

Gate Burton Energy Park EN010131

Statement of Common Ground between the Applicant and Trent Valley Internal Drainage Board
Document Reference: EN010131/APP/4.3F

~~January~~December 2023

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

Gate Burton Energy Park Limited

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) Environment Agency.

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

Date:

Signed.....

Darren Cowling on behalf of Trent Valley Internal Drainage Board

Date:

Signed.....

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1. Introduction

1.1 Introduction

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared to accompany an application made to the Secretary of State for the Department for Business, Energy & Industrial Strategy for a Development Consent Order (the Application) under section 37 of the Planning Act 2008 (PA 2008) for the proposed Gate Burton Energy Park (the Scheme). The Application is submitted by Gate Burton Energy Park Ltd (the Applicant) which is a subsidiary of Low Carbon Ltd ('Low Carbon'). Low Carbon is a privately-owned UK investment and asset management company specialising in renewable energy. **The Funding Statement [EN010131/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) Trent Valley Internal Drainage Board (the parties).
- 1.1.3 Trent Valley 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 Trent Valley IDBs 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 Trent Valley 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 Trent

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

Valley IDB representations and therefore have not been considered in this document.

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 This version has been prepared for submission with the application, with the intention that it will be revised and updated as discussions progress during the Pre-Examination and Examination periods. This version has been prepared by the Applicant for submission to present what is understood to be the current position. However, this version does not yet incorporate comments from the IDB so does not present an agreed draft SoCG.~~

1.1.7 A draft version of the SoCG was submitted with the Application in January 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 [[EN010131/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	Trent Valley Internal Drainage Board Position	Applicant Position	Status
Water Environment					
1.1	Trent Valley IDB Stat Con Response	Byelaw 3	<p>Byelaw Number 3 states that:</p> <p>No person shall as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended (“the 1990 Act”)) (whether or not such development is authorised by the 1990 Act or any regulation or order whatsoever or none of them) for any purpose by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any watercourse in the District so as to directly or indirectly increase the flow or volume of water in any watercourse in the District (without the previous consent of the Board).”</p> <p>Consent will only be granted for the increase in flow to a watercourse where the Board is happy that in doing so no demonstrable harm will be caused. It may be the case that appropriate mitigations are required to be put in place to either attenuate flow or to enhance the existing watercourse to ensure no detriment. If this</p>	<p>Trent Valley IDB watercourses would be crossed by the Grid Connection to Cottam Substation (crossings for cables and access tracks). However, there would be no requirement to introduce any water to the Trent Valley IDB watercourses from the Scheme once operational.</p> <p>There is one Trent Valley IDB watercourse that crosses into the Solar and Energy Storage Park, at the southern extent of the Order limits southeast of Clay Farm. There would be no operational discharge to this watercourse, with the outline drainage strategy indicating all drainage would be to ground. Please refer to Appendix 9-B Outline Drainage Strategy [EN010131/APP-139/3.3] for further details.</p> <p>Any discharge during construction would be appropriately attenuated in terms of flow rate and water quality. The Framework Construction Environmental Management Plan (CEMP) [EN010131/APP-224/7.3] outlines</p>	Under discussion

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			<p>is not possible alternative outfall locations may need to be considered.</p> <p>Usually Solar farms do not introduce direct outfalls to the Boards systems. However, should this be the case the Boards consent would be required. Generally the method of dealing with surface water from the arrays would need to be considered by the Board through the planning process to establish if any detriment is caused.</p>	<p>mitigation measures to be implemented during construction for protection of the water environment, including for management of site runoff and accidental spillages.</p> <p><u>The Through Article 6 of the draft DCO, the Applicant has sought consent is seeking to disapply certain provisions of the Land Drainage Act 1991 (as amended) including the provisions of any byelaws made under section 6623 (prohibition of obstructions, etc. in watercourses) of that Act. In accordance with s.150 Planning Act 2008 and has included protective the Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, the Applicant requires Trent Valley IDB's consent to disapply section 23. Protective provisions for the benefit of Drainage Authorities within <u>are included at Part 3 of Schedule 15</u> to the draft DCO.</u></p>	
1.2	Trent Valley IDB Stat Con Response	Byelaw 10	<p>Byelaw Number 10 states that:</p> <p>No person without the previous consent of the Board shall erect any building or structure, whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within nine metres of the landward toe of the bank where there is an embankment or wall or within nine metres of the top of the batter where there is no</p>	<p>A 10m buffer has been applied around all watercourses within the Order limits within which there would be no development, with the exception of where access track crossings need to be installed or cable crossings for the Grid Connection Corridor. 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</p>	Under discussion

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			<p>embankment or wall, or where the watercourse is enclosed within nine metres of the enclosing structure.</p> <p>This will relate primarily to the location of the arrays, compounds and transformer stations.</p>	<p>how to define the watercourse margin which may vary with flow.</p> <p>Since the PEI Report was published, the 'worst case' for assessment in regard to watercourse crossings has been updated. As a worst case it is now assumed that all watercourses that are crossed for access tracks within the Solar and Energy Storage Park will be culverted. This provisionally includes one crossing of the Trent Valley watercourse within the Solar and Energy Storage Park. 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.</p> <p>The access track for the Grid Connection Corridor is assumed to require temporary culverting of all watercourses that are crossed for cable installation (with the exception of the River Trent) for a five year period as a worst case.</p> <p>During construction works for all culverts, it is assumed that flow would be maintained by over pumping. 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</p>	

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length watercourse enhancements have been committed to within the DCO for all culverts, and this will be described in a WFD Mitigation and Enhancement Strategy that is a requirement of the DCO. We would consult with Trent Valley IDB on the development and delivery of this strategy.

There are six watercourse crossings for the Grid Connection Corridor that are outside of assigned avoidance areas (where horizontal direction drilling will be used) that could require open cut installation techniques. [\(as illustrated on Figure 1 in Annex A of Appendix 2-B: Construction Method Statement \[APP-114/3.2\]\).](#) In all cases a pre-works morphology survey of the channel of each watercourse to be crossed will be undertaken prior to construction to ensure that there is a formal record of the condition of each watercourse prior to commencement. For these crossings it is assumed again that water flow would be maintained during the works by damming and over pumping. Once the watercourses are reinstated, silt fences, geotextile matting or straw bales should be used initially to capture mobilised sediments until the watercourse has returned to a settled state. It will be a requirement that the watercourses are reinstated as found and water quality monitoring will be

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undertaken prior to, during, and following on from the construction activity. Regular observations of the watercourses will also be required post-works during vegetation re-establishment of the banks, especially following wet weather, to ensure that no adverse impacts have occurred. These requirements will be described in the Water Management Plan, which will be a technical appendix of the final CEMP.

As noted above, the Applicant has sought consent to disapply certain provisions of the Land Drainage Act 1991 (as amended) including the provisions of any byelaws made under section 66 of that Act. It is understood that TV IDB are do not wish to accept intrusive open-cut crossings of their watercourses and has included so at the time of writing there is not an agreed position on the crossing approach. However, protective provisions for the benefit of Drainage Authorities are included within the draft DCO.

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As noted above, 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

Ref.	Document	Topic	Trent Valley Internal Drainage Board Position	Applicant Position	Status
1.3	Trent Valley IDB Stat Con Response	Byelaw 17	<p>Byelaw number 17 states that:</p> <p>No person shall without the previous consent of the Board -</p> <p>(a) place or affix or cause or permit to be placed or affixed any gas or water main or any pipe or appliance whatsoever or any electrical main or cable or wire in, under or over any watercourse or in, over or through any bank of any watercourse;</p> <p>(b) cut, pare, damage or remove or cause or permit to be cut, pared, damaged or removed any turf forming part of any bank of any watercourse, or dig for or remove or cause or permit to be dug for or removed any stone, gravel, clay, earth, timber or other material whatsoever forming part of any bank of any watercourse or do or cause or permit to be done anything in, to or upon such bank or any land adjoining such bank of such a nature as to cause damage to or endanger the stability of the bank;</p>	<p><u>Miscellaneous Prescribed Provisions) Regulations 2015, the Applicant requires Trent Valley IDB's consent to disapply section 23. Protective provisions for the benefit of Drainage Authorities are included at Part 3 of Schedule 15 to the draft DCO.</u></p> <p>The Through Article 6 of the draft DCO, the Applicant has sought consent <u>is seeking to disapply certain provisions of the Land Drainage Act 1991 (as amended) including the provisions of any byelaws made under section 6623 (prohibition of obstructions, etc. in watercourses) of that Act, In accordance with s.150 Planning Act 2008 and has included protective the Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, the Applicant requires Trent Valley IDB's consent to disapply section 23. Protective provisions for the benefit of Drainage Authorities within <u>are included at Part 3 of Schedule 15 to the draft DCO.</u></u></p>	<u>Agreed Under discussion</u>

Ref.	Document	Topic	Trent Valley Internal Drainage Board Position	Applicant Position	Status
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(c) make or cut or cause or permit to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any watercourse or in or through any bank of any watercourse;

(d) erect or construct or cause or permit to be erected or constructed any fence, post, pylon, wall, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other building or structure whatsoever in, over or across any watercourse or in or on any bank thereof;

(e) place or fix or cause or permit to be placed or fixed any engine or mechanical contrivance whatsoever in, under or over any watercourse or in, over or on any bank of any watercourse in such a manner or for such length of time as to cause damage to the watercourse or banks thereof or obstruct the flow of water in, into or out of such watercourse.

Provided that this Byelaw shall not apply to any temporary work executed in an emergency but a person executing any work so excepted shall, as soon as practicable, inform the Board in writing of the execution and of the circumstances in which it was executed and comply with any reasonable directions the Board may give with regard thereto.

Ref.	Document	Topic	Trent Valley Internal Drainage Board Position	Applicant Position	Status
1.4	Trent Valley IDB Stat Con Response	Cable Installation	The Board will require all watercourses to be crossed by means of HDD at a depth no less than 2 metres PLUS the cable safety distance below the hard bed level of all watercourses (to ODN if EA or IDB maintained). This will allow the IDBs to have the flexibility to improve watercourses in the future due to climate change (works will include deepening & widening of watercourses).	This requirement has been noted, and where HDD is to be used for the Grid Connection Corridor a minimum depth of 2m below the hard bed level has been committed to within the DCO.	Agreed
1.5	Trent Valley IDB Stat Con Response	Culverting	<p>Any culverting or other works within the bed of any riparian watercourse within the Boards district and extended area be they temporary or permanent will also require consent.</p> <p>It should be noted that the Boards consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/ culvert or the Board's machinery access to the watercourse/ culvert which is required for annual maintenance, periodic improvement and emergency works.</p>	There will be a requirement for culverting of watercourses both on the Solar and Energy Storage Park and Grid Connection Corridor, as outlined above. The Applicant has sought consent to disapply certain provisions of the Land Drainage Act 1991 (as amended) and has included protective provisions for the benefit of Drainage Authorities within the draft DCO.	Agreed Under discussion

Appendix A: Record of Engagement

<u>Date</u>	<u>Correspondence</u>	<u>Topics discussed and outcomes</u>
16 June 2022	Letter/ email	Correspondence from Applicant to EA issued on the statutory consultation process, including consultation booklet and feedback form.
4 August 2022	Statutory Consultation	The Trent Valley IDB reviewed the Preliminary Environmental Information Report (PEIR) and provided a response in August 2022. All of the points from this response are included in Section 2 – Areas of Discussion between the Parties.
<u>24 January 2023</u>	<u>Email</u>	<u>First draft of SoCG issued to Trent Valley IDB by the Applicant.</u>
<u>28 March 2023</u>	<u>Email</u>	<u>The Applicant asked Trent Valley IDB whether the SoCG had been reviewed and whether any further discussion was required for clarity, with a view to closing out the SoCG.</u>
<u>8 June 2023</u>	<u>Email</u>	<u>The Applicant asked whether the SoCG had been reviewed and whether any further discussion was required for clarity, with a view to closing out the SoCG.</u>
<u>26 July 2023</u>	<u>Email</u>	<u>Minor revisions to the first version of the SoCG were sent by the Applicant to Trent Valley IDB with a view to closing out the SoCG ahead of Deadline 2.</u>
<u>01 August 2023</u>	<u>Email</u>	<u>Second draft of SoCG issued to Trent Valley IDB by the Applicant. This included text to make it clear and unambiguous that the drainage authorities would consent to the disapplication of s23 of the Land Drainage Act 1991 specifically (if agreed)</u>
<u>01 August 2023</u>	<u>Email</u>	<u>Trent Valley IDB requested clarification on comment in s1.2 regarding watercourse crossings for the Grid Connection Corridor. The Board's position was stated that all watercourses should be crossed by HDD. A plan was requested of watercourse crossings.</u>
<u>10 August 2023</u>	<u>Email</u>	<u>The Applicant supplied Trent Valley IDB with a plan of watercourse crossings and confirmed potential open cut crossings of Trent Valley IDB watercourses 11, 12 and 13 (as indicated in the map provided to the IDB). Environmental screening details were also supplied to Trent Valley IDB indicating sensitivity of potentially affected watercourses, with the three affected watercourses being of low environmental sensitivity. The Applicant also highlighted that there are protective provisions for the benefit of drainage authorities at Part 3 of Schedule 15 of the draft DCO which offer protection to IDB watercourses and require approval of plans of works.</u>
<u>6 September 2023</u>	<u>Email</u>	<u>The Applicant asked whether the details submitted on 10 August 2023 had been reviewed and whether any further discussion was required for clarity, with a view to closing out the SoCG.</u>
<u>27 September 2023</u>	<u>Phone Call</u>	<u>The Applicant contacted Trent Valley IDB to ask if there was an update on the SoCG and whether there were any</u>

		<p><u>queries. Trent Valley IDB confirmed that the document was undergoing review.</u></p>
<p><u>27 September 2023</u></p>	<p><u>Email</u></p>	<p><u>The Applicant re-circulated the second draft of the SoCG and the latest version of the protective provisions and requested any feedback. A change to the DCO boundary was explained (for which an ES addendum was prepared) with a requirement for two crossings of Seymour Drain for the Grid Connection Corridor to the south of Torksey Ferry Road. This change allows the three cables for Tillbridge, Gate Burton and Cottam solar NSIP projects to follow the same route into Cottam substation and thus minimise cumulative effects. Due to local constraints one of these crossings would need to be open cut, with the other HDD. There would be a 10m buffer alongside the south of the drain (south of the existing road). It was reiterated that as per the protective provisions all proposed plans would need to be submitted to the IDB and agreed.</u></p>
<p><u>2 October 2023</u></p>	<p><u>Email</u></p>	<p><u>Trent Valley IDB requested further detail on the constraints surrounding the need for open cut crossings and reiterated the Board's policy that all watercourses are to be crossed by HDD. Trent Valley IDB also noted that they act as agents on behalf of Lincolnshire County Council (LCC) and are subsequently the consenting authority for additional watercourses in the DCO Order limits. With regard to disapplication of Section 23, TVIDB indicated that they would not be prepared to do this.</u></p>
<p><u>December 2023</u></p>	<p><u>Email</u></p>	<p><u>Final draft of SoCG issued to Trent Valley IDB by the Applicant.</u></p>
<p><u>December 2023</u></p>	<p><u>Email</u></p>	<p><u>Follow up email sent to Trent Valley IDB for an update on the signed version of the SoCG. Trent Valley IDB confirmed that the document was undergoing review.</u></p>