

Nationally Significant Infrastructure Project: EN01027 Mallard Pass Solar Farm

Response to Rule 17 Request for Further Information – November 2023

Lincolnshire County Councils (“LCC”) response to the ExAs Rule 17 Request for Further Information (letter dated 3 November 2023) is set out below.

Question	Response
<p>Water and Flood Risk: The Environment Agency’s response [REP8-027] to Question 4b of the ExA’s previous Rule 17 Letter states that it agrees with the Applicant’s position that <i>“the residual risk from fluvial flooding to the development itself, and to third parties, remains negligible with the introduction of a 60 year time limit.”</i> However, the Environment Agency goes on to state that <i>“Assessment of risk from other sources, such as surface water, would also need to incorporate the appropriate climate change allowances for the 2080 epoch, as there may be an impact on the volume of surface water attenuation required. This would need to be agreed with the Lead Local Flood Authorities.”</i></p>	
<p>a) Please can Lincolnshire County Council, Upper Witham Internal Drainage Board and Rutland County Council comment on the Environment Agency’s advice in respect of surface water attenuation and advise if any such agreement has been reached with the Applicant? If an agreement has not been reached and is unlikely to be concluded before the close of the examination, please outline your position on the implications of this for the consideration of the Proposed Development</p>	<p>This has not been discussed and so no agreement reached however LCC’s position would be similar to that set out in our response to Q4b and 4c of the previous Rule 17 letter/request [REP8-024] – i.e. in the absence of an updated assessment at this stage rather than rely upon revisions being made/approved to the development in the future, 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>Archaeology: The Applicant’s response to our Rule 17 Q1b [REP8-021] explains that the tiny fractions of a percentage of the total site area (0.06%) that would be disturbed by the insertion of piles is by definition ‘low-level’.</p>	
<p>For the avoidance of doubt, the Applicant, Lincolnshire County Council and Rutland Council are asked to describe what they consider ‘low-level’ piling to consist of in the context of paragraph 3.10.101 of the draft National Policy Statement EN-3 (March 2023). In particular, does it mean low-level in the context of a</p>	<p>While the Applicant has referred to piling itself as ‘low-level’, we would consider limited piling depths or limited impact piling techniques to be ‘low-level piling’ as specified in the draft NPS EN-3. As archaeological curators we use Historic England’s revised Piling and Archaeology guidance (https://historicengland.org.uk/whats-new/research/back-issues/revising-historic-england-guidance-on-piling-and-archaeology/) (copy attached) as Historic England states ‘In the new guidance the</p>

<p>low level of potential impact or does it mean low level in terms of the depth of the proposed piles?</p>	<p>developer is required to demonstrate how their piling design will avoid harming the significance of any archaeological remains present on the site.'</p> <p>The use of 'low-level' or standard piling as an effective mitigation measure depends upon understanding the archaeology which will be impacted. To use low-level or standard piling techniques as an effective mitigation we need to know when and where to deploy it, so we need to know the location, extent, depth and significance of areas of archaeological sensitivity, and whether the type of surviving archaeology would benefit from such a mitigation measure. Piling may be appropriate for a large-scale field system where the percentage of impact is relatively low, whereas even 'low-level' piling would not be appropriate mitigation for a Saxon cemetery 20cm below the ground surface.</p> <p>Piling, both installation and eventual removal, is extremely damaging to sensitive archaeological remains (such as burials, buildings, etc) and therefore the applicant needs to understand where the sensitive archaeology is and how their proposed piling will impact it. Until sufficient evaluation is complete, the Applicant cannot provide an accurate assessment of their developmental impacts or what site-specific mitigation measures would be appropriate and fit for purpose.</p>
<p>Development Consent Order</p>	
<p>A Article 6 (Application and modification of statutory provision): Further to section 150 of the Planning Act 2008, can the Upper Witham Internal Drainage Board/Lincolnshire County Council as the Local Lead Flood Authority confirm whether it consents to the disapplication of the relevant statutory provisions under article 6 of the draft DCO [REP8-006]?</p>	<p>Yes LCC is content in this instance.</p>

Appendix A – Copy of “Historic England 2019 Piling and Archaeology: Guidance and Good Practice. Historic England. Swindon: Historic England”.