

# West Burton Solar Project

## Draft Statement of Common Ground with Environment Agency

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## Issue Sheet

Report Prepared for: West Burton Solar Project Ltd.  
Examination Deadline 5

### Statement of Common Ground Environment Agency

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## **1 Introduction**

### **1.1 Purpose of the Document**

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared as part of the proposed West Burton Solar Project Development Consent Order (the Application) made by West Burton Solar Project Ltd (the Applicant) to the Secretary of State for Energy Security & Net Zero (the Secretary of State) pursuant to the Planning Act 2008 (PA 2008).
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/or the Planning Inspectorate website.
- 1.1.3 This SoCG has been produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties, and where agreement has not yet been reached. SoCGs are an established means in the DCO consenting process of allowing all parties to identify and focus on specific issues that may need to be addressed during the examination.

### **1.2 Parties to this Statement of Common Ground**

- 1.2.1 This SoCG has been prepared by (1) West Burton Solar Project Ltd. as the Applicant and (2) Environment Agency (EA).
- 1.2.2 Collectively, West Burton Solar Project Ltd and Environment Agency are referred to as ‘the parties’.

### **1.3 Terminology**

- 1.3.1 In the tables in **Sections 3 - 5** of this SoCG:
- “Agreed” indicates where the issue has been resolved.
  - “Not Agreed” indicates a final position, and
  - “Under discussion” indicates where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.

## 1.4 Topic Referencing for All Matters

1.4.1 All matters agreed, under discussion and not agreed have been given unique references which relate to the topic matter. The referencing system is defined as follows:

**Table 1.1: Topic Referencing**

Topic	Unique Identifying Code
Ecology and Biodiversity	ECO-xx
Ground Conditions and Contamination	GRO-xx
Hydrology, Flood Risk and Drainage	HFD-xx
Development Consent Order	DCO-xx

## 2 Record of Engagement

### 2.1 Summary of Consultation

2.1.1 The parties have been engaged in consultation since September 2021, prior to the Non-Statutory Consultation period which ran from November to December 2021. A summary of the meetings and correspondence that has taken place between West Burton Solar Project and Environment Agency in relation to the Application is outlined in **Table 2.1**.

**Table 2.1: Record of Engagement**

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
<b>Hydrology, Flood Risk and Drainage</b>		
03/09/2021 & 23/08/2022	Meetings with, Senior Adviser, Flood and Coastal Risk Management	<p><b>6.3.10.1 Environmental Statement - Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-089] and 6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048].</b></p> <p>From a flood risk perspective, the EA representative expressed no concerns to the solar panel proposal.</p> <p>Comments raised by the EA:</p> <p>8 m set off distances would be required to avoid permitting in respect of EA Main Rivers.</p>
27/07/23	Section 42 Consultation response	<p><b>6.3.10.1 Environmental Statement - Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-089] and 6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048].</b></p> <p>The EA stated that:</p>

		<p>Due to the size of development a site-specific flood risk assessment (FRA) detailing each phase of works will need to be submitted with the DCO application.</p> <p>If development is located within Flood Zones 2 and/or 3 mitigation measures must be proposed within the FRA to ensure the development suffers minimal impact during a flood event, and to demonstrate that flood risk is not increased elsewhere.</p> <p>Mitigation measures were discussed between the parties based on potential risk scenarios.</p> <p>Environmental permitting is required for works within 8m of Main Rivers including the River Till.</p> <p>Directional drilling was stated as a preferable option in laying the cabling along its required route.</p>
05/06/23	Relevant Representations	<p><b>6.3.10.1 Environmental Statement - Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-089] and 6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048].</b></p> <p>The EA have stated that:</p> <p>They require amendments to the wording of the DCO (Part 2 Principal Powers) in Article 6(1)(h) to limit the disapplication of Environmental Permitting (England and Wales) Regulations 2016 (EPR) to flood risk activity permits only.</p> <p>They require amendments to the wording of the proposed protective provisions (Schedule 16, Part 9) for the protection of the Environment Agency.</p> <p>Understand that no development will be situated within the River Till Flood Storage Area (FSA) and that the FSA should be included within the illustrative site layout plan <b>6.3.10.5 Environmental Statement - Appendix 10.5 FRA DS West Burton 3 [APP-093].</b></p>

		<p>They welcome the use of trenchless excavation techniques for river crossings in accordance with the methodology within FRA3.</p> <p>Note that the scheme has been designed so that in the event of a 0.1% Annual Exceedance Probability (AEP) + 20% Climate Change flood event the scheme can electrically isolate and replace damaged infrastructure during a 0.1% AEP + 20% Climate Change flood event without affecting the rest of the scheme. The Secretary of State will determine if this is acceptable for essential infrastructure and the National Policy Statement's requirement for new energy infrastructure to remain operational during floods.</p> <p>Welcome the embedded mitigation to be adopted within the scheme design as outlined in <b>6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048]</b>.</p> <p>Request that although negligible, the cumulative loss of floodplain volume from the posts supporting the photovoltaic panels in Flood Zone 3 should be calculated and an assessment of whether this loss needs to be reasonably compensated for as part of the proposals.</p> <p>The EA will object to any acquisition of land or rights in relation to its land interests until it has had a proper opportunity to assess the potential effects of the acquisitions sought by the applicant on its ability to carry out its operations. However, we will continue to work with the applicant to resolve this matter during the Examination period.</p>
<b>Ecology and Biodiversity</b>		
Environment Agency Scoping	The Environment Agency welcomed the Applicant's intention to carry out Spring surveys of all watercourses and ditches within the red line	No further action necessary – matter agreed.



Opinion dated 18/02/22.	boundaries for water voles and otters (May 2022), having previously undertaken Autumn surveys of these.	
	The Environment Agency indicated that fish species can be scoped out of the assessment.	In line with scoping and consultation responses received from other consultees, including PINS, the potential for impacts on fish were scoped into the assessment which is included within <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> .
	The Environment Agency welcomed the commitment to include a Biodiversity Net Gain assessment within the Environmental Impact Assessment (EIA).	The BNG and ecological enhancements that form part of the Scheme are described within Section 9.10 of <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> , with a full assessment contained within <b>6.3.9.12 Environmental Statement - Appendix 9.12 Biodiversity Net Gain Report [APP-088]</b> following Defra's Biodiversity Metric 3.1 protocol. Enhancements are proposed in this document and in <b>7.3 Outline Landscape and Ecological Management Plan [APP-311]</b> .
Dec 2023 to Feb 2024	Email and phone correspondence with EA Planning Advisor and EA Fisheries Technical Specialist	Several discussions were held regarding coverage of the potential EMF impact on fish in the River Trent. EA advised that, while the Risk Assessment which was submitted by the Applicant in <b>WB8.1.17 Response to Written Representation at Deadline 1 Part 1 [REP3-034]</b> was acceptable, the EA was unable to make a detailed analysis of the issue since information on EMF impacts on fish arising from buried power cables is very sparse and no research relates to this particular situation. Consequently, a commitment to a research exercise to monitor for potential disturbance effects from the operational cable under the River Trent was seen as the most appropriate positive step to take. It was indicated that this monitoring may be able to tie-in with other academic fisheries monitoring being undertaken elsewhere within the Humber catchment. Discussion then moved to the best way to secure such a study via the OEMP, which would allow the fine methodological detail of the study to be developed in due course.

<p>Dec 2023 to Feb 2024</p>	<p>Email and phone correspondence with EA Planning Advisor</p>	<p>Discussions took place surrounding the EA's opinion that, while the cessation of agricultural inputs is likely to have a positive impact on water quality, caution should be recommended about the level of impact.</p> <p>The Applicant confirms that cessation of agricultural inputs is not the only driver of predicted water quality improvements and that measures to monitor and maintain ditches within the Scheme (in terms of vegetation cover and algae presence, for example) are committed to within the Biodiversity Net Gain (BNG) assessment (secured for 30 years) and the Outline Landscape and Ecological Management Plan (LEMP). This includes measures for remediation in case targets are not achieved.</p>
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2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) West Burton Solar Project Ltd. and (2) Environment Agency in relation to the issues addressed in this SoCG.

### 3 Matters Agreed

Tables 3.1-3.3 below detail by topic the matters agreed with Environment Agency.

#### 3.1 Matters Agreed (Ecology and Biodiversity)

Table 3.1

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
ECO-01 Ecology and Biodiversity	Methodology		The assessment methodologies and significance criteria which are detailed in Section 9.4 of <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> has been derived from the information obtained through consultation with stakeholders and by reviewing relevant guidance and studies and is considered acceptable.
ECO-02 Ecology and Biodiversity	Baseline Conditions		The baseline conditions which are detailed in Section 9.5 of <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> are representative of the baseline site conditions.
ECO-03 Ecology and Biodiversity	Proposed Mitigation		The proposed mitigation measures set out within Section 9.7 of <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> are acceptable and are secured through <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b>

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
ECO-04 Ecology and Biodiversity	Assessment of effects		The assessment of effects is set out within Section 9.7 of <b>6.2.9 Environmental Statement - Chapter 9_Ecology and Biodiversity [APP-047]</b> based on baseline data and Scheme designs are considered acceptable.
ECO-05 Ecology and Biodiversity	Enhancements to Hedgerows, Woodland, Wetland and Grassland	EA's Relevant Representation <b>[RR-090]</b> : "3.5. We would welcome the creation and enhancement of hedgerows, woodland, wetland and native wildflower meadows which would add multiple benefits in terms of improved water quality and natural flood management (NFM)."	Habitat enhancement and creation incorporated into the <b>7.3_D Outline Landscape and Ecological Management Plan Revision D [REP4-044]</b> includes significant areas of hedgerow, woodland, wetland and grassland which it is agreed would add multiple benefits in terms of improved water quality and natural flood management (NFM).
ECO-06 Ecology and Biodiversity	Enhancements to habitat quality within ditches and watercourses	EA's Relevant Representation <b>[RR-090]</b> : "3.7. Enhancements to habitat quality within ditches and watercourses not only benefits otters and water voles but can achieve an improvement to water quality in the rivers from a WFD perspective."	Enhancements incorporated into <b>7.3_D Outline Landscape and Ecological Management Plan Revision D [REP4-044]</b> will provide multiple benefits for ecology and also water quality and natural flood management. A commitment is made within the OLEMP to conduct periodic rotational ditch management (including removal of choking vegetation) observing sensitive seasonal timing in order to maintain a diversity of vegetation structure within ditch channels across the Order Limits. See also ECO-08 below.
ECO-07 Ecology and Biodiversity	Protection of Otters and Water Voles	EA's Relevant Representation <b>[RR-090]</b> : "3.2. We welcome the recommendations in the Otter and Water Vole Survey. However, we would expect to see a best practice water vole survey"	The Applicant confirms that <b>7.17 Outline Ecological Protection and Mitigation Strategy [APP-326]</b> sets out the requirement for detailed survey of watercourses that are to be directly

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
		completed for those watercourses directly impacted by culverting to get a better picture of local water vole populations.”	<p>affected by the development. The OEPMS [APP-326] states under Section 5.6:</p> <p><i>‘Particular attention will be paid to any habitat removal works affecting or within 30m of a watercourse for the potential presence of otters and water voles.</i></p> <p><i>All applicable habitat removal works will be preceded by an inspection of habitat at least 50m upstream and 50m downstream of the clearance extent to look for signs of these species and their sheltering sites. The inspection will be carried out one month in advance of works commencing by a suitably qualified ecologist.’</i></p> <p>The surveys will follow the methodologies outlined in the Water Vole Mitigation Handbook<sup>1</sup> which are considered to be best practice. The above targeted surveys will enable appropriate mitigation measures to be implemented as set out in the OEPMS [APP-326].</p>
ECO-08 Ecology and Biodiversity	Enhancements to Ditches and Watercourses for the Benefit	EA’s Relevant Representation [RR-090]: “3.3. We require more information on the remedial actions suggested for filamentous algae in ditches to be able to comment on whether the predicted	The possibilities for enhancement of ditches and watercourses within the Order Limits are being investigated and will be incorporated into a revised <b>7.3 Outline Landscape and Ecological Management Plan [APP-311]</b> in due course.

<sup>1</sup> Dean, M., Strachan, R., Gow, D. and Andrews, R. (2016) *The Water Vole Mitigation Handbook (The Mammal Society Mitigation Guidance Series)*. Eds Fiona Mathews and Paul Chanin. The Mammal Society, London.

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
	of Water Quality	target of 'moderate' for WFD waterbody status can be obtained. We would like to see the actions that would be undertaken at year 4 should it fail to reach moderate status. If the applicant shares the data used to make the ditch assessment, we will be able to comment further."	<p>Enhancements already proposed arise from the sensitive management of newly created grassland habitats within field boundaries and buffer zones, as well as the cessation of pesticide and fertiliser application which can be expected to improve water quality and improve the connectivity, quantity and robustness of natural green infrastructure. Furthermore, the OLEMP [APP-311] currently states under paragraph 4.9.9:</p> <p><i>"Ditch management will be carefully considered, with works being undertaken on a rotational basis so that undisturbed areas remain annually. Ditch management can be carried out every 2-5 years with cutting being undertaken in autumn/winter and only one side of the bank cut each time."</i></p> <p>It is proposed to amend the above passage by Deadline 1 to commit to incorporating rotational ditch management, as described, into the regular habitat management practices of the operational scheme. The 2-5yr rotation will ensure a mosaic of habitat maturity across the ditches and watercourses within the Order Limits at all times, including a proportion of bare ground and tussocky grassland. Management practices would not take place between March and August inclusive. Ditch cleaning will be undertaken using excavators equipped with weed-clearing buckets to remove choking vegetation. An ecologist will work with the</p>

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
			management contractor to prepare a plan and timetable of ditch management which will take into account the presence of newly-created valuable habitat and other seasonal and protected species constraints. The efficacy of the ditch management regime will be monitored periodically and this will be incorporated into the LEMP's monitoring timetable.
ECO-09 Ecology and Biodiversity	River Surveys	EA's Relevant Representation [RR-090]: "3.6. We appreciate that a specialist Modular River Physical (MoRPh) survey of the River Till was not carried out, however, we believe it would be worthwhile exploring improvements on the Till and its tributaries as the site boundary for West Burton 2 runs perpendicular to the river. We would welcome consideration for smaller scale habitat improvements to tributaries of the River Till within the scheme boundary."	No physical enhancements are proposed beyond periodic ditch management to include the removal of choking vegetation.  Targeted and period ditch management is part of <b>7.3 Outline Landscape and Ecological Management Plan [APP-311]</b> , (see para. 4.9.9).  The Applicant considers that any commitment to physical modifications to the River Till or its tributaries is beyond the remit of the Application.  It has been proposed to create a linear cluster of scrapes close to the River Till, with a feeder ditch connecting these scrapes and supplying a source of water, in order to provide habitat for breeding and overwintering birds. The scrapes may be connected on a ditch line to ensure they remain wet into June. Where necessary, this may be connected into the River Till, which will be discussed with the Environment Agency and other experts. The

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
			scrapes and other wetland and pond creation is set out within the OLEMP [APP-311].
ECO-10 Ecology and Biodiversity	Cumulative Risk to Water Quality	EA's Relevant Representation [RR-090]: "3.8. It is important that the applicant considers the cumulative risk from the construction, operational and decommissioning phases to water quality. Has the applicant considered whether chemicals such as weed killers will be used during the operation, and if so, what will be done to prevent run-off into nearby ditches."	Water quality has been considered for all stages of the development as set out within 6.3.10.1 ES <b>Appendix 10.1: Flood Risk Assessment and Drainage Strategy Report [APP-089]</b> and will be managed / mitigated through the proposed surface water drainage scheme and Construction Environmental Management Plan (CEMP).
ECO-11 Ecology and Biodiversity	Impacts on Ditches	EA's Relevant Representation [RR-090]: "3.4. The applicant should consider off-site impacts that may alter the water quality of on-site ditches, for example, the use of fertilisers or maintenance requirements.  3.9. In Chapter 9 of the ES (9.7.68) it says that water quality in field boundary ditches is expected to significantly increase as a result of the change of use from agriculture use to placement of solar panels and the resultant removal of fertilisers/herbicides from the fields. However, as it cannot categorically be said that other fields in the vicinity wouldn't supply run-off, we do not think it can be assumed that water quality would be better as a result of the change of use alone."	Considering the large scale of the proposals, their 40-year duration and the area over which chemical inputs will be reduced, it is considered highly likely that at least local (i.e. within-Site and immediately downstream) improvements to water quality will result. The likelihood of this is increased when factoring in the proposed ditch management regime detailed in ECO-02 above. The Applicant accepts that ongoing agricultural activities within land beyond the Order Limits will continue to counteract this, but this is beyond the influence of the Scheme and the net level of inputs within the catchments affected is still likely to be reduced.  In response to the EA's most recent email correspondence, it can be confirmed that the



Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
		<p>EA's most recent email correspondence on the matter (14/02/24):</p> <p>“Our comments in relation to ECO-11 are provided as a cautionary advice note. We acknowledge that the cessation of agricultural inputs is likely to have a positive impact on water quality but recommend caution about the level of impact.</p> <p>We note the Biodiversity Net Gain (BNG) assessment and the Outline Landscape and Ecological Management Plan (LEMP) [REP3-029] that refers to the additional habitat creation and management and monitoring of this. We assume this will be put into the 30 year Habitat Management and Monitoring Plan for BNG. We should be grateful if you could confirm this.</p> <p>As long as there is a monitoring plan in place, with measures to address the situation if improvements are not sufficient, then this is acceptable.”</p>	<p>measures concerning ditch management, monitoring and measures for remediation will be secured by the enactment of the <b>OLEMP [REP4-045 – see Para 4.9.6 and section 4.10]</b>. As set out in the BNG Assessment [<b>APP-088, ES Appendix 9.12</b>], the LEMP contains all necessary aspects of, and will act as, the Habitat Management and Monitoring Plan and commits to duration of not only the statutory 30 years (for BNG) but for the life of the Scheme. Consequently, this issue can be considered agreed.</p>
ECO-12	Potential impacts on fish species from the presence of EMF	<p>EA's Relevant Representation [<b>REP1A-007</b>]:</p> <p>3.3 This is relevant to the West Burton solar project because, together with the Gate Burton proposal and others at Cottam and Tillbridge, there will be the installation of 400kV cables within the same location underneath the River Trent as part of a shared grid connection corridor. We have asked</p>	<p>A Risk Assessment into the potential impacts of EMF associated with the cable crossing beneath the River Trent [<b>REP3-034 - Appendix 1</b>] was submitted by the Applicant and acknowledged by the EA. This Risk Assessment concluded that risks from EMF on</p>

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
		<p>that this matter is looked into because the cables will generate EMFs and it needs to be examined whether there is the potential for adverse impacts on fish within the River Trent during the operational phase of all of these schemes.</p> <p>EA's Relevant Representation [REP3-045]:</p> <p>Using the evidence submitted in the risk assessment, we believe the figures provided would prove a low risk to fish. However, as this is an area of very little research, we cannot say there will categorically be no risk to fish populations. Accordingly, we would like the Applicant to agree to undertake a scheme of monitoring to corroborate the predicted impacts of EMF on fish, as presented in the Environmental Statement. We would suggest that the monitoring is linked to (and will therefore add to) academic research currently on going within the Trent catchment to demonstrate presence/absence of any impact to key protected species such as Lamprey at this site. This may include provision of fish tagging, and receivers at the cable crossing points. Relaying the results of the monitoring to us at regular intervals is also requested.</p>	<p>fish such as European eel, salmon, river lamprey and sea lamprey were low.</p> <p>The <b>outline Operational Environmental Management Plan (OEMP) [REP4-054]</b> was updated for Deadline 4 to include the following: "A programme of monitoring to corroborate the impacts of EMF on fish which might arise during operation of the power export cable which is to cross beneath the River Trent and how any such impacts compare to the predicted impacts of EMF on fish during operation of the power export cable will be carried out during the operation of the Scheme. Where any power export cables have also been laid for other solar projects beneath the River Trent and monitoring has been agreed for them, the purpose of the programme will be to monitor the cumulative impacts of the power export cables and a separate monitoring programme shall not be required for each solar project. The programme can be undertaken by the Applicant, by or in collaboration with the developers of the other solar projects and/or by a third party (for example, a university research team)." Consequently, this matter can be considered agreed.</p>

### 3.2 Matters Agreed (Ground Conditions and Contamination)

Table 3.2

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
GRO-01 Ground Conditions and Contamination	Mitigation	EA's Relevant Representation [RR-090]:  In the ES Chapter 4, Scheme Description, paragraph 4.5.23, piles are mentioned as possible foundation solutions for some elements of the scheme. Reference is made to piles up to 12 metres deep for the energy storage facility. We would expect to see pollution prevention best practice detailed in the Construction Environment Management Plan (CEMP) to cover this scenario in order to avoid creating pathways for the rapid transmission of pollutants.	<b>7.1_C Outline Construction Environmental Management Plan Revision C [REP4-042]</b> provides outline detail regarding the mitigation measures to be implemented during the construction phase to reduce the risk to human health and the environment. Whilst no explicit reference is made to piling works and pollution prevention guidance at this stage, this can be secured as required through the final CEMP, which itself is secured by Requirement 13 of Schedule 2 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b> .
GRO-02 Ground Conditions and Contamination	Mitigation	EA's Relevant Representation [RR-090]:  The CEMP should detail the pollution prevention practices that will be employed to avoid contamination of the underlying aquifer by possible firefighting water, which may contain pollutants. Bunding of the Battery Energy Storage System	<b>7.1_C Outline Construction Environmental Management Plan Revision C [REP4-042]</b> provides outline detail regarding the identification, storage, management, and remediation of contamination from onsite excavation. The Applicant will comply with all other applicable legislation when constructing the authorised development, including

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
		(BESS) is detailed in Chapter 4, section 4.5.33 of the ES.	waste management legislation. Whilst no explicit reference is made to waste management legislation at this stage, this can be secured as required through the final CEMP, which itself is secured by Requirement 13 of Schedule 2 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b> .
GRO-03 Ground Conditions and Contamination	Mitigation	EA's Relevant Representation [RR-090]: Section 4.5.47 of the ES states that, "excavated soil will then be backfilled on top of the installed cables." Soil and spoil management is also discussed in this chapter. The CEMP should include information about adhering to waste management legislation if the excavated material is contaminated. It is possible that the CL:AIRE Definition of Waste: Code of Practice will apply. Excavated materials that are recovered via a treatment operation can be reused on-site under the CL:AIRE. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste."	<b>7.1_C Outline Construction Environmental Management Plan Revision C [REP4-042]</b> provides outline detail regarding the identification, storage, management, and remediation of contamination from onsite excavation. The Applicant will comply with all other applicable legislation when constructing the authorised development, including waste management legislation. Whilst no explicit reference is made to waste management legislation at this stage, this can be secured as required through the final CEMP, which itself is secured by Requirement 13 of Schedule 2 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b>
GRO-04	Mitigation	EA's Relevant Representation [RR-090]: "5.5. Chapter 11, section 11.7.3 of the ES states that a discovery strategy for the identification and	No further action necessary – matter agreed.

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
Ground Conditions and Contamination		management of unsuspected contamination will be included in the CEMP, which we welcome.”	
GRO-05 Ground Conditions and Contamination	Mitigation	EA’s Relevant Representation [RR-090]: “5.6. We agree with the conclusion of Chapter 11 of the ES that cumulative effects to human health and controlled waters are deemed to be negligible with the implementation of mitigation measures as detailed in the CEMP.”	No further action necessary – matter agreed.

### 3.3 Matters Agreed (Hydrology, Flood Risk and Drainage)

Table 3.3

Main Topic	Sub-topic	Stakeholder Comment (where relevant)	Details of Matters Agreed
HFD-01 Hydrology, Flood Risk and Drainage	Methodology		The methodology adopted within Section 10.4 of <b>6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048]</b> has been derived from the information obtained through consultation with stakeholders and by reviewing relevant guidance and studies and is considered acceptable.
HFD-02	Baseline Assessment		The baseline conditions which are detailed in Section 10.5 of <b>6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage</b>

Hydrology, Flood Risk and Drainage			[APP-048] are representative of the baseline site conditions.
HFD-03  Hydrology, Flood Risk and Drainage	Mitigation		The proposed mitigation measures set out within Section 10.8 of <b>6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048]</b> are acceptable and are secured through Requirement 11 of Schedule 2 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b> .
HFD-04  Hydrology, Flood Risk and Drainage	Runoff rates		As stated in paragraph 10.8.19 of <b>6.2.10 Environmental Statement - Chapter 10_Hydrology Flood Risk and Drainage [APP-048]</b> maintaining the existing surface water run-off regime by utilising permeable surfacing for the Site access, linear infiltration trenches around any proposed infrastructure (substations and batteries) and wildflower planting at the leeward edge of solar panels will ensure that the Scheme is unlikely to generate surface water runoff rates beyond the baseline scenario. A Water Management Plan will form part of the detailed CEMP which will manage impacts to water quality from runoff as set out in <b>7.1_C Outline Construction Environmental Management Plan Revision C [REP4-042]</b> .
HFD-05	Layout	It is understood that no development will be situated within the River Till Flood Storage Area (FSA). For the avoidance of doubt, we would ask that the applicant overlay the River Till FSA outline	The Applicant notes this comment, but understands that Appendix 10.5 of the ES refers to West Burton 3, which does not include any part of the River Till FSA. The Applicant instead

Hydrology, Flood Risk and Drainage		onto the illustrative site layout plan and include it within Appendix 10.5 of the ES.	understands that the EA is referring to Appendices 10.3 and 10.4 of the ES. A plan overlaying the River Till FSA was submitted at Deadline <b>[REP1-022 and REP1-024]</b>
HFD-06 Hydrology, Flood Risk and Drainage	Main River Crossings	We welcome confirmation that where river crossings are proposed on the River Till and River Trent these will be carried out using trenchless techniques.	The Applicant, as detailed within paragraph 4.5.51 of <b>6.2.4 Environmental Statement - Chapter 4_Scheme Description [APP-042]</b> , proposes to lay the cables across the River Till and Trent using trenchless techniques.  The Applicant confirms that works will be carried out in accordance with the methodology within FRA3.
HFD-07 Hydrology, Flood Risk and Drainage	River Crossings	The applicant is advised to follow the... methodology for the proposed river crossings. Carrying the works out in accordance with the methodology within FRA3 will ensure works are done to the required standard in terms of flood risk.	The Applicant confirms that works will be carried out in accordance with the methodology within FRA3.  <b>7.6 Design and Access Statement - Part 1 of 4 [APP-314]</b> notes, in paragraph 3.1.24, that the cable will need to cross a number of key obstacles, including the River Till and the River Trent, via the use of horizontal directional drilling (HDD).  Paragraph 8.2.3 of <b>7.17 Outline Ecological Protection and Mitigation Strategy [APP-326]</b> (as secured by Requirement 8 of Schedule 2 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b> ) states that where <i>"HDD is used under the Rivers Till and Trent and their tributaries, the ECoW will discuss the risk of causing excessive vibration and the release of sediments with the</i>

			<p><i>operatives and engineers overseeing HDD works to ensure an adequate depth is used. In these locations, the ECoW will monitor the water column for sediment release during all stages of HDD work"</i></p> <p><i>The Applicant confirms that all works involving the crossing of a main river will be done in accordance with 'Service crossing below the bed of a main river not involving an open cut technique (FRA3)' methodology.</i></p>
HFD-08 Hydrology, Flood Risk and Drainage	Water Sensitive Infrastructure	As noted within the ES (Appendix 10.5, paragraph 2.2.9) the scheme has been designed so that in the event of a 0.1% Annual Exceedance Probability (AEP) + 20% Climate Change flood event it would be possible to electrically isolate damaged infrastructure and replace it without affecting the operation of the rest of the scheme. Whilst we accept this approach, it would be up to the Secretary of State to determine whether this is acceptable in line with the development's classification as essential infrastructure and the National Policy Statement's requirement that new energy infrastructure "should also be designed and constructed to remain operational in times of flood" (EN-1 Overarching National Policy Statement for Energy, paragraph 5.8.5).	The Applicant notes this comment. The mitigation for sensitive infrastructure is detailed in <b>6.3.10.1 Environmental Statement - Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-089]</b> Section 3.2. This includes ensuring that all sensitive and electrical equipment on the tracker solar panels is raised to a minimum of 2.3m above ground level in the horizontal position and 0.6m from the lowest part on the fixed panels Conversion units will be raised 600mm above the 0.1% AEP flood level.
HFD-09	Embedded mitigation	We welcome the embedded mitigation to be adopted within the scheme design as outlined in the ES (10.7), especially the inclusion of an 8-metre	The Applicant notes this comment.  The proposed mitigation measures set out within Section 10.7 of <b>6.2.10 Environmental Statement -</b>



Hydrology, Flood Risk and Drainage		easement around all watercourses and the sequential placement of critical infrastructure.	<p><b>Chapter 10_Hydrology Flood Risk and Drainage [APP-048]</b> are acceptable and is secured through Requirement 5 of Schedule 2 of <b>3.1 _F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b>.</p> <p>Protective Provisions, for the benefit of the Environment Agency (See Schedule 16 Part 9 of <b>3.1_F Draft Development Consent Order Revision F [EX5/WB3.1_F]</b>, include the 8-metre easement provision.</p>
HFD-10 Hydrology, Flood Risk and Drainage		Whilst the photovoltaic panels will be sequentially located in flood zone 1, our interpretation is that some will be located in flood zone 3 for West Burton 1, 2 and 3 (please see Appendix 1 for a visual representation of the area affected). Whilst likely to be negligible, there should be some consideration and calculation of the cumulative loss of floodplain volume from the posts supporting the photovoltaic panels and whether this loss needs to be reasonably compensated for as part of the proposals.	Please refer to Appendix A which sets out the figures which have been agreed with the Environment Agency quantifying the cumulative loss of flood plain volume which is considered to be negligible. The figures in Appendix A allow for a +/- 10% of the figures to account for the detailed design process, but this still is considered to be negligible.
HFD-11 Hydrology, Flood Risk and Drainage	Main River Crossings	<p>From Relevant Representations <b>[RR-090]</b></p> <p>We note that the applicant wishes to disapply the Environmental Permitting (England and Wales) Regulations 2016 (EPR) and includes this in the DCO (Part 2 Principal Powers) in Article 6(1)(h). As currently drafted this Article seeks to disapply Regulation 12 in its entirety, meaning that the</p>	The Applicant has amended Article 6(1) within the draft DCO <b>[EX5/WB3.1_F]</b> to make it clear that the disapplication of Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010 only applies in respect of a flood risk activity. This amendment has been agreed with the EA.

		<p>requirement for all types of environmental permit is disapplied. We are unable to agree to this and will only agree to disapply the requirement for a flood risk activity permit once we can reach an agreement regarding the Protective Provisions for the Environment Agency in Schedule 16 Part 9. We are unlikely to agree to the disapplication of other environmental permits under the 2016 Regulations, including a water discharge activity – also see section 6.0 below regarding this. Accordingly, we request that Article 6(1)(h) is amended to read: “regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016, in respect of a flood risk activity permit only”.</p>	
<p>HFD-12 Hydrology, Flood Risk and Drainage</p>	<p>Protective Provision</p>	<p>From Relevant Representations <b>[RR-090]</b></p> <p>We have reviewed the proposed protective provisions (Schedule 16, Part 9) for the protection of the Environment Agency. We do not accept the current wording and will work with the applicant to agree a revised version.</p>	<p>The Applicant has agreed with the Environment Agency that the definition of specified work within the draft DCO <b>[EX5/WB3.1_F]</b> will be amended as below:</p> <p><i>“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within—</i></p> <p><i>(a) 8 metres of the base of a remote defence which is likely to—</i></p> <p><i>(i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence; or</i></p> <p><i>(ii) interfere with the Agency’s access to or along that remote defence;</i></p>

			<p><i>(b) 16 metres of a drainage work involving a tidal main river or 8 metres of a drainage work involving a non-tidal main river; or</i></p> <p><i>(c) any distance of a drainage work and is otherwise likely to—</i></p> <p><i>(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;</i></p> <p><i>(ii) affect the flow, purity or quality of water in any main river or other surface waters;</i></p> <p><i>(iii) cause obstruction to the free passage of fish or damage to any fishery;</i></p> <p><i>(iv) affect the conservation, distribution or use of water resources; or</i></p> <p><i>(v) affect the conservation value of the main river and habitats in its immediate vicinity;</i></p> <p><i>or which involves—</i></p> <p><i>(d) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and</i></p> <p><i>(e) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or</i></p>
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			<p><i>endanger the stability of the banks or structure of that drainage work.</i></p> <p>Following this amendment the Protective Provisions are agreed.</p>
HFD-13 Hydrology, Flood Risk and Drainage	Book of Reference	<p>The Book of Reference refers to Environment Agency rights and easements within the land that the cable route will pass through (land plan references: 07-106 and 07-107). These are highlighted as 'New rights (including restrictions) to be compulsorily acquired and temporary use of land and in relation which it is proposed to suspend or extinguish easements, servitudes and other private rights'. It is currently unclear how such proposed acquisitions would affect the Environment Agency's operations, in particular in relation to its flood risk management role. At this stage therefore the Environment Agency must object to any acquisition of land or rights in relation to its land interests until it has had a proper opportunity to assess the potential effects of the acquisitions sought by the applicant on its ability to carry out its operations. However, we will continue to work with the applicant to resolve this matter during the Examination period.</p>	<p>The Applicant and the EA have agreed that the Protective Provisions require the submission and approval of plans to the EA where any work or operation is undertaken under the DCO that is within 16m of a drainage work (definition includes embankment) in relation to a tidal main river and within 8m of a drainage work (definition includes embankment) in relation to a non-tidal main river. The protective provisions ensure the EA will need to approve any works proposed at land plan references: 07-106 and 07-107 within the Book of Reference. As set out in HFD-12, the protective provisions are in an agreed form.</p>
HFD-14	Consideration of the flood	<p>One matter which was raised on Cottam through the ExA 3<sup>rd</sup> Written Questions (question 3.7.2 <b>[EN010133/PC-017]</b>) was in relation to the flood</p>	<p>The Applicant has undertaken further engagement with the Environment Agency on this matter. It is understood that further data for the Tidal Trent is</p>

<p>Hydrology, Flood Risk and Drainage</p>	<p>risk effects for up to 60 years</p>	<p>risk effects of an operating lifetime of 60 years as opposed to the 40 year period that has been assessed in the Flood Risk Assessment.</p> <p>On 21 February 2024, the Environment Agency confirmed that further data for the Tidal Trent is available from the Environment Agency which includes appropriate climate change allowances up to the 2080's epoch. Whilst this hasn't formally been raised for the Scheme, the Applicant is proposing to update the Flood Risk Assessment [APP-089] and its Appendices [APP-090 to APP-093] It was agreed with the Applicant on a call on 21 February 2024 that the updated flood risk assessment should be submitted for approval prior to construction (rather than prior to year 40 as originally proposed by the Applicant) as this will ensure that appropriate mitigation is in place taking into account climate change allowances up to the 2080s epoch. The Environment Agency agrees that the updated drafting of Requirement 22 adequately addresses its concerns.</p>	<p>available from the Environment Agency which includes appropriate climate change allowances up to the 2080's epoch. The Applicant received the data on the 3<sup>rd</sup> April 2024 and is undertaking the process of updating the relevant reports.</p> <p>It was agreed with the Environment Agency on a call on 21 February 2024 that the updated flood risk assessment should be submitted for approval prior to construction (rather than prior to year 40 as originally proposed by the Applicant) as this will ensure that appropriate mitigation is in place taking into account climate change allowances up to the 2080s epoch. Requirement 22 in Schedule 2 to the draft DCO [EX5/WB3.1_F] has therefore been amended to require the Applicant to submit the updated flood risk assessment to the Environment Agency prior to commencement of the authorised development. As per our response to HFD-08, the mitigation for sensitive infrastructure is detailed in <b>6.3.10.1 Environmental Statement - Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-089]</b> Section 3.2. Specific minimum heights for sensitive infrastructure will be developed and provided to the EA during the detailed design process.</p>
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#### **4 Matters Under Discussion**

There are no matters under discussion with the Environment Agency.

#### **5 Matters Not Agreed**

There are no matters not agreed with the Environment Agency.

## 6 Signatories

6.1.1 The above SoCG is agreed between West Burton Solar Project Ltd. (the Applicant) and Environment Agency as specified below.

Duly authorised for and on behalf of **West Burton Solar Project Ltd.**

Name:	
Job Title:	
Date:	
Signature:	

Duly authorised for and on behalf of **Environment Agency**

Name:	
Job Title:	
Date:	
Signature:	

## Appendix A - Cumulative Floodplain Loss Figures (as referenced in HFD-10)

Flood depth increase/decrease for +/- 10% volume displacement is highlighted below in yellow.

### West Burton 2

Catchment (6.07km<sup>2</sup>) in m<sup>2</sup> - 6070000

	Volume Displacement m <sup>3</sup>					
AEP	1 in 100	10%	-10%	1 in 1000	10%	-10%
Fixed	0.21	0.231	0.189	0.75	0.825	0.675
Tracker	0.05	0.055	0.045	0.16	0.176	0.144

	Catchment uplift mm					
AEP	1 in 100	10%	-10%	1 in 1000	10%	-10%
Fixed	0.0000345964	0.0000380560	0.0000311367	0.0001235585	0.0001359143	0.0001112026
Tracker	0.0000082372	0.0000090610	0.0000074135	0.0000263591	0.0000289951	0.0000237232

### West Burton 3

Catchment (14.78km<sup>2</sup>) in m<sup>2</sup> - 14780000

	Volume Displacement m					
AEP	1 in 100	10%	-10%	1 in 1000	10%	-10%



Fixed	91.18	100.298	82.062	91.18	100.298	82.062
Tracker	17.67	19.437	15.903	17.67	19.437	15.903

	Catchment uplift mm					
AEP	1 in 100	10%	-10%	1 in 1000	10%	-10%
Fixed	0.0061691475	0.0067860622	0.0055522327	0.0061691475	0.0067860622	0.0055522327
Tracker	0.0011955345	0.0013150880	0.0010759811	0.0011955345	0.0013150880	0.0010759811