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Nationally Significant Infrastructure Project: EN01027 Mallard Pass Solar Farm

Response to Rule 17 Request for Further Information –
October 2023

<p>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>RCC has stated throughout the process that without further field evaluation (trial trenching) it is not possible to fully understand the presence of archaeological features across the application site and it would therefore not be possible to identify locations where the use of concrete shoes/blocks should be used. Paragraph 3.2 of the oWSI essentially rules out the use of further trial trenching within the panel areas asserting that any disturbance of buried archaeological remains as a result of piling would be ‘insignificant’ however this assertion is not supported by a suitable level of investigation to confirm if there are features requiring protection. It is therefore unclear what methods are proposed by the applicant to identify areas that may need to be protected.</p> <p>Paragraph 3.9 of the oWSI sets out that there are five locations already identified where important buried archaeological remains survive within the site. It also indicates that identification of these areas was ‘most notably’ as a result of the trial trenching undertaken. It is clear therefore that such trenching is a vital part of identifying buried remains requiring protection.</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>The protection envisaged by paragraph 3.10.101 is based (as set out in footnote 86) on the results of pre-determination evaluation to inform scheme design. In this instance the absence of adequate evaluation at this stage means that the protection envisaged by paragraph 3.10.101 cannot be secured – the applicant has indicated in paragraph 3.2 of the oWSI that there will be no trenching in areas where piling is proposed.</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</p>	<p>The existing assessments and investigations undertaken across the site have already identified a number of examples of surviving archaeological resources, and as noted above the applicant’s own assessment acknowledges the importance of field evaluation in the identification of those resources. The lack of adequate archaeological field investigation via trial trenching means that there is significant risk of further archaeological remains that have not been identified due to the limited techniques employed and there being substantial scope for remains that are not identifiable via those techniques. The archaeological advisors to both relevant local authorities have identified the same concerns around</p>

<p>sensitive archaeological deposits being located within the proposed solar PV areas?</p>	<p>the archaeological investigation undertaken despite the stance of the applicant. Paragraph 3.2 of the oWSI makes it clear that there is no intention on the part of the applicant to undertake any further trial trenching within the area of proposed panels and RCC considers that this results in a very real risk of harm occurring to the archaeological resource in these areas.</p>
<p>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 “across the majority, but not all, of these areas”. Natural England appear to be satisfied with this approach, stating “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>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>RCC has identified concerns around the loss of BMV agricultural land across the site throughout the examination process, and considers that this is an issue that should carry significant weight in the planning balance. RCC has no specific comments to make regarding the report submitted by Mallard Pass Action Group as it does not have sufficient data to verify its contents. The ExA will need to be satisfied as to the robustness of the assessment of BMV provided by the applicant in light of the MPAG report, and if it is minded to grant the DCO that the benefits of the scheme are sufficient to outweigh this loss when considered alongside all of the other impacts of the scheme.</p>
<p>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 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</p>	

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.”

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?

The conclusions of the original Flood Risk Assessment and Chapter 11 of the Environmental Statement were based on an expected 40-year development lifespan, albeit proposing a permanent consent. It would appear from the referenced documents that in order to be flood compatible over the proposed 60-year lifespan that changes would need to be made to the scheme requiring approval. It is unreasonable to conclude at this stage and on the basis of the detail available at this time that such changes would not potentially result in significant effects. Whilst RCC accepts that there would be no significant effect for a development with a 40 year lifespan it does not agree that this has been demonstrated for the proposed 60 year period.

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?

In granting the DCO for a 60-year time limited period, RCC considers that the proposal should be able to demonstrate at the outset that it is flood-compatible for that period. RCC considers therefore that should the DCO be granted it should be for a period of 40 years, which is consistent with the period originally assessed within the ES and over which it has been demonstrated as not being at risk of flooding. This would not prevent the Applicant from applying to extend the end-date at some period in the future and undertaking appropriate modelling at that time, proposing any changes necessary to ensure that the development remained safe from the risk of flooding at that time.