

# West Burton Solar Project

## Pre-Examination Response to Section 51 Advice and Comments of the Planning Inspectorate: Cover Letter

Prepared by: Lanpro Services  
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APFP Regulation 5(2)(q)



## Issue Sheet

**Report Prepared for: West Burton Solar Project Ltd.  
Pre-Examination Stage**

### Pre-Examination Response to Section 51 Advice and Comments of the Planning Inspectorate: Cover Letter

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The Planning Inspectorate  
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Temple Quay House  
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BS1 6PN

3<sup>rd</sup> August 2023

Dear Ms Harraway,

**Planning Act 2008 - Application for a Development Consent Order for West Burton Solar Project**  
**Application Ref: EN010132**

On behalf of West Burton Solar Project Limited (the Applicant), we enclose documents and responses as listed in the table below in respect of (i) advice issued by the Planning Inspectorate on 18<sup>th</sup> April 2023 under Section 51 of the Planning Act 2008 (PA 2008) and (ii) comments provided by the Planning Inspectorate on 18<sup>th</sup> April 2023 within the Section 55 checklist relating to the application.

In addition to the changes set out in the table below addressing Section 51 and Section 55, which identify updated plans and documents that are provided, the Applicant also includes the following with this submission:

- An updated Guide to the Application (document reference **[EN010132/APP/WB1.3\_A]**).
- An updated Land Plan **[EN010132/APP/WB2.2\_A]**; A schedule of amendments to this document is provided at **Appendix A** of this document.
- An updated Crown Land Plan **[EN010132/APP/WB2.12\_A]**; A schedule of amendments to this document is provided at **Appendix A** of this document.
- An updated Works Plan **[EN010132/APP/WB2.3\_A]**; A schedule of amendments to this document is provided at **Appendix A** of this document.
- An updated Environmental Statement Appendix 5.1: Site Selection Assessment **[EN010132/APP/WB6.3.5.1\_A]**.

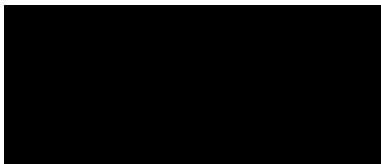
- An updated Crossing Schedule **[EN010132/APP/WB7.15 \_A]**; A schedule of amendments to this document is provided at **Appendix A** of this document. Missing Sheets 5 to 10 in Appendix 3 have been added which were omissions from the original version.

The Applicant notes that acceptance of these documents is at the discretion of the Examining Authority prior to the commencement of the Examination.

The Applicant also notes that the Government has published updated draft National Policy Statements (NPS) for energy in March 2023. The Applicant is in the process of reviewing these documents. The Applicant will provide an update on compliance with the relevant draft NPSs at Deadline 1 of the Examination.

Please do not hesitate to contact Jane Crichton of Lanpro (██████████@lanproservices.co.uk) if you have any questions in respect of the enclosures.

Yours sincerely



Eve Browning

West Burton Solar Project Ltd.



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**Table 1.1 Response to S51 Advice and Comments of the Planning Inspectorate**

Planning Inspectorate Comment	Applicants Response
<i>Section 51 Advice Letter</i>	
<p><b>Land Plan</b></p> <p>A north arrow is not present and see comment below relating to Book of Reference.</p>	<p>The Applicant has amended the Land Plan with a north arrow and an updated version is submitted under the cover of this letter <b>[EN010132/APP/WB2.2_A]</b></p>
<p><b>Works Plan</b></p> <p>Work number 8B 'A156' is not identified consistently in comparison to the other work number 8Bs as it is outlined in blue, whereas work number 8B 'West View Farm' is outlined in red.</p>	<p>The Applicant has amended the Works Plan and an updated version is submitted under the cover of this letter <b>[EN010132/APP/WB2.3_A]</b>. This version of the Works Plan also includes the correction of a number of other minor errors that have been identified being since submission of the DCO Application, these being the correction of erroneously annotated areas designated Works No. 5A (vii) on sheets 7, 8, and 10 of the Works Plan.</p>
<p><b>Crown Land Plan</b></p> <p>Although there is no requirement that the precise location of the Crown Lands Plan is shown within the overall site, it</p>	<p>The Crown Land Plan is shown on <b>[EN010132/APP/WB2.10_A]</b> and has been updated with a north arrow.</p> <p>The Order Limits are shown on the revised Crown Land Plan to aid locational navigation in the context of the rest of the Scheme.</p>

Planning Inspectorate Comment	Applicants Response
<p>would ease navigation if this was included within an overall plan identifying the plots within the Order land.</p>	
<p><b>Draft Development Consent Order</b></p>	
<p>“Definition of “Order land”</p> <p>The definition of “Order land” in Article 2(1) of the dDCO is drafted so it could relate to land outside the land plans, since it includes land “affected by the authorised development”. The EM makes clear this is not intended, and the Applicant is therefore asked to consider alternative drafting or to give further justification in the EM for this wider definition.</p>	<p>The definition of “Order land” in Article 2(1) of the dDCO is the same as the definition used in the Riverside Energy Park Order 2020 and is based on the requirements set out in s122(2) of the Planning Act 2008.</p> <p>We consider that the drafting in Article 2(1) and Article 18 of the dDCO is consistent with the EM. This is because the definition of “Order land” is limited to that which is “<i>shown on the land plans and described in the book of reference</i>”. We therefore do not consider that Order could be interpreted as including land outside of the land shown of the land plans.</p> <p>However, the Applicant is willing to remove the words “<i>required for, or is required to facilitate, or is incidental to, or is affected by the authorised development</i>” to make the definition consistent with the recently made Longfield Solar Farm Order 2023 and will make this change in the next version of the dDCO submitted at Deadline 1.</p>

Planning Inspectorate Comment	Applicants Response
<p>There would appear to be a divergence with Article 18 which only applies within the Order Lands and the EM for this provision which indicates it could apply outside. These issues should be resolved.</p>	
<p>“Generating Station” There is no definition of “generating station” in Article 2. It is therefore unclear which of the numbered works in Schedule 1 Article 4 might apply to and whether it applies to just work 1 or works 1 to 4, for example whether, for these purposes, the battery energy facility is included.</p>	<p>The Applicant notes that the term “generating station” is not defined in any of the solar related DCOs including the recently made Longfield Solar Farm Order 2023 nor in other energy related DCOs such as the Hornsea Four Offshore Wind Farm Order 2023.</p> <p>As set out in paragraph 4.2.9 of the Explanatory Memorandum, Article 4 is required pursuant to s140 of the Planning Act 2008 so that consent is granted for operation of the authorised development and no additional consent is required under the Electricity Act 1989.</p> <p>The Applicant considers that the nature of the “generating station” is sufficiently described in Work Nos. 1A – 1C in Schedule 1 to the dDCO, given that these work numbers are each described as being a “ground mounted solar photovoltaic generating station”. Article 3(1) of the dDCO states that development consent is granted for the authorised development which is defined in Article 2.</p>
<p>Written Scheme of Investigation</p>	<p>Schedule 14 to the draft DCO will be updated to specifically refer to the WSI as a standalone document in the version of the dDCO submitted at Deadline 1.</p>

Planning Inspectorate Comment	Applicants Response
<p>In the definition of the Written Scheme of Investigation (WSI) within Article 2(1) of the dDCO the WSI is identified as being in Schedule 14. While the Written Scheme of Investigation (Doc WB3.6.13.7) forms part of the Environmental Statement (ES) this is not explicit in the drafting. It is suggested that either the definition in Article 2(1) is amended to make it clear the WSI forms part of the ES or the WSI is specifically referred to in Schedule 14.</p>	
<p>Article 6 – Application and modification of statutory provisions</p> <p>The Explanatory Memorandum *(the EM) should explain why it is</p>	<p>Paragraphs 4.2.11 to 4.2.18 of the EM set out the disapplications and modifications that are being applied for and why they are necessary. For example, paragraph 4.2.13 explains that modifications have been made to ensure that works permitted in the dDCO are not the subject of further regulatory consideration or control, which would cause unnecessary uncertainty and duplication, and may unjustifiably delay the implementation of the Scheme. This approach is consistent with other made DCOs.</p>



Planning Inspectorate Comment	Applicants Response
<p>necessary to disapply each provision in Article 6(1) for this particular scheme (see below). While some provisions have been described not all have been done so. The EM explains what the effect of Article 6(3) is, but does not explain why this is necessary and should do so.</p>	
<p>Article 12 – Use of private roads &amp; Article 39 – Tree Preservation Orders</p> <p>As examples of a lack of specificity to the scheme within the EM (see below), it is not clear whether there are any private roads or trees protected by Tree Preservation Orders within the Order lands. Clearly, these provisions are only necessary should such</p>	<p>The Applicant will be preparing a plan to show any Tree Preservation Order (TPO's) within the Order Limits. This will be submitted at Deadline 1.</p> <p>Paragraph 4.3.8 of the EM sets out the justification for the powers in Article 12 of the draft DCO. The Applicant will also review and (if necessary) update the Streets Plan [APP-016] to show any streets that Article 12 may apply to for Deadline 1.</p>

Planning Inspectorate Comment	Applicants Response
<p>exist. The EM, or some other plan within the overall application, should identify these.</p>	
<p>Schedules 4 to 8 of the dDCO</p> <p>While identified on the relevant plans, some of the names of the highways are not very specific. Examples are "Main Road" and "Common Lane". There may more than one of these nomenclatures in the applicable Local Authority District. It is suggested that an additional column is included into each table adding the Parish(es) of the highways and streets referred to.</p>	<p>The Applicant will add the relevant parish to the tables in Schedules 4 to 8 in the next version of the dDCO submitted at Deadline 1.</p>

<b>Planning Inspectorate Comment</b>	<b>Applicants Response</b>
<p>Schedule 10 of the dDCO</p> <p>It is noted that Plots 4-049, 4-40 and 4-043 all occur in both rows one and two of Schedule 10. Could it be clarified as to whether this is correct and if so, the Applicant is asked to consider alternative drafting</p>	<p>It is correct that some plots are referred to in both row one and row two of Schedule 10. For these plots, rights for access improvements in addition to rights for the grid connection are being sought.</p>
<p><b>Explanatory Memorandum</b></p> <p>The EM fails at various locations to explain why a provision in the draft Development Consent Order (the dDCO) is required for this particular proposal as opposed to what the provision would achieve. The Applicant is requested to review the whole document with this objective in mind. Specific</p>	<p>The Applicant considers that a sufficient explanation has been provided for each of the provisions in the dDCO. However, the Applicant will review the EM in light of the recently granted Longfield Solar Farm Order 2023 and (if necessary) update the EM for Deadline 1 .</p>

Planning Inspectorate Comment	Applicants Response
<p>examples are set out above, but the Applicant should review the whole document. Greater use of precedents from made Development Consent Orders could also be included within the EM, explaining any differences in drafting.</p>	
<p><b>Environmental Statement Appendix WB5.1 – Site Selection Assessment</b></p> <p>The text references various Annexes to this document. However, Annexes A and D are not included. Could these please be provided.</p>	<p>The Applicant has updated the Environmental Statement Appendix WB5.1 ‘Site Selection Assessment’ to include Annex D. The Applicant can confirm that Annex A ‘References’ was included with the original submission. The updated version is submitted under the cover of this letter as <b>WB6.3.5.1_A ES Appendix 5.1 Site Selection Assessment_Revision A [EN010132/APP/WB6.3.5.1_A]</b></p>
<p><b>Land Plan, Book of Reference and Statement of Reasons</b></p> <p>The Book of Reference makes reference to the</p>	<p>The compulsory acquisition powers being applied for are set out in Articles 20, 22 29 and 30 of the draft DCO. Article 20 authorises the acquisition of land (which includes rights over land) but is subject to Articles 22 and 29 which specifies that only the acquisition of rights can be exercised in respect of the plots listed in Schedule 10 and only temporary possession powers exercised in respect of the plots listed in Schedule 12. Article 23(1) of</p>

Planning Inspectorate Comment	Applicants Response
<p>terms “Freehold Acquisition”, “Temporary Possession” and “Acquisition of Rights”</p> <p>In respect of the term “Freehold Acquisition” read in conventional English, it is not clear whether this refers to the acquisition of the freehold alone, leaving all other pre-existing rights intact, or seeks to obtain clean title. The Statement of Reasons in paragraph 5.3.1. states: “The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink” indicating the latter. Similar issues apply in relation to the terms</p>	<p>the draft DCO sets out that private rights will be extinguished where the land is subject to compulsory acquisition and Article 23(2) and (3) relate to land subject to the acquisition of rights and temporary possession.</p> <p>The term “Freehold Acquisition” has been used in the Book of Reference to aid Affected Persons in understanding the distinction between the pink, blue and yellow plots shown on the Land Plans (as reference to freehold is considered to have a more widely understood meaning than “acquisition of land”). The term is not used and does not apply to the compulsory acquisition powers in the draft DCO.</p> <p>There are numerous precedents in recent DCO applications of the use of these terms. See, for example, the Hornsea Project Four Offshore Wind Farm Book of Reference and Statement of Reasons, the Cleve Hill Solar Park Order Statement of Reasons and the Riverside Energy Park Order Statement of Reasons.</p>

Planning Inspectorate Comment	Applicants Response
<p>“Temporary Possession” and “Acquisition of Rights”.</p> <p>The Applicant might consider the use of alternative words or phrases to “Freehold Acquisition”, “Temporary Possession” and “Acquisition of Rights” in the Book of Reference and Statement of Reasons to make it clear in that document the extent of the rights sought.</p> <p>It is suggested that the same term or phrase should be used on the Land Plans, the Book of Reference and the Statement of Reasons setting out the full extent of the rights sought the rights sought to ensure those affected are fully appraised.</p>	

Planning Inspectorate Comment	Applicants Response
<i>Comments in the Section 55 Checklist</i>	
<p><b>Box 30 Land Plan (Doc ref WB2.2)</b></p> <p>The North arrow is not present and see comment below relating to Book of Reference</p>	<p>Please note the response above under ‘Section 51 Advice Letter’</p>
<p><b>Box 30 Works Plan (Doc ref WB2.3)</b></p> <p>Work number 8B ‘A156’ is not identified consistently in comparison to the other work number 8Bs as it is outlined in blue, whereas work number 8B ‘West View Farm’ is outlined in red</p>	<p>Please note the response above under ‘Section 51 Advice Letter’</p>
<p><b>Box 30 Crown Land Plan (Doc ref WB2.10)</b></p> <p>Lacks identification within overall Order Limits</p>	<p>Please note the response above under ‘Section 51 Advice Letter’</p>

Planning Inspectorate Comment	Applicants Response
<b>Box 30 Draft Development Consent Order (Doc ref WB3.1)</b> Article 2(1)	Please note the response above under 'Section 51 Advice Letter'
<b>Box 30 Draft Development Consent Order (Doc ref WB3.1)</b> Articles 6, 12 and 39	Please note the response above under 'Section 51 Advice Letter'
<b>Box 30 Draft Development Consent Order (Doc ref WB3.1)</b> Articles 4 to 8	Please note the response above under 'Section 51 Advice Letter'
<b>Box 30 Draft Development Consent Order (Doc ref WB3.1)</b> Article 10	Please note the response above under 'Section 51 Advice Letter'
<b>Box 30 Explanatory Memorandum (Doc ref WB3.2)</b>	Please note the response above under 'Section 51 Advice Letter'
<b>Box 30 Environmental Statement Appendix 5.1 -</b>	Please note the response above under 'Section 51 Advice Letter'



Planning Inspectorate Comment	Applicants Response
Site Selection Assessment (Doc ref WB6.3.5.1)	
Box 30 Book of Reference (Doc ref WB4.3) and Statement of Reasons (Doc ref WB4.1)	Please note the response above under 'Section 51 Advice Letter'



## **Appendix A – Schedule of amendments to Land Plan, Crown Land Plan, Works Plan and Crossing Schedule**

Plan	Section 51 comment	Comment addressed	Schedule of changes made to address comment
Land Plan	A north arrow is not present and see comment below relating to Book of Reference.	Yes	North arrow added
	No specific comment	Yes	Erronous application document number WB2.3 amended to WB2.2_A to match file name, Guide to Application, and Application Index.
Crown Land Plan	A north arrow is not present.	Yes	North arrow added
	It would aid navigation to identify the Crown Land within the Order Limits.	Yes	Crown Land Plan now shows Order Limits. Key amended accordingly.
	No specific comment	Yes	Erronous application document number WB2.12 amended to WB2.10_A to match file name, Guide to Application, and Application Index.
Works Plan	Work number 8B A156 is not identified consistently in comparison to the other work number 8Bs as it is outlined in blue, whereas work number 8B West View Farm is outlined in red.	Yes	Works area erroneously outlined in blue corrected to be outlined in red within Order Limits (Sheet 7)
	No specific comment	Yes	Works Number 5A (vii) erroneously shown to the south of West Burton Power Station on Sheet 10
	No specific comment	Yes	Works Number 5A (vii) erroneously shown between the River Trent and Seymour Drain on Sheets 7 and 8
Crossing Schedule	No specific comment	Yes	Missing Sheets 5 to 10 in Appendix 3 added