



Gate Burton Energy Park

Summary Statement

EN-010131

West Lindsey District Council (GABE-ISP002)

January 2024

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1. Introduction

- 1.1. This document is submitted at Deadline 7 as West Lindsey District Council’s (WLDC) ‘Summary Statement’ regarding matters previously raised during the examination into the Gate Burton Energy Park Nationally Significant Infrastructure Project (NSIP).
- 1.2. The matters set out in this document represent those that, in the view of WLDC, have not been resolved.
- 1.3. Table 1 below provides a schedule of the key submissions made by WLDC to the examination.

Table 1-1 - Scheduled of submission made by WLDC

Submission	Deadline
Local Impact Report	1 – 18/07/2023
Written Representation	2 – 08/08/2023
Examining Authority’s First Written Questions - WLDC Responses	2 – 08/08/2023
Issue Specific Hearing 2: dDCO - Post Hearing Summary	3 – 01/09/2023
Issue Specific Hearing 3: Environmental Matters - Post-Hearing Summary	3 – 01/09/2023
Examining Authority’s Second Written Questions	4 – 03/10/2023
Examining Authority’s Third Written Questions	5 – 20/11/2023
WLDC – Comments on the Joint Report on Interrelationships between Nationally Significant Infrastructure Projects	5 – 20/11/2023
WLDC responses to the Applicant’s responses to ExAs Third Written Questions	6 – 21/12/2023
Statement of Common Ground (submitted by the Applicant)	6 - 21/12/2023

2. Outstanding Matters

Matter	WLDC position
<p>1. Decision making</p>	<p>The limited methodological approach applied to the assessment of the Gate Burton Energy Park project with other projects (the cumulative assessment) results in there only being environmental information relating to the impact of the project on its own, or with all other projects together as a 'worst case'.</p> <p>WLDC has consistently requested that an assessment of the various combination of projects be carried out so that an understanding of the relative impacts can be obtained.</p> <p>Furthermore, such environmental information would, in the event that the Secretary of State determines the three NSIP applications currently in their examination phase at the same time and concludes that the cumulative impacts of all three projects are unacceptable, enable the consideration of whether the impacts of a combination of two projects would be acceptable.</p> <p>Based upon the environmental information before the Secretary of State, in the event that the three NSIP projects are determined at the same time, the only decisions that can be made are as follows:</p> <ul style="list-style-type: none"> i. To grant consent for a single project only; or ii. To grant consent for all three projects; or iii. To refuse consent for all three projects. <p>Despite the frequent and consistent request for this information to be provided, it remains disappointing that this has not been addressed to allow such impacts to be assessed and to enable the decision maker to determine a combination of two projects if required.</p>
<p>2. Policy Compliance</p>	<p>Central Lincolnshire Local Plan (2023) – the adopted statutory development plan</p> <p>WLDC maintains its judgement that the application fails to comply with the following Local Plan policies:</p> <p>S14 – Renewable energy:</p> <ul style="list-style-type: none"> • Disagree that landscape and visual impacts will be wholly mitigated by landscape planting. • People will experience harmful visual effects of the project.

Matter	WLDC position
	<ul style="list-style-type: none"> • The BMV Land methodology is sub-standard in comparison to established methodology (including the methodology used by other solar projects such as Cottam and West Burton). <p>S43 – Sustainable rural tourism:</p> <ul style="list-style-type: none"> • The impact during the construction phase (individually and cumulatively) on the availability of tourist accommodation in the district will cause significant harm and damage the strength of the tourism sector. <p>S54 – Health and Wellbeing & Health Impact Assessment for Planning Applications: Guidance Note (updated April 2023) :</p> <ul style="list-style-type: none"> • An HIA has not been provided in accordance with policy S54. <p>S62 – Area of Great Landscape Value:</p> <ul style="list-style-type: none"> • The project will cause direct harm upon the designated AGLV.
<p>3. Draft development consent order</p>	<p>Article 7 – Statutory Nuisance</p> <p>The situation before the decision maker for this NSIP is very different to other projects that have benefited from the effective immunity from statutory nuisance claims. The potential cumulative impacts that may be experienced by local residents are unprecedented in that the construction and operation of several NSIP projects, located near to each other, could occur concurrently in this instance. Should harm arise, the practical remedy under the terms of DCO requirements for each project would be cumbersome and the identification of the source of the harm difficult to establish, making the ability to undertake effective enforcement difficult to navigate.</p> <p>Furthermore, the environmental assessment submitted in support of the Gate Burton project does not assess the various combinations of each project, and the likely contributions of each project to individual receptors is not known. Were such information available, the likely main contributor to noise levels experienced at properties would more readily be identified.</p> <p>The lack of ability to enforce promptly due to multiple noise sources from multiple projects leaves residents with the real potential to be exposed to noise nuisance. The ability for residents to seek alternative remedy through the statutory nuisance process would provide them with a reasonable additional option.</p> <p>WLDC sees no impediment to the applicant to provide local residents with the ability to seek remedy through the statutory nuisance process provided by the Environment Protection Act 1990.</p>

Matter

WLDC position

4. Draft development consent order

Article 46 and Schedule 16

WLDC maintains a strong objection to Schedule 16 as currently drafted.

Schedule 16 currently provides for a 10 week determination period for all requirements and a deemed consent provision.

The 10 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 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 applicant 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.

The position proposed by WLDC remains as follows:

i) Deemed consent

WLDC maintains an objection to the deemed consent provision.

Matter

WLDC position

Reasoning:

Due to the scale and potential complexity of the details and their importance to ensure that mitigation for a large scale infrastructure project is assessed and implemented, it is wholly unacceptable to impose a deemed consent provision. Additionally, with the potential cumulative impact of having to process subsequent approvals for several similar projects, it is essential that WLDC has sufficient time to make well informed decisions in the public interest.

The deemed consent provision also has an impact on WLDC's position with regard to the approval timescales discussed below.

ii) Approval timescales

WLDC maintains an objection to the deemed consent provision.

Should there be no deemed consent provision, WLDC request that the following timescales be specified:

- Requirement 5 = 13 weeks
- Other Requirements = 10 weeks

Should there a deemed consent provision be retained, WLDC request that the following timescales be specified:

- Requirement 5 = 16 weeks
- Other Requirements 13 weeks

Reasoning:

The timescales WLDC considers to be acceptable are influenced by whether a deemed consent provision is included in the DCO. If it is retained, a longer period of time is required to enable WLDC to fulfil its duties in the determination of subsequent applications that relate to EIA development.

Consistent with the reasons that WLDC object to the deemed consent provision, it is essential that WLDC has reasonable time to interpret, assess, have regard to consultee representation, negotiate and formally determine complex and technical details that are required in order for the project to be acceptable.

Matter	WLDC position
	<p>Fees:</p> <p>Whilst a fee provision has now been included, WLDC considers that, due to the scale and complexity of the details for which subsequent approval will be sought, a set fee for specific requirements is reasonable and proportionate. WLDC suggests the following:</p> <p><i>(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement discharge, a fee is to apply and must be paid to the relevant planning authority for each application.</i></p> <p><i>(2) The fee payable for each application under sub-paragraph (1) is as follows—</i></p> <p><i>(a) a fee of £2,535 for the first application for the discharge of each of the requirements 5, 6, 7, 8, 9, 11, 13, 14, 15, 18, 19 and 21;</i></p> <p><i>(b) a fee of £578 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and</i></p> <p><i>(c) a fee of £145 for any application for the discharge of—</i></p> <p><i>(i) any other requirements not listed in paragraph (a); and</i></p> <p><i>(ii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.</i></p>
<p>5. Joint Report on Interrelationships (JRI) between NSIPs.</p>	<p>The JRI is a helpful summary of the reported assessments, but it does not perform a function beyond that. It cannot be relied upon as a control document to deliver commitments or mitigation (or enforcement). The contents within it, such as the co-operation agreement, can be dissolved at any point as the applicants see fit, without recourse.</p> <p>Furthermore, the JRI is helpful in clearly demonstrating the variance in the conclusions reached in each Environmental Statement with regard to cumulative effects. This variance demonstrates that the three NSIP applications currently in examination phase, have cumulative assessments that for some impacts reach starkly different conclusions. This results in the Secretary of State being in a position where they have to themselves decide which assessment to prefer for the purposes of decision making. From before the applications were submitted, WLDC have requested that the approach to the consideration of the cumulative effects of these three, in effect parallel applications, are considered to ensure consistency and clarity. The current situation is that the Gate Burton Energy Park application has reached the close of its examination with these inconsistencies untested and unresolved.</p>

Matter	WLDC position
	<p>WLDC also notes the applicant’s oral response in the Cottam ISH4 (06/12/23) confirming that the JRI will continue to be updated throughout the examinations for the Cottam, West Burton and Tillbridge applications and that the Gate Burton project will continue to be collaborating as part of those changes (including sign-off).</p>
<p>6. Cumulative assessment</p>	<p>WLDC has consistently requested that an assessment of various combinations of projects to be carried out beyond a reliance upon a ‘worst case’ assessment of all projects taken together.</p> <p>The reasoning is that, in the event that all three of the current projects in examination (Gate Burton, Cottam and West Burton) are determined at the same time by the Secretary of State, the environmental information provided only allows for three decision options to be made:</p> <ul style="list-style-type: none"> i) To grant consent for a single project only; or ii) To grant consent for all three projects; or iii) To refuse consent for all three projects. <p>The implications of this are that, when considering the projects cumulatively, the Secretary of State can only make an ‘all or nothing’ decision; either all of the projects are granted development consent or they are refused. We maintain that there is not sufficient information before the decision-maker for them to make a balanced and complete judgment as to whether a combination of two schemes may be more favourable than three for instance. Based upon the current approach, such a decision is unable to be made due to the lack of environmental assessment to demonstrate the comparative impacts between each combination to allow a reasoned judgement to be made.</p> <p>This matter was discussed during Issue Specific Hearing 4 for the examination of the Cottam Solar Project. The ExA understood the position of WLDC and requested this matter be included with the Statement of Common Ground between the applicant and WLDC.</p>
<p>7. Cumulative Assessment</p>	<p>Mitigation controls</p> <p>A key concern for WLDC will be, should the Gate Burton Energy Park be consented, the mechanisms that will mitigate and control the impacts of the scheme. These concerns will extend beyond mitigation for the application itself, to the cumulative impacts with other projects. Such impacts will be significant and experienced during the construction, operation and decommissioning stages.</p>

Matter	WLDC position
	<p>WLDC will also seek to ensure that all impacts on the environment and communities are mitigated and controlled and not solely those deemed significant in terms of the Environmental Impact Assessment. WLDC expect the applicant to deliver measures that mitigate all impacts to ensure that the overarching impact of the project is mitigated as far as possible.</p> <p>The key remaining issues are:</p> <ul style="list-style-type: none"> • The key concern for WLDC is how cumulative projects will be delivered in the event that two or more projects are being constructed at the same time. • There is no provision or mechanism in the DCO ‘control’ documents that sets out a conjoined approach to the implementation of construction activity, including the implementation of respective control docs (e.g. fCEMPs) across projects. • WLDC have requested that there should be mechanism in the framework documents that commit to the establishment of organisational principles such the appointment of a single co-ordinator that would serve as a single point of contact for third parties and would be responsible for ensuring work in implemented in a coherent manner. • Such measures are required to ensure that it is clear which party is responsible for certain works at certain times so that, on enquiry, these parties can be readily identified. • Examples include construction noise, traffic (esp. AIL movements), impacts on mitigation already delivered (e.g. ecological mitigation delivered, but which may be affected by subsequent construction works associated with another project). • This above will be essential in the event of complaints from third parties and/or enforcement investigation where responsibilities will need to be established in an efficient manner. • A single approach to multi-project implementation is required.
<p>8. Project site selection, alternatives and design</p>	<p>The Applicant’s Stage 4 assessment set out in Section 3.3 of Environmental Statement (ES) Chapter 3: Alternatives and Design Evolution is unclear, with the methodology applied not explained and the comparative outcomes not reported clearly. WLDC’s key issues are set out below:</p> <ul style="list-style-type: none"> • Lack of consideration of avoiding direct impacts on the AGLV in site selection. • It is not understood why there remain ‘outlier’ sites despite the design criteria of delivering a ‘contiguous’ site (especially as other ‘outlier’ parcels of land were removed from the Scheme). • Stage 4 desktop assessment and evaluation based upon a methodology (referenced in Ch.3 para. 3.3.6 has not been included in the application documents. • Lack of consideration of cumulative traffic impact during the construction phase in the grid corridor <p>Despite the design objectives to identify a ‘contiguous’ site, the inclusion of ‘outlier’ land to the north and to the north-west of the site is contrary to this approach. These sites create an ad-hoc, scattered and unplanned approach to the site land assembly.</p>

Matter	WLDC position
	<p>It is not understood why there remain ‘outlier’ sites despite the design criteria of delivering a ‘contiguous’ site (especially as other ‘outlier’ parcels of land were removed from the Scheme).</p>
<p>9. Landscape and Visual</p>	<p>Area of Great Landscape Value</p> <p>The LVIA has not provided a sufficiently detailed assessment of the impact of local landscape character, including the impact on the designated Area of Great Landscape Value (AGLV) and visual effects. WLDC assert that the following issues remain unresolved:</p> <ul style="list-style-type: none"> • The reasons for pursuing a site of the required site within the AGLV is not robustly justified. • The reasons ‘other’ land parcels were excluded are not justified, including why such matters were given greater weight/importance than the AGLV. <p>The harmful impacts upon the AGLV result in non-compliance with Local Plan Policy S62.</p>
<p>10. Landscape and Visual</p>	<p>Visual effects</p> <p>During the operational phase of the solar park, it will have several major adverse impacts on the area of West Lindsey. It will have major significant visual effects on three LLCA which includes LLCA 02 – Ancient Woodland Ridge and LLCA 06 – Clay Farmlands, both of which are located within WLDC. This demonstrates the mitigation does not minimise the impacts of the schemes and will have a long-term impact on the area. The remaining issues include:</p> <ul style="list-style-type: none"> • WLDC’s position is that the harm identified will occur for the 60 year lifetime of the project. • The mitigation proposed does not neutralise that harmful impact. • The harmful impact must therefore be given significant weight in the planning balance. • WLDC does not offer any mitigation suggestions aside from minimising/removing impacts through scheme design (i.e. removal of solar panels and associated infrastructure).
<p>11. Landscape and Visual</p>	<p>LVIA cumulative effects</p> <p>WLDC remains of the view that the LVIA needs to assess and address the sequential effect on more transient receptors, including those that are travelling through the District.</p> <p>ES Volume 1, Chapter 10: Landscape and Visual [EN010131/APP/3.1] includes a cumulative assessment including sequential effects on transient receptors. The parties agree that the assessment has assessed sequential effects.</p>

Matter	WLDC position
	<p>The key remaining issues include:</p> <ul style="list-style-type: none"> • Sequential assessment appears to extend only to consideration at each particular viewpoint. • Sequential assessment only considers cumulative schemes in construction or operation. • Sequential assessment does not appear to consider the cumulative impacts with Cottam, West Burton and Tillbridge. • There is no assessment linking viewpoints (i.e. in a sequential manner).
12. Socio-Economics and Land-Use	<p>In relation to Socio-Economics and Land-Use, the following issues of concerns remain:</p> <ul style="list-style-type: none"> • The agricultural components of the ES do not follow any published and established methodology. • A sensitivity/resilience assessment should be provided in the ES, given the preponderance of heavy, wet soils. • The level of soil detail is insufficient for an ALC assessment and production of a Soil Handling and Management Plan. • The Agricultural Circumstances Report does not reflect the potential socio-economic impact and land use impacts on the affected farms. • There is no assessment of impact on individual farms and displacement of tenants. • The lack of an established methodology in the ES underestimates the effect of loss of agricultural land to the Scheme, compared with if the methodologies of IEMA or DMRB were applied. Lack of assessment of the effects of the Scheme on agricultural holdings is a significant shortcoming in the ES. • The mitigation proposals are satisfactory, but would benefit from a soil sensitivity /resilience assessment to inform the Soil Handling and Management Plan
13. Socio-Economics and Land-Use	<p>Tenant farmers and impacts on wider agricultural sector WLDC maintains that consideration should be given to the socio-economic impacts of displacement of tenant farmers and agricultural workers, and the impact on land-take on the viability of affected farms. WLDC state this would require full farm impact assessments based on meetings with land-owners and long-term tenants.</p>
14. Temporal nature of impacts	<p>Temporary impacts / reversable impacts WLDC maintains that there is significant uncertainty on whether the land is able to be returned to agricultural use after the 60 year lifetime and this will result in loss of agricultural knowledge in the area.</p> <p>There cannot therefore be a reliance rely upon an assumption that the land will be restored to a comparable condition on over 60 years' time. The position of WLDC also goes beyond the physical soil conditions. The loss of commercial agricultural activity means the sector will be diminished and no guarantee that businesses would re-establish after such a long period.</p>

Matter	WLDC position
15. Public Rights of Way (PROW)	<p>PRoW surveys WLDC maintains concerns that no surveys of existing usage of public rights of way affected by the solar project appear to have been undertaken. Therefore, usage of PRoWs cannot be confirmed to enable an understanding of the indirect impacts upon users of PROW (e.g. construction noise, visual effects).</p> <p>This concern is not simply about displacement of PROW users, but the effects experienced by users and the amount of people that will be affected.</p>
16. Ecology and Nature Conservation	<p>Local biodiversity habitats WLDC disagree with the conclusion of 'Local' biodiversity value for habitats which include veteran trees. WLDC state ancient woodlands adjacent to the order limits are a potential receptor and should be valued and impacts considered.</p>
17. Ecology and Nature Conservation	<p>Burton Wood and Long Nursey Both Burton Wood and Long Nursey will be completely encircled by the development and further consideration should be given for any potential effects. WLDC maintain concerns on the following:</p> <ul style="list-style-type: none"> • The 15m buffer applied is a 'minimum' distance suggested in guidance (Solar Energy UK Natural Capital Best Practice Guidance) • The application of what is a bare minimum buffer and concluding no direct effects on a binary basis without assessment cannot be relied upon. • The applicant provides no ground truthing to confirm the legitimacy of the buffer assumptions.
18. Transport and Access	<p>Construction Traffic – Abnormal Indivisible Loads It is unclear on the exact movements of Abnormal Indivisible Loads.</p> <p>Area of disagreement maintained: WLDC consider that AIL vehicle trips should have been identified and assessed (including the cumulative assessment),</p>
19. Transport and Access	<p>Construction Access WLDC state there is no justification to use construction access points from single lane minor roads whilst also proposing two two-way accesses from highways.</p>

Matter	WLDC position
	<p>Area of disagreement maintained:</p> <ul style="list-style-type: none"> • WLDCs concern relates to the necessity for the use of the secondary access points. • WLDC does not question the ES or fCTMP. • The request is whether only the access from the A156 is necessary to construct the scheme.
<p>20. Transport and Access</p>	<p>WLDC state there is a lack of focus on the cumulative transport impacts during the construction phase within the grid corridor.</p> <p>Area of disagreement maintained:</p> <ul style="list-style-type: none"> • WLDCs concern relates to the management and co-ordination of construction traffic for cumulative projects. • The current fCTMP does not provide sufficient detail to explain how this would be managed on a collaborative basis. <p>The Joint Report on Interrelationships (JRI) between NSIPS also does not provide a management framework to co-ordinate construction traffic. Furthermore, the JRI is currently neither secured through a DCO Requirement and nor is it a Certified Document. WLDC is therefore unclear of the purpose of this document in addressing cumulative impacts, as there are no mechanisms to secure its commitments in the event such commitment were made within the Report.</p>
<p>21. Human Health and Wellbeing</p>	<p>With regard to the impact on healthcare services, WLDC maintain a concern regarding the conclusion that for the ‘vast majority of the construction period, such additional demand would not arise’ has been reached.</p> <p>WLDC query where the detail on where the current information on cumulative sites has been assessed.</p>
<p>22. Noise and Vibration</p>	<p>WLDC state that due to noise impacts being at or around the Significant Observed Adverse Effect Level, this needs to be addressed through mitigation at the very least.</p> <p>There is an acknowledged potential to exceed SOAEL during HDD activities. The mitigation proposed in the dCEMP (Table 3-6) is the construction of an acoustic barrier; however, details of the barrier are not provided in the application and nor are its potential impacts assessed (e.g. visual impact, construction method(s)).</p>

Matter**WLDC position**

23. Noise and
Vibration

Cumulative impacts

Whilst it is noted that there is an intention to work collaboratively with Cottam, Tillbridge and West Burton on the cable corridor, there is no guarantee that the schemes will be constructed at the same time, this would mean that the water courses could be impacted several times.

WLDC's position remains that, notwithstanding mitigation measures, there is a risk of impacts caused by cumulative activity that is currently uncoordinated or managed in a collaborative way.

The construction period may also extend beyond a five year period which hasn't been assessed.

**If you would like a copy of this document in large print, audio, Braille or in another language:
Please telephone 01427 676676 or email
customer.services@west-lindsey.gov.uk**



West Lindsey District Council
Guildhall, Marshall's Yard
Gainsborough
Lincolnshire, DN21 2NA