



Rutland
County Council

Rutland County Council

Catmose

Oakham

Rutland

LE15 6HP

telephone: 01572 722 577

fax: 01572 758 307

email: enquiries@rutland.gov.uk

web: www.rutland.gov.uk

Nationally Significant Infrastructure Project: EN01027 Mallard Pass Solar Farm

Response to Rule 17 Request for Further Information –
November 2023

<p>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 "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." However, the Environment Agency goes on to state that "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."</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>RCC has not reached any agreement with the Applicant in this regard. RCC's position in this regard remain the same as was set out in its response to the October rule 17 request – that if consent is granted for the proposal it should be for a period of 40 years which is compatible with the assessments undertaken and that operation of the site beyond this timeframe should be through a further application to consider all relevant information available at that time.</p>
<p>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 low level of potential impact or does it mean low level in terms of the depth of the proposed piles?</p>	<p>Paragraph 3.10.101 of the draft National Policy Statement EN-3 (March 2023), makes reference to the preceding paragraph and is further contextualised in Note 86. In context therefore paragraphs 100-101 and Note 86 state:</p> <p>3.10.100 Below ground impacts, although generally limited, may include direct impacts on archaeological deposits through ground disturbance associated with trenching, cabling, foundations, fencing, temporary haul routes etc.</p> <p>3.10.101 Equally solar PV developments may have a positive effect, for example archaeological assets may be protected by a solar PV farm as the site is removed from regular ploughing and shoes or low-level piling is stipulated.⁸⁶</p> <p>Note 86: The results of pre-determination archaeological evaluation inform the design of the scheme and related archaeological planning conditions.</p>

	<p>Paragraph 100 outlines the broad scope of development impact, noting ‘although generally limited’ they have the potential to directly impact upon archaeological remains. The impacts noted are <u>not</u> limited to the impact of piling element, for the PV arrays alone, they include enabling works and infrastructure components such as temporary haul roads, cable trenching to connect panels to the development, foundations for the service facilities, boundary fencing, etc. In order to manage the impact of PV arrays <u>all</u> these issues need to be considered, their impact understood and appropriate mitigation measures prepared.</p> <p>In that context paragraph 101 notes that relevant design solutions can be used to minimise or remove the impact of development and as such will be less detrimental to sub-surface archaeological remains than on-going agriculture (specifically ploughing – this statement does not take into account changes in agricultural practice, which encourage conservation tillage systems, such as minimum or no-till).</p> <p>Regardless of the current agricultural impact, the paragraph suggests mitigation solutions (i.e. in response to an understanding of impact upon archaeological remains), can include the use of ‘shoes’ or ‘low-level piling’. It is assumed that ‘low-level piling’ in this context means a reduced impact of piling upon sub-surface archaeological remains. ‘Low-level’ must mean in relation to the wider ‘level’ of piling otherwise occurring outside areas of archaeological interest, consequently differentiating between those areas with and without that interest. In some instances ‘low level’ impact may represent acceptable mitigation in its own right, however, in other areas of archaeological significance (e.g. burial sites such as the probable Bronze Age barrow identified within the scheme footprint), any sub-surface disturbance may be unacceptable and an alternative mitigation solution to remove the development impact may be required.</p> <p>With regard to the question raised, <i>does it mean low-level in the context of a low level of potential impact or does it mean low level in terms of the depth of the proposed piles</i>, given the ‘shoes’ are mentioned to manage or remove direct impact upon archaeological remains (this in itself is a point of discussion), it is assumed ‘low level’ means a lower density of pile damage to underlying archaeological remains and their significance.</p> <p>This latter point is further addressed in note 86, which underlines that mitigation solutions should be informed by the results of pre-determination evaluation, to both identify the presence, character and significance of archaeological remains and to inform scheme design and the imposition of appropriately informed planning conditions.</p>
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