

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

**Response to Rule 17 Request for Further Information – October 2023**

Lincolnshire County Councils (“LCC”) response to the ExAs Rule 17 Request for Further Information (letter dated 18 October 2023) is set out below.

Question	Response
<p><b>Archaeology</b> Paragraph 3.10.101 of the draft National Policy Statement (NPS) EN-3 (March 2023) recognises that archaeological deposits may be protected by a solar PV farm if the site is removed from regular ploughing and shoes or low-level piling is stipulated. The Design Parameters [REP7-013] state that the maximum depth of the Mounting Structure piles will be 2.5m. Table 3-3 of the outline Environmental Construction Management Plan [REP7-015] states that the Written Scheme of Investigation (WSI) will allow for identification of any areas where concrete shoes/blocks may be required, and also where preservation in situ is the preferred strategy. Further detail of this is set out in paragraphs 3.14 to 3.18 of the outline WSI [REP7-033]. The general comment of Historic England [RR-415] is also noted that sufficiency of field evaluation is vital because some features would be both of high importance and high sensitivity to the insertion of panel mounting piles.</p>	
<p>a) Given the above, on what basis would the use of such mitigation measures be determined for the solar PV areas in the absence of any further trial trenching for these areas?</p>	<p>In the absence of any further trial trenching it would not be possible for the Applicant to identify where the use of concrete shoes/blocks and preservation in-situ should be adopted. Without site-specific information on the surviving archaeology it would not be possible for the Applicant to determine what type of mitigation would be effective in preserving the archaeology: fit-for-purpose mitigation is not possible outside those areas of currently known archaeology. Paragraph 3.2 of the oWSI states that trenching will not be used in areas where activities involve piling and so this therefore essentially rules out any possibility of further trenching being carried out across the solar PV areas. Without such trenching it would not be possible for the Applicant to identify if there are features within large areas of the site that might need to be protected either through the use of concrete shoes/blocks or excluded completely so as to secure they are preserved in-situ. Effective mitigation measures are impossible without determining the location, depth, extent and significance of surviving archaeology, currently surviving but unknown archaeology across the rest of the solar PV area will be damaged or destroyed without investigation or recording.</p>

<p>b) Bearing in mind the wording of paragraph 3.10.101 of the draft EN-3, how would the protection it envisages be secured in this instance in the absence of the use of shoes or low-level piling?</p>	<p>It can't. As footnote 86 of paragraph 3.10.101 states "The results of pre-determination archaeological evaluation inform the design of the scheme and related archaeological planning conditions" and therefore given the lack of sufficient pre-determination evaluation it is not possible to conclude that the proposed solar PV development may have a positive effect by protecting archaeological deposits.</p>
<p>c) To what extent does the existing knowledge of the archaeological resource at the site, lead to any particular likelihood of there being further, as yet unidentified, important and sensitive archaeological deposits being located within the proposed solar PV areas?</p>	<p>The impact zone covers a large area and the trenching is limited, archaeology certainly survives here which has yet to be identified. Every other NSIP in Lincolnshire, all of which have undertaken more reasonable levels of trial trenching, have identified significant archaeological sites during the trenching phase which are then dealt with as part of an informed effective mitigation strategy to adequately deal with the impact of the development. The Applicant's own assessments have identified archaeology as surviving across the Order Limits with just one example of this being paragraph 8.2.12 of Chapter 8 of the ES which states that <i>'Iron Age activity has been identified through previous archaeological investigations within the centre of the Order limits. These recorded an area of settlement represented by pits, postholes, ditches and a possible waterhole, with occupation dating from the 5th to 2nd centuries BC.'</i> As stated in our Local Impact Report [REPO2-044 – paragraph 6.5.7] the full extent of this site is not known and despite three centuries of occupation there is no understanding or evaluation of where any associated human remains would be. There is a real potential that land within the Order Limits could therefore contain human remains which have yet to be identified. It is LCC's position (as it has always been) that there is therefore a very real risk of there being unidentified, important and sensitive deposits within the Order Limits which will be damaged or destroyed by the development without recording or investigation which is not to public benefit in accordance with the NPPF. The very limited extent of pre-determination archaeological evaluation limits the baseline evidence available to inform the design of the scheme. While the oWSI suggests further evaluation and trenching could be secured through site specific WSIs which would then help to inform the detailed design and layout of the scheme, as stated</p>

	<p>previously paragraph 3.2 of the oWSI seeks to reduce the areas where trenching would take place and as a result limit the scope of any further evaluation.</p>
<p><b>Land Use and Soils</b> At Deadline 7, the Mallard Pass Action Group submitted a report that provides a review and analysis of the findings of the soil surveys submitted by the Applicant [REP7-060]. The report was informed by additional soil testing, predominantly in Field 2. Amongst the conclusions of the report is an indication that there is a larger area of Grade 2 agricultural land within Field 2 than that identified by the Applicant. Conversely, the amount of Grade 3b and Grade 4 land within Field 2 may have been over-estimated by the Applicant. A lack of soil pits assessed by the Applicant within Field 2 is also cited as a concern along with call for a more detailed assessment across the Order limits. It is noted from the Statement of Common Ground between the Applicant and Natural England [REP7-028] that Natural England advised the Applicant that additional soil survey work would be required in all areas identified as BMV and all areas permanently lost. The Applicant subsequently undertook additional surveys <i>“across the majority, but not all, of these areas”</i>. Natural England appear to be satisfied with this approach, stating <i>“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.”</i></p>	
<p>b) Do Lincolnshire County Council, Rutland County Council or South Kesteven District Council have any comments on the report submitted by the Mallard Pass Action Group and related implications for the consideration of the Proposed Development?</p>	<p>The report submitted by Mallard Pass Action Group is noted and that this submits that the level of BMV is both understated and also a higher proportion of the Order limits than that stated and claimed by the Applicant. LCC does not offer any specific comments in respect of the methodology or testing techniques adopted by both parties however LCC has expressed concerns about the loss of any BMV both on individual sites but also when considered cumulatively with all the other NSIP projects currently being promoted within the County. Our position is that the loss of any BMV should be avoided and where this is to be lost then this should be given significant weight in the planning balance. If the MPAG report shows that the % of BMV is higher than that reported by the Applicant should the ExA be minded to grant the DCO then they will need to be satisfied that the benefits of the development as a whole significantly outweigh the impacts of this potentially higher proportion/percentage of BMV loss.</p>
<p><b>Water and Flood Risk</b> In response to discussion at ISH4 regarding the implications of the proposed 60 year operational time limit for the Flood Risk Assessment in the 2080s, the Applicant provided further assessment of this issue in its Statement on 60 Year Time Limit at Deadline 7 [REP7-038]. This followed liaison with the Environment Agency on the approach to further modelling. The Environment Agency also committed to review the analysis and results when available [REP7-051]. The subsequent proxy modelling undertaken indicates that</p>	

4.1ha of the PV array area could be submerged under the leading PV array edge. If this modelling continues to be the case in 2078 when further consideration is proposed, the Applicant concludes that this could be mitigated by changing the pitch of the arrays and that mechanisms in the oOEMP would ensure that such measures are put into place. However, the latest version of the oOEMP submitted at Deadline 7 removes provisions to address the issue with revisions to Table 3-7. As an alternative, a new Requirement (R19) is proposed in the latest dDCO regarding long term flood risk mitigation. It is understood that this is the Environment Agency's preferred method.

Please note, the ExA raises questions separately on R19 in its commentary and questions on the dDCO published on 18 October 2023.

In terms of the overall implications for the conclusions of the Flood Risk Assessment [APP-086] and Chapter 11 of the Environmental Statement [APP-041], the Applicant states they *"remain unchanged with the introduction of a 60 year time limit on operation i.e. no displacement of flood waters and no significant effects."*

<p>b) Can the Environment Agency, Lincolnshire County Council, Rutland County Council and South Kesteven District Council confirm if they agree with the Applicant's position that the conclusions of the Flood Risk Assessment and Chapter 11 of the Environmental Statement remain unchanged with the introduction of a 60 year time limit?</p>	<p>As the proxy modelling indicates parts of the PV array area could be submerged if the development persists beyond 2078, then this does clearly change the original conclusions of the Flood Risk Assessment and Chapter 11 of the ES which had concluded (based on a 40 year life) that the development would not be at risk from flooding. In order for the development to be flood compatible for the proposed 60 year lifetime, the Applicant relies upon revisions being made and agreed to the design of the development in the future rather than the development being designed to be compatible from the outset. As there is no guarantee approval for such revisions will be given then it is not valid to conclude that there are no significant effects at this stage. Therefore whilst LCC accepts there would be no significant effect for a development with a 40 year life we do cannot agree the same can be said should a development with a 60 year life.</p>
<p>c) Do Lincolnshire County Council, Rutland County Council and South Kesteven District Council have any further comments on the Applicant's updated consideration of flood risk?</p>	<p>Rather than rely upon revisions being made/approved to the development in the future, the development should demonstrate from the outset that it is capable of being safeguarded from flood risk for its lifetime. As a result, LCC maintain that should the ExA be minded to grant the DCO then this should be time-limited to 40 years which is consistent with the period originally assessed as part of the ES and which showed that the development is not at risk of flooding during this period.</p>

	<p>Should the Applicant wish to retain the development beyond the 40 year limit then they could seek to extend the end-date in the future and at that time further modelling could be carried out to assess if changes are needed to the development whether that be by removing areas at risk or altering the pitch of panels to take them out of the</p>
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