

Gate Burton Energy Park EN010131

Statement of Common Ground between the Applicant and Natural England Document Reference: EN010131/APP/4.3C January 2023

APFP Regulation 5(2)(q)
Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009



Prepared for:

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1. Introduction

1.1 Introduction

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared to accompany an application made to the Secretary of State for the Department for Business, Energy & Industrial Strategy for a Development Consent Order (DCO) (the Application) under section 37 of the Planning Act 2008 (PA 2008) for the proposed Gate Burton Energy Park (the Scheme). The Application is submitted by Gate Burton Energy Park Ltd (the Applicant) which is a subsidiary of Low Carbon Ltd ('Low Carbon'). Low Carbon is a privately-owned UK investment and asset management company specialising in renewable energy. A detailed description of the Scheme is included in Chapter 2: The Scheme of the Environmental Statement [EN010131/APP/3.1].
- 1.1.2 This SoCG has been prepared by (1) Gate Burton Energy Park Ltd as the Applicant and (2) Natural England (NE) (the parties).
- 1.1.3 NE is an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). NE is the government's advisor to protect England's nature and landscape for people to enjoy and for the services they provide.
- 1.1.4 NE's role in relation to the Development Consent Order (DCO) process derives from the PA 2008 and secondary legislation made under PA 2008. The roles and responsibilities of NE under the PA 2008 fall into the following categories:
 - As one of the prescribed consultees under section 42 of the PA 2008 that applicants are required to consult before submitting a Nationally Significant Infrastructure Projects (NSIP) application.
 - As one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any Environmental Impact Assessment (EIA) and as a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (EIA) Regulations 2009.
 - As a statutory party in the examination of DCO applications.
 - As a statutory nature conservation body under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) in respect of the Habitats Regulations Assessment (HRA).
 - As a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations.



- 1.1.5 Natural England has been consulted throughout development of the Scheme with the roles above in mind.
- 1.1.6 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to Natural England's representations and therefore have not been considered in this document.
- 1.1.7 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties, where agreement has not been reached (and that is the parties' final position) and where discussions are still ongoing. This version has been prepared for submission with the application, with the intention that it will be revised and updated as discussions progress during the Pre-Examination and Examination periods. A draft version for comment was issued to Natural England on 23 January 2023. No response has yet been received from Natural England so this version does not yet incorporate comments from Natural England.

1.2 The Scheme

- 1.2.1 Gate Burton Energy Park is a proposed solar photovoltaic electricity generating facility. The Application is for development consent to construct, operate, maintain and decommission ground mounted solar photovoltaic (PV) panel arrays, on-site battery storage and associated infrastructure. Associated infrastructure includes, but is not limited to, access provision and an underground 400kV electrical connection of approximately 7.5km to the National Grid Substation at Cottam Power Station. A detailed description of the Scheme is included in Chapter 2: The Scheme of the Environmental Statement [EN010131/APP/3.1].
- 1.2.2 Following engagement with NE, the following changes have been made to the Scheme:
 - Locally designated sites (such as Local Wildlife Sites (LWS's) are retained and appropriately buffered.
 - With respect to woodland classified on the Ancient Woodland Inventory, areas of ancient woodland have all been removed from the Order limits and are appropriately buffered.
 - Biodiversity Metric 3.1 has been used for the BNG assessment.

1.3 Format of Document and Terminology

- 1.3.1 Section 2 summarises the issues that are 'agreed', 'not agreed' or are 'under discussion'. 'Not Agreed' indicates a final position where the parties have agreed to disagree, 'Agreed' indicates where the issue has been resolved. The parties have also indicated the likelihood that agreement will be reached on the item
- 1.3.2 A full record of engagement between the parties is provided in Appendix A.



2. Areas of Discussion between the Parties

Ref.	Document	Topic	Natural England Position	Applicant Position	Status
Ecology					
1.1	Stat. Con. Response:	Designated Sites	Preliminary Environmental Information Report (PEIR) Ref: Table 8.2 We agree that there are no Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC) or Special Protection Areas (SPA) within the Development Consent Order (DCO) site. The Environmental Statement (ES) should state if there are international sites within a 10 km radius, and if present, Natural England would recommend that a Habitats Regulation screening assessment (HRA) is attached to the ES to confirm no likelihood of significant impact.	Habitats Regulation Assessment	Agreed
			There are two nationally designated sites within the Preliminary Environmental Information Report (PEIR) study area (2km): • Ashton's Meadow SSSI located 1.5km to		
			the west of the site; and		
		<u></u>	 Lea Marsh SSSI located 1.7km to the northwest. 		



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			We agree with the PEIR report's finding that these SSSIs are not hydrologically or ecologically linked to the energy park site. We also agree that there will be no potential significant impacts, directly or indirectly to these nationally designated sites.		
			We therefore consider that the project will not damage or destroy the interest features for which these sites have been notified. Further assessment would be needed once the cable route is finalised.		
1.2	Stat. Con. Response:	Regionally and Locally Important Sites and Habitats and Species of Principal Importance	We note that the Lincolnshire Environmental Records Centre and Nottinghamshire Biological and Geological Records Centre were contacted to gain information on pre- existing ecological information (i.e. location and citations of Local Wildlife Sites (LWSs), records of protected, notable and invasive non-native species) within 2km of the proposed DCO site. Such sites discovered have been addressed in the PEIR regarding impact and mitigation. We recommend consultation with the relevant site owners/managers, i.e. Wildlife Trusts, who have extensive local knowledge of these sites, although the exact route and construction methods to be used are yet to be defined. Once defined, measures to remove or reduce impacts on the LWS	Chapter 8: Ecology and Nature Conservation of the ES [EN0101031/APP/3.1] assess the potential impacts of the Scheme on regional and local wildlife sites. Locally designated sites (such as Local Wildlife Sites (LWS's) are appropriately buffered, secured through the Framework Construction Environmental Management Plan (CEMP) [EN0101031/APP/7.3] and Outline Design Principles [EN0101031/APP/2.3] and will not be impacted by the Scheme. Habitat buffers, such as those around Ancient Woodland, and new ecological networks (such as hedgerow creation and woodland planting) created within the Order limits will be of benefit to locally designated sites that are adjacent to the Scheme.	Under discussion



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			will be included within the Framework CEMP submitted with the ES as part of the DCO submission.		
			We acknowledge that risk and potential impact from operation to commissioning has been examined. Once construction is defined, and the exact route of the cable known, and presented in the ES, we can comment further.		
1.3	Stat. Con. Response:	Ancient Woodland	Five areas of ancient woodland were identified within 2km of the site. These are: • Burton Wood – within the DCO site; • Stag Wood – approximately 190m to the north of the DCO site; • Thurlby/Castors Wood – approximately 825m to the north of the DCO site; • An unnamed ancient woodland (includes replanted woodland) - approximately 1.9km to the north of the DCO site; and • Lea Wood - approximately 1.9km to the north of the DCO site. Natural England and the Forestry Commission have produced standing advice in relation to ancient woodland and ancient and veteran trees. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional	 - there will be no panels located in ancient woodland nor any other direct effects; - indirect effects will be avoided with the creation of a buffer zone of at least 15 m around ancient woodland, this is secured in the Outline Design Principles [EN010131/APP/2.3] submitted with the Application; - the ancient woodland will benefit from the buffer zones through natural regeneration augmenting the overall 	



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			circumstances. However, we recognise the steps put forward (e.g. undeveloped buffers) to protect these sites. We agree that enforced buffer zones and implementation of standard environmental protection measures will reduce risk of impact to broad-leaved woodland. These measures will be included within the Framework CEMP. For air quality comments see page 8, below.	- the Framework Construction Environmental Management Plan (CEMP) [EN01031/APP/7.3] includes measures to manage dust to avoid impacts on ancient woodland.	
1.4	Stat. Con. Response:	Biodiversity Net Gain	We note that habitat data, required to calculate the Biodiversity Net Gain (BNG) or net loss has been collected in the Phase 1 Habitat survey. This will be updated, as necessary, through subsequent surveys (such as arable flora and hedgerow surveys) to ensure a comprehensive baseline of data for the BNG assessment. The BNG assessment will be submitted with the Environmental Statement. We welcome that the biodiversity enhancements which are proposed may give rise to significant biodiversity net gains on the site. We recommend use of the Biodiversity Metric 3.1, which can be found here, to quantify these gains and demonstrate that the development will benefit biodiversity overall. Although government intends to mandate	A BNG assessment has been undertaken to quantify the potential for the Scheme to deliver BNG. Calculations consider the potential level of proposed habitat loss, retention, enhancement and/or creation which could be delivered by the Scheme and are measured using DEFRA's Biodiversity Metric 3.1. The BNG assessment is provided as part of the Application [EN010131/APP/7.9]. Landscape Details of planting are included within the Outline Landscape and Ecology Management Plan (OLEMP) [EN010131/APP/7.10] which outlines the landscape and ecology impact avoidance measures that would be implemented prior to, and during, construction of the Scheme, as well as the habitat restoration, enhancement, management and monitoring measures	Under discussion



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			measurable biodiversity net gain for all new development at present there is no mandatory requirement to do this. We do therefore advise that taking the net gain approach would make this development exemplary and would be illustrative of the intent to work to benefit the environment through development. Natural England would be pleased to advise on any plan of action regarding BNG.	to be implemented once the Scheme is operational.	
			Please be advised that the DEFRA metric should not be used to assess impacts and calculate compensation for habitat damage or loss in designated sites or irreplaceable habitats. Any impacts on such habitats and sites should be assessed in accordance with planning policy and via the environmental assessment.		
			The CEMP and LEMP should explain how the site will continue to be managed and secured for the lifetime of the development. They should also provide details on the planned retention and enhancement of existing habitat features such as hedgerows, woodland and ponds. We would also particularly need details on proposed habitat connectivity to surrounding habitats which would contribute to the wider Nature Recovery Network and if included in an application there should be		



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			the presumption of retention at the design stage of the layout. Note that habitat enhanced or created for mandatory BNG must be secured, managed and maintained for at least 30 years and must achieve the distinctiveness and condition as intended.		
1.5	Stat. Con. Response: included within Consultation Report	Protected Species	We note that a suite of ecological surveys is in process. Based on the information provided Natural England advises that the proposal has the potential to impact protected species. Natural England's Standing Advice provides guidance on how protected species should be dealt with in the planning system. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted. Please refer to 'The Planning Inspectorate Advice Note 11, Annex C' which details information regarding licensing of protected species for NSIP applications. Natural England has previously advised of the possibility of applying for District Level Licensing (DLL) which may become available later in the year in Lincolnshire.	Conservation, of the ES [EN01031/APP/3.1] assesses the impact of the Scheme on protected species and habitats. It concludes that no significant effects are likely on protected species. This was informed by detailed assessments of: - flora (including hedgerows) (Appendix	Agreed



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			If this option is available, the applicant would need to either: a) provisionally sigh up to DLL before the scheme launch or b) if the scheme has launched, sign up when they need to commence works on the ground and need a licence.	- badger (Appendix 8-L of the ES) [EN01031/APP/3.3] (This document contains confidential information and is only available on request to those who have a legitimate need to view it). The requirement for protected species licencing has not been identified as part of the assessment.	
Socio-Econom	nics and Land-Use				_
1.6	Stat. Con. Response.	Agricultural Land	The PEIR reports that land in terms of Agricultural Land Classification (ALC) is predominantly Grade 3b (moderate quality agricultural land) with some 3a (good quality agricultural land). We note that, only the energy park has been surveyed and assessed at this point and not the grid connection route and that the route will be assessed as the ES progresses. A detailed ALC and soil resource survey will also be required for the final cable route.	As reported in ES Chapter 12: Socioeconomics and Land Use [EN010131/APP/3.1] it is correct that land within the Solar and Energy Storage Park is predominantly ALC Grade 3b (moderate quality) with some Grade 3a (good quality). In terms of the Grid Connection Corridor, a desktop study has been undertaken rather than a detailed survey as it is considered that a desktop survey is sufficient to establish the ALC and soil resource within the area given that the land would return to agricultural use during operation. The desktop study has been undertaken using available published information (BGS mapping, published Soil Maps and MAGIC DEFRA site). The results of the	Under discussion



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				desktop study are included within Chapter 12: Socio-economics and Land Use within the Environmental Statement [EN010131/APP/3.1].	
				The Applicant sent a response to Natural England in August 2022 confirming that the proposed approach would be not to complete full ALC surveys over the Grid Connection Corridor due to the lack of impacts on agricultural use after construction. No response had been received when this SoCG was drafted in January 2023.	
1.7	Stat. Con. Response.	Agricultural Land	Natural England had advised the applicant on 14 July 2022 that further survey work was needed, namely: We are content that the ALC survey and grading has been carried out according to the published ALC Guidelines. We would expect a detailed soil survey for the areas permanently affected by the development, and detailed ALC to identify the extent of BMV. For a site of this size we may advise on a free survey rather than grid based survey with flexibilities around density depending on land quality due to the size of the site. Published data for	there will be minimal areas within the Order Limits that will be permanently	



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			this area does indicate some likely higher quality land in the south, so a detailed survey is recommended. In areas identified as lower quality the survey density could be reduced, but in high quality areas the density needs to be detailed. This allows the planning authority to make informed decisions.	where practicable, whilst balancing surface water, flood risk and visus considerations. It is therefore considered that further detailed surveys are not required within areas permanently affected by the development, or within the Grid Connection Corridor. It is noted that due to the size of the site a free survey may be advised rather that a grid-based survey. As stated within Appendix 12C: Agricultural Land Classification Report [EN01031/APP/3.3] the ALC survey within Solar and Energy Storage Park was carried out at alternate intersects of a 100 m grid giving a density of one observation per two hectares. Where observation points varied (different soil type/higher land quality grade), additional auger points were carried out to confirm the coverage of the higher quality land in order to accurately draw boundaries between BMV and lower quality land. Boundaries of the BMV land have detailed coverage Where lower quality land was found, the density of the augers at one observation per two hectares is deemed appropriate — this land showed no variation on the	e e s e e



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				augers and there is no variation in the geology/soil types mapped in published data.	
				In terms of published data which shows an area of alluvium in the south. These deposits can comprise clay, silt, sand and gravel. At least six observations (observations 271, 272,281, 290, 291, 300) were carried out in this area and showed the deposit comprises clay giving poor quality land. It is not considered that any further detail is needed in this area.	
1.8	Stat. Con. Response.	Agricultural Land	The ALC survey can then inform the layout of the development, i.e. avoid BMV for permanent development. A semi detailed survey may not identify all of the BMV land.	The results of the soil resource and ALC survey have informed the design development i.e. permanent aspects of the development such as the BESS have been sited to minimise BMV whilst balancing surface water, flood risk and visual considerations.	
1.9	Stat. Con. Response.	Agricultural Land	Detailed ALC surveys will provide the information required for a good soil management plan for the whole site, on which we will be happy to provide comment. on.	The results of the soil resource and ALC survey of the Solar and Energy Storage Park have been used to produce reliable maps of land quality and soil resources which will feed into the Outline Soil Management Plan [EN010131-APP-7.12] which will be developed into a details Soil Management Plan post-consent and prior to the start of construction.	Under discussion



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1.10	Stat. Con. Response.	Agricultural Land	Regarding the submitted draft ALC report, the ALC map should be labelled that it is a semi-detailed survey.	Comment noted. It is stated within Appendix 12-C ALC Report [EN010131-APP-3.1] that a semidetailed survey has been undertaken.	Under discussion
1.11	Stat. Con. Response.	Agricultural Land	We request that you revisit the site to carry out a detailed survey of all the BMV areas and some supplementary sampling in the adjacent non BMV to confirm its extent. We also require detailed ALC data for the substation sites etc and the cabling route. The ALC survey will enable a soil management plan to be generated for any areas to be disturbed (temporary and permanent) to ensure correct handling and restoration of soils, and onsite reuse of any surplus soils stripped from areas of permanent development. We will provide further comment when this is available.	Low Carbon agree that within the Grid Connection Corridor soil survey will be undertaken for the purposes of condition survey prior to construction. This is a different purpose to ALC survey. It is considered that ALC survey in the Grid Connection Corridor is not required because all of the land will be reinstated following construction and will be available for agricultural use. Comment noted. Please see response in row 1.7 which outlines the approach to	Under discussion



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				from areas of permanent development (where possible). An Outline Soil Management Plan is included within the application [EN010131/APP/7.12].	
1.12	Stat. Con. Response.	Agricultural Land	As the given life span of the project is 60 years, with a possible extension, the agricultural land will be taken out of production in the long term. However, it will be possible to restore the land to agricultural use with no permanent loss of agricultural land quality likely to occur, provided the development is undertaken to high standards. Some components of the development, such as construction of a sub-station, may permanently affect agricultural land but this would be limited to small areas.	Comment noted. It is agreed that agricultural land will be taken out of production temporarily for 60 years (with a possible extension). Land affected permanently by the development (such as construction of the BESS) will be limited to small areas. Impacts to BMV have been avoided by siting permanent infrastructure outside of areas of good quality agricultural land where practicable, whilst balancing surface water, flood risk and visual considerations.	Under discussion
1.13	Stat. Con. Response.	Agricultural Land	To both retain the long-term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil retain as many of its important functions and services (ecosystem services) as possible. This can be achieved through careful soil management and appropriate, beneficial soil re-use, with consideration of how adverse impacts on soils and their functions can be avoided or minimised.	Comment noted. An Outline Soil Management Plan [EN010131-APP- 7.12]. is provided within the application and includes the following: o Land access (determine safe work period for machinery land access by using information from mapping soil types according to clay content and drainage; produce maps of sections with specific access periods) o Soil handling (advice on appropriate handling according to site specific soil type (clay content), weather conditions) o Prevention of erosion (undertake erosion risk assessment of the site, map	Under discussion

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				soils low to very high risk advise management accordingly) o Remediation (advice for remediation works that may be required if management plan is not adhered to/should agricultural land problems be identified by landowners/operations the season following cable installation)	
1.14	Stat. Con. Response.	Agricultural Land	The ES should include a detailed breakdown of the land take into permanent and temporary losses for the different types of land use within the proposed development (including the cable route), broken down by ALC by area (ha) and percentage.	Comment noted. Chapter 12: Socio- economics and Land Use [EN010131- APP-3.1] will includes a breakdown of permanent and temporary losses for the different types of land use within the proposed development (including the grid connection corridor), broken down by ALC area (ha) and percentage.	Under discussion



Appendix A: Record of Engagement

Date	Correspondence	Topics discussed and outcomes	
13 Oct 2021	Letter/e-mail	Correspondence from Applicant to NE introducing the Scheme as part of non-statutory consultation including details and dates of the proposed non-statutory consultation process in Jan-Feb 2022.	
14 Dec 2021	EIA Scoping request and response	Information was provided by e-mail from Natural England, with advice provided on EIA Scoping Requirements, including ecological aspects of an Environmental Statement, advice on internationally and nationally designated sites, regionally and Locally important sites, protected species (including links to standing advice on survey and mitigation), habitats and species of principal importance and contacts for local records. Further advice was provided on designated landscapes and landscape character, access and recreation, soil and agricultural land quality, air quality, climate change adaptation, cumulative and in-combination effects and ancient woodland.	
11 Jan 2022	Letter/e-mail	Correspondence from Applicant to NE issued on the non-statutory consultation process.	
16 June 2022	Letter/e-mail	Correspondence from Applicant to NE issued on the statutory consultation process, including consultation booklet and feedback form.	
9 August 2022	On-line meeting with Sandra Close and Andy Stubbs	Natural England confirmed this was a helpful workshop to inform on their statutory consultation response.	
9 August 2022	E-mail from Sandra Close (NE Case Officer) to Alan Bull (AECOM)	E-mail confirmation that there is no record of Park Wood East / West SSSI within the vicinity of Gate Burton [Park Wood East / West SSSI was indicated by the Environment Agency (EA) in their statutory consultation].	
16 August 2022	Statutory Consultation	NE response at statutory consultation. Impacts on designated sites, regionally and locally important sites and habitats and species of principal importance, ancient woodland, biodiversity net gain, LEMP, cumulative effects and interactions and protected species.	
August 2022	Email	The Applicant issued a response to Natural England's comments from Statutory Consultation regarding agricultural land use and survey methods. No response was received from Natural England.	
23 January 2023	Email	A draft version of this SoCG was issued to Natural England for comment. A response has not yet been received.	