

**Nationally Significant Infrastructure Project: EN01027  
Mallard Pass Solar Farm**

**Response to The Examining Authority's written questions and requests for  
information (ExQ2) issued on 10 August 2023**

**Prepared by Lincolnshire County Council**

**September 2023**

The following table sets out the Council’s response to the Examining Authority’s (ExA’s) written questions and requests for information (ExQ2) where a response from the County Council was sought.

ExQ1	Question	LCC Response
<b>1</b>	<b>General and cross-topic questions</b>	
<b>1.0</b>	<b>Design, parameters and other details of the Proposed Development</b>	
Q1.0.1	<p>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 timeperiod 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.</p> <p>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>	<p>As stated in our Deadline 4 submission <a href="#">[REP4-044]</a> LCC considers an operational time-period should be imposed. All utility scale solar DCOs issued to date are time-limited and so to issue a non-time-limited solar DCO would be unprecedented. In other DCO cases where the loss of BMV land has arisen this loss has, on balance, only been deemed acceptable and justified by the ExA and SoS because the DCOs are time-limited and as such ensures the development is temporary and reversible.</p> <p>The Mallard Pass proposal will result in the loss of BMV and if a non-time limited DCO is issued this does not give any certainty that this highly valuable resource will be returned. Therefore any loss should be viewed as permanent and LCC does not feel a compelling case has been made to justify such permanent loss and as such would be contrary to the <a href="#">Written Ministerial Statement dated 25 March 2015</a>, the updated <a href="#">NPPG</a> and NPPF as well as Policies SP1 and Policy RE1 (inc. Solar Criterion 9 of Appendix 3 of the South Kesteven Local Plan).</p>
Q1.0.2	<p>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.</p> <p>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</p>	<p>If there is scope for the Applicant to seek an extended period to a time-limited consent at a later date then LCC see no harm with a time-limit being imposed now. If an extension of time is required then the implications and impacts of such an extension can rightly be considered at that time taking into account factors such as: current planning policy context; whether there is a continuing need for the facility to meet energy demands taking into account other sources or changes in technology that may have arose in the interim; the effectiveness of screening and other mitigation measures since initial construction of the development, and; whether</p>

ExQ1	Question	LCC Response
	<p>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</p>	<p>there are other competing interests or pressures which may require the land to be made available such as for food production, housing or other development.</p>
<p>Q1.0.5</p>	<p>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?</p>	<p>Should the SoS decide to impose a restriction then LCC submits that this should be 40 years as this is consistent with the timeframe the Applicant has used in carrying out its decommissioning assessment. LCC has already recommended revised wording within the dDCO to reflect this <a href="#">[REP4-043]</a></p>
<p>Q1.0.10</p>	<p>Mallard Pass Action Group (MPAG) has provided details at Deadline 4 <a href="#">[REP4-054]</a> 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>a) MPAG's concerns are noted and LCC would agree that the need for, and details of, any security fencing should be confirmed at this stage in order to ensure the full impacts of this can be properly assessed/considered. Security fencing has been identified as necessary by the promoters of the Heckington Fen Solar Park (see application documentation <a href="#">APP-078</a> and <a href="#">APP-130</a>) and so clearly security is a concern or operators of these types of projects especially given their remote location and as they are unmanned for much of the time.</p> <p>Given the potential extent, height, appearance and location of security fencing, this does have the potential to result in materially new or different environmental effects than those assessed and so if the Applicant did seek to include at a later date this could fall outside the scope of being addressed as a DCO Requirement. Clarity should therefore be sought on whether there is a need for such fencing and details provided or, as a minimum, the assessments updated to take into account the potential use of such.</p> <p>b to g) No comments offered</p>

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	<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>	
Q1.0.12	<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: <a href="#">APP/F1040/W/22/3313316</a>) 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>a) Response not required by LCC</p> <p>b) As indicated in response to Q.1.0.1, all other utility scale solar DCOs issued to date are time-limited and have only been justified as acceptable due to those consents being temporary. Therefore these previous decisions are important and relevant and set a precedent that is well-established. Any deviation from this stance would therefore risk setting a precedent for other NSIP solar schemes currently under consideration and/or proposed in the future and could result in the permanent loss of much greater areas of BMV land without any certainty these would be returned to use and result in schemes that have a much longer lasting and permeant impact in terms of landscape and visual harm, on-going traffic, etc than has been accepted previously.</p>

ExQ1	Question	LCC Response
	<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>The recent South Derbyshire appeal is relevant as in the case of the Mallard Pass project the Applicant has also not carried out any soil surveys beyond the Order Limits and so has not unequivocally proven that there are not areas of lower quality land available to that identified. Whilst the Applicant may well argue carrying out such extensive surveys might not be practicable, in the absence of any information to indicate otherwise there remains a possibility that lower grade land could have been used in lieu of higher grade land. As a result, compelling evidence has failed to be provided which to show that lesser quality land is not available within the same required proximity to the Ryhall substation and therefore in line with the recent South Derbyshire decision this should be give significant weight.</p> <p>c) No comments offered</p>
<p><b>1.1 Need</b></p>		
<p>Q1.1.1</p>	<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 – <i>“solar generation is co-located with flexible technologies at different connection voltages (i.e. with electrolysis or grid-scale battery</i></p>	<p>No comments offered</p>

ExQ1	Question	LCC Response
	<p><i>storage for solar farms...</i>” Grid capacity and connections are cited as factors that may limit potential.</p> <p>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>	
Q1.1.3	<p>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?</p>	<p>No. The Government’s commitment to next zero carbon emissions by 2050 is well established, however, there is nothing in current national policy or legislation that says new proposals for the exploration, appraisal or production of hydrocarbons should not be allowed or refused simply on the grounds of a lack of need or that such developments would be contrary to the objectives of tackling climate change. LCC accepts that there is a need for a stable and reliable supply of indigenous energy sources as the Government manages the transition to a low carbon energy mix and unless there are substantial changes in policy and/or legislation oil and gas remains part of this solution.</p>
<p><b>1.2 Site Selection and Alternatives</b></p>		
Q1.2.1	<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. Although the agricultural land mapping used by the Applicant does not indicate any areas of land in proximity to the Ryhall substation (a key site selection factor) as being less likely to contain BMV land than that within the Order Limits, this has not been robustly proven. Detailed surveys outside the Order Limits could have potentially identified or confirmed whether there were lower grades of land available and whilst it might be argued carrying out extensive surveys outside the Order Limits would not be practicable, in the absence of information to indicate otherwise there remains a possibility that lower grade land could have been used in lieu of higher grade land. As a result, compelling evidence has failed to be provided which unequivocally shows that lesser quality land is not available within the required proximity to the Ryhall substation that could have instead been used.</p>

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		b) In light of the recent Inspectors decision on this very matter, then the absence of this survey work should be given great weight thereby reducing the positive weight that can be attribute to the consideration of alternative sites.
Q1.2.3	<p>Paragraph 3.10.14 of the draft National Policy Statement for Renewable Energy (EN-3) states the following; <i>“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).”</i></p> <p>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>	LCC acknowledges that utility scale solar projects such as this are likely to affect greenfield land given the unlikelihood of large enough brownfield sites being available. Therefore whist preference should be given to other land types over the use of agricultural land, where proposals do affect agricultural land then consistent with the advice in draft EN-3, LCC submits that the use of agricultural land (including BMV land) needs to be shown to be necessary in the first instance and then that poorer quality land is not available in the site selection process.
<b>2</b>	<b>Air Quality and Emissions</b>	
Q2.0.1	The Applicant’s response to the Examining Authority’s First Written Question Q2.0.1 <a href="#">[REP2-037]</a> confirmed that a Dust Management Plan (DMP) will be prepared and that this is secured in the outline Construction	LCC offers no specific comments and instead recommends that the views of SKDC and RCC be taken into account.

ExQ1	Question	LCC Response
	<p>Environmental Management Plan (oCEMP) <a href="#">[REP3-010]</a>. 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.</p> <p>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?</p>	
<b>3</b>	<b>Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))</b>	
Q3.0.2	<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) <a href="#">[REP4-008]</a> 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) Satisfied further details can be secured as part of the final CEMP although within the oCEMP it should be made clear that any translocation of orchids would be to sites/locations within the Order Limits so as to ensure this is deliverable and enforceable.</p> <p>b) Response not required by LCC</p>



ExQ1	Question	LCC Response
Q3.0.3	<p>The Applicant's Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2) <a href="#">[REP4-041]</a> 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 <a href="#">[APP-074]</a> 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.</p> <p>However, it is noted that the outline Construction Traffic Management Plan (oCTMP) <a href="#">[REP4-016]</a> 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</p>	<p>a) Most of Holywell Road is between 4.8m and 5.4m wide which is more than adequate for 2 LGVs to pass. At its eastern end (near Vale Farm) there is a short section at 4.2m – this is wide enough for LGV and car to pass.</p> <p>b) It is likely that verge overrun will be infrequent given that most of the road is suitable width however it would perhaps be prudent to include measures in the draft plans to cover this. The views of Natural England and/or Lincolnshire Wildlife Trust should be taken into account on any specific measures.</p>

ExQ1	Question	LCC Response
	<p>once the origin of construction staff has been confirmed? If so, what measures should be earmarked for implementation should the need arise?</p>	
Q3.0.4	<p>Paragraph 3.1.14 of the oLEMP <a href="#">[REP4-014]</a> 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 <a href="#">[REP2-044]</a>. 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 <a href="#">[REP3-026]</a>.</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>a &amp; b) LCC considers the number of boxes to be provided as arbitrary and instead should be based on site assessment work. There will be more than 100 trees in which to place bird or bat boxes across the whole of the site and boxes need not solely be placed in trees. Boxes can and often are also placed on freestanding poles across sites and so given the size of the site and the new habitats proposed which would appeal to a variety of both birds and bats then more boxes than 100 should be secured. LCC has no other comments to make at this stage but would suggest the advice of SKDC/RCC's ecologist and/or Natural England and Lincolnshire Wildlife Trust be taken into account.</p>
Q3.0.5	<p>Section 6.2 of the oLEMP <a href="#">[REP4-014]</a> 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>The oLEMP suggests that following completion of construction, monitoring of the LEMP(s) will be undertaken every 5 years. The current wording of the oLEMP suggests that the focus of this report will be on monitoring the success of planting and not specifically the impacts upon flora of the site and ecological receptors as advised by draft EN-3. LCC would therefore welcome revisions to the oLEMP to make it clear that monitoring will go beyond just monitoring the success of planting but also that the development is not having an adverse impact on flora and any</p>

ExQ1	Question	LCC Response
		ecological receptors present. The proposed timeframe of a report every 5 years also appears too long in the first instance and consideration given to a report every 12 months for the first 5 years (so that any issues can be identified early on) with the scope for this to increase to reports every 5 years after Year 5 once planting etc has become more established.
Q3.0.6	<p>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.</p> <p>Is additional mitigation required for Skylarks? If so, should it comprise of measures for providing food or other proposals</p>	LCC is unable to offer any specific comments or advice as we do not have an ecologist. We therefore recommend that the views of SKDC/RCC and others be taken into account.
<b>3.1 Habitats Regulations Assessment</b>		
Q3.1.1	<p>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].</p> <p>Do Natural England and the local authorities have any comments to make on this issue and the Applicant's response?</p>	LCC is unable to offer any specific comments or advice as we do not have an ecologist. We therefore recommend that the views of SKDC/RCC and Natural England be taken into account.

ExQ1	Question	LCC Response
Q3.1.3	<p>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 <a href="#">[REP4-041]</a>. The latest draft Statement of Common Ground between the Applicant and Natural England suggests that the matter is still under discussion <a href="#">[REP4-039]</a>. The Applicant has not provided a list of the plans and projects which are considered within the in-combination assessment undertaken.</p> <p>b) Can Natural England, the Environment Agency and local authorities please comment on which other plans or projects should be included within the sHRA</p>	LCC offers no comments or advice on this specific matter. We therefore recommend that the views of SKDC/RCC, Environment others be taken into account
<b>4</b>	<b>Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b>	
Q4.0.6	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?	The Land Plans include some highway land marked in Blue/Yellow. The need to undertake works in highway land should follow S278 procedures to obtain Highway Authority approval and permitting to undertake works. Highway land should remain as highway land.
<b>5</b>	<b>Draft Development Consent Order (DCO)</b>	
Q5.0.3	<p><b>Article 9 (Power to alter layout, etc. of streets)</b></p> <p>a) Taking account of the concerns raised by Rutland County Council <a href="#">[REP4-046]</a>, the Applicant is requested to justify how the details provided in relation to the</p>	a) Discussions have commenced with the Applicant regarding a side agreement to the DCO which would replicate a S278 Agreement process. Having such an agreement in place would satisfy the LPAs concerns related to detailed highways works approvals and booking and ensure that the amount of planned roadworks is

ExQ1	Question	LCC Response
	<p>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?</p> <p>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?</p>	<p>acceptable in an area and there are suitable diversions available. However, we have yet to see the draft wording of such an agreement and therefore this is not yet confirmed.</p> <p>b) As above. Further protections to make it clear that consent of the highway authorities would be needed for any work outside the Order Limits and not in the work plans could form part of the side agreement.</p>
Q5.0.4	<p><b>Article 12 (Claimed public right of way)</b></p> <p>a) Lincolnshire County Council is requested to provide an update on whether or not it is in agreement with this proposed Article that would replace the definitive map process under the Wildlife and Countryside Act 1981, including any additional or alternative drafting it may consider to be necessary.</p> <p>b) Does Lincolnshire County Council agree with the Applicant [REP4-040] that Article 12 is no different to other made DCOs that have provided for the diversions and extinguishment of public rights of way without going through the separate processes?</p> <p>d) Please provide the relevant application details of the DMMO application, including the reasons for the application being made, along with copies of any representations received on the application.</p>	<p>a &amp; b) LCC is satisfied with the principle and effect of Article 12 and notes that the Applicant intends to update the drafting of Article 12 at Deadline 5. LCC have yet to see the detail of this and therefore discussions will need to continue until we are satisfied with the provisions. Therefore we propose to continue to work with the Applicant to agree a position by Deadline 6.</p> <p>d) Details of the relevant DMMO applications can be found here:</p> <p><a href="#">Uffington DMMO 188 – Lincolnshire County Council</a></p> <p><a href="#">Greatford DMMO 451 – Lincolnshire County Council</a></p> <p><a href="#">Braceborough and Wilsthorpe DMMO 440 – Lincolnshire County Council</a></p> <p>Copies of applications/plans showing each of the DMMO routes are also accompany this response.</p>

ExQ1	Question	LCC Response
5.2	<b>Schedule 2 - Requirements</b>	
Q5.2.3	<p><b>Requirement 6 (Detailed design approval)</b></p> <p>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 [<a href="#">REP4-027</a>]. For simplicity this could be wrapped up into one Requirement which covers the implementation of highway improvement and access works</p>	<p>a) Yes. LCC would support an amendment to make this clearer.</p> <p>b) LCC would support an amendment to make this clearer.</p>

ExQ1	Question	LCC Response
Q5.2.5	<p><b>Requirement 10 (Archaeology)</b></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 Q 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) A copy of the Applicant’s outline WSI was provided to LCC on 17 August 2023. Having reviewed the WSI LCC maintains that further pre-determination evaluation needs to be carried out in order to be able to properly identify, understand and assess the potential impacts and for an appropriate mitigation strategy to be developed. If the Applicant is not agreeable or forthcoming in carrying out such further work pre-determination and the ExA is minded to grant the DCO then there will be a need for Requirement 10.</p> <p>On the basis of their being no necessity for additional trial trenching prior to construction then LCC submits that the wording of Requirement 10 should make it explicitly clear that the WSI that is required to be submitted for approval will need to provide for the Archaeological Strip Map and Record (SMR) in <b>all</b> areas not previously evaluated. SMR means that all overburden (topsoil and subsoil) is removed in spits to the archaeological horizon to expose any surviving archaeology. In the absence of sufficient pre-determination evaluation having been carried out SMR is considered to be the only reasonable mitigation that can be secured to ensure any surviving archaeology can then be mapped, investigated and recorded as necessary . Suggested revised wording would be as follows:</p> <p><i>10.—(1) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase may start, until a Written Scheme of Investigation for that phase has been submitted to and approved in writing by Lincolnshire County Council, where the phase falls within the administrative area of the District of South Kesteven, or where the phase falls within the administrative area of both the District of South Kesteven and the County of Rutland, Rutland County Council and Lincolnshire County Council, such approval to be in consultation with Historic England.</i></p> <p><i>(2) The approved scheme must— (a) identify areas where archaeological work is required; and (b) provide for the Archaeological Strip Map and Record (SMR) in all</i></p>

ExQ1	Question	LCC Response
		<p><i>areas not previously evaluated. SMR means that all overburden (topsoil and subsoil) is removed in spits to the archaeological horizon to expose any surviving archaeology which can then be mapped, investigated and recorded as necessary.</i></p> <p><i>(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive ground works may take place only in accordance with the approved Written Scheme of Investigation and any archaeological works must be carried out by a suitably qualified and competent person or body previously notified to the relevant planning authority.</i></p> <p>On the basis of additional trial trenching being required prior to construction, then LCC notes the Applicants suggested drafting (as contained within <a href="#">[REP4-041]</a>) but disagrees that the scheme would need to be made to the SoS and instead can and should be made to the relevant planning authority and/or LCC. We also suggest that part (b) would need to be amended to make it explicitly clear that the additional trial trenching should consist of 2% trenching across the red line boundary.</p> <p>Also see response to Q6.0.7.</p>
<p><b>5.5 Schedule 16 – Procedure for Discharge of Requirements</b></p>		
Q5.5.1	<p>Schedule 16 of the draft DCO has been updated at D4 following ISH3 <a href="#">[REP4-026]</a>.</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</p>	<p>b) Discussions have taken place and although the Applicant has proposed a longer timeframe of 10 weeks for certain matters, LCC maintains the timeframe should be the same for <b>ALL</b> 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 cover, however, the details subject of the Requirements are akin to those made as part of Reserved Matters applications submitted under the TCPA system where the Planning Authority would be given 13 weeks to determine such schemes. NSIP projects are much larger in size</p>



ExQ1	Question	LCC Response
	<p>authorities does not determine the application within the prescribed period whilst the other refuses the application within the prescribed period?</p>	<p>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>
<p><b>5.6 Other matters raised by Interested Parties</b></p>		
<p>Q5.6.1</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.</p> <p>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>Refer to latest version of SoCG submitted at Deadline 5</p>
<p><b>6 Historic Environment</b></p>		

ExQ1	Question	LCC Response
Q6.0.2	<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). The archaeological evaluation process is a phased approach, and areas of potential identified from the desk-based assessment should be subject to ground-truthing by trial trenching. Features may be identified for example as cropmarks on air photos or identified on old maps, but there will also be archaeology surviving in the development area which desk-based work cannot identify. For example archaeological features may be masked by geology or by later archaeological activity, like Medieval ridge and furrow on top of earlier Prehistoric features, and there are types of archaeology such as burials which don't show up in geophysical survey.</p> <p>Like all the other NSIPs currently being considered within Lincolnshire, and indeed like any site with unknown potential which would be impacted by a proposed development, the field evaluation phase needs to be reasonable, appropriate and fit for purpose and the trenching needs to target not only known areas of potential but also the 'blank' areas where previous phases of evaluation have not successfully identified archaeology. An effective trenching programme needs to be undertaken across the redline boundary, on all other NSIPs in Lincolnshire we have agreed to 2% trenching, which targets both areas of known or suspected archaeology and the 'blank' areas. In all other NSIPs trenching has revealed areas of archaeology in those blank areas which would be impacted by the development. Once the archaeologically sensitive areas have been identified across the development we can then agree how to deal with them in a mitigation strategy which would be a combination of either preservation in situ or preservation by record and the archaeology impacted by the development would thus be effectively dealt with.</p> <p>If sufficient evaluation including trenching is not undertaken then the ground impacts of the development will damage and destroy archaeology without it being saved or recorded, whether that ground impact is through spikes, shoes, compaction, or any other ground impact including pond creation and scrapes. Mitigation measures cannot be deployed effectively unless the archaeologically</p>

ExQ1	Question	LCC Response
		<p>sensitive areas have been identified and their depth, extent and significance is determined, otherwise so-called mitigation measures such as the use of shoes would destroy archaeology such as the Saxon skeletons which were close to the surface and would be crushed as well as unrecorded</p> <p>As we have made clear in our Local Impact Report <a href="#">[REP2-044]</a> and in follow up submissions following the Issue Specific Hearings <a href="#">[REP4-044]</a> we do not consider sufficient investigative work to have been carried out. As a result, we are unable to say with any confidence that the development would have a positive effect in terms of protecting archaeological assets when compared to potential impacts from ploughing etc. For example, we do not yet know if or what type of shoes would be used and given the absence of sufficient evaluation cannot be certain that given the location, extent, number and depth of piling that this would not have a significant impact on archaeological assets. Therefore it is not possible to conclude that this development accords with paragraph 3.10.101 of the Draft NPS EN-3.</p> <p>b). As indicated above, notwithstanding the work that has been completed thus far (including desk-based review, geophysical survey and limited trenching) we simply don't know enough at this stage to know where specific areas need further work - whether that be further evaluation or mitigation measures. The Outline WSI [also submitted by the Applicant at Deadline 5] states that there are archaeological features which showed in the geophysical survey which haven't been trenched and so it is those areas that would need investigating as a minimum. However, the bigger picture is that in every other NSIP currently being considered in Lincolnshire we have also required the promoters to carry out trenching in the so-called "blank areas" and in such case this has revealed significant areas of archaeology within the impact zone, including for example Roman settlements, and completely unexpected Saxon skeletons within 20cm of the ground surface.</p> <p>Also see response to Q.06.0.3</p>

ExQ1	Question	LCC Response
Q6.0.3	<p>Lincolnshire County Council in its submission at ISH2 and post hearing summary <a href="#">[REP4-044]</a> refers to archaeological evaluations for other proposed developments, including Nationally Significant Infrastructure Projects. With regard to specific examples (the details of which should be provided as relevant), where these have involved more extensive evaluation trenching across proposed sites than that undertaken for the Proposed Development, to what extent has this arisen from the specific results of desk based and other assessments used to predict the likelihood that archaeological remains may be present across the sites?</p> <p>To what extent are they comparable to the Proposed Development?</p>	<p><b>Heckington Fen Solar Project</b> - Most of the mitigation areas for Heckington Fen NSIP were only identified through trial trenching. Geophysical surveys were carried out in relation to this project but these failed to identify features that were later identified through trenching. See two attachments which accompany this response which identify the geophysical survey results (in purple) and archaeological features later identified in trenches (in black). This shows that the geophysical survey results bear little resemblance to what was found in the trenches which in this case is a Roman settlement.</p> <p><b>Cottam Solar Project</b> – trenching carried out in relation to this project resulted in the discovery of burials in the south-east of site known as Parcel G. The promoter of the scheme agreed to opening up further trenches to try and better understand the extent/significance of a potential burial ground and this additional trenching work has aided in establishing a mitigation strategy for any proposed development in this section of Parcel G. Attached to this response is a plan taken from the Cottam project showing the location of the trenches and identified burials which in part were not readily identifiable through geophysical survey alone.</p> <p>The above examples demonstrate that there is a likelihood of previously unidentified assets being located within the Order Limits of the Mallard Pass project despite the work that has been conducted to date and hence why more ground truthing and trenching should have been conducted pre-determination in order to ensure an appropriate mitigation strategy can be identified which could also include the removal of areas proposed for development.</p>
Q6.0.6	<p>The Applicant's response to ExQ1.6.0.7 <a href="#">[REP2-037]</a> explains why it is unable to provide drawings of the concrete shoes at this stage.</p>	<p>Further details could be included and secured as part of DCO Requirement 6 (Detailed design approval) and/or with reference and cross over to details that could also form part of the WSI (Requirement 10) if these are to form part of the</p>

ExQ1	Question	LCC Response
	<p>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>mitigation techniques. The wording of Requirement 6 for example could be amended as follows:</p> <p><i>6. No phase of the authorised development may commence until details of—</i></p> <p><i>(a) the layout;</i></p> <p><i>(b) scale;</i></p> <p><i>(c) proposed finished ground levels;</i></p> <p><i>(d) external appearance;</i></p> <p><i>(e) hard surfacing materials, including any concrete shoes used for solar panel mounting frames;</i></p> <p><i>(f) drainage, water, power and communication cables and pipelines;</i></p> <p><i>(g) vehicular and pedestrian access, parking and circulation areas; and</i></p> <p><i>(h) refuse or other storage units, signs and lighting,</i></p> <p><i>relating to that phase have been submitted and approved in writing by the relevant planning authority for that phase or, where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities.</i></p>
Q6.0.7	<p>Further to discussions at ISH2 the Applicant has provided within section 11 of its Summary of Applicant’s Oral Submissions at ISH2 <a href="#">[REP4-041]</a> 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) Disagree with the proposed alternative drafting as proposed by the Applicant. If the ExA agrees that additional trial trenching is required then LCC does not consider the alternative route of the Applicant of going direct to the SoS for approval of that scheme as necessary. If a scheme is required (the content of which could be confirmed/clarified in the wording of the DCO) and this is submitted to LCC directly (or SKDC) then this would only be refused if it fundamentally conflicted with the terms of that Requirement. However, if for some reason the scheme were to be refused then the Applicant has a right of appeal and so can exercise that right. This</p>

ExQ1	Question	LCC Response
	<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 Q 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 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>is the same as that which exists for any other Requirement and so LCC does not see why a different decision route for this specific matter is necessary.</p> <p>b) See response to Q5.2.4</p> <p>c) Refer to response to Q6.0.2 – as we have made clear in our Local Impact Report <a href="#">[REP2-044]</a> and in follow up submissions following the Issue Specific Hearings <a href="#">[REP4-044]</a> we do not consider sufficient investigative work to have been carried to date and that this should be carried out pre-determination and not, despite the suggested alternative drafting, be left to be dealt with post decision.</p> <p>d) Refer to response to Q5.2.4 – in the absence of additional and sufficient pre-determination evaluation having been carried out, LCC submits that the only suitable package of mitigation within a WSI would be to secure archaeological Strip Map and Record (SMR) in <b>all</b> areas not previously evaluated as this would ensure any surviving archaeology can then be mapped, investigated and recorded as necessary.</p>

ExQ1	Question	LCC Response
Q6.0.9	<p>The Applicant [<a href="#">REP3-030</a>] 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.</p> <p>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?</p>	<p>No comments are offered in relation to setting impacts and instead the ExA is advised to take into account any comments made by others including MPAG, RCC, SKDC and Historic England.</p>
Q6.0.10	<p>The Cultural Heritage Impact Assessment [<a href="#">APP-068</a>] explains that the Grade II listed Banthorpe Lodge was once part of a working historic farm and the listing describes it as a “17th century farmhouse.....”.</p> <p>a) Please set out the extent to which the existing farmland within the Order limits has any historic functional links to this listed building and thus could form part of its setting?</p> <p>b) If any part of the Order limits was thus considered to form part of its setting, what would the effects of the Proposed Development be upon it?</p>	<p>No comments are offered in relation to setting impacts and instead the ExA is advised to take into account any comments made by others including MPAG, RCC, SKDC and Historic England.</p>

ExQ1	Question	LCC Response
Q6.0.11	<p>The Cultural Heritage Impact Assessment <a href="#">[APP-068]</a> includes the description of the non-designated heritage asset Braceborough Grange as a detached farmhouse forming part of a partially extant 19th century farmstead.</p> <p>a) Please set out the extent to which the existing farmland within the Order limits has any functional and/or historic links to this non-designated heritage asset and thus could form part of its setting?</p> <p>b) If any part of the Order limits was thus considered as part of its setting, what would the effects of the Proposed Development be upon it?</p>	<p>No comments are offered in relation to setting impacts and instead the ExA is advised to take into account any comments made by others including MPAG, RCC, SKDC and Historic England.</p>
Q6.0.12	<p>The Cultural Heritage Impact Assessment <a href="#">[APP-068]</a> includes the description of the non-designated heritage asset Braceborough Grange as a detached farmhouse forming part of a partially extant 19th century farmstead.</p> <p>a) Please set out the extent to which the existing farmland within the Order limits has any functional and/or historic links to this non-designated heritage asset and thus could form part of its setting?</p> <p>b) If any part of the Order limits was thus considered as part of its setting, what would the effects of the Proposed Development be upon it?</p>	<p>No comments are offered in relation to setting impacts and instead the ExA is advised to take into account any comments made by others including MPAG, RCC, SKDC and Historic England.</p>
<p><b>7 Land Use and Soils</b></p>		



ExQ1	Question	LCC Response
Q7.0.5	<p>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.</p>	<p>a). Yes. Food security is an issue that is important and relevant to the consideration of this proposal. The recent South Derbyshire appeal decision (appeal reference: APP/F1040/W/22/3313316) references the United Kingdom Food Security Assessment 2009 which identified important issues affecting this topic as being climate change and soil degradation and that these topics emphasised the importance of maintaining higher quality agricultural land. DEFRA have since 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. LCC therefore submits that the loss of high grade agricultural land as a result of this scheme does pose a risk to food security and therefore should be given appropriate weight in the same what as it was in the recent appeal decision.</p>
Q7.0.6	<p>The Applicant has submitted revised versions of the oSMP at Deadlines 3 and 4 [<a href="#">REP3-018</a> &amp; <a href="#">REP4-017</a>]. 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) [<a href="#">REP3-012</a>] also incorporated a requirement for the detailed OEMP to include the measures set out in the oSMP for managing soils during the operational phase.</p> <p>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</p>	<p>No comments offered</p>

ExQ1	Question	LCC Response
	that establishment of a grass sward is not appropriate or is unsuccessful. If deemed necessary, please identify recommended amendments	
Q7.0.9	<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 <a href="#">[REP4-025]</a>.</p> <p>a) Can the Mallard Pass Action Group confirm if this response addresses any of their concerns?</p> <p>b) Can the Applicant provide any further information specifically in relation to the economic viability of a sheep farming operation envisaged?</p>	No comments offered
<b>8</b>	<b>Landscape and Visual</b>	
Q8.0.5	<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 <a href="#">[APP4-020]</a>, the Design Parameters <a href="#">[REP2-016]</a> and Design Guidance</p>	a & b) No comments offered.

ExQ1	Question	LCC Response
	<p>[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>	
<b>10 Socio-economic effects</b>		
Q10.0.1	<p>In its draft SoCG with the Applicant, Lincolnshire County Council refers (in addition to DMMO 440) to two further Definitive Map Modification Order (DMMO) applications (DMMO 188 &amp; DMMO451), recommending that the scheme layout be reviewed to take account of these to ensure they do not impact on the scheme as currently laid out.</p> <p>a) The Applicant’s response explains that DMMO 188 and DMMO 451 relate to existing tracks which correspond with the MacMillan Way long distance route which is retained within the layout of the Proposed Development. Is Lincolnshire County Council now satisfied that there would be no implications as far as these two DMMOs are concerned?</p> <p>b) If Lincolnshire County Council still has concerns in this respect, please explain in further detail the basis for these concerns and how it considers they may be overcome?</p>	<p>a) As these two routes correspond with existing defined routes then we are satisfied these pose no impact or bearing on the layout of the scheme.</p> <p>b) LCC is satisfied with the principle and effect of Article 12 and notes that the Applicant intends to update the drafting of Article 12 at Deadline 5. LCC have yet to see the detail of this and therefore discussions will need to continue until we are satisfied with the provisions. Therefore we propose to continue to work with the Applicant to agree a position by Deadline 6.</p>

ExQ1	Question	LCC Response
Q10.0.3	<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 <a href="#">[REP4-041]</a> 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 <i>“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 <a href="#">[APP-078]</a> of the ES”</i>.</p> <p>b) Do the local authorities or Mallard Pass Action Group have any comments on the new information provided in Appendix C?</p>	b) No comments offered
Q10.0.4	<p>The Applicant has updated Table 3-4 of the outline Operational Environmental Management Plan (oOEMP) <a href="#">[REP4-010]</a> to state that <i>“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 closed to facilitate maintenance activities, this will require approval of the local planning authority.”</i></p> <p>Do the local authorities have any comments on this?</p>	<p>It is unclear how or what mechanism would be used to secure this. This therefore needs to be clarified. One option could be to include this as part of the planned maintenance schedule that the Applicant has proposed be submitted annually following the first anniversary of approval of the OEMP. However, we disagree that such a schedule only requires notification and not approval by the relevant planning authorities. A planned maintenance schedule could be submitted at least 12 months in advance and if submitted and processed like other DCO Requirements as per Schedules 2 &amp; 16 then there would be plenty of time for the decision to be made and (if disagreement exists and the schedule refused) an appeal to be made to SoS as per the existing provisions.</p>

ExQ1	Question	LCC Response
Q10.0.5	<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]. (<a href="#">assume this means REP4-014</a>)</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>a) There are some omissions in the CEMP such as a need to specify the widths of PRoW as there is no minimum legal width identified. Additionally, the temporary diversion / closure process needs to be defined.</p> <p>Additionally, the oOEMP and the oDEMP lack detail on the diversion process and notice process. The oDEMP does not detail footpaths but only bridleways.</p> <p>b) All details are included when the plans are read as a whole, with the exception of those omissions listed above. There is not considered to be a specific need for a PRoW management plan, provided that the oCEMP / oOEMP / oDEMP provide the details listed above.</p> <p>c) No further comments</p>

ExQ1	Question	LCC Response
Q10.0.6	<p>Appendix B to the Applicant’s summary of oral submission at Issue Specific Hearing 2 <a href="#">[REP4- 041]</a> 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 <a href="#">[REP2-018]</a>. Fencing type and the provision of permissive paths are also considered to align with the guidance by the Applicant <a href="#">[REP3-022]</a>.</p> <p>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>Given the offset distances identified then LCC is content and no further specific comments are offered</p>
<b>11 Transport and Traffic</b>		
Q11.0.1	<p>Paragraph 1.1.4 of the of the outline Construction Traffic Management Plan (oCTMP) <a href="#">[REP4-016]</a> states <i>“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.”</i></p>	<p>LCC would support the inclusion of such wording to make this clear and also that any such modifications or interventions must not give rise to materially new or materially different environmental effects.</p>

ExQ1	Question	LCC Response
	<p>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>	
Q11.0.3	<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 <a href="#">[REP4-041]</a>, the Applicant has included the following text at Paragraph 2.4.3 <i>“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.”</i></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>d) Can collision data over the past three years be considered representative given the possible impacts in terms of traffic movements of the Covid-19 pandemic?</p>	<p>c) No comments offered</p> <p>d) No comments offered</p>
Q11.0.4	<p>The methodology for the assessment of effects in Chapter 9 of the Environmental Statement (ES) (Highways and Access) <a href="#">[APP3-039]</a> 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</p>	<p>No comments offered</p>

ExQ1	Question	LCC Response
	<p>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.</p> <p>What implications does the new guidance have for the assessment of effects for the Proposed Development?</p>	
Q11.0.9	<p>The Applicant's response to the Examining Authority's First Written Question Q 11.0.4 states that <i>"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."</i></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) The Applicant has confirmed that they intend to submit a planned maintenance schedule each year which would set out what works are planned and so this could give details of any expected traffic movements at that time so the Highway Authorities can consider this. As stated previously, LCC submit that this schedule should require approval and not just notification – see response to Q10.0.4</p>



ExQ1	Question	LCC Response
Q11.0.10	<p>Written representations from the Mallard Pass Action Group [<a href="#">REP2-090</a>] and Greatford Parish Council [<a href="#">REP2-061</a>] 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 [<a href="#">REP3-034</a>] highlights sensitivity testing within ES Chapter 9 [<a href="#">APP-039</a>] 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?</p>	<p>a) Discussions have commenced with the Applicant regarding a side agreement to the DCO which would replicate a S278 Agreement process. Having such an agreement in place would satisfy the LPAs concerns related to detailed highways works approvals and booking and ensure that the amount of planned roadworks is acceptable in an area and there are suitable diversions available. However, we have yet to see the draft wording of such an agreement and therefore this is not yet confirmed.</p>
<b>12</b>	<b>Water Environment</b>	
Q12.0.1	<p>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?</p>	<p>No comments offered</p>
Q12.0.2	<p>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</p>	<p>These documents are considered suitable.</p>

ExQ1	Question	LCC Response
	Water Drainage Strategy (oSWDS) [APP-087] or the outline Water Management Plan (oWMP [APP-214])?	
Q12.0.3	<p>The outline Surface Water Drainage Strategy (oSWDS) [APP-087] states that the <i>“localised flat topography within parcels of the Proposed Development is generally flat meaning rainfall will not drain quickly down slope...”</i>. 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 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 <i>“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.”</i></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>	No comments offered

ExQ1	Question	LCC Response
	<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>	
Q12.0.4	<p>Does Lincolnshire County Council have any comments in response to the Applicant's response in respect of item LCC 7-02 regarding offsets from ditches in the Statement of Common Ground? <a href="#">[REP4-029]</a>?</p>	<p>No, 9m is required for IDB ditches and so if the ditch is not an IDB ditch then the landowner is responsible for maintenance of watercourse ditch. The suggested offsets would appear reasonable to LCC but ultimately it will be for the landowner to agree.</p> <p>The SoCG has been updated at Deadline 5 to reflect this.</p>
Q12.0.6	<p>Paragraph 81 of Rutland County Council's Local Impact Report <a href="#">[REP2-048]</a> 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 <a href="#">[REP3-035]</a> refers to drainage features</p>	<p>d) This has occurred on construction sites within Lincolnshire as well where temporary plant compounds have been created and surface water has discharged faster.</p> <p>The oWMP includes for an Environmental Clerk of Works who should be responsible for reviewing site activities and ensuring mitigation measures are in place to prevent this occurrence.</p>

ExQ1	Question	LCC Response
	<p>included in the oWMP <a href="#">[APP-214]</a> 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>	
Q12.0.7	<p>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 <a href="#">[REP2-048]</a>. At Deadline 3 <a href="#">[REP3-035]</a>, 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) <a href="#">[REP3-011]</a> states that ongoing archaeological evaluation and assessment under the Written Scheme of Investigation will help to identify where concrete bases will be required.</p>	b) No comment

ExQ1	Question	LCC Response
	<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>	
Q12.0.8	<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 <a href="#">[REP2-047]</a>. The Applicant's response at Deadline 3 <a href="#">[REP3-035]</a> refers to Table 3-7 of the oCEMP <a href="#">[REP3-011]</a> which states that <i>"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"</i>. It is also noted from Table 3-7 of the outline Operational Environmental Management Plan (oOEMP) <a href="#">[REP4-010]</a> that <i>"Regular inspection and maintenance of the drainage systems, SuDS and culverts will take place throughout the operational phase"</i>. Paragraph 2.1.2 of the outline Decommissioning Environmental Management Plan (oDEMP) <a href="#">[REP4-012]</a> states that <i>"Any damage to agricultural drains that has occurred during the operation of the Proposed Development will be repaired"</i> although it is not clear from Table 3-7 where this commitment is addressed.</p>	d) No comment

ExQ1	Question	LCC Response
	d) Do Lincolnshire County Council have any comments on this issue?	
<b>13</b>	<b>Other Matters/Issues</b>	
Q13.0.2	<p>Table 14 of Rutland County Council’s Statement of Common Ground confirms their position that the list of sites considered as part of the cumulative assessment is up to date and that they will continue to engage. The status of this issue is cited as “agreed” (green) [REP4-036]. The corresponding table in South Kesteven District Council’s Statement of Common Ground provides the same commentary but the status is cited as being “under discussion” (amber) [REP4-037]. Lincolnshire County Council’s Statement of Common Ground does not explicitly address the issue [REP4-029].</p> <p>Can South Kesteven District Council and Lincolnshire County Council confirm if they agree with the list of cumulative sites?</p>	<p>LCC disagrees with the list as it stands. As confirmed in our response to ExAQ1 [REP2-045] the cumulative list needs to be updated as it does not take into account other Solar NSIPs (beyond 10km) of the site is out of date. In addition to those listed, a number of additional NSIP scale solar projects are also currently registered with PINs and/or have been publicly announced including:</p> <p>Beacon Fen Energy Park Temple Oaks Renewable Energy Park Tillbridge Solar Park Fosse Green Energy Springwell Solar Farm</p> <p>The documentation and any assessments considering cumulative impacts arising from these proposals should therefore be updated to take these into account too.</p>
<b>13.1</b>	<b>Outline Management Plans</b>	
Q13.1.1	<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 <i>not lead to any materially new or materially different significant effects</i>) at the time of submission of the relevant detailed plan.</p>	<p>a) No major concerns with the inclusion of the wording as identified. As the ExA has identified the provisions of the DCO make clear that the final plans must be substantially in accordance with the outline plans and this therefore does suggest some allowance for changes to occur between the outline plans and the final plans. The provisions of the DCO make clear that should any changes be made then these cannot be materially new or materially different and any changes can be highlighted for consideration at the time of submission. This therefore provides sufficient protection.</p>

ExQ1	Question	LCC Response
	<p>This wording (in italics above) is different from the equivalent wording used in the dDCO <a href="#">[REP-027]</a> 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> <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.</p>	<p>b) Agree it would be helpful to ensure the language and wording used in the outline plans and the DCO are consistent and so suggest the word significant be removed from the outline plans so as to reflect the DCO.</p>
Q13.1.14	<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 <a href="#">[REP4-007]</a></p>	<p>See response to Q3.0.5 &amp; Q10.0.5</p>

ExQ1	Question	LCC Response
	b) Outline Operational Environmental Management Plan [ <a href="#">REP4-009</a> ] c) Outline Decommissioning Environmental Management Plan [ <a href="#">REP4-011</a> ] d) Outline Landscape and Ecology Management Plan [ <a href="#">REP4-013</a> ] e) Outline Construction Environmental Management Plan [ <a href="#">REP4-015</a> ] f) Outline Soil Management Plan [ <a href="#">REP4-017</a> ] g) Outline Water Management Plan [ <a href="#">APP-214</a> ] h) Outline Travel Plan [ <a href="#">APP-215</a> ] i) Outline Employment, Skills and Supply Chain Management Plan [ <a href="#">REP2-024</a> ] j) Surface Water Drainage Strategy [ <a href="#">APP-087</a> ]	

**Accompanying Docs:**

Q.5.0.4	440_Braceborough_and_Wilsthorpe_App_and_Map.pdf 451_Greatford_App_and_Map.pdf 188_Uffington_Application.pdf	Q6.0.3	Cottam 1_Parcel G_Proposed Additional Trenches.pdf Heckington TT 1.png Heckington TT 2.png
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