented on its views in regard to the proposed construction hours.</p>
Q10.0.7	Rutland County Council South Kesteven District Council	<p>A revised version of the Outline Employment, Skills and Supply Chain Plan was submitted by the Applicant at Deadline 2 [REP2-023]. It includes provisions for monitoring and the role of the local planning authorities.</p> <p>a) Can the local planning authorities please comment specifically on the new monitoring provisions proposed for modern slavery and human trafficking as set out at Paragraph 4.1.3? b) Do the local planning authorities have any other general comments on this document?</p>
		<p>a) The document at paragraph 4.1.3 requires that any supplier uploads its modern slavery and human trafficking statement to the Home Office Register in order to allow monitoring by the relevant planning authorities. It does not however indicate that there will be a mechanism by</p>

		<p>which those authorities can access a list of suppliers to appropriately check those statements. The document should therefore ensure that a full list of suppliers is available to the relevant local authority on request.</p> <p>b) No other comments.</p>
Q11.0.1	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group	<p>Paragraph 1.1.4 of the of the outline Construction Traffic Management Plan (oCTMP) [REP4-016] states “This oCTMP covers the principal construction activities envisaged at the time of preparing the Environmental Statement (ES) [EN010127/APP/7.11]. This oCTMP is intended to be a live document, such that modifications and necessary interventions can be made following further information and advice from consultees.” Given the recognised scope for change to the oCTMP, should this paragraph be revised to confirm that any subsequent amendments would still be sufficient to mitigate effects identified in the Environmental Statement?</p>
		<p>Yes and furthermore Rutland County Council would request that any updated CTMP’s are submitted to the LPA for approval in writing before they are implemented.</p>
Q11.0.2	Rutland County Council Mallard Pass Action Group	<p>The Applicant updated Paragraph 3.8.3 of the oCTMP at Deadline 4 [REP4-016] to restrict HGVs from passing through Great Casterton at any time prior to 9:00 and any time after 15:00 with the intent of ensuring that there are no HGVs passing schools within Great Casterton during the drop off and pick up periods. Do Rutland County Council or the Mallard Pass Action Group have any comments to make on this amendment?</p>
		<p>This change is welcomed by Rutland County Council and have no further comment to make.</p>
Q11.0.3	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group	<p>In response to discussions held at Issue Specific Hearing 2 regarding the risk of demand for construction staff parking at the primary construction compound exceeding supply and associated potential impacts on ecologically sensitive grass verges in the vicinity [REP4-041], the Applicant has included the following text at Paragraph 2.4.3 “Car parking will not be permitted outside of the primary compound on verges adjacent to the local highway network. All vehicles will be required to park within the extent of the Order Limits.”.</p> <p>a) Can the Applicant confirm where vehicles will be able to park in the event that the car park at the primary construction compound is full?</p> <p>b) Should the areas prohibited for parking be clearly identified on a plan?</p> <p>c) Do the local authorities and Mallard Pass Action Group have any comments to make on the Applicant’s response and amendments to the oCTMP on this issue?</p>
		<p>B) Rutland County Council are of the view that a marked up plan would be essential.</p> <p>c) Rutland County Council Local Highway Authority welcome this update, although are still of the view that it is essential that block plans showing the internal arrangements for parking/loading/unloading</p>

		and turning (for both the primary and secondary sites) are provided for further review, ideally prior to determination by the Secretary of State, or by way of a Requirement with the Local Authority having the ability to comment and agree the detail prior to commencement of development.
Q11.0.4	The Applicant Rutland County Council Lincolnshire County Council National Highways	The methodology for the assessment of effects in Chapter 9 of the Environmental Statement (ES) (Highways and Access) [APP3-039] is based on the 'Guidelines for the Environmental Assessment of Road Traffic' (GEART), produced by the Institute of Environmental Assessment (IEA) (now the Institute of Environmental Management and Assessment (IEMA)) 1993). It is noted that the IEMA published a new guidance document entitled Environmental Assessment of Traffic and Movement in July 2023. What implications does the new guidance have for the assessment of effects for the Proposed Development?
		<p>The noise impact of construction traffic as shown in section 10.8.16 and 10.8.17 of the ES has been determined as negligible other than on Essendine Road, where the impact was determined as low magnitude and not significant.</p> <p>In section 15.2.32 -15.2.33 air quality is discussed in relation to the Construction Phase, any impact on air quality is expected to be negligible in with reference to EPUK/IAQM guidance. As the IAQM guidance thresholds are not exceeded the assessment of construction traffic emissions is not required with respect to air quality and therefore considered to have a negligible impact.</p>
Q11.0.5	The Applicant Rutland County Council Environment Agency	<p>Chapter 15 of the ES (Other Environmental Topics) [APP4-045] considers the possible effects and implications of the three Upper Tier Control of Major Accident Hazard (COMAH) sites located within Essendine Industrial Estate.</p> <p>a) How will access (including for the emergency services) be maintained to the industrial estate during works in the event that cabling is routed along Bourne Road?</p> <p>b) Do Rutland County Council and the Environment Agency have any comments to make on this issue?</p>
		b) Rutland County Council are of the view that vehicular access must be maintained at all times, via temporary traffic lights where necessary, with immediate emergency access allowed at all times.
Q11.0.7	The Applicant Rutland County Council	Paragraph 4.9.1 of the oCTMP [REP4-016] has been updated at Deadline 4 to confirm that all of the access points within the Order limits will incorporate a wheel washing system with rumble grids to dislodge dust and mud to all vehicles leaving the Order limits "where reasonably practicable." The Applicant's response to the Examining Authority's First Written Question Q2.0.2 [REP2-037] stated that alternatives such as manual washing would be provided where wheel washing systems could not be

		<p>applied but this commitment is not expressed in the updated oCTMP. Rutland County Council’s Local Impact Report [REP2-048] called for more detail to be provided regarding the system to be used and requested that “thru jetted” systems were used. The Applicant’s response at Deadline 3 [REP3-034] indicates that the method of wheel washing proposed aligns with industry standards and is widely accepted practice although the oCTMP does not specify the method in detail.</p> <p>a) Should the oCTMP be revised to confirm that alternative means of wheel washing will be provided when the primary system cannot be implemented?</p> <p>b) Should the oCTMP provide additional details regarding the method of wheel washing?</p> <p>c) Can Rutland County Council confirm if the system requested is commonly applied in Rutland?</p>
		<p>Rutland County Council Local Highway Authority welcome the update that wheel washing systems will be installed at all access points within the Order limits. However, we are uncomfortable with the wording “where reasonably practicable”, which could potentially allow the Applicant to find reason to not install the facilities at one or more locations, which could lead to a highway safety issue. Given the sites/accesses (all fields) there should be no reason why a wheel wash facility could not be installed, even if levelling groundworks are required to accommodate a level area for the unit. We therefore respectfully request that any reference to “where reasonably practicable” is removed from all relevant documents. The proposal to use manual washing, with the likes of a lance, should not be used as a first method of cleaning, but should be on-site in any event as a backup / secondary measure only.</p> <p>a) Rutland County Council Local Highway Authority are of the view that there should be no such cases where it is impracticable to install a drive-thru wheelwash system, and that the proposed manual washing should only be used as a backup / secondary measure should the drive-thru system fail. Given this we are of the view that the oCTMP could be updated to show manual washing as a backup / secondary measure of cleansing wheels before entering the public highway.</p> <p>b) Rutland County Council Local Highway Authority are of the view that full details of a drive-thru jetted style system, plus a method of control should this fail, should be provided within the oCTMP.</p> <p>c) Yes, Rutland County Council Local Highway Authority commonly request a wet jetted drive-thru system as a matter of course on all construction sites that are likely to result in the potential of mud on the highway, subject to that site being of adequate size to accommodate such equipment.</p>

Q11.0.8	The Applicant Rutland County Council	The draft Statement of Common Ground [REP4-036] between the Applicant and Rutland County Council highlights that construction impacts in relation to highways and access are still under discussion. The commentary indicates that this solely relates to the wheel wash issues highlighted in the question above. However, Rutland County Council's Local Impact Report identified further construction traffic related matters, including the need for additional plans of the construction compounds to demonstrate that delivery vehicles can manoeuvre safely. Can the Applicant and Rutland County Council provide an update on any progress made to address the outstanding construction traffic concerns raised in the Local Impact Report?
		Rutland County Council have not yet been provided with any detailed plans to demonstrate that all anticipated delivery vehicles expected on site at any one time can be adequately accommodated within the various sites and that there is sufficient space to enter and leave the site in forward gear.
Q11.0.9	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council	<p>The Applicant's response to the Examining Authority's First Written Question Q 11.0.4 states that "The effects of replacing any photovoltaic panels during the operational phase have not been assessed as it is estimated that this would only take place on an ad-hoc basis and is unlikely to generate any significant effects, given it will be less than what is required during construction / decommissioning. Whilst it is difficult to estimate the number of vehicles that could be required for such maintenance, it is estimated that this could be in the region of one vehicle a week/month, rather than per day, which is significantly less intensive than during construction."</p> <p>a) In the context of the definition of "maintain" in the draft Development Consent Order (dCO) [REP4-026] and the thresholds specified in paragraphs 9.3.1 to 9.3.4 of ES Chapter 9 [APP-039], can the Applicant provide further justification for the conclusion that the replacement of PV panels is unlikely to generate any significant effects?</p> <p>b) In the event of any major maintenance works such as the large scale replacement of PV panels, could the removal and delivery of new PV panels give rise to additional vehicles movements that would not occur during either the construction or decommissioning phase (when the emphasis may only be on the delivery or removal of panels in the construction and decommissioning phases respectively)?</p>
		<p>b) Rutland County Council are of the view that this would depend greatly on the methodology and if the hauliers/contractors used are the same for the removal of the existing panels and delivery of the replacement panels. In essence, large scale replacement could double the amount of traffic generated delivering and collecting the panels if the same hauliers are not used, which is a great possibility. Furthermore, assuming the same protocol as construction and these deliveries / collections take place from the primary compound, the trips generated recovering the old and delivering the new to each</p>

		site will also double those trips. In summary, we are of the view that large scale replacement could be far more impacting than the initial construction or decommissioning.
Q11.0.10	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council	<p>Written representations from the Mallard Pass Action Group [REP2-090] and Greatford Parish Council [REP2-061] expressed concern regarding traffic management measures to address roadworks or closures on the A6121 from Carlby through Essendine, including alternative routes that rivers may take to avoid delays. The Applicant's response at Deadline 3 [REP3-034] highlights sensitivity testing within ES Chapter 9 [APP-039] to assess the impact of road closures on Uffington Lane are deemed non-significant. Minor delays associated with traffic signals in place during cabling on the A1621 are acknowledged. It is understood that further details on alternative routes in the event of full closures of HGV access routes may be provided in the final CTMP.</p> <p>a) Do the local authorities have any comments to make on the concerns and the Applicant's response? b) Should the oCTMP provide some detail on the potential measures to manage the situation should part of the HGV access route be fully closed?</p>
		<p>a) Rutland County Council Local Highway Authority would ideally not wish to see any full closure of the A1621 given the strategic classification of this heavily used route and the hugely significant detour route that would affect not only local traffic but traffic from further afield. The impact of a full closure would likely lead to significant volumes, including unsuitable, vehicles using the much narrower rural routes, which could lead to highway safety issues. However, should a full closure be absolutely unavoidable and essential due to the nature of the works and/or for safety reasons, we would reluctantly agree to overnight and/or weekend closures only. That said, working overnight within close proximity to residential properties will be another consideration for noise / environmental reasons.</p> <p>b) As mentioned above, in the event a full closure is absolutely essential and unavoidable, Rutland County Council Local Highway Authority would expect to see temporary traffic management details and protocols set out in the oCTMP.</p>
Q11.0.11	The Applicant Rutland County Council	Can the Applicant and Rutland County Council comment on the concerns raised by the Mallard Pass Action Group during Compulsory Acquisition Hearing 1 [EV-024] in relation to the safety of pedestrians crossing the A6121 in Essendine during any potential cabling works?
		Rutland County Council Local Highway Authority will expect to see as part of the temporary traffic management, pedestrians safely catered for and any affected existing pedestrian crossings repositioned. There are currently no controlled pedestrian crossing points, only uncontrolled, and we are of the view that requesting a controlled crossing would not be reasonable given the impact of this

		development on pedestrians would be primarily during the construction stage only, and with the additional traffic during replacement / decommissioning.
Q12.0.1	Environment Agency Rutland County Council Lincolnshire County Council South Kesteven District Council	Has the sequential test for flood risk been adequately applied as part of the site selection process as per paragraphs 5.7.9 and 5.7.13 of Overarching National Policy Statement (NPS) for Energy (EN-1) and corresponding policy set out in the revised draft NPS EN-1?
		Rutland County Council Lead Local Flood Authority are not aware of any sequential test being carried out.
Q12.0.2	Rutland County Council Lincolnshire County Council Black Sluice Internal Drainage Board	Do the Lead Local Flood Authorities or the Black Sluice Internal Drainage Board have any specific comments to make regarding the suitability of the outline Surface Water Drainage Strategy (oSWS) [APP-087] or the outline Water Management Plan (oWMP [APP-214])?
		Rutland County Council Lead Local Flood Authority have commented before that there is little detail within the documents to show the effects of the proposal on surface water. Whilst it is acknowledged that these are outline documents, there is insufficient information in the form of modelling and assessment to demonstrate that the proposal will not result in flooding, nor any detailed mitigation. We are the view that during construction, when inevitably the ground will be compacted, there will be high risk of surface water being unable to infiltrate the ground and thus flow overground, which will be further exacerbated by the topography of the fields. The impacts of construction and compacted ground without adequate mitigation have recently been witnessed within Rutland causing significant flooding to existing ditches, highways and properties from a one hour down pour. Given the proposal, it is therefore vital that full details of mitigation and procedures during construction are provided to prevent and ensure that surface water during a flash flood event does not cause flooding on any of the surrounding areas, beyond the extent of the site. Until these details are provided the Lead Local Flood Authority are unable to support this proposal. In our view, topography and alignment of the panels, as well as restoring the compacted ground as quickly as possible in small areas by harrowing or similar, are key to ensuring that the flood risk is eliminated. Note: Black Sluice Internal Drainage Board does not cover this area and there are no internal drainage boards within the area of Rutland, therefore Rutland Lead Local Flood Authority are solely for managing local flood except for main rivers.
Q12.0.3	The Applicant Rutland County Council Lincolnshire County Council South Kesteven District Council Mallard Pass Action Group Greatford	The outline Surface Water Drainage Strategy (oSWS) [APP-087] states that the “localised flat topography within parcels of the Proposed Development is generally flat meaning rainfall will not drain quickly down slope...”. In relation to the PV array area, 2D modelling is provided for an area to the east of the Order limits only, to demonstrate the impact of surface water run-off through the proposed planted buffer zones. It is understood that this area is considered by the Applicant to be representative

	Parish Council Black Sluice Internal Drainage Board	<p>of the existing agricultural land use and so provides a demonstration of how the PV arrays will influence water flows across the Proposed Development. However, the ExA has noted that the topography is generally undulating across the Order limits with slopes of varying degrees present. Furthermore, the oSWDS states that “intensification of the runoff from panels, along the ‘drip line’, into small channels / rivulets, could be exacerbated where PV Arrays are not positioned in alignment with topography.”</p> <p>a) Can the Applicant confirm if the modelling takes account of a worst-case scenario in which channelling may occur and/or when the ground beneath the panels is bare? What effect could this have on watercourses and surrounds within and beyond the Order limits, including in Greatford?</p> <p>b) Could such a scenario arise in the event that the proposed grass mix proposed underneath the panels is not laid in sufficient time ahead of heavy rain fall or is damaged by grazing sheep? If so, what measures should be taken to address it?</p> <p>c) Can the Applicant comment on how the final positioning and alignment of the PV arrays take account of topography to avoid exacerbating run-off?</p> <p>d) Is additional modelling required to take account of topography and infiltration across and adjacent to the Order limits?</p>
		<p>b) Whilst this is a question for the Applicant, Rutland County Council Lead Local Flood Authority are of the view that, not only is the proposed grass mix important, ground restoration and timing of the seeding is crucial. Given there is a two-year construction period, the Lead Local Flood Authority are mindful and concerned that grass seeding is only likely to be successful at certain times of the year, which begs the question, what will happen in the many months it is not suitable or successful.</p> <p>d) Rutland County Council Lead Local Flood Authority respectfully request that this is carried out, with all assumptions of a worst-case scenario, with that being concrete shoes on all arrays.</p>
Q12.0.6	The Applicant Rutland County Council Lincolnshire County Council	<p>Paragraph 81 of Rutland County Council’s Local Impact Report [REP2-048] identifies concerns regarding flood prevention measures during construction when works to implement any consent would also affect surface water drainage in ways that differ from those predicted once the development is complete. The possibility of less infiltration arising from the stripping back of land is cited as an issue that has been experienced on other sites in the County recently. The Applicant’s response at Deadline 3 [REP3-035] refers to drainage features included in the oWMP [APP-214] to be employed during construction.</p>

		<p>a) Can Rutland County Council provide further details of the issues experienced elsewhere, including any similarities with the Proposed Development and what measures may need to be put in place to avoid or manage such a situation should it arise?</p> <p>b) Do Rutland County Council have any comment to make on the Applicant’s response?</p> <p>c) Can the Applicant please comment specifically on the scope for the stripping back of land to reduce infiltration rates?</p> <p>d) Do Lincolnshire County Council have any comments?</p>
		<p>a) Rutland County Council Lead Local Flood Authority have witnessed various flooding conditions as a direct result of topsoil being stripped from a site alone, the most recent one a couple of months ago at a site in Braunston Road, Ooakham, during summer. In this case, only the first phase of the enabling works had taken place, with the site topsoil being stripped. After a heavy one-hour downpour, the adjacent ditches were not able to cope due to the lack of infiltration so overflowed which resulted in the nearby highways and residential properties being flooded as a direct result. In terms of how to avoid and manage this, we are of the view that mitigation in the form of harrowing/amelioration of the compacted soil as soon as possible will be key. Furthermore, it would not be acceptable to implement the mitigation field by field, due to the highly likely risk of flood whilst the soil is compacted, it is vital that mitigation is implemented on a row-by-row basis, or within small areas, to ensure the risk is very limited. Whilst we acknowledge that broad details are within the oWMP and oSMP regarding mitigation along these lines, we would wish to see a detailed methodology of mitigation including maximum areas/rows/panels including timings.</p> <p>b) Rutland County Council Lead Local Flood Authority do not feel the response goes far enough in any level of detail regarding mitigation, as explained in point ‘a’ above. However, if the ExA are of the view that it would be acceptable for this level of detail to be provided, for written approval, under one of the Requirements, and that the Lead Local Flood Authority will have the ability to review and make comment on its acceptability, we would accept that.</p> <p>c) Applicant to respond. However, Rutland County Council Lead Local Flood Authority are of the view that the scope of stripping back and subsequent mitigation must be limited to small areas/rows to limit the impact to ensure flooding does not occur.</p>
Q12.0.7	The Applicant Rutland County Council Lincolnshire County Council	Rutland County Council expressed concerns regarding the implications of concrete bases used to secure the installation of panels on surface water run-off and drainage [REP2-048]. At Deadline 3

		<p>[REP3-035], the Applicant responded by stating that concrete blocks or shoes would potentially be used where necessary to project archaeology and that they would be highly unlikely to have a measurable impact on infiltration. Table 3-3 of the outline Construction Environmental Environment Plan (oCEMP) [REP3-011] states that ongoing archaeological evaluation and assessment under the Written Scheme of Investigation will help to identify where concrete bases will be required.</p> <p>a) Given the uncertainty over the extent of future archaeological finds, should further modelling be undertaken to consider the possible implications of a worst-case scenario?</p> <p>b) Do Rutland County Council or Lincolnshire County Council have any comments on the Applicant's response to date?</p>
		<p>a) Rutland County Council Lead Local Flood Authority are of the view that further modelling is vital, and furthermore, worst case scenario is modelled.</p> <p>b) Rutland County Council Lead Local Flood Authority do not understand how such a statement can be made with regards concrete shoes not having any measurable impact on infiltration when the extent of archaeological findings is unknown. As mentioned above, we would request that a worst-case scenario modelling is carried out in order to ensure that any flooding is avoided in the event that a high percentage of concrete shoes are required.</p>
Q12.0.8	The Applicant Rutland County Council Lincolnshire County Council	<p>The potential for land drains to be broken across the Order limits and associated implications if they are not reinstated as part of decommissioning is highlighted as an issue by Rutland County Council [REP2-047]. The Applicant's response at Deadline 3 [REP3-035] refers to Table 3-7 of the oCEMP [REP3-011] which states that "if during the construction of any of the infrastructure, there is any interruption to existing land drainage, then new sections of drainage will be constructed". It is also noted from Table 3-7 of the outline Operational Environmental Management Plan (oOEMP) [REP4-010] that "Regular inspection and maintenance of the drainage systems, SuDS and culverts will take place throughout the operational phase". Paragraph 2.1.2 of the outline Decommissioning Environmental Management Plan (oDEMP) [REP4-012] states that "Any damage to agricultural drains that has occurred during the operation of the Proposed Development will be repaired" although it is not clear from Table 3-7 where this commitment is addressed.</p> <p>a) Can the Applicant confirm if the provisions within the oOEMP for inspection and maintenance will apply to any existing land drains?</p> <p>b) Should Table 3-7 of the oDEMP be updated to specifically commit to the repair of agricultural drains?</p> <p>c) Do Rutland County Council have any specific recommendations as to how their concerns should be rectified?</p>

		d) Do Lincolnshire County Council have any comments on this issue?
		<p>b) Rutland County Council Lead Local Flood Authority are of the view that it is imperative that this is included together with a timeframe, which must in our opinion, be remediated immediately to rectify any damage/blockage caused.</p> <p>c) Rutland County Council Lead Local Flood Authority are of the view that any damage/blockage of existing land drains will be immediately evident upon occurrence, and therefore it is not unreasonable to expect that immediate remedial work can and must take place to rectify any damage and remove any blockage. Due to the nature of the proposal and work, construction equipment will be readily available on site to deal with any issues that arise.</p>
Q13.0.1	The Applicant Rutland County Council South Kesteven District Council Mallard Pass Action Group	<p>The Applicant has confirmed its commitment [APP4-042] to setting up a community liaison group with further engaged proposed to take this forward.</p> <p>a) Please provide an update on the proposals for the formation of a community liaison group including with regard to its remit and outline terms of reference, along with details of any relevant groups and organisations that should be part of it.</p> <p>b) Should (with explanation of your position) the approval of the final details and terms of reference of a community liaison group, along with its implementation, be the subject to a Requirement within the draft DCO [REP4-027] rather than within the outline CEMP [REP4-007]?</p>
		b) RCC considers that the provision for the community liaison group as a requirement of the DCO would be a positive step in respect of the application, enshrining such a group within the DCO itself to ensure that it is enacted as part of the development.
Q13.1.1	The Applicant Lincolnshire County Council Rutland County Council South Kesteven District Council	<p>Paragraph 3.1.3 of the oCEMP [RE4-007], oOEMP [REP4-009] and the oDEMP [REP4-011] explains that nothing in the respective management plans would prevent the modification or omission of the control measures set out in relevant tables. It goes onto say that this will be confirmed (including confirming that the absence or change to such control measures would not lead to any materially new or materially different significant effects) at the time of submission of the relevant detailed plan. This wording (in italics above) is different from the equivalent wording used in the dDCO [REP-027] which does not include the term significant.</p> <p>a) Is it appropriate to include wording that allows the modification or omission of the relevant control measures in each of the outline management plans? Is this not covered in any case by the provision in the dDCO including that the detailed plans need to be substantially in accordance with the outline management plans?</p>

		b) Does the relevant wording in the outline management plans need to be amended to reflect the equivalent wording in the dDCO to ensure that any variation to the measures in the oCEMP do not result in any new effects not assessed in the ES? If not please explain why not.
		The introduction of the word significant would seem to suggest that changes would allow for materially different non-significant effects. RCC considers that it would be preferable and clearer to revert to the original text of REP-027 to ensure consistency between documents.
Q13.1.2	The Applicant Rutland County Council South Kesteven District Council Mallard Pass Action Group	<p>The core construction hours set out in paragraph 2.7.1 of the oCEMP [REP4-007] include hours of 07:00 to 19:00 Monday to Saturday.</p> <p>a) Is it likely that residents living near to the site might be expected to benefit from more of a respite from construction works on Saturday mornings/early evenings?</p> <p>b) Notwithstanding the specific detail of construction working hours provided in section 2.7 of the oCEMP, would a later core working start time and earlier finish time on Saturday's (for example 08:00 to 17:00) be appropriate? Please provide justification for your answer.</p>
		<p>a) RCC has previously identified concerns over the proposed construction hours and indicated that it considers there should be no working on Saturdays in order to provide nearby residents respite from the construction works and its associated impacts.</p> <p>b) A later core working start time and earlier finish time on Saturday's would result in an improvement to the impact on nearby residents however the reduction in impact would be likely to be limited given the limited change to the working times indicated. The significant aspect of the impact of concern to RCC is the comprehensive nature of the site in relation to the settlements affected by it and the relationship between occupants of those settlements and the countryside, leading to any impact at weekends having a significant discouraging and detrimental effect on the desire to use the countryside and the enjoyment of it when doing so. Even the revised core hours indicated above for example would still have a detrimental impact on the times when people are most likely to be using the countryside at weekends.</p>
Q13.1.4	Lincolnshire County Council Rutland County Council South Kesteven District Council Other Interested Parties	<p>Should any party have any further comments on the latest versions of any of the outline management plans, please ensure that these are submitted by Deadline 5, so that they can be taken into account in the remainder of the examination and to allow the Applicant to make any necessary revisions/additions to the outline management plans. The outline plans are set out below:</p> <p>a) Outline Construction Environmental Management Plan [REP4-007]</p> <p>b) Outline Operational Environmental Management Plan [REP4-009]</p> <p>c) Outline Decommissioning Environmental Management Plan [REP4-011]</p> <p>d) Outline Landscape and Ecology Management Plan [REP4-013]</p>

		e) Outline Construction Environmental Management Plan [REP4-015] f) Outline Soil Management Plan [REP4-017] g) Outline Water Management Plan [APP-214] h) Outline Travel Plan [APP-215] i) Outline Employment, Skills and Supply Chain Management Plan [REP2-024] j) Surface Water Drainage Strategy [APP-087]
		No comments to make at this stage