



Mallard Pass

Solar Farm

Mallard Pass Solar Farm

**Final Statement of Common Ground with
Environment Agency**

Deadline 9 - November 2023

EN010127

EN011027/APP/8.2.5

Glossary

The glossary used for the Statement of Common Ground can be found within the Chapter 0 Glossary of the Environment Statement [APP-030].

1.0 Introduction

Status of the Statement of Common Ground

- 1.1 This Statement of Common Ground ('SoCG') is being submitted to the Examining Authority as an agreed draft between both parties. It will be amended as the examination progresses in order to enable a final version to be submitted to the Examining Authority.

Purpose of this document

- 1.2 This Statement of Common Ground (hereafter referred to as the 'SoCG') has been prepared in relation to the Mallard Pass Solar Farm Development Consent Order (the 'Application'). The SoCG is a 'live' document that has been prepared by Mallard Pass Solar Farm Limited (the 'Applicant') and the Environment Agency.
- 1.3 The SoCG has been prepared in accordance with the Guidance for examination of DCO applications which was published in 2015 by the Department for Communities and Local Government¹.
- 1.4 Paragraph 58 of the Department for Communities and Local Government (DCLG) Guidance comments that:
- "A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence".*
- 1.5 The aim of this SoCG is to therefore provide a clear position of the progress and agreement made or not yet made between the Environment Agency and the Applicant on matters relating to the Application.
- 1.6 The document will be updated as more information becomes available and as a result of ongoing discussions between the Applicant and the Environment Agency.
- 1.7 It is intended that the SoCG will provide information for the examination process, facilitating a smooth and efficient examination and managing the amount of material that needs to be submitted.

¹ Planning Act 2008: Guidance for the examination of applications for development consent (March 2015) paragraphs 58 – 65

Terminology

1.8 In the table in the Issues chapter of this SoCG:

“Agreed” indicates where the issue has been resolved.

“Not Agreed” indicates a position where both parties have reached a final position that a matter cannot be agreed between them.

“Under Discussion” indicates where points continue to be the subject of on-going discussions between parties.

2.0 Description of development

2.1 The Proposed Development comprises the construction, operation, maintenance, and decommissioning of a solar photovoltaic (PV) array electricity generating facility with a total capacity exceeding 50 megawatts (MW) and export connection to the National Grid.

2.2 The Application comprises those parts of the Proposed Development which are to be consented to by a DCO, namely:

- The Solar PV Site - the area within the Order limits that is being proposed for PV Arrays, Solar Stations and the Onsite Substation.
- Onsite Substation - comprising electrical infrastructure such as the transformers, switchgear and metering equipment required to facilitate the export of electricity from the Proposed Development to the National Grid. The Onsite Substation will convert the electricity to 400kV for onward transmission to the Ryhall Substation via the Grid Connection Cables.
- Mitigation and Enhancement Areas - the area within the Order limits that is being proposed for mitigation and enhancement.
- Highway Works Site - the areas that are being proposed for improvement works to facilitate access to the Solar PV Site
- Grid Connection Corridor - the proposed corridor for the Grid Connection Cables between the Onsite Substation and the National Grid Ryhall Substation.

3.0 Current Position

Position of the Applicant and Environment Agency

- 3.1 The following schedule addresses the position of the Applicant and Environment Agency, following pre-application and post-application engagement and relevant representations with respect to the key areas of the project.
- 3.2 As mentioned previously, this is a 'live' document and there are some aspects that are still under discussion between the parties. The intention is to provide a final position in subsequent versions of the SoCG, addressing and identifying where changes have been made and ultimately both parties agree on relevant points.

4.0 Record of Engagement

Summary of consultation and engagement

4.1 The parties have engaged with reference to relevant topics during the development of the Application. Table 1 shows a summary of the meetings and correspondence that have taken place between Mallard Pass Solar Farm Ltd (including consultants on its behalf) and the Environment Agency in relation to the Application and the outcomes.

Table 1 – Record of Engagement

Date	Form of Correspondence	Key topics discussed and key outcomes
05/11/2021	Email from Applicant	The Applicant introduces the Proposed Development and the start of the Stage One non-statutory consultation, providing links to consultation materials, details on how to provide feedback and an attached copy of the Stage One leaflet.
06/01/2022	Email from Applicant	Flood risk: Request to EA enquiries unit for meeting with Sustainable Places Team to discuss the FRA methodology.
12/01/2022	Email from Applicant	The Applicant outlined their proposed FRA methodology.
16/02/2022	Email from Applicant	Existing water abstractions: Request for records of nearby abstractions. Email response (10/03/2022) from EA providing a list of licenced abstractions.
24/02/2022	Email from Applicant	The Applicant engaged with EA Sustainable Places. Email to outline the methodology for climate change allowances and how flood levels have been extrapolated.
09/03/2022	Email from EA	Email from EA SPT to confirm the flood risk officer is satisfied with the modelling approach.
18/03/2022	Scoping opinion responses	<p>Flood risk: EA comments on FRA approach, advises avoiding siting panels in Flood Zone 3, agrees with proposed buffer strip alongside West Glen.</p> <p>Ecology & water quality: EA highlights importance of West Glen River and requests Applicant consider enhancements to facilitate improvement of its WFD status.</p>

Date	Form of Correspondence	Key topics discussed and key outcomes
26/05/2022	Letter sent by the Applicant to EA National Customer Contacts Centre.	The Applicant provided postal and electronic notifications of the Stage Two Statutory Consultation, including a cover letter, copy of the Section 48 Notice and Site Location Plan. However, the EA has no record of receiving these. They were sent again in July following a request from the EA local SP team, who had become aware of the consultation via other contacts.
02/03/2023	Written Relevant Representations from EA	Written relevant representation response on the DCO Application: Ecology Management Plan, Flood Risk Assessment and Mitigation, Waste, Outline Soil Management Plan, DCO Requirement and Schedule, Consents and Licenses, and Book of Reference.
16/03/23 to 17/07/23	Email Corresponds between Applicant and EA	Ongoing engagement between the Applicant and EA to discuss matters raised in the relevant representation, written representation, written responses and discussion around the Application.
23/06/23	Teams Call	Discussion of the Gwash-Glen pipeline and interaction with the Proposed Development Substation and permanent works, requirements and timeframes
8/09/23	Site visit and Video Call	The EA undertook a site visit of the Gwash-Glen pipeline and had a Video call with the Applicant to discuss the interaction between the Proposed Development of the Substation
21/09/2023 to 10/10/2023	Email Corresponds between Applicant and EA	Ongoing engagement between the Applicant and EA to discuss outstanding matters around the Gwash-Glen and Protective Protection.
09/10/2023 and 10/10/2023	Email Corresponds between Applicant and EA	Ongoing engagement between the Applicant and EA to discuss the action from the September hearings ISH4 regarding the 60-year time limit and Flood Risk.

Date	Form of Correspondence	Key topics discussed and key outcomes
18/10/2023 to November 2023	Email Corresponds between Applicant and EA	Finalising the Statement of Common Ground.

5.0 Current Position

5.1 The tables below provide a schedule that details the position on relevant matters on a topic-by-topic basis between the Applicant and Environment Agency, including any matter where discussions are ongoing.

Table 2 – Consents and Land Ownership

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
EA01	Disapplications, Requirements, Permitting and Licensing	<p>The Environment Agency is now happy with the drafting of the DCO and the relevant requirements.</p> <p>The Environment Agency welcomes its inclusion as a specific consultee to the discharge of Requirements 11 (Construction environmental management plan), 12 (Operational environmental management plan) and 14 (Soil management plan)</p> <p>The Applicant has requested the disapplication of the need for a flood risk activity permit and any applicable bylaws under the Water Resources Act 1991, set out in article 6, for the purposes of section 150 of the Planning Act 2008. The Protective Provisions have now been</p>	<p>The Applicant will seek to obtain necessary water licences and permits from the Environment Agency at the construction stage.</p> <p>The Environment Agency has been included as a consultee in Requirements 11 (CEMP), 12 (OEMP), 14 (SMP), 15 (ground conditions) and 18 (decommissioning and restoration) of the draft DCO.</p> <p>The Protective Provisions have been finalised and agreed upon, and consent has been given to the disapplication of the need for a flood risk activity permit.</p>	Agreed

		finalised and agreed upon, and as such, the Environment Agency has agreed that its consent under section 150 can be given for these disapplications and has given it at Deadline 8 [REP8-028]. The Protective Provisions covering flood risk activities have been agreed. Additional Protective Provisions relating to the Gwash-Glen water transfer pipeline were finalised and agreed on 9 October 2023 (see EA03 below).		
EA02	Requirement 18 – Decommissioning Environmental Management Plan	<p>The Environment Agency is largely content with the DCO as drafted but asks to be a consultee for Requirement 18 (Decommissioning Environmental Management Plan) (RR-0323 paragraph 8.2).</p> <p>The EA request that the Applicant included the EA as a specific consultee to Requirement 18, to enable us to comment on the decommissioning environmental management plan, as this will include issues that fall within the Environment Agency’s remit such as waste disposal, pollution prevention measures and environmental incidents.</p>	<p>The Applicant will seek to obtain necessary water licences and permits from the Environment Agency at the construction stage.</p> <p>The draft DCO [PDA-003] submitted at Procedural Deadline A was updated to include the Environment Agency as a specific consultee to Requirement 18 of the draft DCO.</p>	Agreed
EA03	EA land interests and assets	The Environment Agency has land interests and assets within the Order limits and is currently considering if the powers sought in the DCO will result in any detriment to the carrying out of its	The Applicant has assurance that there is sufficient space (and flexibility with the location of the substation) within the field to not impinge within 3.5m of the pipeline.	Agreed

		<p>undertakings, particularly in relation to the operation of the Gwash-Glen water transfer scheme. (Further details are available in REP2-070 10.6.)</p> <p>The Environment Agency agrees that the Gwash-Glen Water transfer scheme (pipeline access and protection) is best dealt with through additional Protective Provisions.</p> <p>The Environment Agency undertook a site visit on 8 September 2023, supported by a video call with the Applicant, with the aim of establishing the precise location of the pipeline. The conclusion was that this was not possible without a ground-penetrating radar (GPR) survey or similar. The Environment Agency intends to commission a survey but does not anticipate this will be complete before the close of the examination. The results of the survey, including a precise plan of the pipeline, will be provided to the Applicant. The Applicant provided assurance that there is sufficient space (and flexibility with the location of the substation) within the field to not impinge within 3.5m of the pipeline.</p> <p>The additional Protective Provisions for this matter have been finalised between the Environment Agency and the Applicant.</p>	<p>The parties have agreed that this will be dealt with through appropriate drafting of the protective provisions between the parties.</p> <p>The additional Protective Provisions for this matter have been finalised between the Environment Agency and the Applicant.</p>	
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EA04	Consents and Licenses (Relevant Representations)	The Applicant acknowledges that the Environment Agency may need an Environmental Permit, if effluent from welfare facilities is treated and discharged to groundwater and that an abstraction and/or impounding license may be needed for concrete batching and dust suppression.	The contractor will apply for any relevant Environmental Permit or license that is required.	Agreed
EA05	Consents and Licenses (Relevant Representations)	We are satisfied with the intention for these applications to be made by the contractor before they are needed. Based on the information submitted with the planning application, we have not identified any major permitting concerns but stress the importance of allowing sufficient time for applications to be processed. Water in the area can be scarce during the warmer, drier months of the year and there may not be water readily available when the developer needs it. It may be necessary to consider having water storage in place in advance for use for dust suppression purposes.	Alternative sources of water for dust suppression can be implemented as described in the Outline Water Management Plan. [APP-214].	Agreed

Table 3 – Ecology and Biodiversity

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
EA06	Ecological surveys	The Environment Agency considers that (for issues within its remit) the Applicant's survey work is acceptable.	The ecological surveys undertaken for the Proposed Development are set out in Appendix 7.4 Ecology Baseline Report [APP-062].	Agreed
EA07	Mitigation Measures and Habitat Creation	The Environment Agency considers that (for issues within its remit) the Applicant's proposed mitigation measures are acceptable.	Ecological mitigation measures, including habitat creation measures (including dealing with wet woodland), are set out in Chapter 7 of the ES [APP-037] and outline Landscape and Ecological Management Plan (oLEMP) [REP3-015].	Agreed
EA08	Monitoring programme	The Environment Agency considers that the Applicant's monitoring proposals are acceptable.	The embedded monitoring proposals are set out in the outline Construction and Environmental Management Plan (oCEMP) (Rev 4), outline Decommissioning and Environmental Management Plan (oDEMP) [APP-209] and outline Landscape and Ecological Management Plan (oLEMP) [REP3-015]. As well as the Outline Water Management Plan (oWMP) [APP-214].	Agreed

EA09	Ecology Management Plan (Relevant Representations)	<p>The Outline Landscape and Ecology Management Plan proposes shallow scrapes, otter holts and permissive footpaths along the West Glen River, with wet woodland, riparian planting and a nature area in the river corridor. We recognise the potential value of these and have no concerns to raise regarding impacts on the river. However, details of any works within 8 metres of the river will need to be submitted to us for approval through agreed protective provisions. This applies particularly to the proposed footpath.</p>	<p>The Applicant is in active discussions with the Environment Agency, and the Protective Provisions sections relating to flood risk activities, including works within 8 metres of the West Glen River, have been agreed upon.</p> <p>The Protective Provisions have been finalised and agreed upon, and consent has been given to the disapplication of the need for a flood risk activity permit.</p>	Agreed
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Table 4 - Land Use, Agriculture and Recreation

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
EA10	Summary of mitigation and conclusions regarding the likelihood of significant effects.	The Environment Agency considers (having reviewed this from the perspective of its pollution prevention remit only) that the Applicant's assessment and Outline Soil Management Plan are acceptable and agrees to the mitigation measures proposed.	The Applicant concludes that no significant effects will arise to soils as a result of the Proposed Development. Further detail can be found in Chapter 12: Land Use and Soils of the ES [APP-042]. Mitigation measures are set out in Section 12.3 Embedded Mitigation within Chapter 12: Land Use and Soils of the ES [APP-042].	Agreed
EA11	Outline Soil Management Plan	We have reviewed these documents in relation to matters within our remit only. We note the intention to store top- and sub- soils around the site and use them for reinstatement of trenches and landscaping as the works progresses, meaning that there will be no waste soils to deal with. We advise that any temporary soil heaps should be stored at least 10 metres from any watercourse, to avoid silty runoff being washed into the watercourse during heavy rainfall events. We welcome the inclusion of Requirement 14, Soil management plan, and agree that the Environment Agency should be consulted when application is made to discharge this.	The outline Construction Environmental Management Plan (Rev 4) states that watercourses will be buffered by 10m and drains will be buffered by 6m, which infrastructure will not encroach on. The oCEMP and outline Soil Management Plan [REP3-018] state that temporary soil heaps should be stored at least 10 metres from any watercourse.	Agreed

Table 5 – Water Resources and Flood Risk

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
EA12	Water Resources impacts and Water Framework Directive (WFD)	The Environment Agency considers that the Applicant's assessment is acceptable and agrees to the mitigation measures proposed.	The ES chapter 11 Water Resource and Ground Conditions [APP-041]. and the Water Framework Directive Screening Assessment is within chapter 11 Water Resource and Ground Conditions [APP-041] have been submitted and conclude that, further to the application of mitigation measures secured as part of the embedded mitigation measures, no significant effects arise from the Proposed Development to water resource receptors and that there will be no deterioration to the status of WFD waterbodies.	Agreed
EA13	Flood risk and Flood zones	<p>The Environment Agency considers that the Applicant's assessment and conclusions in respect of fluvial flood risk are appropriate. Horizontal directional drilling methods must be used to direct cabling beneath the West Glen River as proposed in the draft DCO.</p> <p>Locating of panels within areas at risk of flooding has been avoided.</p>	<p>As outlined in the Green Infrastructure (GI) Strategy, areas for potential solar development have been removed along the West Glen River corridor in order to remove the majority of Solar PV Arrays from the flood plain.</p> <p>The FRA concludes that the risk of the Proposed Development flooding from all sources is negligible and non-significant, as outlined in the</p>	Agreed

		<p>During the Examination, the EA was asked to consider a possible 60-year lifetime, as opposed to a 40-year, which had been provisionally assumed.</p> <p>The Applicant suggested that further assessment could be secured through the DCO, to be carried out at a later stage should the use of the solar farm be continued beyond 40 years. We suggested it would be simpler, and satisfactory to us, to carry out an assessment immediately.</p> <p>The climate change allowance for a 60-year development in this location is 28%. The current supporting flood risk assessment was based on modelling which included a climate change allowance of 20%; this is in excess of the allowance of 10% in the current guidance for the 2050s epoch (appropriate for 40-year lifetime). As the Environment Agency does not hold fluvial flood levels for the 1% annual exceedance probability (AEP) plus 28% climate change, we agreed with the Applicant that the 0.5% AEP levels could be used as a proxy. The Applicant submitted an assessment based on this.</p> <p>We agree that the applicant's conclusions are satisfactory and remain satisfied that the 0.5% AEP event is a good proxy for the climate change allowance for the 2080s epoch. We do not require any additional mitigation measures. Although a small number of panels are shown to be in an area at risk of flooding after 60 years, the PV array tables would be above the 1:200</p>	<p>FRA ES Appendix 11.5 Flood Risk Assessment, [APP-086]</p> <p>We have analysed and applied the 1:200 year flood levels to the existing ground profile as a proxy for the 1:100 year event plus a 28 % climate change uplift, submitted as part of deadline 7, Statement on 60 Yeartime Limit [REP7-038].</p>	
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		year event flood level, and no significant flood water displacement would occur. (See REP8-027)		
EA14	Mitigation/enhancement opportunities to improve the morphology of the West Glen River and the connectivity between the river and its floodplain	The Environment Agency considers the Applicant's approach to the West Glen River protection measures and the decision not to intervene in the River's morphology acceptable.	<p>The Applicant's approach to the West Glen River has been developed to align with Anglian Water aspirations and complements the GI Strategy.</p> <p>The GI Strategy has been created in a way that allows habitats to be connected and other forms of community enhancements to be delivered, which will be secured through the oLEMP.</p> <p>As set out in Section 6 GI Strategy of the Design and Access Statement [APP-204] and in the GI Strategy Plans (Appendix 2 of [APP-210]).</p>	Agreed
EA15	Flood Risk Assessment (Relevant Representation)	We note from section 12.4.16 of the FRA that watercourse crossings are required and horizontal directional drilling methods will be used to direct cabling beneath the West Glen River. Details of this will need to be submitted to the Environment Agency for approval prior to works beginning; this is currently proposed to be secured through protected provisions.	The Applicant and Environment Agency have finalised and agreed upon the Protective Provisions, and consent has been given to the disapplication of the need for a flood risk activity permit. Protective provisions relating to flood risk activities, including works beneath the West Glen River, have been agreed.	Agreed

Table 6 - Ground Conditions and Contamination

Ref.	Description of Matter	Stakeholder Comment	Applicant's Response	Status
EA16	Assessment and Mitigation	The Environment Agency considers that the site is predominantly greenfield in nature and only limited potential sources of contamination have been identified, and Requirement 15 of the Draft DCO is appropriate to manage this issue.	<p>The assessment of potential impacts on water resources and ground conditions is included in Chapter 11 of the ES [APP-041]. The Chapter presents the existing status of the water environment and the likely effects of the Proposed Development.</p> <p>Chapter 11 concludes that due to embedded mitigation and measures identified within the outline Water Management Plan (oWMP) [APP-214] and table 3-7 of the oCEMP (Rev 4) the Proposed Development will not result in the deterioration of any water bodies, or prevent them from achieving good status, and there are likely to be no significant adverse effects on water quality, water resources or physical characteristics of the water environment as a result of the Proposed Development. Therefore, the Proposed Development is in compliance with this element of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.</p>	Agreed

			The Applicant will follow the best practice guidance provided by the Environment Agency in the discharge of Requirement 15 of the draft DCO.	
EA17	Use of algicides and herbicides on vegetation around the panels.	The Environment Agency considers the Applicant's approach to the algicides and herbicides measures acceptable.	<p>The use of herbicides will be restricted to ensure the efficient functioning of solar panels and prevent damage to adjacent grassland and vegetation areas. Herbicide application would additionally be limited to spot applications used to control invasive weed species within areas of tussocky grassland with wildflowers and only then when absolutely necessary. Any herbicide application will be carried out by suitably licensed persons following appropriate guidance and legislation.</p> <p>Further detail can be found in oOEMP [REP3-013], oWMP, [APP-214], and oLEMP [REP3-015].</p>	Agreed

Signatures

6.1 This Statement of Common Ground is agreed upon:

On behalf of the Environment Agency:

Name: Nicola Farr

Signature:

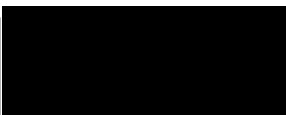


Date: 7 November 2023

On behalf of the Applicant:

Name: Sarah Price

Signature:



Date: 7 November 2023