

**Application by West Burton Solar Project Ltd for an Order Granting Development Consent for West Burton Solar Project
The Examining Authority's second written questions and requests for information (ExQ2)
Issued on 19th March 2024**

WEST LINDSEY DISTRICT COUNCIL (20038501)

Answers to Examining Authority's Questions (ExQ2)

West Burton Solar Project EN010132

Deadline 5

Date: 11th April 2024

Preamble:

This document provides the response of West Lindsey District Council (WLDC) to the Examining Authority's questions.

Abbreviations used

AP	Affected Person	ES	Environmental Statement
Art	Article	EqIA	Equality Impact Assessment
ALA 1981	Acquisition of Land Act 1981	ExA	Examining authority
ALC	Agricultural Land Classification	ha	Hectare
BDC	Bassetlaw District Council	HSE	Health and Safety Executive
BMV	Best and Most Versatile land	HDD	Horizontal Directional Drilling
BoR	Book of Reference	IAQM	Institute of Air Quality Management
BESS	Battery Energy Storage System	IDB	Internal Drainage Board
CA	Compulsory Acquisition	IEMA	Institute of Environmental Management Association
CCG	Clinical Commissioning Group	IP	Interested Party
CDMP	Construction Dust Management Plan	LA	Local authority
CEMP	Construction Environmental Management Plan	LIA	Local Impact Area
CTMP	Construction Traffic Management Plan	LVIA	Landscape and Visual Impact Assessment
CLLP	Central Lincolnshire Local Plan	LCC	Lincolnshire County Council
CPO	Compulsory purchase order	LIR	Local Impact Report
DAS	Design and Access Statement	MP	Model Provision (in the MP Order)
dDCO	Draft DCO	MP Order	The Infrastructure Planning (Model Provisions) Order 2009
dNPS	Draft National Policy Statement	MWh	MegaWatt Hour
dML	Deemed Marine Licence	NE	Natural England
EM	Explanatory Memorandum	NPPF	National Planning Policy Framework
EMF	Electro Magnetic Field	NCC	Nottinghamshire County Council
ERP	Emergency Response Plan	NPS	National Policy Statement

NSIP	Nationally Significant Infrastructure Project	SI	Statutory Instrument
OBSSMP	Outline Battery Storage Safety Management Plan	SoR	Statement of Reasons
OCEMP	Outline Construction Environmental Management Plan	SoS	Secretary of State
OEMP	Operational Environmental Management Plan	STEP	Spherical Tokamak for Energy Production fusion project
OLEMP	Outline Landscape and Ecological Management Plan	TP	Temporary Possession
OSMP	Outline Soil Management Plan	UKAEA	The UK Atomic Energy Authority
OPROWMP	Outline Public Right of Way Management Plan	USI	Unaccompanied Site Inspection
PA2008	The Planning Act 2008	UKHSA	United Kingdom Health Security Agency
PEIR	Preliminary Environmental Impact Report	WLDC	West Lindsay District Council
PPG	Planning Practice Guidance	WR	Written Representation
PROW	Public Right of Way	WSI	Written Scheme of Investigation
RR	Relevant Representation	ZTV	Zone of Theoretical Visibility

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EXQ2	Question to	Question	WLDC Response
1. General and Cross-topic Questions			
2.1.1	All parties	<p>Revised National Planning Policy Framework</p> <p>The Revised National Planning Policy Framework (NPPF) was published in December 2023. All parties are invited to comment on the implications of any changes made the consideration of the proposed development.</p>	<p>WLDC considers the NPPF to be an important and relevant consideration in the determination of NSIP projects under section 105 of the PA2008. Significant weight should be given to the NPPF, particularly in relation to matters that are of equal importance regardless of the capacity of a project (i.e. whether they are to be determined under the TCPA 1990 or the PA2008).</p> <p>WLDC wishes to draw attention to footnote 62 of the NPPF published in December 2023, which states that “The availability of agricultural land used for food production should be considered alongside other policies in this Framework, when deciding what sites are most appropriate for development.”</p> <p>Footnote 62 should be read in conjunction with paragraph 2.10.11 of NPS EN-3 which states that “The Powering Up Britain: Energy Security Plan states that government seeks large scale ground-mounted solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. It sets out that solar and farming can be complimentary and through shared use of land and encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement.”</p> <p>A key link between the two policy requirements is that applicants must demonstrate that the extent to which agricultural land used for food production will be ‘available’ in the event solar farm development is implemented. Demonstrating ‘availability’ is essential to meeting the policy expectation of such projects that, at the very least, demonstrate a ‘consideration’ for ongoing food production.</p> <p>Demonstrating ‘availability’ goes beyond simply stating that such activities ‘could’ occur alongside a proposed solar farm development. The policy test is not a theoretical consideration, but a practical one that requires application to genuinely seek to</p>

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			<p>accommodate agricultural activity for food production alongside operational solar farms.</p> <p>It is clear from the application documents that no efforts have been and no mechanisms are in place to allow the land within the order limits to be used for the production of food. The applicant states that the land 'could' be used for such purposes, but such comments do not demonstrate any genuine commitment to delivering co-use and therefore carry no weight whatsoever.</p> <p>In order to demonstrate compliance with the NPPF and NPS EN-3, the applicant is required to demonstrate that they have considered the areas of land where dual-use 'can' be achieved and to identify mechanisms to enable these deemed compatible uses to co-exist.</p> <p>The applicant has provided no information on whether they have investigated whether there is interest in the agricultural sector to operate alongside the solar farm, and there is no mechanism in the dDCO that requires them to make any such efforts should consent be granted.</p> <p>The applicant states that impacts upon ongoing agricultural operations have been minimised through the use of appropriate design solutions (Planning Statement, Appendix D, p.66), however this is clearly not the case as no attempts have been made to facilitate and enable agricultural operations within the significant areas that host solar panels.</p> <p>The applicants case for causing such harm over a significantly wide area, is that the scale of the project (and subsequent loss of a significant area of agricultural land for the production of food) is underpinned by it being "required in order to provide the 480MW of electricity generation allowed via the grid connection offer from the National Grid.." (Planning Statement, Appendix D, p.28). This reveals the fundamental flaw in the design approach taken by the applicant to the project as a whole and their justification for its significant adverse impacts. The capacity of</p>

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			<p>the connection offer provided by the National Grid is not a design parameter that must be achieved. It has no weight on the design of an energy generating station project (of any technology). It is merely an indication of the capacity available. It is for each project to then be designed based upon a clear set of design objectives, criteria and constraints to deliver a project that demonstrates that impacts have been genuinely minimised. It is these impacts that define the acceptability of a scheme, not the capacity of a grid connection offer.</p> <p>It is therefore wholly apparent that the applicant has failed to make any genuine attempts to make land within the Order Limits available for the production of food. As proposed, the dDCO does not require the applicant to make any such efforts. The application must therefore be determined on the basis that no land is being made available for food production and no attempts to do so have been made by the applicant.</p> <p>The application therefore fails to comply with NPPF in this regard.</p>
2.1.3	Applicant and host authorities	<p>Statements of Common Ground (SoCG)</p> <p>The ExA notes that the SoCGs with the Host Authorities indicate a number of matters are still under discussion. These include a number of factual matters eg site description. The ExA considers that it should be possible for many of these matters to be agreed at this point in the Examination. Please provide updated SoCGs at Deadline 5 which clearly identifies the outstanding matters in dispute between the Applicant and each Host Authority and provides details of each party’s position in respect of them.</p>	<p>WLDC has included as Appendix A to this response, as summary of agreed matters with the applicant.</p> <p>All other matters are still being discussed. With the applicant committing to the submission of further information and clarifications across a range of topics, WLDC reserves it’s position until such information has been submitted and reviewed.</p>
2. Agriculture and Soils			
2.2.3	All Parties	Farming Methods	
		IPs familiar with local agricultural methods have	WLDC has no further information on the specific types of agricultural activity taking space on land around the Order area.

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		<p>stated that much of the crop growing land around the Order area is almost never ploughed, just harrowed. Please can IPs and the Applicant provide further information on this, and if or how it may affect the assumptions, reasoning and conclusions of relevant parts of the ES.</p>	
<p>2.2.6</p>	<p>Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, Natural England</p>	<p>Best and Most Versatile land Do the amendments to the Outline Soil Management Plan: Revision A REP3-016 provide additional confidence for Natural England and the Host Authorities to ensure the correct Agricultural Land Classification (ALC) will be identified and the soil managed to ensure that any disturbed land will be restored to a similar ALC grade. If not please explain why not.</p>	<p>WLDC has no further comments to make on the Outline Soil Management Plan.</p>
<p>2.2.7</p>	<p>The Applicant, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, Natural England</p>	<p>Written Ministerial Statement 25 March 2015 Please can IPs comment on the extent to which the Written Ministerial Statement of 25 March 2015 in relation to BMV, if they have not already done so. Please comment how it is relevant and important to the consideration of the effects of the development on BMV in this case.</p>	<p>The Ministerial Statement states that the National Planning Policy Framework (NPPF) provides strong protections for the natural and historic environment. Local Planning Authorities should therefore take into account the socio-economic and environmental benefits of the best and most versatile (BMV) agricultural land when determining planning applications.</p> <p>With regard to solar energy development, the Minister's Statement affirms:</p> <ul style="list-style-type: none"> • Local communities have genuine concerns that when it comes to solar farms insufficient weight has been given to these protections and the benefits of high quality agricultural land. • Meeting energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land.

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			<ul style="list-style-type: none"> • NPPF requires explanation that BMV land is necessary and that poorer quality land is to be used in preference to land of a higher quality. • Any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. • every application needs to be considered on its individual merits. <p>The Ministerial Statement therefore clarifies that the protection of agricultural land from solar development is a material planning issue, and that the need case for solar development should not override impacts on the value of agricultural land.</p> <p>WLDC contend that the Ministerial Statement is an ‘important and relevant’ matter in the context of section 105 and should be given significant weight in the determination of the Gate Burton Energy Park application.</p>
2.2.8	All Parties	<p>Permanent or Temporary Nature of Loss of Agricultural Land</p> <p>The ExA notes that LCC does not consider that the removal of agricultural land for a period of 60 years can be classed as temporary and this should be assessed as a permanent loss of agricultural land. REP3-042 states that “A 60 year lifespan is all but equivalent to an entire life time and, on a human scale, is hardly “temporary” in the common use of this word. The effects of this longevity should be assessed as essentially permanent effects as that is how they are experienced in reality”.</p> <p>IPs are invited to comment on the temporary nature and provide any evidence as to how they consider the relative degree of permanence V</p>	<p>WLDC wholly agrees with LCC in that the lifespan of the project for a period of 60 years should be assessed as constituting a permanent loss of agricultural land. All other impacts should also be assessed similarly on the basis of being ‘permanent’ impacts due to this significant timescale.</p> <p>Many developments subject to a ‘permanent’ permission/consent exist for a similar or even shorter period. As an example, the Cottam Power Station (commissioned 1968) and West Burton Power Stations (commissioned 1966) have been in existence for similar time periods with over two generations experiencing their presence and impacts. To suggest that these impacts on the communities were in any way ‘temporary’ and should be calibrated as being less significant as a consequence would be flawed. This is the position, however,</p>

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		temporary loss.	<p>that the applicant for the West Burton Solar Project is inviting the Secretary of State to accept, with many of the residual environmental impacts assessed being reduced in magnitude and/or deemed to be acceptable due predominantly to the supposed temporal nature of the project.</p> <p>To support it's position, WLDC wishes to draw the ExAs attention to a recent planning appeal decision, made by the Secretary of State, under section 78 of the Town and Country Planning Act 1990 by ANNESCO LTD for the construction and operation of a temporary Solar Farm of up to 49.72MW to include the installation of solar panels with transformers, a substation, a DNO control room, a customer substation, GRP comms cabin, security fencing, landscaping and other associated infrastructure at Land at Milton Road, Gayton, Northampton NN7 3HE. The appeal reference is APP/W2845/W/23/3314266.</p> <p>The decision was made on 13th March 2024 and therefore considered both the revised version of the NPPF (December 2023) and the revised NPS EN-1 and EN-3 (confirmed in SoS letter para.5).</p> <p>The application sought a permission for a temporary period of 40 years.</p> <p>With regard to the temporary of the proposal, the SoS agreed with the Inspector in that <i>“little weight should be afforded to the potential reversibility of the proposal in landscape or visual terms”</i>. This agreement cross-referenced the reasons given by the Inspector in their report, which states when considering landscape and visual effects:</p> <p><i>“10.55 Before concluding this matter, it is necessary to consider the issue of the temporary status of the proposal. At a number of points in the submission of evidence on matters relating to landscape effects, as well as effects on agricultural land, reference was made to this being a temporary proposal and that</i></p>

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			<p><i>the site would revert to its existing condition, or even an improved condition, at the end of the period.</i></p> <p><i>1.56 However, 40 years is a considerable length of time during which people’s experience of the development within the rural landscape or its role as part of the recreational resource would be altered. For some people, were the proposal to gain permission, it would establish a landscape that may be all they know and whose effects may progress through to later generations. The proposal may not be a permanent change but would reflect a very long-term change, and over such a period of time, there can be no guarantees on the future need for such energy sources or the pressures that might lead to re-powering or extending its life. Consequently, I would recommend that little weigh is given to the aspect of the potential reversibility of the proposal in landscape or visual terms.”</i></p> <p>The Inspector concludes that the proposal would consequently have a “material adverse” effect on the visual and landscape character of the site.</p> <p>Turning to consideration of temporary impacts on agricultural use, the SoS also agreed with the Inspector that the site could be returned to agricultural use at some stage, but that this should be afforded ‘negligible’ weight (para.41).</p> <p>WLDC acknowledges that the above decision has been made under the TCPA 1990, however the judgement made on the weight to be given to the temporary nature of solar projects is not specific to that particular process. It applies to the weight to be given to impacts regardless of the installed capacity of a project and the consenting regime under which is it determined.</p> <p>The SoS’s view is clear regarding the weight to be given to temporary effects or reversibility for the 40 year project above. The West Burton Solar Project began examination seeking consent for the same period but is now seeking an addition 50% on that lifespan for a period of 60 years.</p>

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			<p>The SoS provides a clear steer as to how decision makers should treat applications seeking temporary permission for such long periods of time. Projects of 40 years must be afforded 'little weight' in terms of claimed 'temporary' impacts, and 'negligible weight' to reversibility.</p> <p>As the West Burton Solar Project now seeks a 60 year consent lifespan, it is clear that the impacts of the scheme must be considered as permanent, with very little to no weight given to it being 'temporary' or 'reversible'. From this clarification emerges several key issues for the West Burton Solar Project application:</p> <p>1) The lifespan has been sought to be increased by 50% to 60 years without the applicant demonstrating how this significant extra lifespan has been taken account of in its Environmental Impact Assessment. The ES is silent on any discussion on what additional weight has been given to the additional 20 years and the implications this has on magnitude of effect and residual impacts.</p> <p>2) A further significant issue for the ES is that it relies upon temporal effects in order to justify reduction in impact magnitude and residual impacts.</p> <p>3) The applicant also relies upon temporary impacts to justify the acceptability of impacts in planning policy terms. Most notable in terms of landscape and visual impacts, agricultural land and in order to satisfy statutory duties to protect designated heritage assets. The applicant confirmed at the recent ISH that it is the temporary nature and reversibility of the project that is used to justify their conclusions on the above impacts in particular.</p> <p>Due to the weight the applicant has given to the temporary nature of the project and its reversibility, the conclusions reached in the ES and in terms of policy compliance must be called into question as to their validity. The SoS is unable to rely on the assessments as their dependence on temporary impacts</p>

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			<p>has produced conclusions that have under-assessed the likely impacts.</p> <p>As stated in previous submission, WLDC has called for the applicant to provide a proper re-assessment of the impacts of the scheme to demonstrate how the additional timeframe has been accounted for in reached conclusion in the ES.</p> <p>WLDC there maintains its position that:</p> <ul style="list-style-type: none">i) the proposed application must be determined on the basis that impacts are effectively permanent;ii) the current ES applies too much weight to temporal effects and reversibility to the extent that it relies upon such factors in order to reduce conclusions on impacts and the acceptability of the scheme as a whole; andiii) The SoS is unable to rely upon the current ES due to the improper weight afforded to the temporary nature of the project and its reversibility.iv) A full re-assessment of impacts that correctly applies limited to no weight to temporary effects and revisability should be provided by the applicant. <p>In the absence of such assessment, WLDC considers the application document to be flawed and the actual likely significant environmental impacts to be far greater than are currently reported.</p>

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3. Biodiversity and Ecology			
4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations			
2.5.7	West Lindsey District Council (WLDC) and the Applicant	<p>Schedule 2 (Requirements)</p> <p>With reference to Schedule 2, Requirement 2 [REP4-24], the Applicant is asked to explain the rationale for the inclusion of a written scheme setting out the phase or phases of construction. Noting the comments made previously relating to the need for a phasing requirement, WLDC is asked to comment on the suitability of this provision.</p>	<p>WLDC have suggested the use of phasing as a requirement to assist with the approval process of details submitted pursuant to a particular Requirement.</p> <p>A phasing scheme would allow for details subject to a Requirement to be approved ‘in-part’ in relation to a defined phase. This would enable transparency and clarity, as well as assisting WLDC in terms of resourcing.</p> <p>WLDC raises no objection to the current drafting of Schedule 2, Requirement 2 as expressed in dDCO Rev. E (Doc Ref: EX4/WB3.1_E).</p>
6. Health and Wellbeing			
2.6.1	All Parties	<p>Involvement of Health Authorities</p> <p>Given the number of schemes in the vicinity of WBSP, and the population living within these schemes, mostly rural, some urban, the cumulative impact is such that a number of Interested Parties assert that a Health Impact Assessment should be carried out with involvement of the local health bodies. IPs are invited to provide any justification for this, and summarise what further evidence this may reveal. The Applicant and all IPs are invited to make further comments.</p>	<p>WLDC have previously raised comments with regard to the value in carrying out a Health Impact Assessment outside that of an EIA methodology. Following the basic structure and sources of information contained within the “Central Lincolnshire Local Plan Health Impact Assessment for Planning Application: Guidance Note (Updated April 2023)”, a non-EIA HIA would enable an assessment to be carried-out that seeks to identify all potential opportunities for achieving positive mental and physical health outcomes through the delivery and operation of the proposed scheme.</p> <p>Such a document would not necessarily be restricted by a methodology to solely identify significant impacts but would allow for all such opportunities to be identified alongside other cumulative projects.</p>

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			<p>WLDC maintain a view that the Applicant’s assessment adequately considers the construction and long term impacts of the cumulative schemes on local residents health and wellbeing who use these roads for recreational purposes. The chapter does not take into account the local amenity impact of the cumulative construction traffic associated with the proposed solar schemes. Whilst it is acknowledged an assessment of access to local health services and work has been undertaken, this does take into account the impact on the mental health that traffic could have on the community.</p>
2.6.2	WLDC and Applicant	<p>WLDC Policy WLDC refers to its adopted Health SPD in various answers to first written questions [REP3-044]. Please can WLDC provide a copy of, or a hyperlink to the SPD, and identify relevant parts. The Applicant is invited to provide specific comments.</p>	<p>A copy of the SPD is submitted with this response.</p> <p>I link to the document is also included below:</p> <p>Health impact assessment for planning applications guidance note (n-kesteven.gov.uk)</p>
2.6.5	The Applicant, and other IPs (optional).	<p>Health Impact Assessment Paragraph 4.3.18 of Environmental Statement Addendum 21.1: Human Health and Wellbeing Effects February 2024 [REP4-077] explains that the Applicant’s view is that Policy S54 requirement for a HIA is for TCPA planning applications, and the HIA scoping process is therefore determined by the local planning authority, whereas HIA scoping for NSIPs is determined by the Planning Inspectorate. A separate HIA had not been scoped in, and therefore was not required to be undertaken for this Scheme.</p> <p>Elsewhere, other ‘local’ policy requirements in adopted plans where a local planning authority</p>	<p>The Central Lincolnshire Local Plan Health Impact Assessment for Planning Application: Guidance Note (‘HIA Guidance Note’) (Updated April 2023) form part of the development plan relevant to development proposals within the West Lindsey District.</p> <p>The adopted statutory development is an important and relevant consideration in the determination of the application under section 105 of the PA2008.</p> <p>Regard to the HIA Guidance Note should be had as with all other policies within the adopted statutory development plan. The weight given to the document is rightly to be determined by the decision maker.</p> <p>The Applicant appears to have misunderstood the context of the HIA Guidance note. It is not a document that provides policy</p>

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		<p>determines TCPA planning applications are readily addressed, with compliance being demonstrated. Examples include the OLEMP para 4.8.4 reference to the Lincolnshire BAP priority, and references to the Central Lincolnshire Local Plan (2017) and Draft Bassetlaw District Local Plan (2021) at Paragraph 14.3.2 of Chapter 14: Transport and Access. In the latter’s case, it states that “The proposals have also been considered in the context of the following documents”.</p> <p>Please can the Applicant (and other IPs, optionally) comment further on why various local policies provide relatively greater context for consideration of the proposals.</p>	<p>guidance solely for EIA development. Reference to ‘scoping’ within it relates to the scope of a HIA, which can be EIA, non-EIA or both depending on the nature of development, matters being considered and the outcomes being sought.</p> <p>The fact that PINS are the ‘competent authority’ for the purpose of EIA development to be determined under the PA2008, avoids the point raised by WLDC in that this document appears to have ignored (both in EIA terms and as assessment that sits outside of EIA as an application document).</p> <p>In terms of establishing relevance and context, the question is whether health impacts are important and, if so, all important and relevant policies must be considered. Health impacts are clearly important in the context of the scheme and, whilst the applicant has carried out an assessment of likely significant environmental effects, the HIA Guidance Note has not been reference at all in either the ES or the Planning Statement.</p> <p>The Environmental Statement Addendum 21.1: Human Health and Wellbeing Effects (February 2024) states that the Applicant’s assessment of the scheme’s compliance with Policy S54 has been assessed in the Planning Statement (Revision B). Turning to the Planning Statement however reveals that no such assessment has been carried, and no reference to the HIA Guidance Note has been made. There is a cursory response to Policy S54 in the Planning Statement Appendix D (page 23), which simply refers back to ES Addendum 21.1 for an assessment. It is therefore apparent that an assessment of the impacts against relevant policy has not been undertaken by the applicant.</p>
2.6.7	All Parties	<p>Electromagnetic field (EMF) - Effects on Human Health The Applicant has provided further information in response to questions and comments by members of the public, including those living near or</p>	<p>WLDC has no further comments with regard to the EMF effects of the project.</p>

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		<p>adjacent to the Grid Connection Cable to show that even those closest to the cable route would not experience long-term health impacts as exposure rates would be significantly below ICNIRP monitoring levels.</p> <p>Environmental Statement Addendum 21.1: Human Health and Wellbeing Effects February 2024 [REP4-077] paragraph 4.3.3 discusses various references to EMF and Human Health throughout other documents. It has provided technical information which sets out the peak EMF likely to be generated by the Scheme and in the Shared Cable Route Corridor and has explained why there are no adverse associated health impacts.</p> <p>Please can IPs and other relevant health bodies confirm whether the explanation provide by the Applicant satisfactorily addresses concerns, and if not explain why not.</p>	
2.6.8	Applicant and WLDC	<p>500 Meter Buffer</p> <p>WLDC states that the 500m buffer area fails to capture the wider community that will experience the impacts of the project during construction, operation and decommissioning. It identifies that the role of a stand-alone (non-EIA) HIA would be to capture all impacts and demonstrate policy compliance in the context of the planning balance. It states that the reliance on an EIA to remove the requirement of a HIA is flawed, unless it can be demonstrated that a precautionary approach has been taken and that all impacts have been identified, assessed and mitigated [REP4-082]. Following receipt of the Deadline 4 Submission [REP4-077] please comment</p>	<p>WLDC have provided comments on the value of a stand-alone HIA in previous responses above.</p> <p>With regard to the specific issue of the 500m buffer, WLDC are unclear how this distance has been determined and why it is representative of an area beyond which persons will not experience any impacts.</p> <p>This justification becomes important when considering the potential cumulative impacts on health and wellbeing as people who live beyond such buffers of project boundaries, but will inherently experience impacts during construction, operation and decommissioning, will not have been included in any assessments.</p>

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		on the extent to which a stand-alone HIA could capture impacts on the wider community.	
7. Historic Environment			
2.7.9	Applicant and Historic England	<p>Stow Park Medieval Bishops Place and Deer Park</p> <p>Following on from the discussion at ISH5 in relation to the nature of the harm to the Scheduled Monument, that parties are asked to clearly set out their respective positions in relation whether and how policy provisions differentiate between physical harm to designated heritage assets and harm to their setting.</p>	<p>WLDC maintains its view set out in the LIR and Written Representation with regard to the unacceptable harm the West Burton Solar Project will have on the Scheduled Monument at Stow Park Medieval Bishop’s Palace and Deer Park.</p> <p>The Secretary of State has a statutory duty to have regard to impacts development has on listed buildings, conservation areas and scheduled monuments, set out in Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010. Regulation 3 requires that when deciding applications for development consent which affects or is likely to affect a scheduled monument or its setting, the decision maker must have regard to the desirability of preserving the scheduled monument or its setting.</p> <p>It is inherent therefore that the statutory duty to protect relates to impacts that affect the setting of a monument and not purely direct physical harm.</p> <p>It is clear from the schedule description, underpinned by information and evidence, that the historic importance of the designated Scheduled Monuments of the Bishop’s Palace and the park pales are defined and bound by the deer park to which they relate and frame. The park was naturally a rural landscape and it is this character that is integral to the importance of the Scheduled Monument. Any degradation or erosion of that landscape character will cause significant harm to the setting of the Scheduled Monuments.</p> <p>NPS EN-1 (2023) requires the Secretary of State to give great weight to the conservation of a heritage asset, irrespective of whether any potential harm amounts to substantial, total loss, or less than substantial harm to its significance (para. 5.9.25). Substantial harm to Scheduled Monuments should be “wholly</p>

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			<p>exceptional” (para. 5.9.28). Where a proposed development will lead to substantial harm of a designated asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm to, or loss of, significance is necessary to achieve substantial public benefits that outweigh that harm or loss. Loss of significance relates to the setting of Scheduled Monument and not simply direct physical harm.</p> <p>Policy S57 of the CLLP requires proposals to protect, conserve and seek opportunities to enhance the environment of Central Lincolnshire. Development that will result in substantial harm to, or the total loss of, a designated heritage asset will only be granted permission where it is necessary to achieve substantial public benefits that outweigh the harm or loss (or subject to a range of criteria relating to viability and use of an asset).</p> <p>The West Burton Solar Project ES concludes a ‘large adverse’ impact upon the bishops palace Scheduled Monument. WLDC consider this to equate to ‘substantial harm’ for the purposes of NPS, NPPS and CLLP policy.</p> <p>WLDC considers that the significance of a medieval deer park relates not only to the containment and protection of deer, but also the wider character of the landscape. As a consequence, this setting would experience substantial harm by the loss of rural character that would entail by the existence of solar panels.</p> <p>During ISHs, the applicant has attempted to justify the adverse impacts on the basis that the current landscape has changed from the original medieval landscape. This is clearly apparent as landscapes change over time, however the historic importance of the Scheduled Monuments are defined by rural landscape that still exists today. In it unquestionable that the assets are currently read and understood in relation to the rural landscape character that they frame. The applicant, however, takes the position that, as the rural landscape has changed since medieval times (albeit still a rural landscape that can be understood), the construction of modern solar panels of up to</p>

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EXQ2	Question to	Question	WLDC Response
			<p>4.5metres in heigh with modern utilitarian boundary fencing makes no difference in terms of that landscape character and the role it has in defining the setting of the Scheduled Monument.</p> <p>WLDC wholly disagrees with the position advanced by the applicant. The setting of the Scheduled Monuments would be materially harmed through the construction of solar panels, the fact no direct physical harm to the Scheduled Monuments does not avoid the statutory duty and policy requirement to conserve their setting.</p> <p>WLDC notes that this view is shared by Historic England and that the only remedy that would alleviate the harm caused would be the removal of all panels within the Deer Park.</p> <p>The approach taken by the applicant and their attempts to justify the acceptability of the impacts of the project on the Scheduled Monument has been flawed.</p> <p>During EIA scoping and statutory pre-application phases of the project, the applicant was made aware, by Historic England, that the siting of solar panels within the setting of the Scheduled Monument would be unacceptable. The applicant has chosen to ignore this consistent and well evidenced advice, seeking to justify the harm (putting aside the statutory duty to conserve) by stating that the removal of panels would be 'too detrimental to the scheme' and that it would be 'temporary and reversible' (Consultation Report, Appendix 5.13: Section 42 Applicant Response, pp.415-419). This justification is weak in that, no evidence has been provided to demonstrate what 'too detrimental to the scheme' means in policy terms; in any even the commercial viability of a project does not constitute a reason to override the statutory duty; and the lifespan of the project for 60 years means that the project should be considered 'permanent' and not a temporary impact.</p>

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EXQ2	Question to	Question	WLDC Response
			<p>WLDC therefore object to the proposal on the strongest grounds with regard to the substantial harm caused to the bishop’s palace and deer park Scheduled Monument.</p>
<p>2.7.10</p>	<p>Applicant and Historic England</p>	<p>Stow Park Medieval Bishops Place and Deer Park Historic England concludes that the Proposed Development would cause substantial harm to the significance of the Scheduled Ancient Monument (SAM) through the loss of its character as a bounded architectural space. Should the Secretary of State agree with that conclusion, the parties are asked to set out the implications for the determination of the Proposed Development, with reference to relevant policy provisions, including reference in NPS EN-1 2011 and NSP EN-1 2023 setting out that ‘substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments……should be wholly exceptional’.</p> <p>Additionally, noting the Applicants conclusions that there would be less than substantial harm at the upper end of the spectrum, should the Secretary of State accept this position, the Applicant is asked clearly set out how the suggested public benefits would outweigh that harm.</p>	<p>WLDCs position on the unacceptable harm caused to the Stow Park Medieval Bishop’s Palace and Deer Park is set out in answer to question 2.7.9 above and is applicable to this question so is not repeated verbatim here but should be read as a response.</p> <p>WLDC consider that the starting point must always been with the statutory duty to have regard to the desirability of preserving the scheduled monument or its setting.</p> <p>The imposition of modern utilitarian solar panels and associated infrastructure in a rural landscape that forms the setting and makes a significant contribution to the historic significance of the scheduled monument will clearly fail to the statutory duty and relevant policy in that it will cause substantial harm to its setting.</p> <p>WLDCs position is that substantial harm is clearly caused as the landscape to which the importance of the assets relate (land to which their historic function purpose and relationship relates) will be materially altered in landscape character to the extent that the purpose of the assets would no longer be recognised or understood.</p> <p>Once substantial harm is concluded, policy tells decision makers that such harm should only be ‘wholly exceptional’. In this context, the bar is high, and would relate to national policy objectives not being realised. There is no evidence that the removal of solar panels from the setting of the scheduled monument would compromise the achievement of national policy, and this the ‘wholly exceptional’ test would not be satisfied. The fact that this individual project would be smaller in terms of installed capacity is not a reason that satisfies the ‘wholly exceptional’ test.</p>

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EXQ2	Question to	Question	WLDC Response
			<p>Furthermore, the applicant states that, based upon the assessed 40 year project lifespan, the harm would be at ‘top end of spectrum’ of less than substantial harm. Notwithstanding WLDCs disagreement with this conclusion, which has been justified on the basis of ‘temporary’ impacts over a very long period of time, the applicant has not provided a re-assessment of the impacts to explain how the now proposed additional 20 years lifespan (to 60 years) has affected this conclusion. If the project was concluded to be at the ‘top end’ of the ‘less than substantial harm’ spectrum, it is unclear how it can be justified that the harm remains at the ‘top end’ following the imposition of a further 20 years of such harm.</p> <p>WLDC deem the impacts unacceptable, amounting to substantial harm to the setting of the scheduled monument. The project itself does not satisfy the very high bar of being ‘wholly exceptional’ and therefore policy tells decision makers to refuse consent where such harm is apparent.</p>
2.9.3	All parties	<p>Panel Replacement</p> <p>Concerns are expressed by a number of parties relating to the Applicants reference to an assumed replacement rate of 0.4% of panels per year, as set out in ES Chapter 7 Climate Change [APP-045]. Paragraph 7.8.52 sets out that this figure is based on ‘supplier input’ and has been applied to the estimated 40 year life of the development. With reference to this information:</p> <ol style="list-style-type: none"> a. The Applicant is invited to set out further details of the assumptions on which this figure is based; b. Set evidence to justify the application of the 0.4% replacement rate as a linear rate over 60 years; <p>Other parties are invited to provide alternative evidence to suggest that this approach is not</p>	<p>WLDC have raised previous concerns regarding the implications of panel replacement due to failure rate and the likely environmental impacts that may occur (e.g. up to around 100ha being able to be replaced under the scope of ‘maintenance’ at any point in the operational timespan of the project).</p> <p>WLDC would be grateful for further explanation of how the assumptions are reached and will provide further comment following a review of such information.</p>

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EXQ2	Question to	Question	WLDC Response
		credible.	
10. Noise, Vibration and Air Quality			
2.10.4	WLDC and Applicant	<p>WLDC Methodological Concerns</p> <p>The Applicant has responded to the WLDC’s comments in its LIR on the noise methodology, surveys, sources and assumptions. WLDC’s concerns on the noise assessment methodology are set out in section 14 of its LIR [REP1A-006]. This was discussed at ISH4 [EV-029].</p> <p>The Applicant’s Written Summary of the Applicant’s Oral Submissions at Issue Specific Hearing 4 and Responses to Action Points [REP4-071] confirms that details have been requested from WLDC of any additional wording they would like to be included in the management plans relating to noise issues.</p> <p>Please provide an update on progress. Has this addressed the Council’s concerns?</p>	<p>The noise assessment methodology issues have largely been addressed through the exchange of information.</p> <p>Confirmation will be provided within the SoCG.</p>
13. Socio-Economic Matters			
2.13.1	All Parties	<p>Skills Supply Chain and Employment Plan</p> <p>During ISH4 [EV-029], the Applicant made a number of comments about updating the outline Skills Supply Chain and Employment Plan (oSSCEP). This was originally referenced as [APP-319]. At Deadline 4 a revised (Revision A) version was submitted [REP4-050]. Please can IPs comment on the revision, particularly regarding the relationship with the Organisational Framework, monitoring, consultation and involvement of host authorities.</p>	<p>WLDC has no further comments to make on the outline Skills, Supply Chain and Employment Plan.</p>
2.13.4	All Parties	Community Benefits	

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EXQ2	Question to	Question	WLDC Response
		<p>LCC response to First Written questions 1.13.6 [REP3-042] refers to a variety of projects and community benefits. It notes that provision of community benefits is not a material consideration in determining renewable energy planning applications. WLDC [REP3-044] also states that the use of a community to 'compensate' affected persons is also not an appropriate mechanism to address such matters.</p> <p>IPs are invited to comment further on such measures and provide any relevant updates on this aspect.</p>	<p>WLDCs position on this matter has not altered.</p>
<p>14. Transport and access, highways and public rights of way (PRoW)</p>			
<p>2.14.4</p>	<p>Applicant and IPs</p>	<p>Joint Construction Traffic Management Plan</p> <p>The Outline Construction Traffic Management Plan {REP4-038} refers to a Joint Construction Traffic Management Plan at 7.2 (xxv) that such a document “could” be produced. This was discussed during ISH4 [EV-029]. The Applicant and Local Authorities should be progressing this element, including providing a form of wording to give confidence that congestion can be avoided at critical points where projects are being accessed or constructed simultaneously.</p> <p>IPs are requested to provide an update, including on views to the changes to the dDCO [REP4-024] in Requirement 2.</p>	<p>WLDC have provide a suggested framework for a commitment to a co-ordinated approach to managing construction traffic with other developments in the event two or more projects are constructed at concurrently.</p> <p>WLDC raises no further concerns beyond this matter.</p>

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Appendix A

STATEMENT OF COMMON GROUND

MATTERS AGREED – Summary (as at 11/04/2024)

Main Topic	Sub-topic	Details of Matters Agreed
PD-01 General	Site description	The Site description set out at ES Chapter 3: The Development Site [APP-041] is accurate.
PD-02 General	Planning History	The relevant planning history for the Scheme insofar as it relates to land within West Lindsey District is set out at Planning Statement Revision B [REP4-048], Appendix 1: Planning Application History Search West Burton Sites and Appendix 2: Planning Application History Search Cable Route Corridor respectively.
PD-03 General	Legislation and policy	<p>The updated National Policy Statements were published on 22 November 2023 and designated by the Secretary of State on 17 January 2024. Section 1.6 of NPS EN-1 (November 2023) sets out the transitional provisions and states that for DCO applications submitted prior to the designation of the November 2023 NPSs (such as the Scheme), the 2011 suite of NPSs will continue to have effect and therefore the DCO application for the Scheme will be determined under s105 of the Planning Act 2008.</p> <p>The extent to which the updated NPS's are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application. The NPSs designated in January 2024 will be an important and relevant consideration for the Secretary of State in determining the application for the Scheme.</p> <p>The Scheme has been assessed against the relevant and up to date West Lindsey District Council and Lincolnshire County Council planning policies as set out within Section 6 of the Planning Statement Revision B [REP4-048] noting that any references to the draft Central Lincolnshire Local Plan now mean the Central Lincolnshire Local Plan DPD (Development Plan Document) adopted 13 April 2023</p>
PD-04 General	Need for large scale solar	The principle of the need for large scale solar projects is established in national planning policy, as detailed in Section 4 of the Planning Statement Revision B [REP4-048] and the Statement of Need [APP-320]; The overarching need case for the deployment of low carbon energy generation infrastructure is agreed.