

Date: 01 November 2023

Our Ref: EN010127

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Mallard Pass Solar Farm Project

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

This letter introduces Mallard Pass Solar Farm Limited's ('the Applicant's') submissions for Deadline 8A of the Examination and includes responses to Interested Parties' Deadline 8 submissions.

Updated Application Documents Submitted

The following updated application documents are submitted as part of the Applicant's Deadline 8a submissions:

- Document 1.2.10 – Guide to the Application (Clean and Tracked) [Version 10];
- Document 7.6.9 – Outline Construction Environmental Management Plan (Clean and Tracked) [Version 9]. To accommodate MPAG's comments on the Community Liaison Group;
- Document 7.12.6 – Outline Soil Management Plan (Clean and Tracker [Version 6]). To account for the Applicant's submissions throughout the Examination where additional points have been made that will assist in consideration of the Proposed Development's policy compliance; and
- Document 9.12.2 – Appendix 3 Planning Statement Updated Policy Tables. The document references within the Planning Policy tables have not been changed from the original submission; only where new documents have been submitted through the examination process have references been updated, and the latest versions of all the applicant's documents should be considered.



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Statements of Common Ground

The Applicant has not submitted updated SoCGs at this deadline but is working with stakeholders towards submitting final versions for Deadline 9. The Applicant also continues to seek to engage with the IDB for the final section 150 disapplication required.

It's important to recognise that in the process of the SoCG, the Applicant typically takes the lead role to support statutory consultees in resource allocation, especially due to the rapid pace of the examination. The drafting process always hinges on ongoing correspondence and discussions with the opposing party involved in the SoCG, and it's the responsibility of each party to ensure that the points accurately represent their respective positions. This approach has been consistent with NE and various statutory bodies throughout the examination of this and other DCOs.

Response to Interested Parties' Deadline 8 Submissions

The Applicant has considered the Deadline 8 submissions and considers that its Deadline 8 submissions deal with most of the concerns raised. In the text below, the Applicant considers the key points raised.

Archaeology

The Applicant has reviewed the responses from Rutland County Council (RCC) and Lincolnshire County Council (LCC) relating to archaeological matters and notes that "the matters of disagreement have not been advanced". At Issue Specific Hearing 4, the ExA invited RCC and LCC to provide comments on the technical matters within the outline Written Scheme of Investigation (oWSI), notwithstanding the issue of trial trenching. Despite this direct request from the ExA, however, nothing has been received from either RCC or LCC.

If the Applicant's general approach to trial trenching is indeed flawed (as posited by RCC and LCC), then the same must be true for Longfield. This is clearly not the case, given the SoS' recent decision. LCC's position is essentially that a bespoke methodology for trial trenching should be deployed in Lincolnshire that is different to the rest of the UK, with no justification provided as to which such an approach is necessary or appropriate. The Applicant maintains that the approach to trial trenching is proportionate and appropriate for the Proposed Development.

Flooding

The Applicant notes the concerns raised by the LLFAs in their Deadline 8 submissions but considers that if the ExA agrees with them, their concerns are dealt with by the without prejudice requirement – the Scheme cannot carry on into the new epoch if mitigation measures are not agreed. Furthermore, given that the change in epoch takes place well after year 40, concerns about flooding are not a reason the scheme life should be limited to 40 years.

Grassland Establishment and BMV issues

Greatford Parish Council's (GPC) comments in respect of the revised oLEMP and MPAG's similar suggestions are noted. There is general agreement regarding the methodology except for two areas:



- GPC and MPAG suggest establishment 18 months in advance so that the grassland is “able to withstand the rigours of construction”;
- GPC suggest all grass seed must be rolled after sowing to establish good contact with the ground.

The Grassland Establishment Management Plan (GEMP) contained in the oLEMP [REP7-021] states at 1.1.13 that “**the Applicant has undertaken to sow grassland in advance of construction so far as possible**”. In their Deadline 8 Comments on the Applicant’s Oral Submission [REP8-032] MPAG state that “**there is no intention of effectively establishing a grass sward in advance of construction**”. Clearly, from the GEMP, there is an intention from the Applicant of establishing grassland pre-installation where it is possible to do so.

The Applicant will establish grassland in advance so far as possible. Not least such an approach reduces the potential need for more labour-intensive establishment methodologies, as are described in the oLEMP and the GPC response. It is not essential, however, to establishing grassland. Neither is rolling of grass seed essential to establishing grassland, so post installation sowing is a workable solution.

GPC are critical of the first photograph at 1.1.22 and conclude that grassland took 7 years to establish. This is a misunderstanding. The first photograph shows a winter installation, and is taken from the ES Chapter 12 [APP-042] section 12.4.31 and the oSMP. The objective of the oSMP is that such damage will not occur during construction, but the illustrations show that even if it did it is readily restored and ameliorated.

The photographs in 1.1.23 show another winter installation. The fact that the second photograph was taken 7 years later does not mean that it took 7 years to establish the grassland, it is simply when the second photograph was taken.

The photographs in 1.1.24 show panels installed on established grassland. The bare patches are not, as GPC assume, areas that have been bare for years. Those photographs were taken during the construction period, showing areas having been cultivated and sown as part of the installation process.

In respect of BMV issues, MPAG now accept that there will not be land loss. Their concern has been reduced to the issue of food production. The Applicant remains of the view that the policy basis for determining the application is NPS EN1 and the advanced drafts of NPS EN1 and NPS EN3, as important and relevant considerations. These effectively set out a sequential approach, whereby poorer quality land is preferred over best and most versatile land, but there is no policy requirement to avoid BMV land. Emerging policy in NPS EN3 also recognises that land type should not be a predominating factor in determining the suitability of the site location.

60-year limit

The Applicant stands by its 60-year statement and notes that the provisions of the OOEMP deal with many of the concerns raised by MPAG. Furthermore, as set out in its response to the ExA’s Rule 17 request, the effects discussed cannot happen due to the limited nature of the assessment in the ES, where little to no effects were assumed due to the starting point



being 'ad-hoc' replacement. With the OOEMP requiring the LPAs to approve maintenance schedules involving replacement activities, a 'check' is also in place. As such, MPAG's concerns are unfounded.

Sizing

The Applicant stands by its statement that the range set out in paragraph 3.10.8 of the draft NPS EN-3 includes associated infrastructure, as the drafting states, but excludes mitigation. This can be seen by reading the paragraph in the context of the paragraphs which precede it, which are focused on the operational solar farm and its associated infrastructure. Paragraph 3.10.8 is also focussed on the energy that is produced.

Therefore, the Applicant considers that for the purposes of the comparison with other Solar NSIP projects, the extent of Works Number 1 is the most appropriate comparative figure as this is a consistent figure provided within the documentation submitted in support of the other Solar NSIPs and ensures a like for like and proportionate comparison in the context of draft NPS EN-3.

The Applicant has previously made the point that the land area to installed MW ratio of Mallard Pass is not significantly above that of other solar NSIPs and that care should be taken in comparing land take as each scheme has different characteristics, for instance, in terms of whether they include BESS and how they respond to site-specific circumstances in terms of an Applicant's response to mitigation and enhancements. The Applicant has referenced the range within the draft NPS EN-3 as evidence that the scale is not unreasonable or larger than it needs to be.

The Applicant would also like to highlight that the other solar NSIPs do not include field margins within the extent of Works Number 1, so the Applicant refutes MPAG's suggestion that the presentation of land take for Mallard Pass is 'selective' for the purposes of comparison.

Site Selection

The Applicant uses the Longfield Examining Authority recommendation and SoS Decision Letter as an example of how site selection matters have been considered in recent DCO decisions. BMV has always been part of a wider range of considerations, as the Draft NPS EN-3 sets out. Each application should be considered on its merits, as the Applicant has repeatedly pointed out, particularly regarding considerations about BESS. Notwithstanding this, it is reasonable for Applicant to identify recent decisions which it considers are relevant to its own Application, not least because the principles applied in decision-making should be consistent even though the context of applications considered are bespoke.

The Applicant has repeatedly set out its position regarding site selection and the consideration given to different grades of agricultural land based on available information. The Applicant is not required to undertake field evaluations of other parcels of land outside the site boundary and, as stated previously, would have no right to do so. The case MPAG seek to make in this regard has no basis in policy and represents an entirely disproportionate response to accepted methodology. It is not for the Applicant to justify why every other parcel of land is not part of the Application site, but to demonstrate a clear



process in site selection based on policy and to identify reasonable alternatives and why the Application is acceptable in its own right. This is a test of its individual merits, not imaginary proposals.

As set out in numerous submissions from the Applicant, the policy basis for determining the application is NPS EN1 and the advanced drafts of NPS EN1 and NPS EN3, as important and relevant considerations. These effectively set out a sequential approach, whereby poorer quality land is preferred over best and most versatile land, but there is no policy requirement to avoid BMV land. Emerging policy in NPS EN3 also recognises that land type should not be a predominating factor in determining the suitability of the site location.

The Applicant reiterates that food security has no planning policy basis against which it can be considered. Indeed, the Applicant again reiterates that just because the land is a given agricultural grade (notably BMV), there is no requirement for it to be put into productive agricultural use, and landowners are being actively paid to take land out of intensive arable use to help address the biodiversity crisis.

The Applicant has been clear about the amount of BMV which is required as part of the Proposed Development. While it may be that the Application has a higher proportion of BMV than other schemes, as MPAG rightly point out in 2.3.1, proposals should be judged on their individual merits, and the context of the site is key in understanding how Applications are developed. It is understood that MPAG agrees that it is reasonable to use existing grid capacity as a starting point for site selection. The Applicant has been very clear about how characteristic the Proposed Development is regarding the wider locality in terms of its use of land.

Fencing

The Applicant notes the comments raised by MPAG regarding the terminology used in the Stage 1 consultation material with regard to fencing. The Applicant can confirm that the fencing proposed at Fosse Green is the same as that proposed at Mallard Pass. The Fosse Green Energy EIA Scoping Report describes the fencing proposed in paragraph 3.2.29, which describes the fencing as follows:

“A fence will enclose the operational area of the Proposed Development. The fence is likely to be a ‘deer fence’ (wooden with wire mesh) and approximately 2m in height.”

The Applicant is satisfied that the fencing proposed both at Mallard Pass and Fosse Green is suitable and that MPAG's concerns are unfounded.

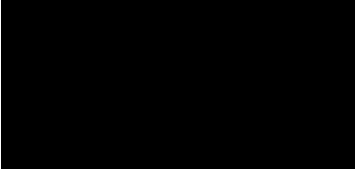
Carbon



Please see the Applicant's separate 'Document 9.51 - Applicants Response to MPAG's Deadline 8 Submissions on Carbon' submitted as part of Deadline 8A on the matters on this topic raised by MPAG. Both an Excel version and a Word version have been submitted, but the Applicant would like to confirm that these are the same documents in different forms.

If the ExA or the case team has any questions, please do not hesitate to contact me.

Yours faithfully,





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