Gate Burton Energy Park
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Applicant Responses to Deadline 3 Submissions
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1. Introduction

1.1.1 This report responds to the Written Representations and other submissions submitted at Deadline 3 (1 September 2023). A total of 75 submissions from Interested Parties were submitted to the Examination at Deadline 3. To avoid repetition, the Applicant has focused on comments that make points that have not been addressed previously or where the Applicant considers that further clarification may be useful.

1.1.2 Table 2-1 summarises the comments made in Deadline 3 submissions from Interested Parties and the Applicant's response to them.

2. Table 2-1: Applicant Responses to Deadline 3 Submissions

Ref	Summary	Applicant response
2.1 Principles of Solar Development and the Amount of Electricity Generated		
REP3-041	Concerns that the applicant requires no generation cap specified in DCO. In order to bring clarity could the DCO explicitly exclude additional generation means such as wind turbine(s) or have the generating capacity capped at 531MW in order to produce 500MW feed-in?	It is not desirable or necessary to impose an upper limit on generating capacity, provided the design parameters for the Scheme are adequately secured, which they are via the draft Development Consent Order (DCO), Outline Design Principles and relevant management plans (e.g. Framework Construction Environmental Management plan). The Applicant refers to its oral submissions on this point at ISH1 on the draft DCO as summarised in its Written Summary of the Applicant's Oral Submissions at ISH1 on the draft DCO **[REP-036]**.
REP3-041	The basic assumption of 8760 hours for all calculations covers an entire year. A more transparent calculation would be average solar hours over a month and year. There is information available to assess the likely average solar production of any specific site. See Photovoltaic Geographical Information System (PVGIS) https://jointresearch-centre.ec.europa.eu (search European, solar, data, free) - SARAH Solar Radiation.	The Applicant has provided further detail on the process for calculating energy generation in the Deadline 3 Submission - 8.17 Technical Note on Energy Yield Forecast Methodology. This includes information as requested by the ExA including the anticipated monthly and annual generation per kWp of installed capacity based on the indicative design. The calculation process following by the Applicant is more sophisticated and more commonly used in large scale developments than PVGIS.

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REP3-041	The applicant sought to explain that excess wind power, in the months when there is less solar production, can be used to fill the batteries to capacity. There will be times when gas generation will have produced power. Calculations for carbon reduction appear to use the equivalence of using gas to provide the same amount of electricity per year. Clearly this is incorrect since there is already significant 'renewable' generation. This calculation is skewed	The assessment of carbon reductions achieved by the Scheme in Chapter 6: Climate Change of the Environmental Statement **[APP-116]** does not take account of any additional carbon reductions that would result from the ability to store electricity on site. The current approach therefore underestimates, rather than overestimates carbon reductions resulting from the Scheme. In terms of using the grid power to charge batteries (e.g. overnight) – this would be driven by the prevailing market conditions at that time. It is likely that the maximum benefit will be gained from charging when an excess of renewable generation (that would otherwise be curtailed) results in low wholesale prices meaning there is an excess of renewable power on the system, when it is a windy night with low demand. It is more likely that renewable power is stored rather than CCGT because a CCGT plant can be turned on and off relatively easily to meet demand; which results in reduced consumption of fossil fuels and resulting emissions. Therefore, when there is low demand but high wind, it is logical to switch off the CCGT plant and use the electricity generated from wind. When demand is still lower than generation, it is considered better to store excess electricity from wind turbines rather than curtail their output by preventing the turbines operating. However, any estimates of additional carbon savings from overnight charging of the battery are based on average projected grid carbon intensities as a worst-case scenario, i.e. assuming the battery is charged with a carbon intensity of the grid average. Since it is more likely that the battery will be charged from renewable sources, applying a grid average is likely to overstate the carbon impact of the power used for charging and therefore be a cautious worst-case approach. Regarding the counterfactual scenario, this is based on unabated CCGT generation, as this is currently the marginal generator supplying the grid, and the form of generation that renewable energy projects such as the

Ref	Summary	Applicant response
		Scheme are seeking to displace. It is noted that there is existing renewable capacity supplying the grid, but this is not a realistic counterfactual as Gate Burton does not seek to displace it.
REP3-041	Would there be better efficiency by just using battery storage at Cottam? Use of battery storage at this site would negate the need for large tracts land being used for cable corridors and valuable food producing farmland for solar PV sites.	As stated in the **Applicant Responses to Relevant Representations [REP-032/8.1]**, because the BESS stores electricity at a low voltage, it makes sense for it to be connected before electricity is transformed to 400kV for transmission along the new cable corridor. If the BESS were located at Cottam Substation or another point along the cable route, an additional Substation would be required to transform the electricity from 400kV (as it is being transmitted along the cable from the On-Site Substation to Cottam Substation) to 33kV for storage, then back to 400kV for transmission. This would result in additional development (with associated additional impacts/ land requirements) as well as increasing costs. The Applicant's site selection process considered the availability of brownfield land for potentially siting the Scheme, which is set out in **Chapter 3: Alternatives and Design Evolution [APP-012/3.1].** However, this concluded that no suitable brownfield land of a sufficient size or location has been identified which could be available to be included as part of the Scheme. With regard to locating the BESS at the NETS Cottam substation, in addition to the requirement for an additional Substation, this location would not be appropriate because the site is located partially in Flood Zone 2 and surrounded by Flood Zone 3. The land here is also owned by EDF, who have plans for redevelopment of the site. Development of a BESS and new Substation would likely conflict with these plans.
REP3-057 REP3-069	Queries that the applicant has at some part of the proceedings commented that the government have published a document that states the support for solar farms, however this is not quite the case as the documentation refers to 50MW	The Statement of Need **[APP-004/2.1]** and Planning Design and Access Statement **[REP2/004 and 007/2.2]** both set out the extensive list of government policy, strategy and guidance documents that support solar farms, including those over 50MW. Examples are provided below. Draft National Policy Statement (NPS) EN-1 (March 2023) paragraph 3.3.20 states that the Government's: '*analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be*

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		composed predominantly of wind and solar.' This highlights the intention of the Government for solar to form a key part of the future electricity system. This document is written specifically to guide development of energy developments over 50MW. Draft NPS for Renewable Energy EN-3 (March 2023) also now includes policy support for solar, which was previously omitted from the existing NPS EN-3. This confirms the recognition of the Government as part of the UK's Energy mix and puts policy support in favour of solar development and provides important clarifications on how issues arising in the context of the development and operation of utility scale solar farms should be factored into planning decision making. The emerging draft NPSs are there a relevant and important matter. This document is also written specifically to guide renewable energy developments over 50MW. The British Energy Security Strategy also supports a near 5-fold increase in deployment of solar technology in the UK from 14 GW at present to 70 GW by 2035. There is no suggestion that this will be achieved solely through development of Schemes under 50MW. Powering Up Britain (March 2023) states the Government's target to deliver a five-fold increase in solar by 2035, up to 70GW. It confirms that the *'Government seeks large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low/medium grade agricultural land.'* The majority of land in the Solar and Energy Storage Park is low/medium grade agricultural land, in line with the Government's strategy. Again, this document does not suggest that this 'large scale solar' should comprise developments under 50MW.
REP3-063	*During ISH 3 part 3, again the Applicant was forced to admit that the size/ capacity of the battery storage units within the project is not driven by the capacity needed to receive and store the power produced by the solar panels covering the*	See **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** which explains that the proposed Scheme is being delivered in accordance with planning policy,

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	agricultural land within GBEP, but rather the maximum capacity that the National Grid will allow the Applicant to import and store on its behalf during times when the power produced on the project is lower than the battery has the capacity to store and the National Grid needs more storage to 'balance' the grid. The Applicant admitted that there is a distinct possibility that the power imported and stored in the battery will not be low carbon/ green energy. When asked about the relative income projected to be received by the Applicant from solar power production, storage and export, compared to import, storage and 'balancing' at the behest of the National Grid, the Applicant refused to answer, saying that it was unnecessary for the Secretary of State to concern himself with the financial modelling of the project! So, they basically told the Examiner to just concern himself with purely planning matters and not question the profit-based incentive of the Applicant in making this project proposal.	to provide a public benefit in grid balancing services, and it is sufficient to show the Secretary of State that the proposed Scheme is financially viable, which is evident through the cost the Applicant is going to in progressing the application and is justified by the **Funding Statement [APP-221** and as amended at Deadline 4**].**
REP3-092	*Despite the developers stating that BESS was subordinate to the principle solar development. I further adds, The BESS and it's import connection is not necessary as a source of additional revenue for the applicant. Yet when asked for further by the inspector for clarification on profits made from importation of low price power and exportation rates, counsel for the applicant made robust rebuttal, in doing so confirming to many in the room that the planned existence of BESS import connection was in all probability a lucrative financial arbitrage scheme to make high profits from the importation of power generated from gas turbine generation in off peak periods, then selling it back to the grid at peak prices, thus increasing the burden on consumer prices via LCOE*	See **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** which explains that the proposed Scheme is being delivered in accordance with planning policy, to provide a public benefit in grid balancing services, and it is sufficient to show the Secretary of State that the proposed Scheme is financially viable, which is evident through the cost the Applicant is going to in progressing the application and is justified by the **Funding Statement [APP-221** and as amended at Deadline 4**].**
Design Parameters of the Gate Burton Scheme		

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REP3-071	*On the DCO application in location drawing GH1446625001-OLLP-2 it now shows an area previously shown as exclusion zone in the indicative concept master plan at the top of Knaith Hill marked as Knaith Park now to be included in the Order limits area. Which is it Exclusion zone or an area to used for panels or other uses?*	The Applicant has included Knaith Park within the Order limits but is not seeking any rights to place solar PV panels within that area. This land is included within the Order limits for other development purposes as described in Work No. 5 including the delivery of landscaping and biodiversity enhancements and delivery of BNG in the form of species rich grassland. Placing solar PV panels in these plots would result in visual effects for Knaith Park and directly adjoining properties and Work No. 1 is not sought here. This is clear from the Works Plans [**AS-004&005** and revised document 5.2 submitted at Deadline 4], which identify Work No. 5 as the only work which can be constructed within that area, and the identification of Knaith Park as a Solar Panel Exclusion Zone on Sheet 2 of 17 of the Environmental Parameters Plan secured as part of the Outline Design Principles **[REP2-008** and as amended**].**
2.2 Decommissioning		
WLDC REP3-043	*WLDC welcome the Applicant's inclusion of a 60 year temporal limit in the updated dDCO as previously requested.* *WLDC consider that the requirement should contain a notification requirement if the decommissioning is to occur before the 60 years.* *WLDC consider that the deletion of "date of decommissioning" and addition of "date of final commissioning" in Part 1 of the dDCO is not sufficiently clear, where the new definition relates to each part of the authorised development whereas requirement 19 references the full authorised development.* *WLDC also consider that the ES does not (and indeed cannot) provide a full assessment of the decommissioning due to the baseline not being known, or the methods of removal at the time of decommissioning. WLDC therefore*	The Applicant added in a notification requirement at Requirement 19(2) of the updated draft development consent order submitted at Deadline 3. This wording has been updated at Deadline 4 following discussions with Lincolnshire County Council, and now provides that: "*Unless otherwise agreed with the relevant planning authority, no later than 12 months prior to the date the undertaker intends to decommission any part of the authorised development, the undertaker must notify the relevant planning authority of the intended date of decommissioning*". The Applicant also updated the definition of "date of final commissioning" in the draft DCO submitted at Deadline 3, to remove reference to 'each part of' the authorised development to ensure clarity and consistency with Requirement 19(1).

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	requests that the Appellant explain how such works are dealt with by the requirement and why they would not fall outside of the scope of the ES.	As explained in **Chapter 5: EIA Methodology [APP-014/3.1]** decommissioning phase effects are set out and assessed in each of the technical chapters. In some cases, given the inherent uncertainty on the scope of decommissioning activities and the relevant baseline conditions prevalent at the time, the technical chapter explains that the effects during decommissioning are expected to be less than or the same as those predicted during construction which is considered to be a conservative and suitably precautionary assumption. With regard to the baseline at the time of decommissioning, the Framework Decommissioning Environmental Management Plan (DEMP) [**APP-226**] at Section 3 states that all mitigation will be reviewed and updated prior to decommissioning against the baseline environment at that time. The baseline environment will be identified via a number of commitments set out within the DEMP, the OEMP and the OLEMP. The baseline will be informed by the short-term monitoring, long-term monitoring and condition assessment reporting as secured within the OEMP [**REP2-036**] and the Outline Landscape and Ecology Management Plan (OLEMP) [**REP2-038**] both of which describe a robust environmental monitoring programme the results of which will input into the baseline description and plan prior to decommissioning. Long term management of the solar and energy storage park is described within Section 3 of the OLEMP [**REP2-038**]. Management prescriptions include condition monitoring of habitats, watercourses, soil health, hedgerows, natural regeneration buffers, meadow margins and invasive species control, thus building up a substantial body of information in relation to the Solar and Energy Storage Park environment. The Framework Decommissioning Environmental Management Plan (FDEMP) [**APP-226**] has been updated and submitted at Deadline 4 to include a commitment to production of a Baseline Plan as part of the detailed DEMP.

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2.3 Traffic, Transport and Access		
NCC REP3-038	*The traffic associated with laying the cable(s) is more difficult if there is any overlap between the various projects. If there is no overlap, there may be disruption potentially several times. The County Council accepts that as separate commercial projects it may be difficult to align construction periods. A condition to try and manage that would be appropriate for each project might be worded as follows: – No development shall take place until a Full Construction Traffic Management Plan (FCTMP) has been submitted to and has been approved in writing by the Local Planning Authority for the routing and coordination of vehicles associated with the laying of the grid connection and who shall approve any subsequent changes to the FCTMP during the course of the works. The Plan and any subsequent changes shall include:* • *A phasing programme for the laying of the grid connection.* • *The method of coordination and communication between solar projects.* • *The identification and the means of implementing opportunities to combine grid connection works with other solar projects.* • *A phasing programme for the provision of the construction accesses and temporary parking, load and unloading, and*	Comment noted. The suggested wording has been included in the Framework Construction Traffic Management Plan submitted at Deadline 4.

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	storage areas to allow the laying of the cable within the grid connection corridor. • *A phasing programme for the removal or downgrading of the construction accesses and the removal of temporary parking, load and unloading, and storage areas.* • *Provision for the sharing of temporary construction accesses and parking, load and unloading, and storage areas with other solar projects.* • *Any handover of temporary constructions accesses, temporary parking, load and unloading, and storage areas to other solar projects.* • *A means to ensure that all drivers of vehicles under the control of the Applicant are made aware of the coordination and communication arrangements, approved routes, construction access arrangements, temporary parking, load and unloading, and storage areas.* • *The disciplinary steps that will be exercised in the event of a default.* • *Details of appropriate signage to advising drivers of the vehicle routes and access arrangement.* • *Wheel cleaning and road sweeping facilities and their use/retention.* *The first action on commencement of works within the cable route corridor, and prior to any further action (including site clearance, site stripping or site establishment) shall be the formation of; any temporary access arrangements, signage, parking, loading, unloading, and storage areas in accordance with the approved FCTMP and thereafter any temporary accesses, signage, parking, load and unloading, and storage areas shall be set out, utilised, downgraded, and removed in accordance with the approved FCTMP. The designated parking, loading, and unloading, and storage areas shall be used for no other purpose during the respective part of the programme. All temporary access arrangements to the grid*	

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	connection shall otherwise be removed or be downgraded within 6 months of them no longer being required to provide construction access to the cable route corridor.	
REP3-043	*Construction traffic management plan - WLDC are content that LCC are the relevant determining authority however request that it is named as a consultee.*	The Applicant has updated the draft DCO at Deadline 4 to include WLDC as a consultee for the purposes of Requirement 14 (Construction Traffic Management Plan).
2.4 Landscape and Visual Impact		
LCC REP3-037	*In relation to the main buildings and consideration of a 'design code' – LCC would welcome more information up front but do not consider that this needs to form part of a formal 'design code' document. This could be achieved within the existing outline design principles document. LCC notes the Applicant's acceptance at ISH3 that there is scope to develop further details around design and consider this should be done.*	The Applicant agrees that a design code document is not necessary for this scheme. As stated within **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** the Applicant will discuss this with the LPAs.
LCC REP3-037	*LCC considers that the scheme is significantly harmful in landscape terms, changing large areas to a technology/industrial landscape rather than the existing arable use.*	**ES Volume 1, Chapter 10: Landscape and Visual Amenity [APP-019/3.1]** assesses and describes the effects of the Scheme on the landscape character and the visual amenity. Section 10.11 Residual Effects and Conclusions, states the remaining effects following the establishment of proposed landscape mitigation measures. The assessment concludes that there will be direct and significant alterations to the local landscape character, where the Gate Burton Energy Park will be located and indirectly on sections of adjoining local landscape character areas. However, the assessment concludes that the wider landscape character at national, regional and county / district level will not be significant due to the scale of these landscape character areas. See **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** for further details.

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LCC REP3-037	*In relation to sequential effects, LCC's main concern relates to sequential views defined in GLVIA table 7.1 as views obtained when moving through the landscape and views which are either frequent or occasional depending upon the speed of the receptor. Naturally, walkers and horse riders have more time to perceive effects but motorists may travel through a greater number of viewpoints where effects can be experienced. At the ISH, all parties discussed a travel time of up to 30 minutes through what will become a landscape where intermittent views of solar infrastructure (panels and more prominent fencing and CCTV poles) may be experienced.*	See **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]**. In summary, the Applicant considers that there is no evidence that sequential views will result in significant effects when driving or walking.
LCC REP3-037	*in relation to the scale of effects, whilst mitigation assists to screen in some places this will take up to 15 years to mature and does not assist with mitigating construction effects.*	Areas of advanced planting are proposed in a number of locations to ensure screen planting is effective at an early stage in the project to mitigate significant glint and glare effects. The majority of screening along the Order limits will take advantage of existing vegetation, which will be maintained in a way that it can grow taller every year until reaching the desired height. Gaps will be reinforced with additional planting where required. New screen planting, which is not considered advanced planting, will require a maximum 15 year period to achieve the functional maturity of screening vegetation. The visual effects of this are considered in the assessment. Construction effects are considered temporary. Further information is available within ES Volume 1, **Chapter 10: Landscape and Visual Amenity [APP-019/3.1]**.
LCC REP3-037	*Further, mitigation planting may cause its own issues particularly in relation to the eastern part of the site which is much more open and where woodland planting is not necessarily characteristic of the landscape. Mr Brown (and LCC) has concerns that mitigation planting shortens views and changes experience of the user enjoying open views. For example, VP4 is currently an open panoramic view and hedgerow planting changes the character of this view from the baseline.*	See **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027].** Viewpoint 4 illustrates an area where advanced planting is required to avoid visual effects arising from glint and glare (refer to **Figure 10.22 Advanced Planting [APP-094/3.2]**). This is also stated on the relevant photomontage. There are a number of existing panoramic views available to the north and south when travelling along Willingham Road. Sections of existing hedgerow screening to either side is also in place providing a range of visual experiences along this road. In summary, the Applicant has looked at the existing pattern of landscape and vegetation and has used that to

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		support the screening proposals. Therefore, it is the Applicant's position that it has achieved an appropriate balance between screening and retaining open views.
LCC REP3-037	*LCC's view is that the effects will be felt at a regional and national character level scale. Moreover, LCC considers that the assessment should focus upon effects on key characteristics of the relevant character areas rather than merely looking at percentage ground coverage in 2D. At a regional or national level, the move away from arable land use to solar will be significant and notable even at this scale. This is true both in terms of the solus effect of the scheme and in combination with other pipeline projects.*	**ES Volume 1, Chapter 10: Landscape and Visual Amenity [APP-019/3.1]** assesses and describes the effects of the Scheme on the landscape character and the visual amenity. Section 10.11 Residual Effects and Conclusions, states the remaining effects following the establishment of proposed landscape mitigation measures. The assessment concludes that there will be direct and significant alterations to the local landscape character, where the Gate Burton Energy Park will be located and indirectly on sections of adjoining local landscape character areas. However, the assessment concludes that the wider landscape character at national, regional and county / district level will not be significant due to the scale of these landscape character areas. **See Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** for further details.
LCC REP3-037	*LCC considers that there are unacceptable landscape effects flowing from this project both alone and in combination with others which should be afforded considerable adverse weight in the overall balance.*	**See section 3.3 within Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** which explains that the Applicant cannot find evidence to support that visually the overall landscape would become a solar farm landscape, as a result of the screening, hedgerows and public walkways. Therefore, whilst the cumulative impact of the scheme in combination with the other schemes is significant, it is moderate. The Applicant could not find significant visual effects because there is limited intervisibility. See Section 3.7 of the above document which explains why the Applicant considers that landscape and visual effects should be given moderate weight in the overall planning balance.

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WLDC REP3-044	*WLDC maintain significant concerns regarding the cumulative effects of the Gate Burton Energy Park with the nearby projects of West Burton and Cottam… WLDC maintain that the current ES does not assess the impacts that each combination of cumulative projects would have. This assessment is required to enable the decision maker to fully consider all likely cumulative impacts and ensure that mitigation, delivered through DCO 'requirements' are appropriate and purposeful.* *The environmental information provides an assessment against two scenarios: i) the implementation of Gate Burton, Cottam and West Burton concurrently and ii) the implementation of all three projects in sequence (up to a maximum of 5 years). The assessment lacks any information regarding the various scenarios between each project (e.g. combinations of two of the projects being implemented). This results in a gap in the assessment which prevents the decision maker from considering the likely impacts of each combination.* *Furthermore, the Gate Burton ES only considers the impacts of the Tillbridge project in the landscape and visual impact assessment (Chapter 10). Tillbridge is now a project that has progressed through its statutory consultation with an anticipated submission during quarter 4 of 2023 (based upon the National Infrastructure Planning website and the developers project website), which is within the examination phase of Gate Burton Energy Park. The absence of Tillbridge being assessed as part of scenario 1 or 2 is inadequate and results in insufficient environmental information being before this examination and the decision maker. The absence of such environmental information results in the requirements of Schedule 4 of the EIA regs and NPS EN-1 not being satisfied.* *It is also of note that scenario 2 of the cumulative assessment considers a time period of up to a maximum of 5 years. WLDC challenge the legitimacy of this imposed time period,*	**As stated within Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** following publication of the Environmental Statements for West Burton and Cottam, and the Preliminary Environmental Information Report (PEIR) for Tillbridge, the Applicant has undertaken a review of the now published environmental information for the West Burton, Cottam and Tillbridge projects. In terms of likely significant effects, this review confirms no changes to the conclusions of the Gate Burton Energy Park cumulative assessment. Further information was provided within the Interrelationship Report submitted at Deadline 3 and is expanded upon in Appendix E of the Joint Interrelationships Report **[document 8.26]** submitted at Deadline 4. In terms of the varying timeframes in relation to the relevant construction periods as stated within Applicant Responses to Local Impact Reports **[REP2-044]** the Applicant can confirm that this is a drafting error in **ES Chapter 11: Noise and Vibration [APP-020/3.1]**. For the purposes of environmental assessment, in the cumulative scenario, it is assumed that the Grid Connection cable works will be built sequentially over a maximum five-year period. It is not correct to state that the Gate Burton ES only considers the Tillbridge project in the landscape and visual assessment. There is no absence of environmental information because the Tillbridge Project is considered within the cumulative assessments for all disciplines. Tillbridge is identified as Scheme Number 17 within the short list of cumulative schemes assessed as part of the as submitted Environmental Statement (Chapter 16 Cumulative Effects and Interactions [**APP-025**] and Appendix 16-A Gate Burton Energy Park Short List of Cumulative Schemes [**APP-181**]). The Tillbridge Scheme location and Order limits are shown on the as submitted ES Figure 16-1 [**APP-108]** alongside the other sixteen short-listed schemes for cumulative assessment. All environmental disciplines considered the information associated with the seventeen schemes. The robust approach, following PINS Guidance

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	particularly as, if all four projects are granted development consent, they are all likely to benefit from the 5 year implementation period (secure via a standard requirements). A time period such as this means that the scope of the development consent orders would allow the projects to be implemented for a period in excess of 5 years, and this scenario is not provided for in the ES. *WLDC also notes that the Gate Burton Energy Park ES adopts varying timeframes in relation to the relevant construction periods. With regard to the cable corridor, the Transport and Access chapter of the ES (Chapter 13) states that the sequential installation of all three projects' (excludes Tillbridge) ducts and cables will be carried out over a maximum 5 year period. However, the Noise and Vibration chapter (chapter 11) states that the Grid Connection cable works on the three projects will be built sequentially over a 6 year period (para. 11.15.5).* *Due to there being inconsistencies in the applicants' ES, there is therefore doubt over the adequacy of the cumulative assessment through the application of a fixed 5 year ceiling. The failure to include the Tillbridge project in the cumulative assessment (in relation to a variety of topics) furthermore results in the current environmental information not being 'up to date' as required by the EIA regs.* *WLDC summary position is that the Gate Burton Energy Park ES has not been updated to assess the cumulative impacts of the Tillbridge Solar Project as part of Scenarios 1 and 2, and does not assess the different potential combinations to provide environmental information on what those likely significant impacts would be.*	Note 17 evidences the basis of the conclusions set out within Chapter 16 Cumulative Effects and Interactions [**APP-025].** Subsequent to submission of the Environmental Statement and as the Tillbridge project has progressed, the Gate Burton Energy Park project has worked closely with the Tillbridge project to align methodologies and work together on opportunities to lower overall cumulative effects in areas such as traffic planning, heritage mitigation and joint construction phase planning and mitigation. Further information is provided within the Inter-Relationships Report submitted at Deadline 4. At Tillbridge's statutory consultation in May 2023, the PEIR was published. The Applicant therefore undertook a review of the ES assessment for the Gate Burton Scheme in light of this PEIR and submitted the conclusions at Deadline 3 and at Deadline 4 as described above. Refer to Appendix E of the Joint Report on Relationships [**document 8.26**] submitted at Deadline 4. Given that this information does not change the ES conclusions, there is no need to update the ES.. The Examining Authority (and ultimately the Secretary of State) has before them all relevant information necessary to reach a conclusion on the cumulative effects with the Tillbridge Scheme to inform decision making. The extent of joint working between separate developers to assess cumulative effects and reduce them is an example of best practice in the industry. Further information on how developers have worked together is presented in the Joint Report on Interrelationships **[document 8.26].** Further, as has been demonstrated in case law, an ES is not considered to be 'inadequate' or 'insufficient' simply because there has been a change in circumstances since submission. The majority of case law on this topic was developed under the Town and Country Planning Act 1990 but is nevertheless considered relevant here.

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		The decision of Sullivan J in R (Blewett) v Derbyshire County Council [2004] Env. L.R. 29 ("Blewett") is widely regarded as the authoritative statement on the acceptability of an environmental statement alleged to be "incomplete". The effect of the High Court's decision (subsequently upheld in the Court of Appeal) was to confirm that the requirements of EIA relate to a process as a whole, rather than just one document, with the information submitted in an environmental statement not itself being the whole EIA but rather a step in an evaluative procedure under the EIA Regulations (paras 38 to 39 of the judgment). This understanding is supported by Planning Inspectorate Advice Note Seven (Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements), which notes that the *"Planning Inspectorate acknowledges that the EIA process is iterative…".* The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 require the Secretary of State to examine the "environmental information" when considering whether to grant a DCO (Regulation 21). This includes the environmental statement "and any other information, any representations made by any body required by these Regulations to be invited to make representations and any representations duly made" (Regulation 3). In any case, the conclusions of the ES have been reviewed in light of the Tillbridge PEIR and have been found to remain valid and unchanged. There is no omission of environmental information.
WLDC REP3-044	*Interrelationships with other Nationally Significant Infrastructure Projects (Doc Ref: EN010131/8.2 WLDC have*	The Interrelationships Report has been prepared directly in response to a request for this document by the Examining Authority, as confirmed in its Rule 6 and Rule 8 letters. Annex G of the Rule 6 letter specifies the

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	reviewed and noted the content of the above document submitted at Deadline 1. *WLDC's position on the document is that it does not constitute an environmental impact assessment and therefore does not form part of the ES. It also does not reference or introduce relevant documents that form part of the applications of other projects so that they are adequately considered in the Gate Burton examination. As a consequence, it does not address the shortfall in cumulative information provided in the ES.* *In terms of the status of the document, WLDC are unclear of its purpose in the context of the examination and the draft DCO. The document provides 'information' on the cumulative projects, however it is unclear how this information is to be used to deliver appropriate mitigation across the projects. A failure to provide mechanisms to control cumulative impacts would result in all projects being unacceptable in the view of WLDC.* *In terms of the status of the document, WLDC would expect it to be further enhanced and more details provided to demonstrate how the applicants intend to implement their projects in the event two or more receive development consent. The document should cross-refer to relevant management plans and should form a Certified Document in its own right to ensure the commitments are delivered through the DCO.* *WLDC also noted with concern comments from the applicant to the effect that the commitments made to collaborative working would be 'best endeavours'. For the reasons stated above, WLDC consider 'best endeavours' to be a commitment that falls significantly short of what is required to ensure cumulative impacts are mitigated through a clear framework for collaborative working, secured through the DCO*	matters to be included within the Report, which has guided its preparation. The Applicant and the other solar developers also recognise the value in working collaboratively, which is why the promoters of the four projects have voluntarily signed the Cooperation Agreement (Appendix C of the Interrelationship Report [**REP-033]**). This requires the promoters to share information, work together and try and find solutions for the benefit of the local land interests. The promoters continue to collaborate by attending meetings and sharing information regularly. The aim is to streamline the process, which would also benefit local authorities and statutory undertakers where consistency can be achieved and it is appropriate to do so. It is not correct that there is a failure to provide mechanisms to control cumulative impacts. Measures to avoid cumulative impacts via design development, together with the suite of mitigation and management plans have been carefully developed and are secured within the DCO via the Works Plans and via Requirements in relation to the Outline Design Principles, the Archaeological Mitigation Strategy, the Construction Environmental Management Plan (CEMP), the Framework Traffic Management Plan (CTMP), and the Landscape and Ecological Management Plan (LEMP). As stated within **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** section 5 of the Interrelationship Report **[REP-033]** outlines the shared mitigation measures of the cumulative impacts. Section 6 then includes a cumulative impact assessment update, which has been updated in the Joint Interrelationship Report submitted at Deadline 4. This sets out how the management and mitigation would be achieved by the promoters working together if the construction duration of the projects overlap.

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		The four projects are subject to separate DCO applications and it is not certain that all projects will be consented, or will be developed as currently proposed. The other three projects are at an earlier stage in the process and may evolve after the DCO application for the Gate Burton project is determined. The DCO for the Gate Burton Energy Park can only control the activities of the Applicant within their Order limits, and cannot exert any control over the design, implementation or activities within the Order limits of other developers. For all these reasons, it is therefore not appropriate or necessary for the Joint Report on Interrelationships to be a certified document for the Gate Burton DCO.
REP3-064	Cannot find where there is a plan showing the hedgerows to be removed for this project. Schedule 17 of the draft DCO (as amended) still refers to a 'vegetation removal plan' consisting of 13 sheets, but there is no reference next to it showing which document or appendix the plan can be found in.	As stated within **Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing 3 (ISH3) on Wednesday 23 August 2023 and Thursday 24 August 2023 [REP3-027]** the appropriate removal plan is **Figure 10.21 'Vegetation Removal' [REP2-017]**. The file name of **[APP-187]** is incorrectly stated as 'TPO and Hedgerow Removal Plan'. The correct file name is 'TPO and Hedgerow Plan'. This is a baseline plan that shows the identified locations of hedgerows and TPOs. At the main site, the proposals comprise small, discreet and defined removals in limited locations which are primarily being done to install access tracks. The removals are limited in scale and should be read alongside the **Outline Landscape and Ecology Management Plan [REP2-038]** which makes commitments regarding 1) the principle of minimising hedgerow removal in the first instance e.g. via locating access tracks using existing hedgerow gaps; and 2) reinstatement following the removal of hedgerows. This is particularly relevant within the grid connection corridor where hedgerow removal is shown but 1) the actual area will be lower than the area shown because the final construction spread location and width will be lower than that indicated and assumed for the purposes of a worse case assessment scenario; and 2) hedgerows will be reinstated following installation of the connection cable. The **Vegetation Removal Plan [REP2-017]** shows the maximum extent for which powers under the DCO are required. Any removal will take

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		place within those hatched areas. Once detailed design has been complete, and for example, within the grid connection corridor, once the location of the cable is finalised, the overall amount of hedgerow removal will be reduced.
REP3-087	*I would like to ask that the ExA considers my request, made to the applicant at the hearing to provide an aerial landscape view of solar panels and buildings in situ for this and the other three projects that are being proposed. I am not referring to figure 10.12 (which has a series of yellow and pink dots) or photo shots at eye level but an actual mock-up of what millions of solar panels and BESS will look like from an elevated position.*	ES Volume 1, **Chapter 10: Landscape and Visual Amenity [APP-019/3.1]** describes and assesses landscape, visual and cumulative effects on a range of receptors. All relevant visual receptors are based on the ground. While aerial photography is helpful as part of the analysis of the existing landscape, bird's eye views of the combined Schemes together do not reflect of what will be experienced on the ground. Aerial photomontages are therefore not representative or useful as a tool to inform landscape and visual effects including cumulative effects. In fact, they can be misleading in terms of the effects of developments on receptors, who are unlikely to experience a bird's eye view. However, it should be noted that photomontages from viewpoints located on elevated ground have been produced, refer to Photomontage 7 included in **Figure 10.16b [APP-080/3.2]** as well as Photomontages C4 and C5 included in **Figure 10.17e [APP-085/3.2]** and **Figure 10.17d [APP-086/3.2]**. These photomontages have been assessed in the landscape and visual impact assessment.
2.5 Fire and Battery Safety		
LCC REP3-037	*In recognition of the emerging technology of Battery Energy Storage Systems (BESS) and the challenges this poses to Fire and Rescue Services the National Fire Chiefs Council circulated a letter to all Chief Fire Officers on the 22 August 2023 drawing attention to the updating of Renewable and low carbon energy Planning Policy Guidance that was updated in August 2023 by the Department of Levelling Up, Housing and Communities to include reference to BESS.* *This planning policy guidance encourages planning authorities to consult with their local Fire and Rescue Service*	The Applicant does not consider such a financial contribution to be necessary to make the Gate Burton Scheme acceptable in planning terms, to be directly related to the Scheme or to be fairly or reasonably related in scale and kind to the Scheme. The proposal therefore fails to meet each of the statutory tests for planning obligations set out in Regulation 122 (Limitation on use of planning obligations) of the Community Infrastructure Levy Regulations 2010 and as such cannot constitute a reason for granting planning consent.

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	as part of formal planning consultations and directing developers to the National Fire Chiefs Council guidance on BESS schemes. From the discussion with the Lincolnshire Fire Service who have developed standing advice for BESS based on national guidance a program of monitoring and risk assessment has been identified which will be necessary once the BESS has been established to ensure it complies with the Outline Battery Management Safety Plan and Emergency Response Plan. During the first year of operation this will involve 21 days of work for the Fire Service and then 2 days in each subsequent year for the lifetime of the development. *The need for this monitoring and assessment will enable early engagement to ensure the required standards are being complied with; To ensure the BESS is constructed to the correct standards with support from the Fire Service; early development of emergency response plans; familiarisations of the BESS for local fire crews and overview by the Fire Service; development of on-going maintenance and updating risk information; and assurance for local residents and communities that the BESS are being independently inspected and monitored to reduce the risk of a fire.* *To enable the Fire and Rescue Service to undertake the necessary monitoring to ensure the BESS is in accordance with draft requirement 6(5) a financial contribution is required via a Section 106 Agreement to the Fire Service so that it has sufficient resources in places to underthe monitoring of the BESS connected to this project and potential 9 other BESS connection to other solar NSIP projects that are in the pipeline and if consented are likely to be be in construction in similar timeframes and require this initial and on-going maintenance.* *In respect of the necessary tests for a Section 106 Agreement to be secured in terms of necessity as set out above this monitoring would ensure the obligations of draft requirement 6(5) are met helping to minimise the risk of a fire event and*	The environmental impact assessment demonstrates that there are no likely significant effects associated with battery fire safety at the Scheme and that the risk of any fire event occurring is low. There is a host of mitigation measures in place, including: (i) A commitment to the BESS incorporating a fire detection and suppression system including adequate water storage, as secured via the Outline Design Principles **[REP2-008]**; (ii) The Outline Battery Fire Safety Management Plan **[APP-222]** with detailed commitments on safety requirements for the BESS and firefighting emergency planning. The Applicant will be legally obliged to comply with these commitments which will be secured via DCO requirement, breach of which is an offence. The environmental impact assessment also considers cumulative fire risk and concludes that cumulative schemes would not increase the risk or severity of fire events. There is no unacceptable or identifiable risk that the funding sought would mitigate, and given the low risk associated with the Scheme any contribution would not be fairly or reasonable related to the scale or kind of the Scheme. There are also no unique features or risks associated with fire at the Scheme as compared to other solar NSIPs with battery storage. The Applicant notes that the Secretary of State attributed neutral weight in the planning balance to fire and safety risk associated with battery storage systems when granting the DCOs for Longfield Solar Farm and Cleve Hill Solar Farm and it does not appear to have been a factor considered relevant in the Little Crow Solar Farm decision. The Applicant supports the matter being attributed neutral weight for the reasons described above, and therefore concludes that a planning obligation is not required.

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	potential pollution caused by contaminated water used to put out a fire within the BESS. *In terms of the second test for a Section 106 Agreement this is clearly related to the proposed development given the need for draft requirement 6 which if not imposed leads to the conclusion that the development is unacceptable from a fire safety/risk perspective and would require a recommendation from the ExA to the Secretary of State that the DCO should not be granted without such a requirement being imposed.* *In terms of the third test that the Agreement should be related in scale and kind to the development the nature of the obligation will be required for paying for the time of Lincolnshire Fire and Rescue Officers to undertake the necessary monitoring which will be proportionate to the amount of time to undertake this monitoring and inspection. The potential for 10+ BESS in the County to support large solar related development that will require monitoring and inspection is a resource that the Fire Authority has no budget to cover. The approach is to ensure each developer pays a contribution to the Fire Service for the time taken which is proportionate relative to the size of the BESS and the cost is distributed evenly amongst all developers. Without the financial contribution for this dedicated support the Fire Service is unlikely to be able to undertake the necessary level of monitoring and inspections this significant number of BESS. This increases the chances of an accident which will be detrimental to the amenity of local residents and potentially damaging to the local environment via pollution entering soils and local watercourses*	
WLDC REP3-043	**Battery safety management -** *WLDC consider that this requirement should contain a retention clause. WLDC are content with LCC being the relevant determining authority however request that it is named as a consultee.*	The Applicant has added a retention provision into sub-paragraph (5) of Requirement 6 (Battery safety management) in the updated draft DCO, as submitted at Deadline 3.

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		The Applicant has also updated the draft DCO at Deadline 4 to include WLDC as a consultee for the purposes of Requirement 6 (Battery safety management).
2.6 Climate Change and Carbon Emissions		
REP3-042	Queries will the bare earth mineral mining be accounted for in the carbon footprint?	The assessment of embodied carbon impact of the PV modules relies on Environmental Product Declarations (EPD) that are prepared in compliance with international standards. Data presented in these EPDs includes the upstream impact from the extraction of raw materials, including any rare earths, required for the PV module manufacture process.
2.7 Land Use and Agricultural Land		
LCC REP3-037	*There is a loss of BMV which should weight negatively in the balance. LCC considers that taking such land out of arable production for 60 years is a meaningful 'loss' or negative effect which needs to be afforded proper weight. The Applicant's attempt to reduce this to a 2ha loss based upon permanent effects should be rejected (see REP2-044 at p.16), a loss for 60 years is a significant adverse effect which should be weighed into the balance.*	Please refer to Q1.12.4 of the **Applicant Response to First Written Questions [REP2-041/8.6]** which explains why the Applicant considers that a small amount of negative weight should be ascribed in the planning balance. The Applicant does not seek to underplay the impact but does emphasise that there is a significant difference between agricultural land that is lost to housing for example, and will never again be possible to farm; and land where solar panels are placed on the land for a defined period and then removed. In the latter case not only is the land not permanently lost, but soils can have the chance to recover from intensive farming in a way that may improve soils during the period of operation. Further, whilst the Applicant cannot commit to how land will be managed for 60 years, there is the potential for some agricultural use to continue alongside operation of the solar farm. This again, is very different to instances where agricultural land is built upon. It should be noted that no landowner is forced to undertake agricultural uses on land they own.

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2.8 Local Economy and Community impacts and benefits		
REP3-064	*I have already questioned in a written submission the way in which the Applicant concludes that there is 'no effect' on the local hotel, B & B and inns accommodation sector by the workers from this or the combined projects- due to its selective use of the data, but where is the analysis of short term rentals in the Applicant's documents? There needs to be such an analysis – that also looks at the cumulative effect of the four projects.*	Accommodation supply data for hotels/inns and B&Bs reported within **ES Chapter 12: Socio-Economics and Land Use [APP-021]** has been extracted from a commercial real estate information provider CoStar. This source provides regularly updated information on capacity (no. of bedspaces) within such facilities. Occupancy rates for this sector applied in the assessment are those published by national tourism agency VisitBritain. These data sources do not provide equivalent information on capacity and occupancy rates for short-term lets and no comprehensive information source on this aspect of the accommodation sector is known to exist to factor in to the assessment. Paragraph 12.10.14 of ES Chapter 12: Socio-Economics and Land Use notes that alternative accommodations (such as short-term lets) would be available to cater for demand arising from construction workers which would result in the identified net spare capacity within the hotels, inns and B&Bs sector likely being greater than that identified in the assessment if data on such alternatives were available.
2.9 Draft Development Consent Order (DCO) and Protective Provisions		
LCC REP3-037	Schedule 2 Requirements *Requirement 6 – LCC considers it should be the discharging authority for this Requirement. The only outstanding matter between LCC and the Applicant relates to the monitoring of this Requirement on an ongoing basis and the mechanism for a monitoring fee to be paid to LCC in this regard.* *Requirements 10 and 11 – LCC is content with the existing drafting of these provisions.*	**Requirement 6 –** Following discussions with LCC, Requirement 1 of the draft DCO was updated at Deadline 1 [**REP-018]** to specify the relevant planning authority for each of the requirements. Requirement 1(a)(i) states that LCC are the relevant planning authority for Requirement 6. This is unchanged in the latest version of the DCO submitted at Deadline 4 **[document 6.1]**. **Requirements 10 and 11** – The Applicant welcomes LCC's comments. **Requirement 19** – The draft DCO was updated at Deadline 3 **[REP3-006]** to require the Applicant to provide notice of its intention to

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	Requirement 19 – LCC is grateful that the Applicant has agreed to reconsider the wording of Requirement 19 and agrees that 19(2) should be re-worded to remove reference to the trigger point being the Applicant "deciding" something. Instead, the provision should refer to the decommissioning environmental management plan being required to be submitted to the relevant authority no less than 12 months prior to the expiration of 60 years from the date of final commissioning. *The Applicant has still failed to provide any clear reasoning as to why the model provision in relation fees has not been included within the dDCO contrary to the guidance within Appendix 1 to Advice Note 15. This was a matter raised by LCC at ISH1 and at paragraph 14 of LCC's post-hearing representations. No clear justification for the omission of this term has been forthcoming and LCC repeats its submission that this should be included and Advice Note 15 followed. Further, in line with Advice Note 15 this should be included within the DCO itself rather than relegated to a side-agreement or a PPA which the authority has no certainty would be forthcoming.* *In relation to time periods, LCC considers that 10 weeks would be a reasonable period having regard to the 13-week period permitted under the Town and Country Planning Act 1990 regime for approval of reserved matter applications. Article 5 is essentially identical to such a condition and is naturally referable to a much larger scale development. The implications of missing such a deadline are also more serious – there is no automatic deemed discharge under the TCPA regime.* *A separate agreement is likely to be necessary to provide a mechanism for the Applicant to pay a monitoring fee to LCC in*	decommission no later than 12 months prior to the intended date of decommissioning. This is a notice obligation only. The obligation to provide the DEMP will then follow within 12 months of that notice being given. This allows the relevant planning authority to have sufficient notice of decommissioning whilst ensuring that the DEMP can be produced nearer the actual decommissioning date if appropriate. If the DEMP is submitted at a time which the relevant planning authority considers too close to the intended decommissioning date to allow a decision to be made by that date, then the relevant planning authority is protected by Requirement 19(6) which provides that no decommissioning works can be carried out until approval is given. The timing risk is on the Applicant in light of the processes set out in Schedule 16. The wording aligns with the requests proposed by WLDC (who is the relevant planning authority for this purpose as per LCC's requested amendments to Requirement 1) and offers more flexibility/certainty than the precedent set by other energy DCOs. For example, the draft DCOs in the Cottam Solar Project and West Burton Solar Project applications provide for a DEMP 'within 12 months' of the decommissioning date. The recently made Longfield Solar Farm Order 2023 also provides for a DEMP to be provided 'within 3 months' of the decommissioning date. Therefore, the Gate Burton DCO is already more favourable for the relevant planning authority. **Fees** – The Applicant has added a fees provision at paragraph 5 of Schedule 16 (procedure for discharge of requirements) in the updated draft DCO, as submitted at Deadline 3 **[REP3-006]**. **Schedule 16 (time periods)** – The Applicant added paragraph 2(3) to Schedule 16 in the updated draft DCO submitted at Deadline 3, to provide a time period of 10 weeks in relation to Requirement 5 in recognition of LCC's request. The time period for the discharge of all other requirements is eight weeks, as set out at paragraph 2(2) of

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	relation to the battery safety management plan given the intention to require ongoing compliance for the lifetime of the development under draft Requirement 6(5).	Schedule 16 (which was updated earlier in Examination from an initial six week time period).
WLDC REP3-043	*WLDC notes that Schedule 15 is subject to further negotiations and agreements, as set out in the Explanatory Memorandum. However, it is requested that the Applicant provides clarification as to how the same is also going to be adequately addressed within the DCO itself*	The protective provisions set out at Schedule 15 shall be updated as appropriate throughout Examination to reflect the outcome of negotiations in relation to those protective provisions with the relevant parties, which are ongoing. For example, Part 7 of Schedule 15 relating to protective provisions for the protection of National Grid Electricity Distribution (East Midlands) Plc was updated in the draft DCO at Deadline 2 [**REP2-027**] as a result of an agreement being reached between the Applicant and NGED.
WLDC REP3-043	*WLDC strongly objects to the Schedule 16 as currently drafted. Schedule 16 has been amended from a 6 week to 8 week time period, however that continues to be considered unreasonably short for the reasons set out below. The Applicant has not provided any further justification in the updated Explanatory Memorandum and accordingly WLDC's previous submissions remain as follows.* *The 8 week approval period currently required by Article 46.2 does not adequately reflect the usual timescale for EIA development which is 16 weeks. It is submitted this time period should apply given some of the requirements include the need to assess complex material (especially in respect of requirement 5 which is akin to a reserved matters application), may require the need to procure external expertise to review material, and there may be the requirement for approvals to be determined by WLDC committee(s) therefore requiring the alignment with meeting calendars and processes. It is noted that the Longfield DCO allowed a period of 10 weeks, however discharge applications under this DCO are likely to be made concurrently with West Burton, Cottam and Tillbridge applications if they are granted consent. It is also noted that there is no mechanism in the dDCO restricting the number of*	The Applicant added paragraph 2(3) to Schedule 16 in the updated draft DCO submitted at Deadline 3 **[REP3-006]**, to provide a time period of 10 weeks in relation to Requirement 5 in recognition of WLDC's request. In line with the principle set out by WLDC that some requirements do not require such long time periods, the time period for the discharge of all other requirements is kept at eight weeks, as set out at paragraph 2(2) of Schedule 16 (which as acknowledged by WLDC was updated earlier in examination from an initial six week time period). This eight week time period has precedent in the made Cleve Hill Solar Park Order 2020 and The Little Crow Solar Park Order 2022 as well as the DCO application for Sunnica Energy Farm (which uses the equivalent language of 56 days). The Applicant maintains that deemed approval is absolutely necessary to ensure that the applications pursuant to the Requirements are dealt with efficiently so that the authorised development is not unnecessarily delayed. The process set out at Schedule 16 gives sufficient opportunity for the relevant planning authority to engage in the production and approval of the plans, therefore it would be unreasonable to include the risk of delay to a nationally significant infrastructure project if the relevant planning authority chose not to engage with that process. As set out

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	discharge applications that could be simultaneously submitted. In this context a 16 week determination period is entirely reasonable. WLDC would consider the proposal for some requirements to be subject to a shorter determination period than others, where they are less complex and are not subject to consultation requirements. Subject to the submissions made above in respect of consultation requirements, WLDC consider that a provision should be added allowing agreements for a reasonable extension of time, with such an agreement not being unreasonably withheld, particularly if the relevant determining authority is required to consult other bodies. *WLDC object to the deemed approval provision. The justification relied on the by the Appellant is one of efficiency (Explanatory Memorandum at 6.16.1) do not cite any unique or specific reason why such a provision should be included. This is especially relevant whether other DCOs, including those cited in the Explanatory Memorandum itself, do not provide for deemed approval or only do so in relation to certain requirements, rather than all of them. Indeed, the Applicant describes the Schedule 16 process as 'bespoke' (Explanatory Memorandum at 6.16.1). Given the importance and significance of the substantive areas governed by the requirements WLDC submits that it is unacceptable for any of the requirements to be subject to deemed approval.* *WLDC maintains its objection to the requirement under Article 46.3.(2) that further information must be requested in 10 working days. The relevant determining authority will need to sufficiently assess the information in able to identify whether further information is required. This essentially requires that the WLDC all but procedurally determine the application in 10 working days. Similarly, WLDC object to the time periods in 3.(3), in particular, it is unreasonable to require the relevant determining authority to request further information within 15 working days where they have consultation requirements, as*	above and in more detailed below, this schedule has been amended in response to LCC's and WLDC's concerns. Schedule 16 of The Longfield Solar Farm Order 2023 gives recent precedent for the Secretary of State's acceptance of deemed approval in the same context. The Applicant has made various updates to Schedule 16 of the draft DCO at Deadline 3 to extend the timescales at paragraph 3 of Schedule 16. This includes extending the time to request further information from 10 to 20 working days (para 3(2)) as suggested by WLDC, as well as extending the time periods in relation to consultation from five days to 10 on two occasions, and then 15 days to 20 (para 3(3)) as suggested by WLDC. The Applicant has added a fees provision at paragraph 5 of Schedule 16 (procedure for discharge of requirements) in the updated draft DCO, as submitted at Deadline 3.

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	the response period of such consultees is not within their control. *WLDC submit that the usual fee provision (see the Longfield DCO and Advice Note 15), which has been excluded without any justification given by the Appellant, is reinstated in Schedule 16.*	
WLDC REP3-044	*WLDC wish to understand how Requirements 12 and 15 as drafted in the dDCO would operate practically with cumulative projects*	Requirement 12 (Construction environmental management plan) and Requirement 15 (Operational noise) set out the requirements that the Applicant must comply with for the purposes of the Gate Burton Scheme. This incorporates, as appropriate, the measures required in order to mitigate cumulative impacts. For example, the framework CEMP [**REP2-033**] sets out that in the event of overlapping construction schedules, a combined Construction Traffic Management Plan (CTMP) will be prepared that will identify combined construction traffic planning, management and mitigation measures. Requirement 15 relates to operational noise within the Solar and Energy Storage Park. The Applicant commits to the operational noise levels identified within Table 11-17 of the ES Noise and Vibration Assessment [**APP-020]** as referenced and secured within the Framework OEMP [**REP2-036**] as well as the operational noise monitoring secured in the Framework OEMP [**REP2-036]** that serves to evidence those noise levels. In practice, the promoters will continue to collaborate to identify cumulative solutions for the projects in accordance with each of the requirements which any of the individual developers is bound by under its DCO. This cooperation is appropriately secured through the signed the Cooperation Agreement (Appendix C of the Interrelationship Report [**REP-033]** and the Joint Interrelationships Report submitted at Deadline 4 **[document 8.26]**).
Environment Agency (EA) REP3-045	*Schedule 2, Requirement 5 Detailed Design Approval* *In our written representations (section 6.3) we asked to be a specific named consultee in respect of Schedule 2, Requirement 5 (Detailed Design Approval). We have been*	The Applicant welcomes this confirmation from the Environment Agency.

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	satisfied by the applicant that this is not necessary as our interests on flood risk matters will be secured via the protective provisions (Schedule 15, Protective Provisions, Part 8). For the avoidance of doubt the Environment Agency no longer wishes to be named as a specific consultee in respect of Schedule 2, Requirement 5, parts (a), (c) and (h).	
Canal and Rivers Trust REP3-061	*The Trust made the ExA aware that the Trent (Burton-upon-Trent and Humber) Navigation Act 1887, listed at 1(e) of Schedule 3 of the dDCO contained powers to dredge the River Trent at the location that the Applicant proposes the grid connection cable will cross under the river. The Applicant agrees the principle that the project does not need to prevent dredging of the river and has no intention to preclude those powers. The Trust confirmed that the Applicant and the Trust would work together to agree wording in the dDCO.* *The Applicant has indicated that it would commit to HDD at a depth of at least 5m below the river and has indicated that it will amend the Outline Design Principles to reflect this. Accordingly, the Trust seeks an amendment to that document to specify that the HDD depth beneath the River Trent to be a minimum of 5m below the lowest surveyed point of the riverbed.*	The Applicant updated the wording of Article 6(1)(g) of the draft DCO submitted at Deadline 3 [**REP3-006**], to include agreed wording between the Applicant and the Canal & River Trust in relation to the disapplication of legislation. The Applicant can confirm its agreement with the Canal & River Trust to commit to a minimum HDD depth of 5m to cross the River Trent. This has been secured in the updated Outline Design Principles submitted at Deadline 4. A signed Statement of Common Ground with the Canal and River Trust has been submitted at Deadline 4 **[document 4.3l]** with all matters agreed.
REP3-049 (7000 acres)	*The Applicant has failed to explain why in Requirements 38 and 39 they should have the ability to fell any tree or remove any hedge they wish. The current wording of the dDCO would allow the Applicant to remove all hedgerows and trees they believe to be necessary without any checks and balances. In the opinion of 7000 Acres, the dDCO should be revised to state that any lopping, pruning, felling or removal of hedgerows, trees or shrubs should be in accordance with the Landscape and Ecological Management Plan.*	As set out in the Explanatory Memorandum [**REP3-007**], Article 38(1) provides a mechanism for any tree or shrub within or overhanging land within the Order limits to be felled or lopped where required for the purposes of the authorised development. Article 38(4) then enables the Applicant to remove any hedgerows within the Order limits that may be required for the purposes of constructing the authorised development. Article 38(5) then makes reference to specific hedgerows in Schedule 17 (Hedgerows to be removed).

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		The broad powers under Article 38 are necessary to allow for construction flexibility but are not completely unrestricted. Article 38(1) is controlled by Article 38(2) which provides that the Applicant must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity. The removal of vegetation is also controlled via the Outline Design Principles [**REP2-008**] and the Outline Landscape and Ecological Management Plan [**REP2-037**], which restrict vegetation loss to the maximum extents shown on the updated Vegetation Removal Plan [**REP2-017**]. These documents are secured in the Requirements at Schedule 2. Article 39 operates in a similar manner to Article 38 but relates to trees subject to tree preservation orders (TPOs). Article 39(1) enables the Applicant to fell or lop trees as described in Schedule 18 (trees subject to tree preservation orders). The power is therefore appropriately limited to that defined list. The powers under Article 39 are further controlled by Article 39(2)(a) which provide that the Applicant must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity. There are further controls via the Framework Construction and Environmental Management Plan [**REP2-033**], which provides that all ancient and veteran trees or trees subject to a TPO will be retained and are fully protected except where TPOs are in place for trees which are no longer present, are dead or are no longer worth of TPO status, and impact or removal is required.
2.10 Compulsory Acquisition (CA)		
REP3-095 REP3-098	*Notwithstanding, Mr & Ms Hill have endeavoured to engage in dialogue with the Applicants representatives and to that extent have offered a Wayleave or Lease of their land by way of accommodating the Applicant's needs. However, Mr Hill has*	The Applicant has continued discussions with Mr & Mrs Hill and are working with the other developers as to a design solution that would work for all parties involved including Mr & Mrs Hill.

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	been told that the Applicant is seeking an Easement only. It appears to Mr & Ms Hill that if the proposed development is 'temporary', then a wayleave or lease agreement would suffice. Mr & Ms Hill are unsure why the Applicants need a permanent Easement agreement. At the Compulsory Acquisition Hearing on the 22nd August, the Applicant suggested Mr Hill bought the land in question in full knowledge of the current NSIP proposals. This is not the case. Furthermore, Mr Hill & Ms Hill, intend (with the appropriate Planning permission) to apply for other agricultural buildings to develop their local business. The presence and extent of the cabling for all four NSIP projects will in reality prevent Mr & Ms Hill from carrying out their business plans.	
2.11 Cumulative Impact with other solar scheme		
WLDC REP3-044	*WLDC reiterated its concern on the lack of rigour given to the consideration of cumulative impacts with other projects. Further Issue Specific Hearings are considered necessary to consider these impacts (landscape, traffic, BMV and tourism in particular). The reason necessitating future hearings are due to the commencement of the examination of the Cottam and West Burton projects, with the environmental information within those application now able and required to be considered as part of the Gate Burton examination. The maturation of the Tillbridge project reflected in the publication of its Preliminary Environmental Information (April 2023) and the carrying out of its statutory consultation under the Planning Act 2008, also places a requirement on the Gate Burton examination to properly consider new information that has not been considered in the ES.* *WLDC welcomes the discussion on impacts (including cumulative impacts) that are derived from construction*	The Joint Report on Interrelationships **[document 8.26]** provides a Cumulative Assessment update, including consideration of the Environmental Statements for Cottam and West Burton projects and the Preliminary Environmental Information Report for Tillbridge. It sets out the mitigation that has been developed to minimise and manage cumulative effects and how that mitigation is secured within the DCO. Whilst further information is available, the projects have not changed significantly since the ES was produced for the Gate Burton application and the review of information does not suggest any changes to the significant effects are predicted in the ES. The Applicant has properly considered the new information in coming to this conclusion.

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	impacts. Controlling construction impacts, and traffic impacts upon the amenity of local residents and businesses, remain a key concern for WLDC. The current Framework Construction Traffic Management Plan (fCTMP) is not considered to provide sufficient detail with regards to the approach to controlling cumulative traffic impacts. WLDC seeks more commitment from the applicant as to how these impacts will be managed with other developers prior to the determination of the Gate Burton application. WLDC therefore reserves the right to review updated versions of the fCTMP and the 'Interrelationships with other Nationally Significant Infrastructure Projects' document and comment accordingly	
2.12 Marine Environment		
Marine Management Organisation (MMO) REP3-046	*Regarding an assessment of marine impacts, the MMO acknowledges that on 16 August 2023 the Applicant, in response to our previous requests, provided signposting to the project Construction Environmental Management Plan and the Operational Environmental Management Plan. The MMO has reviewed these documents and cannot find reference to an assessment of marine impacts.* *Therefore, as set out in our Deadline 2 response [REP2-063], the MMO reiterates that we can see no direct reference within the Environmental Statement (ES) or any supporting documents provided by the Applicant, to the impacts of the proposed works on the marine environment. It is standard practice for an environmental statement to include a marine environment chapter and the ES should be updated to include this chapter. The Environmental Statement Marine Environment Chapter should assess the impact of the worst-case scenario.*	See the Applicant's Response to the MMO submissions provided in Appendix C of the Applicant Response to Further Written Questions **[document 8.20]** submitted at Deadline 4.

Ref	Summary	Applicant response
	In the absence of an ES chapter, at this point the MMO consider that the activity meets Condition 2 in Article 35 of the 2011 Exempted Activities Order (as amended), i.e., to not significantly adversely affecting a part of the UK marine area of the living resources that it supports. Therefore, the exemption still applies.	
(MMO) REP3-046	*3.1. MMO's Position on the need for a DML* *The MMO must clarify that we have not changed our position, which is that we consider a DML does not need to be included in the DCO, throughout engagement with either the Planning Inspectorate (PINS) or the Applicant.* *The MMO informed PINS prior to Deadline 1 that we do not consider a DML to be required for this DCO, as the proposed activity of a bored tunnel, falls under Article 35 of The Marine Licensing (Exempted Activities) Order 2011 (as amended). We also confirmed our position with the Applicant.* *Following the latest updates from the Applicant, the MMO's position has not changed. The Applicant has provided further clarity to state that the entry and exit sites of the bored tunnel will be above mean high water springs and that they do not consider there to be any significant effects on the UK marine area or living sources. Therefore, there is insufficient evidence to determine that the exemption would not apply to the works. Please see Sections 2.1, 2.2 and 2.4 of this letter for the MMO's detailed comments on the updated information.* *The MMO also noted the Applicant's comment during ISH2 that there have been changes in MMO case team personnel. The MMO acknowledge that there have been some changes to case team personnel due to internal movements, however, the MMO must clarify that our position regarding the need for a DML has not changed throughout the process. The MMO has maintained the position that a DML does not need to be included as the proposed activity of a bored tunnel falls under*	As summarised in its written summary of oral submissions at ISH2 [**REP3-026**], the availability of the exemption does not prevent the inclusion of the DML within the Order. The Applicant has the opportunity to include consents within the DCO that may be needed for the Scheme to ensure that it may proceed without doubt. The inclusion of the DML removes any uncertainty and covers the possibility of any other later interpretation of whether the exemption applies. The Applicant's position therefore remains that it is prudent and good administration to include the DML within the draft DCO for the following reasons: (a) as a matter of law, the views and opinions of officers are not binding on a decision making body, here the MMO; (b) whilst officers may be of the view now that the exemption applies, such that a DML is not needed, without it the applicability of the exemption would be considered several years in the future, when the MMO officers, their views, and consequently the MMO's position on exemptions may have changed; (c) in those circumstances, without the benefit of a DML, the developer would incur cost and delay having to apply directly to the MMO for an ML. The NPS and dNPS make clear that there is an urgent national need for energy. In that context, as an energy related NSIP, it is in the national

Ref	Summary	Applicant response
	Article 35 of The Marine Licensing (Exempted Activities) Order 2011 (as amended) *3.2. Future regulatory requirement of the Bored tunnel Exemption* *The MMO noted the Applicant's suggestion in ISH2 that the MMO could advise at the time of the works commencing, whether the Bored tunnel activity is still considered an exempted activity. Please be advised that the onus is on anyone undertaking works to check they have the correct permissions in place to do so.* *The MMO can only provide advice on the legislation as it is currently written, which the MMO consider the best available evidence to inform our advice. Should the legislation change between now and the time the works are required the Applicant can apply for a standard marine licence.* *The MMO understand this may incur cost and delay should Article 35 of The Marine Licensing (Exempted Activities) Order 2011 (as amended) change, however the Exemptions were designed to ease regulatory burden and provide scope for activities to be carried out in a streamlined way.* *The MMO strongly advise that a DML is not included for the activities within the DCO as the MMO does not believe Article 35 of The Marine Licensing (Exempted Activities) Order 2011 (as amended) can be disapplied for the potential convenience of an operator at a future point in time.* *3.3. Updates to the DML* *The MMO notes that the Applicant confirmed in ISH2 the update to the DML [REP-027] to remove activities 2b and 2c in Schedule 9, Section 3. The MMO and Applicant are in agreement that these activities are not licensable and should be removed from the DML.*	interest for the project to proceed without unnecessary and undue delay. The Applicant has included a DML to ensure that this can be achieved.

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	Also, the MMO notes that the Applicant confirmed they had provided Geographic Information System (GIS) data (in the form of KML files) on 16 August 2023 which included the location coordinates as set out in the DML. These, together with a supporting statement from the Applicant, confirmed that the entry and exit points of the bored tunnel will be above mean high water springs and therefore outside the marine area. *3.4.Cleve Hill Solar Park Development Consent Order* *The MMO notes the Applicant's comments in ISH2 regarding Cleve Hill Solar Park Development Consent Order as an example of a previous DCO where an exemption did not apply. The MMO can confirm that we discussed this with the Applicant in a previous meeting (13/07/2023). In our meeting we advised that the Cleve Hill Solar Park DCO could not be used as an example, due to the different circumstances.* *For the Cleve Hill Solar Park DCO application, the applicants had requested that an exemption within the Marine Licensing (Exempted Activities) Order 2011 (as amended) for carrying out maintenance works on behalf of statutory authorities (in this case the Environment Agency) be extended to private companies, i.e. the applicants. The exemption related to Section 19: 'Maintenance of coast protection, drainage and flood defence works'.* *The MMO did not support this approach and it was subsequently agreed by all parties that the exemption did not apply and that a DML would be required to control the licensable activities.* *The MMO has since requested the Applicant to confirm which elements of the Cleve Hill Solar Park DCO reflected the Gate Burton Energy Park DCO application but has received no response on this matter. The MMO welcomes any further engagement with the Applicant regarding this matter.*	

Ref	Summary	Applicant response
	3.5.Comments on 'without prejudice' positions *The MMO notes the Applicant's comments in ISH2 that the MMO has previously provided 'without prejudice' positions in other DCO applications, in particular for Renewables-related DCO applications.* *The MMO also notes the Examiner's comment that a 'without prejudice' position on the DML from the MMO would be acceptable and a step forward.* *The MMO is grateful for the opportunity provided by the Examiner. The MMO can confirm that for other DCOs on matters where we have disagreed with applicants on a point of principle, we have been content to provide a 'without prejudice' position. An example of this is the East Anglia One North Offshore Windfarm DCO application. In this instance, the MMO disagreed with the applicants on how preparatory Unexploded Ordinance (UXO) clearances should be controlled.* *The MMO must highlight that both parties agreed that the activity was licensable. However, the applicant considered that the activities should be included and controlled via conditions within the DML, whereas the MMO considered that the activities should be the subject of a separate marine licence application closer to the time of the actual activity. This was so that a more up to date assessment of environmental activities could take place at the right time. This did not prevent the MMO on providing a 'without prejudice' position on the relevant draft conditions within the DML and any other supporting documents. The MMO considers that the above example cannot be applied to the Gate Burton Energy Park DCO application. We do not consider that we are disagreeing on 'a point of principle'. The fact that we consider that an exemption applies for the only marine licensable activity is fundamental to our position.*	

Ref	Summary	Applicant response
	As set out earlier in this letter, an assessment of marine impacts is necessary to inform the need for specific conditions to be included in any DML, so that any activities are suitably controlled. As we stated in this letter and in our previous responses, the MMO has reviewed all documents signposted by the Applicant, and we have not yet been able to find any reference to an assessment of marine impacts. The MMO requests that the Applicant update the ES to include an assessment of marine impacts.	