



# Mallard Pass

Solar Farm

## Mallard Pass Solar Farm

### Statement of Common Ground with Natural England

**Deadline 7 - October 2023**

EN010127

EN010127/APP/8.6.3

## **Glossary**

The glossary used for the Statement of Common Ground can be found within the Chapter 0 Glossary of the Environment Statement [APP-030].

## 1.0 Introduction

### **Status of the Statement of Common Ground**

1.1 This Statement of Common Ground ('SoCG') is being submitted to the Examining Authority as an agreed draft between both parties. It will be amended as the examination progresses in order to enable a final version to be submitted to the Examining Authority.

### **Purpose of this document**

1.2 This Statement of Common Ground (hereafter referred to as the 'SoCG') has been prepared in relation to the Mallard Pass Solar Farm Development Consent Order (the Application). The SoCG is a 'live' document that has been prepared by Mallard Pass Solar Farm Limited and Natural England.

1.3 The SoCG has been prepared per the Guidance for examination of DCO applications published in 2015 by the Department for Communities and Local Government<sup>1</sup>.

1.4 Paragraph 58 of the Department for Communities and Local Government (DCLG) Guidance comments that:

*"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence".*

1.5 The aim of this SoCG is to therefore provide a clear position of the progress and agreement made or not yet made between Natural England and Mallard Pass Solar Farm Limited on matters relating to Mallard Pass Solar Farm.

1.6 The document will be updated as more information becomes available and as a result of ongoing discussions between Mallard Pass Solar Farm Limited and Natural England.

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<sup>1</sup> Planning Act 2008: Guidance for the examination of applications for development consent (March 2015) paragraphs 58 – 65

1.7 It is intended that the SoCG will provide information for the examination process, facilitating a smooth and efficient examination and managing the amount of material that needs to be submitted.

### **Terminology**

1.8 In the table in the Issues chapter of this SoCG:

“Agreed” indicates where the issue has been resolved.

“Not Agreed” indicates a position where both parties have reached a final position that a matter cannot be agreed between them.

“Under Discussion” indicates where points continue to be the subject of on-going discussions between parties.

## **2.0 Description of development**

2.1 The Proposed Development comprises the construction, operation, maintenance, and decommissioning of a solar photovoltaic (PV) array electricity generating facility with a total capacity exceeding 50 megawatts (MW) and export connection to the National Grid.

2.2 The Mallard Pass DCO Project comprises those parts of the Mallard Pass Project which are to be consented to by a DCO, namely:

- The Solar PV Site - the area within the Order limits that is being proposed for PV Arrays, Solar Stations and the Onsite Substation.
  - Onsite Substation - comprising electrical infrastructure such as the transformers, switchgear and metering equipment required to facilitate the export of electricity from the Proposed Development to the National Grid. The Onsite Substation will convert the electricity to 400kV for onward transmission to the Ryhall Substation via the Grid Connection Cables.
  - Mitigation and Enhancement Areas - the area within the Order limits that is being proposed for mitigation and enhancement.
  - Highway Works Site - the areas that are being proposed for improvement works to facilitate access to the Solar PV Site
  - Grid Connection Corridor - the proposed corridor for the Grid Connection Cables between the Onsite Substation and the National Grid Ryhall Substation.
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### **3.0 Current Position**

#### **Position of Mallard Pass Solar Farm Limited and Natural England**

- 3.1 The following schedule addresses the position of Mallard Pass Solar Farm Limited and Natural England, following a series of meetings and discussions with respect to the key areas of the project.
  - 3.2 As mentioned previously, this is a 'live' document and some aspects are still under discussion between the parties. The intention is to provide a final position in subsequent versions of the SoCG, addressing and identifying where changes have been made and ultimately both parties agree on relevant points.
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## **4.0 Record of Engagement**

### **Summary of Consultation and Engagement**

4.1 The parties have been engaged in consultation and engagement throughout the development of the Application. Table 1 shows a summary of the meetings and correspondence that has taken place between Mallard Pass Solar Farm Ltd (including consultants on its behalf) and Natural England in relation to the Application.

**Table 1 – Record of Engagement**

<b>Date</b>	<b>Form of Correspondence</b>	<b>Key topics discussed and key outcomes</b>
05/11/2021	Email	The Applicant introduces the Proposed Development and the start of the Stage One non-statutory consultation, providing links to consultation materials, details on how to provide feedback and an attached copy of the Stage One leaflet.
10/02/2022	Natural England contacted the Applicant.	Response to Scoping Request Outcome: All comments covered in ES (Environmental Statement) Chapter 12: Land Use and Soils.
21/04/2022	Email	Explaining our view as to why semi-detailed ALC should suffice because the PV array legs will not result in ALC changes. Outcome: Responded to by Natural England below. Targeted survey needed. Additional survey carried out, see Chapter 12: Land Use and Soils and Appendix 12.4: Agricultural Land Classification of the ES.
29/04/2022	Email	Kent County Council letter re semi-detailed survey methodology robustness and referring to a semi-detailed ALC involving 43ha of best and most versatile (BMV) to which Natural England did not object or comment, to follow up the earlier view that except for fixed equipment a semi-detailed survey was appropriate. Further correspondence clarified the extent of additional survey recommended by Natural England.
17/05/2022	Email	Response to the above, advising that an additional survey of parts of the site is required in this case, in order to determine with more accuracy, the boundaries of BMV to non-BMV.



Date	Form of Correspondence	Key topics discussed and key outcomes
		Additional ALC survey points, 117 in total, have been carried out mostly on the Solar PV Site areas.
26/05/2022	Letter	The Applicant provided postal and digital notifications of Stage Two Statutory Consultation, including a cover letter, copy of the Section 48 Notice and Site Location Plan.
07/06/2022	Email	Providing a plan to Natural England of suggested areas for additional ALC auger survey. Outcome: Survey carried out.
14/07/2022	Natural England contacted the Applicant.	Response regarding generic advice to survey methodology. Outcome: Advice actioned by extra ALC survey sampling
05/08/2022	Natural England contacted the Applicant.	The final paragraph of advice regarding the general location of additional ALC survey sampling that is recommended. Outcome: Actioned in the September ALC survey
16/08/2022	Letter via Email	Natural England submits feedback to the Stage Two Statutory Consultation.
31/08/2022	Letter via Email	Natural England submits feedback on PEIR (Preliminary Environmental Information Report) Chapter 13: Agricultural Land Use.
24/04/2023	Teams Meeting	Initial Call with Natural England regarding SoCG and Relevant Representation

<b>Date</b>	<b>Form of Correspondence</b>	<b>Key topics discussed and key outcomes</b>
24/04/2023 - 24/05/2023	Email Correspondence	Email correspondence between the Applicant and Natural England discussing the Statement of Common Ground.
24/05/2023	Teams Meeting	Call with Natural England regarding comments about Soil in SoCG.
24/05/2023 – 12/07/2023	Email Correspondence	Email correspondence between the Applicant and Natural England discussing the Statement of Common Ground and Written representations.
12/07/2023 – 01/08/2023	Email Correspondence	Email correspondence between the Applicant and Natural England discussing the Statement of Common Ground.
01/08/2023	Teams Meeting	Call with Natural England to discuss the outstanding points in the SoCG.
02/08/2023 – 05/09/2023	Email Correspondence	Email correspondence between the Applicant and Natural England discussing the species licensing.
05/09/2023 – 10/10/2023	Email Correspondence	Email correspondence between the Applicant and Natural England discussing the final outstanding points on the SoCG and the signing of the document from both parties.

## 5.0 Current Position

5.1 The tables below provide a schedule that details the position on relevant matters on a topic-by-topic basis between Mallard Pass Solar Farm Limited and Natural England, including any matter where discussions are ongoing.

**Table 2 – Ecology and Biodiversity**

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
NE001	Biodiversity diversity and appropriate mitigation	Natural England considers the Applicant's GI (Green Infrastructure) strategy acceptable.	The GI strategy for the Proposed Development has been prepared to consider opportunities for connecting habitats within the Order limits that would deliver environmental and/or biodiversity net gain and considers other community enhancements and this is secured through the oLEMP <b>[REP3-015]</b> .	Agreed
NE002	Shadow Habitat Regulation Assessment - Designated Sites	Natural England considers that the Applicant's shadow Habitat Regulations Assessment is acceptable, in demonstrating the rationale for choice of Order Limits.	The Proposed Development will not have any likely significant effects on European sites. The shadow Habitat Regulations Assessment provided to support the ES (Appendix 7.5) <b>[APP-063]</b> sets out the rationale regarding	Agreed

		<p>It was raised that the rationale for ruling out in-combination effects was unclear. This has been clarified within the Applicants Responses to Interested Parties' Deadline 2 Submissions – Ecology <b>[REP2-093]</b>. NE acknowledge that whilst multiple insignificant effects may add up to cause a significant effect – in this case, the possible impact of the Scheme on Baston Fen SAC is so small it is immeasurable &amp; embedded mitigation further reduces the magnitude of any effect. As such, the rationale that this project cannot add any measurable effect to another project's effect is appropriate.</p>	<p>the conclusion with reference to internationally important designated sites.</p> <p>As such, more details cannot be added to section 7 as there is no effect to discuss. Carrying out an assessment of other projects which may affect the European sites through similar pathways in combination to the Proposed Development is unnecessary and disproportionate. It is also noted that in HRA terms, the question to be answered is whether a detrimental effect on the integrity of the European sites can occur, and even in combination with other projects, the conclusion here can only be that it would not. Further information for this rationale can be found within the Applicant's responses to Interested Parties' Deadline 2 Submissions <b>[REP2-093]</b>.</p>	
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NE003	Ryhall Pastures and Little Warren Verges – SSSI (Sites of Special Scientific Interest)	Natural England considers the Applicant's revised order limits, removing the areas of Ryhall Pasture and Little Warren Verges SSSI, to be acceptable.	Areas of Ryhall Pasture and Little Warren Verges SSSI have been removed from the Order limits in order to avoid direct impacts as cabling routing or site access works are no longer being considered in this location. Please see Chapter 11: Water Resources and Ground Conditions of the ES <b>[APP-041]</b> , for more information. In addition, please refer to the Outline Landscape and Ecology Management Plan <b>[REP3-015]</b> .	Agreed
NE004	Additional Habitat Creation	Natural England is content with the GI Strategy implemented for the creation of additional habitats.	The GI strategy for the Proposed Development has been prepared to consider opportunities for connecting habitats within the Order limits that would deliver environmental and/or biodiversity net gain and consider other community enhancements and this is secured through the oLEMP <b>[REP3-015]</b> .	Agreed

NE005	Ancient Woodland	Natural England considers that the Applicant's Order Limits are acceptable in their relationship to Ancient Woodland.	As outlined in Chapter 7: Ecology and Biodiversity, the Order limits do not support any ancient woodland. For more information, please see Appendix 7.3: Ecology Consultation, [ <b>APP-061</b> ].	Agreed
NE006	Impact of construction routes	Natural England considers that the Applicant's survey work is acceptable when considering the impact of construction routes on ecology.	A number of surveys were conducted to monitor any impact of construction routes. For more information on the ecological surveys conducted as part of the Proposed Development, please see Chapter 7: Ecology and Biodiversity of the ES, [ <b>APP-037</b> ].	Agreed
NE007	Ecological Surveys	Natural England considers that the Applicant's survey work is acceptable.	The ecological surveys undertaken for the project are set out in Chapter 7: Ecology and Biodiversity of the ES, [ <b>APP-037</b> ].	Agreed
NE008	oLEMP – enhancement of existing habitat features	Natural England considers the GI Strategy proposed for the Proposed Development acceptable.	The GI strategy for the Proposed Development has been prepared to consider opportunities for connecting habitats within the Order limits that would deliver environmental and /or biodiversity	Agreed

			net gain and consider other community enhancements, and this is secured through the oLEMP <b>[REP3-015]</b> .	
NE009	Cumulative effects - Ecology	Natural England considers the Applicant's Cumulative assessment as acceptable.	The assessment of likely cumulative effects has been undertaken and sets out measures envisaged to reduce or avoid any identified significant adverse cumulative effects and, where appropriate, any proposed monitoring arrangements. For more information, please see Chapter 16: Interactions of Effects and Summary of Cumulative Effects, of the ES, <b>[ APP-046]</b> .	Agreed
NE010	Mitigation and additional measures	Natural England considers that the Applicant's mitigation measures, and Green Infrastructure proposals are acceptable.	Mitigation measures and Green Infrastructure is embedded into the design of the Proposed Development. The strategy is further discussed within the oLEMP <b>[REP3-015]</b> .	Agreed
NE011	Protected Species Licences	It is noted within ES Chapter 7 (Ecology and Biodiversity) that there is a possibility for the need of a protected species license in relation to works involving Badgers. However, the survey results to date did not identify any conflicts with emerging layouts that could not be effectively mitigated without the need for a license.	The Applicant has decided not to seek a LONI at this stage and seek a license at detailed design stage when further surveys have been undertaken based on a more thorough understanding of final design.  This approach has been taken	Agreed

		<p>Table 3-2 of the oCEMP sets out clearly the approach to avoiding impacts to Badgers following further survey pre-construction. It also sets out that the need for a license will be reviewed following further survey and in the event impacts to Badgers cannot be appropriately avoided, the necessary license will be applied for. In this circumstance, the applicant's ability to seek a Letter of No Impediment (LoNI) is limited due to the present lack of a licencing requirement; Natural England consider the approach set out to be appropriate. It should be noted, nonetheless, that Natural England will assess any future licence applications on their own merit and are unable to advise on the likelihood of any license being granted at this stage.</p>	<p>further to the results of the ES and it's supporting surveys which indicated that no licences would be required due to a lack of impacts being identified. However, the oCEMP acknowledges that pre-construction surveys are required to check for presence of protected species that may be affected by construction works. It is only if species are found after such surveys that a licence would be required and sought. As such a LoNI is not required at this time.</p>	
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NE012	Protect Species Licenses – District Level Licensing	<p>It is noted within ES Chapter 7 (Ecology and Biodiversity) that licences will be required for works relating to Great Crested Newt (Section 7.6.5). Natural England has not received submission of draft protected species licence applications for review. The applicant has informed NE that they will be seeking to enter into a <a href="#">district level licencing</a> agreement for GCN. The project lies within an area with an active DLL scheme; so where an impact assessment and conservation payment certificate (an IACPC) is issued, NE would not raise any further concern.</p>	<p>Noted. The Applicant has begun the District Level Licenses process and applications have been drafted through the examination process. The applicant has been in discussions with the licensing team at Natural England discussing the licenses.</p>	Agreed
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**Table 3 – Land Use, Agriculture and Recreation**

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
NE013	Cumulative effects from the use of BMV land	Natural England confirms that the cumulative assessment conducted is appropriate and acceptable in terms of the use of BMV land.	<p>The assessment of likely cumulative effects will be undertaken and will set out measures envisaged to reduce or avoid any identified significant adverse cumulative effects and, where appropriate, any proposed monitoring arrangements.</p> <p>In addition, it is confirmed that there are no areas of the project Order Limits which are shared with other development projects, including the cable route.</p> <p>For more information, please see Chapter 16: Interaction of Effects and Cumulative Summary, of the ES, [APP-046].</p>	Agreed

NE014	Outline Soil Management Plan (oSMP) – site specific soils	Natural England considers that there has been sufficient discussion in regard to the site-specific data derived from the detailed ALC survey at the Access tracks / substation site, with regards to soil volumes, stockpile locations, handling requirements and re-use.	<p>Further information discussing the site-specific data derived from the ALC survey can be found within the updated Outline Soil Management Plan (oSMP) <b>[REP3-019]</b>.</p> <p>As noted within the Applicant's Responses to Interested Parties' Deadline 2 Submissions – Land Use and Soils <b>[REP3-031]</b> the outline Soil Management Plan sets out the methodology to resolve these areas to the existing ALC grade at the end, and therefore after decommissioning no agricultural land will have been lost or downgraded.</p>	Agreed
NE015	Laboratory assessment of particle size and soil pits	Natural England is satisfied with the data on the laboratory assessment of particle size (PSD) that is provided, including how the information has been used in informing soil	Further information discussing the laboratory assessment of both particle size and soil pits can be found within the Applicant's response to Relevant Representations [PDA-012].	Agreed

		texture and properties for the wider site.		
NE016	Detailed ALC survey and sampling	<p>Within pre-application advice, NE advised that following semi-detailed ALC survey, additional detailed survey would be required in all areas identified as BMV and all areas to be permanently lost. It is noted that additional detailed survey was undertaken across the majority, but not all, of these areas. Nonetheless, we acknowledge the rationale provided that all areas to be permanently lost have been surveyed at a detailed level and that detailed survey of high-quality areas that are only to be used for panels would not alter decision making RE soils. NE raise no further concern with the ALC survey methods.</p>	<p>BMV surveys and sampling have been undertaken, this is further addressed within the Environmental Statement Chapter 12 [ <b>APP-042</b> ] and associated appendices.</p>	Agreed

NE017	Soil resource safeguarding with restoration plans	Natural England considers that the Applicant's restoration plans and decommissioning environmental management plans are acceptable.	<p>An outline Decommissioning Environmental Management Plan (oDEMP) has been prepared to support the DCO application. The decommissioning phase would include the removal of any permissive paths and the potential reversion of grassland underneath the Solar PV Arrays.</p> <p>In addition, an outline Soil Management Plan (including outline Excavation Material Management Plan) (oSMP) has been prepared to support the DCO application and updated following Natural England's comments. This notes the restoration plans for the surrounding area, with a focus on soil resource safeguarding.</p>	Agreed
NE018	BMV grades within the environmental mitigation	Natural England confirm that they are satisfied with the assessment of impact to soils from enhancement areas. Which now includes	Table 12-1 of Chapter 12 of the ES [APP-042] provides a breakdown of the land quality by grade and proportion for the	Agreed

		<p>the area of land take for enhancements and the BMV grades of this.</p>	<p>Order Limits and the areas within the solar PV site and field margins, as described in the methodology. The areas affected by the substation and other infrastructure are set out in Tables 12-4 and 12- 5, and summarised in Table 12-6. The areas affected amount 0.5ha Grade 2, 3.7ha Grade 3a and 10.2ha of poorer quality land.</p> <p>Annex A to the Response to Relevant Representations document [PDA-012] includes a table which sets out the ALC grades of land within the Mitigation and Enhancement Areas. The ALC grades are not set out for the entirety of the Mitigation and Enhancement Areas in the annex as some of these areas are included within the Solar PV Site which are reported on in Table 12-1 of Chapter 12 of the ES. As such, Annex A sets out the ALC grades within the 'biodiversity</p>	
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			and arable areas'. This area comprises 0.3ha that is to be used for skylark plots. These plots will not continue under arable use during operation but there would be no adverse effects on the soil resource with potential for beneficial effects due to resting of the soils. The soils could be returned to arable production following decommissioning of the Proposed Development.	
NE019	Outline Soil Management Plan (oSMP)	Natural England are satisfied with the updated outline Soil Management Plan.	Noted. Reference to the proposed control measures requested by Natural England have been added to the updated outline Soil Management Plan <b>[REP-019]</b> submitted at Deadline 3.	Agreed

NE020	Land Use and Soils conclusion	Natural England has no further concerns regarding Soils and Best and Most Versatile Land.	Noted.	Under Discussion
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**Table 4 – Biodiversity Net Gain**

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
NE021	Biodiversity Net Gain	Biodiversity Net Gain is a demonstrable gain in biodiversity assets as a result of a development project that may or may not cause biodiversity loss, but where the final output is an overall net gain. The Environment Act has set out that Biodiversity Net Gain will be mandatory for the majority of new development from November 2023 and mandatory for NSIPs in 2025. Whilst Biodiversity Net Gain is not yet mandatory, it is considered best practice to deliver a measurable net gain through any new development.	Noted.	Agreed
NE022	Biodiversity Net Gain Metric	The application documents include a Biodiversity Net Gain Metric (Appendix 7.6), which	Noted.	Agreed

		<p>utilises the Biodiversity Metric 3.1 and indicates the development will give rise to a 72.19% gain in habitats units and a 40.83% gain in hedgerow units. Natural England welcomes the inclusion of these calculations and is generally supportive of the enhancements proposed through the development. We note that the proposed gains are significantly above the intended 10% mandatory gain.</p>		
NE023	Anglian Water Project	<p>Nonetheless, the change in river units is 0%. When Biodiversity Net Gain becomes mandatory, it will be necessary to deliver a 10% net gain in each of the three areas (habitat, hedgerow and river). The rationale for a 'no net loss' approach to river units on this project is set out in sections 2.1.3 to 2.1.6 of Appendix 7.6. Natural England acknowledges the design principles of avoiding development</p>	<p>Noted. The Applicant's BNG assessment does not include any benefits that may eventually derive from the Anglian Water Project.</p>	Agreed

		<p>within the river corridor and providing habitat enhancements alongside the river. The enhancements set out in section 2.1.5 of Appendix 7.6, and detailed within the oLEMP, are welcomed and are likely to indirectly have a positive effect on the river. The discussion also notes that Anglian Water is planning works to improve the West Glen River through their Catchment Based Approach (CaBA). Natural England acknowledges the benefit of ensuring the river corridor is left undeveloped to allow these improvements, however, they should not be assessed as a benefit coming directly from the development, as the works of Anglian Water would be going ahead anyway.</p>		
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## Signatures

6.1 This Statement of Common Ground is agreed upon:

On behalf of Natural England:

Name:

Signature:

Date:

On behalf of the Applicant:

Name:

Signature:

Date:

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