

Gate Burton Energy Park Environmental Statement

Statement of Common Ground between the Applicant and Upper Witham Internal Drainage Board
Document Reference: EN010131/APP/4.3G
July 2023

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

Gate Burton Energy Park Limited

Quality information

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Revision History

Revision	Revision date	Details	Authorized	Name	Position
1.0	29-03-23	Updated in response to first round of Upper Witham IDB comments	WB	Will Barrett	Technical Director
2.0	21-07-23	Updated in response to Upper Witham IDB comments	WB	Will Barrett	Technical Director

Prepared for:

Gate Burton Energy Park Limited

Prepared by:

AECOM Limited

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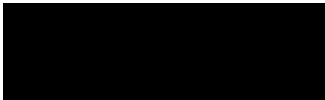
STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Gate Burton Energy Park Limited and (2) Upper Witham Internal Drainage Board.

Lauren McGill, Project Manager on behalf of Gate Burton Energy Park Limited

Date: 02/08/2023

Signed...

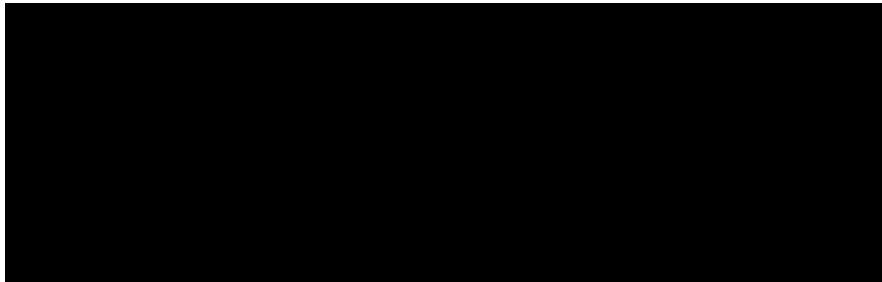


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Guy Hird (Planning Specialist) on behalf of Upper Witham Internal Drainage Board

Date: 2-8-2023

Signed...



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1. Introduction

1.1 Introduction

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of an application made to the Secretary of State for the Department for Business, Energy & Industrial Strategy for a Development Consent Order (the Application) under section 37 of the Planning Act 2008 (PA 2008) for the proposed Gate Burton Energy Park (hereafter referred to as 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. **The Funding Statement [APP-221/6.7]** provides further information on the Applicant and Low Carbon.
- 1.1.2 This SoCG has been prepared by (1) Gate Burton Energy Park Ltd as the Applicant and (2) Upper Witham Internal Drainage Board (the parties).
- 1.1.3 Upper Witham Internal Drainage Board (IDB) is a type of local public authority that manages water levels in an area (in England), known as an internal drainage district, where there is special need for drainage. IDBs are defined as a Risk Management Authority within the Flood and Water Management Act (2010) and work alongside the Environment Agency, Local Authorities and Water Companies. Their activities and responsibilities are principally governed by the Land Drainage Act 1991 as amended by subsequent legislation. The Upper Witham IDB is a prescribed consultee in respect of this DCO application under Regulation 3 (and associated table in Schedule 1) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations (2009)¹.
- 1.1.4 Upper Witham Internal Drainage Board's role covers various topics including:
- Undertaking work to reduce flood risk to people, property and infrastructure;
 - Manage water levels for agricultural and environmental needs;
 - Permissive powers to manage water levels within their drainage district;
 - Maintain rivers, drainage channels, culverts, sluices, weirs, embankments and pumping stations;
 - Set bylaws relating to management of watercourses; and
 - Designate key features and structures within their district which relate to managing flood risk.
- 1.1.5 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 the Upper Witham IDB representations and therefore have not been considered in this document.

¹ [The Infrastructure Planning \(Applications: Prescribed Forms and Procedure\) Regulations 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

1.1.6 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.

1.1.7 A draft version of the SoCG was submitted with the Application in January 2023. This version provides the final document agreed and signed by both parties, submitted at Deadline 2 on 8 August 2023.

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 [APP-011/3.1].

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.

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	Upper Witham Internal Drainage Board Position	Applicant Position	Status	
Water Environment					
1.1	Upper Witham IDB Scoping Opinion	Structures	<p>Upper Witham’s maintained 0400 – Padmoor Drain runs on the Eastern boundary of the site and 0404 – Causeway Drain the Northern Boundary.</p> <p>Under the terms of the Land Drainage Act. 1991 the prior written consent of the Board is required for any proposed temporary or permanent works or structures within any watercourse including infilling or a diversion. Areas which fall within the ‘Extended Area’, are under the provisions of the Flood and Water Management Act 2010, and the Land Drainage Act. 1991. Therefore, the prior written consent of the Lead Local Flood Authority (Lincolnshire County Council) is required for any proposed works or structures in any watercourse outside those designated main rivers and Internal Drainage Districts. At this location this Board acts as Agents for the Lead Local Flood Authority and as such any works, permanent or temporary, in any ditch, dyke or other such watercourse will require consent from the Board.</p> <p><u>Further Upper Witham IDB comment 14/02/23:</u></p>	<p>Buffers of 10m have been applied in the Scheme design around all watercourses and ponds across the Solar and Energy Storage Park, within which there would be no development, except where watercourse crossings for access tracks are required. It is proposed that this 10m buffer is applied from the centre of each watercourse as shown on Ordnance Survey mapping, to avoid uncertainty over how to define the watercourse margin which may vary with flow. However, the IDB watercourses (Padmoor Drain and Causeway Drain) will have a buffer of 9m measured from the top of bank.</p> <p>With regard to structures, since the PEI Report, the ‘worst case’ for assessment of watercourse crossings has been updated. As a worst case in the ES it is now assumed that all watercourses that are crossed for access tracks within the Solar and Energy Storage Park will be culverted.</p>	Agreed

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
		<p>Any works on any existing structures to be agreed with UWIDB within the Board area and extended area (acting as agent for LCC).</p> <p>All new (including temporary) culverts to be single orifice or clear span. Sized to be at least as large as adjacent structures.</p> <p>Temporary works also require agreement for individual crossings. Over pumping is acceptable but any dams to be limited to 300mm above normal water levels.</p>	<p>There are expected to be 17 watercourse crossings, 10 of which are new crossings (of up to 6m length) and seven are existing culverted crossings. It should be noted that the crossing locations will be fixed at detailed design and so the number required may change. Open span crossings may be used in some instances and the number of crossings required will be reduced where possible. Nonetheless, the assessment in the ES presents the worst case of 10 new culverted crossings. Where works are required to the seven existing culverts, this is assumed to be a maximum extension of up to 2m in each case.</p> <p>During construction works, it is assumed that flow would be maintained by over pumping, and works would be undertaken in dry conditions where possible. The culvert design in all cases will aim to minimise changes in alignment and length as much as is feasible and will be oversized to allow a naturalised substrate to form. Length for length watercourse enhancements have been committed to within the DCO for all culverts, and this will be described in a WFD Mitigation and</p>	

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
			<p>Enhancement Strategy that is a requirement of the DCO.</p> <p>All affected watercourses on the Solar and Energy Storage Park are either IDB watercourses (this applies to Causeway Drain) or otherwise are ordinary watercourses for which the LLFA have jurisdiction. It is noted that the Upper Witham IDB acts as the agent for the LLFA.</p> <p>Through Article 6 of the draft DCO, the Applicant is seeking to disapply certain provisions of the Land Drainage Act 1991 including section 23 (prohibition of obstructions, etc. in watercourses) of that Act. In accordance with s.150 Planning Act 2008 and the Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, the Applicant requires Upper Witham IDB's consent to disapply section 23. The Applicant understands that this consent is given on the basis that protective provisions for the benefit of Drainage Authorities are included at Part 3 of Schedule 15 to the draft DCO.</p> <p>The Applicant also understands that Upper Witham IDB do not have any concerns with the Applicant seeking to disapply the other provisions of the</p>	

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
			<p>Land Drainage Act 1991, including section 32 (variation of awards) and section 66 (powers to make byelaws) of that Act.</p> <p>Nonetheless, the requirement for Upper Witham IDB consent is noted for any works to structures in the IDB area or extended area where the IDB acts as agent for the LLFA. The need for agreement over temporary works is also noted. It is agreed that these consents will be sought from Upper Witham IDB at the appropriate time, except to the extent the need for the relevant consent is dealt with in the draft DCO.</p>	
1.2	Upper Witham IDB Scoping Opinion	<p>Watercourse buffer</p> <p>Under the terms of the Board's Byelaws, the prior written consent of the Board is required for any proposed temporary or permanent works or structures in, under, over or within the byelaw distance, currently 6m, soon to be revised to 9m of the top of the bank of Board maintained watercourses</p> <p><u>Further Upper Witham IDB comment 14/02/23:</u> In UWIDB maintained watercourses (Padmoor Drain & Causeway Drain) 10m will not provide 9m from the bank of the bank.</p> <p>Change to 9m from top of bank for UWIDB watercourses.</p>	<p>As outlined above, a watercourse buffer of 10m will be applied across the Scheme with the exception of where crossings are required. This it to be measured from the centre line of each watercourse as marked on Ordnance Survey mapping.</p> <p>For Upper Witham IDB watercourses within the Scheme area (namely Padmoor Drain and Causeway Drain) it is agreed to revise the buffer to be 9m from the top of bank of these two watercourses, as set out in the updated Framework CEMP [APP-224/7.3] submitted at Deadline 1. The</p>	Agreed

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
			<p>buffer for remaining watercourses will remain unaltered.</p> <p>There is a requirement for new structures to enable the access track to cross watercourses. Indicative access track layouts would require ten new structures and extension of seven structures, all of which would be within the byelaw distance.</p> <p>Through Article 6 of the draft DCO, the Applicant is seeking to disapply certain provisions of the Land Drainage Act 1991 including section 23 (prohibition of obstructions, etc. in watercourses) of that Act. In accordance with s.150 Planning Act 2008 and the Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, the Applicant requires Upper Witham IDB's consent to disapply section 23. The Applicant understands that this consent is given on the basis that protective provisions for the benefit of Drainage Authorities are included at Part 3 of Schedule 15 to the draft DCO.</p> <p>The Applicant also understands that Upper Witham IDB do not have any concerns with the Applicant seeking to disapply the other provisions of the</p>	

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
			<p>Land Drainage Act 1991, including section 32 (variation of awards) and section 66 (powers to make byelaws) of that Act.</p> <p>Nonetheless, the requirement for Upper Witham IDB consent is noted for any works to structures in the IDB area or extended area where the IDB acts as agent for the LLFA. The need for agreement over temporary works is also noted. It is agreed that these consents will be sought from Upper Witham IDB at the appropriate time, except to the extent the need for the relevant consent is dealt with in the draft DCO.</p>	
1.3	Upper Witham IDB Scoping Opinion	Watercourse buffer A permanent undeveloped strip of sufficient width should be made available adjacent to the top of the bank of all watercourses on the overall site, to allow future maintenance works to be undertaken. Suitable access arrangements to this strip should also be agreed. Access should be agreed with the Local Planning Authority, LCC and the third party that will be responsible for the maintenance in consultation with the Internal Drainage Board where watercourses are subject to Byelaws. All drainage routes through the Site should be maintained both during the works on Site and after completion of the works. Provisions should be made to ensure that upstream and downstream riparian owners and those areas that are presently served by	Agreed, a buffer of 10m has been provided around all watercourses and ponds within the Scheme design. This will be measured from the centreline of watercourses as shown on Ordnance Survey mapping, except for the IDB watercourses (Padmoor Drain and Causeway Drain) which will have a buffer of 9m measured from the top of bank, as set out in the updated Framework CEMP [APP-224/7.3] submitted at Deadline 1. Works will only be required closer to watercourses where crossings are needed (i.e. access tracks), subject to IDB consent.	Agreed

Ref.	Document Topic	Upper Witham Internal Drainage Board Position	Applicant Position	Status
		<p>any drainage routes passing through or adjacent to the Site are not adversely affected by the development. Drainage routes shall include all methods by which water may be transferred through the Site and shall include such systems as “ridge and furrow” and “overland flows”. The effect of raising Site levels on adjacent property must be carefully considered and measures taken to negate influences must be approved by the Local Planning Authority. Consent Applications forms and guidance materials are available to download from the Board’s website.</p> <p>Further Upper Witham IDB comment 14/02/23: Agreed – For none UWIDB watercourses the 10m buffer is acceptable.</p>	<p>The Outline Surface Water Drainage Strategy provided in Appendix 9-C [APP-139/3.3] looks to mimic the existing surface water flow regime as far as practical and reduce flood risk where appropriate. This will be developed into a detailed drainage strategy as a DCO requirement and will outline maintenance requirements in detail. A Flood Risk Assessment 9-D [APP-142/3.3] which indicates no increase in flood risk as a result of the Scheme.</p>	

Appendix A: Record of Engagement

Date	Correspondence	Topics discussed and outcomes
14 Dec 2021	EIA Scoping request and response	The Upper Witham IDB provided an opinion in response to the EIA Scoping request, which was returned to the applicant via PINS on 20 December 2021. The comments raised have all been addressed in Section 2 – Areas of Discussion between the Parties.
16 June 2022	Letter/ e-mail	Correspondence from Applicant to EA issued on the statutory consultation process, including consultation booklet and feedback form.
28 July 2022	E-mail	E-mail confirming that at this stage the IDB has no further comments.
24 January 2023	E-mail	First draft of SoCG issued to Upper Witham IDB by Applicant.
14 February 2023	E-mail	Upper Witham IDB comments on first draft of SoCG received by the Applicant.
29 March 2023	E-mail	Second draft of SoCG issued to Upper Witham IDB by Applicant.
26 July 2023	E-mail	Updated SoCG issued to Upper Witham IDB by the Applicant.