



Application by West Burton Solar Project Limited for West Burton Solar Project
The Examining Authority's written questions and requests for information (ExQ2)
Issued on 19 March 2024

The following table sets out the Examining Authority's (ExA's) second set of written questions and requests for information – ExQ2. Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe D to the Rule 6 letter of 10 August 2023. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library, which provides a link to each document. The Examination Library can be found here: <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010132/documents>.

When you are answering a question, please start your answer by quoting the question reference number.

If you are responding to a small number of questions, then answers in email or a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please email WestBurtonSolarProject@planninginspectorate.gov.uk and include 'West Burton Solar Project' in the subject line of your email.

All references to the Draft Development Consent Order are to Revision E submitted at Deadline 4 [\[REP4-24\]](#).

Responses are due by Deadline 5: Friday 11 April 2024.



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



The Planning Inspectorate

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 Lindsey 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



Index

1. General and Cross-topic Questions	5
2. Agriculture and Soils	8
3. Biodiversity and Ecology	13
4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations	14
5. Draft Development Consent Order (DCO)	15
6. Health and Wellbeing	16
7. Historic Environment	17
8. Landscape and Visual	20
9. Need, the electricity generated and climate change	20
10. Noise, Vibration and Air Quality	21
11. Other Planning Matters	21
12. Safety and Major Incidents	21
13. Socio-Economic Matters	22
14. Transport and access, highways and public rights of way (PRoW)	23
15. Water Environment including Flooding	23

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
1. General and Cross-topic Questions			LCC Response
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>Paragraph 180 (b) of the December 2023 NPPF retains the same policy approach as its predecessor by advising that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the best and most versatile agricultural land. However in the December 2023 version of the NPPF the newly-introduced footnote 62, albeit in relation to planmaking, advises that the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development. It is the Council's view that this is an additional test that the decision maker needs to take into account when assessing the developments impacts on the loss of any agricultural land that could be used for food production. It also brings into question the assertion of the applicant from Chapter 19 Soils and Agriculture that the impact is concluded as being a 'significant beneficial' effect despite the scope and availability of land for the production of food being reduced which in the Council's view is contrary to the revised NPPF and certainly cannot be assessed as 'significant beneficial.'</p>
2.1.2	All parties	<p>Cumulative Assessments</p> <p>Concerns have been raised about the adequacy of the cumulative assessments before the Examination (for example, by West Lindsey District Council (WLDC) in its</p>	<p>At present, the only cumulative scenario that can be considered for the purpose of decision making is one where all projects are consented. There is no assessment of how each combination of projects perform (e.g. 2 projects together). The</p>

ExQ2	Question to:	Question:
		<p>Written Representation [REP1A-004]). Specifically, WLDC set out that in order for the decision maker to have adequate information before them to make a sound decision, a cumulative assessment that addresses various combinations of solar NSIP are required. The information before us in the Joint Report sets out the cumulative impacts of 4 NSIPs, with additional information relating to 3 others set out in the Technical Note on Cumulative Effects.</p> <p>The EIA Regulations Schedule 3 paragraph 1(b) refers to the consideration of the cumulation with other projects. Also the provisions set out in NPS EN-1 paragraph 4.2.5 are that ‘when considering cumulative effects, the ES should provide information on how the effects of the applicant’s proposal would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence). With these provisions in mind:</p> <ol style="list-style-type: none"> a. The Applicant is asked to comment on the extent to which this additional information can and should be provided to the Examination; and, b. Other parties are asked to set out what further information should be required. <p>Council are concerned that, if all DCO applications are considered individually without proper regard to the cumulative impacts and/or only in a scenario where all cumulative projects are consented, they may all be considered acceptable as isolated schemes, but with no consideration of whether there is a ‘tipping point’ from acceptability into unacceptability. This approach to decision making is flawed as it would allow projects to progress that could have unacceptable cumulative impacts with each other.</p> <p>The Council contends that, in order for the decision maker to have adequate information before them to make a sound decision, a cumulative assessment that addresses the following combinations should be provided as a minimum:</p> <ul style="list-style-type: none"> • Cottam + Gate Burton • Cottam + West Burton • Cottam + Tillbridge • Cottam + Gate Burton + West Burton • Cottam + Gate Burton + Tillbridge • Cottam + West Burton + Tillbridge; and • Cottam + Gate Burton + West Burton + Tillbridge <p>Unless such assessments are carried out, there is no ability for the decision maker to determine whether a combination of two projects could be acceptable cumulatively; they could only consider the total cumulative impacts of all projects that form the assessment. Should the cumulative impacts of all projects be concluded to be unacceptable, the Council is unclear about how the decision maker</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>determines which project(s) influence that unacceptable conclusion the greatest. The Council are therefore concerned about whether the decision maker is able to conclude a single DCO application is unacceptable based upon its cumulative impacts and, if the cumulative situation was concluded to be unacceptable, the current assessment does not allow for a decision where two of the project are considered to be acceptable.</p> <p>The reasoning behind the Council's concern is triggered by the overlapping nature of cumulative projects, where by each ExA is assessing the single project in front of them only, but that none of the applications are consented, and may be determined at the same time by the Secretary of State. The Council is concerned unless an assessment of various combinations of projects are carried out and not just a reliance upon a 'worst case' assessment of all projects taken together. The Council considers that, in the event that this project at examination projects Gate Burton and Cottam at recommendation stage are determined at the same time by the Secretary of State, the environmental information provided only allows for three decision options to be made:</p> <p>To grant consent for a single project only; or ii. To grant consent for all three projects; or iii. To refuse consent for all three projects. During Issue Specific Hearing 4 'Cumulative Effects' (06/12/2023) for the Cottam examination this position was fairly described as an 'all or nothing' scenario by the ExA, a definition to that the Council agrees with.</p>

ExQ2	Question to:	Question:	
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>The Council continues to work with the applicant in respect of the SOCG and this will be concluded by Deadline 6. The ExA should take into consideration that as well as this examination the Council has been working to conclude SOCG for Cottam and Heckington Fen Examinations which concluded during the last couple of months. Having to conclude 3 SOCGs in a couple of months is very resource intensive for the Council and so the requirements for this examination should not be viewed in isolation with all the other NSIP activating currently taking place in Lincolnshire.</p>
2. Agriculture and Soils			
2.2.1	Applicant	<p>Future Agricultural Use - Grazing</p> <p>The Applicant states that the land is ‘available’ for agricultural purposes, however there is no firm commitment to making the land available for such purposes. ES Chapter 19 Soils and Agriculture [APP-057] (para. 19.9.18) states that during operation “<i>grass below and between the solar panels will need to be managed. This management can include grazing by livestock where appropriate</i>” Furthermore, para. 19.10.8 states that, during operation, “<i>opportunities for farm enterprises to utilise the land within the sites will be limited to periods of grazing small livestock</i>”.</p> <p>There is no guarantee that the land will be used for grazing, that there is no decision made on whether it is appropriate to do so. If it is utilised, that use may be limited. This impact is concluded as being a ‘significant</p>	<p>Unless a suitable farmer/grazier is identified and terms of agreement, such as a tenancy or grazing agreement are negotiated and captured in a formal agreement presented to the examination no weight can be given to the potential use of the site for grazing once the panels are installed.</p> <p>Without the confidence of a suitable agreement it is more likely that the land will be mown or cut to control grass growth and weeds.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>beneficial' effect despite the scope and availability of land for the production of food being reduced.</p> <p>Please can the Applicant explain how, at WBSP and cumulatively across other projects, it has concluded the significant benefit effect? With regard to cumulative impact on agriculture, of multiple solar projects within the county, will there come a point at which the impact is not assessed as beneficial?</p>
2.2.2	Applicant	<p>Agriculture – Long-term Impact Environmental Statement (ES) Chapter 18 – Socio-economics, Tourism and Recreation [APP-056] concludes in paragraph 18.1.4 that socio-economic impacts during operation on the agricultural industry will be limited to impacts on the agricultural industry through taking the land out of production for the lifetime of the Scheme. Para 18.7.15 quantifies the impact, concluding that:</p> <p><i>“The Scheme is projected to impact on up to 769 hectares of agricultural land for the operational lifetime of the Scheme, this will therefore cause approximately 13 FTE agricultural sector jobs to be lost ...This impacts approximately 0.3% of the agricultural sector employment, and as such is a low magnitude impact. Due to its low sensitivity this results in a long-term minor adverse effect to the Local Impact Area. In the Regional Impact Area, this is a 0.03% reduction in agricultural employment, representing a negligible change to a receptor of low sensitivity. Therefore, the effect is long-term negligible adverse”.</i></p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>This is based on the assumption that sheep farming would continue agricultural use of the site underneath the panels. However, LCC has stated that the type of agriculture change to grazing is not like-for-like replacement.</p> <p>Please can the Applicant confirm the proportions of land locally and regionally which may be removed from agricultural use, and provide comments on how the potential 60 year removal equates to a 'long-term negligible adverse' effect. Other IPs may optionally comment.</p>
2.2.3	All Parties	<p>Farming Methods</p> <p>IPs familiar with local agricultural methods have 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>
2.2.4	Applicant	<p>Isopropyl Alcohol – Impact on Soil</p> <p>At ISH3, and in its submission at DL4 (Written Summary of the Applicant’s Oral Submissions at Issue Specific Hearing 3 and Responses to Action Points) [REP4-070] the Applicant confirmed that only water is used for cleaning and that “<i>The panels require minimal cleaning as they have a self-cleaning coating</i>”.</p> <p>Can the Applicant confirm that this is de-ionised water? Further, that if or where soiling remains on the panels after rinsing, what is the procedure? IPs suggest that</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>cleaning with de-ionised water is repeated. Where any soiling continues to prove stubborn, IPA (Isopropyl Alcohol) with a concentration of less than 10% may be used.</p> <p>If this is the case then can the applicant confirm that the use of IPA will have no effect on the soil health?</p>
2.2.5	Applicant	<p>Cutting and Mowing Management The OLEMP [REP4-044] states, at paragraph 4.8.11 that cutting or mowing can be carried out relatively quickly, and at 4.8.9 “<i>cutting will be carried out using a cut-and-collect system so as to minimise nutrient build up in the soil which stifles species diversity... there may be an opportunity to use the cuttings within local composting sites such as anaerobic digesters or open air windrows</i>”.</p> <p>Can the Applicant please explain this apparent contradiction between these measures and the continued use for sheep grazing. How is the balance between cutting and maintenance for long-term management assessed in the ES conclusions?.</p>
2.2.6	Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, Natural England	<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>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
2.2.7	The Applicant, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, Natural England	<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>It is the Council’s view that as the Ministerial Statement has not been rescinded it is still Government Policy and therefore should carry significant weight in the consideration of the application in terms of the development on and long-term loss of BMV. The Ministerial Statement states that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. It is the Council’s view that the test to use BMV requires the applicant to provide that compelling evidence to meet the necessary threshold set for the loss of BMV.</p>
2.2.8	All Parties	<p>Permanent or Temporary Nature of Loss of Agricultural Land 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 temporary loss.</p>	<p>Temporary is not defined, but by any measure 60 years is a long period of time. The loss of farmland and its alternative uses for food production over 60 years has to be considered as effectively permanent and its loss considered as if permanent.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
2.2.9	Applicant and Natural England	<p>Soil Health</p> <p>Through NE’s work with the applicant on the SoCG, it has been agreed that a programme of soil health monitoring will be undertaken throughout the operation of the proposed development to better understand the impact of solar development on soil health. Please can both parties provide an update on the soil health monitoring programme and confirm the extent to which matters are resolved.</p>	<p>In order to monitor soil health, it is first necessary for there to be some form of survey or assessment of soil health pre-construction. This should include assessments of soil organic matter content, nutrient status, soil structure, pH, earthworm and microbial activity and general condition, as well as ALC grade(s).</p>
3. Biodiversity and Ecology			4.
2.3.2	All Parties	<p>Biodiversity Net Gain</p> <p>The ExA notes that Requirement 9 now provides that the BNG Strategy must include details of how the strategy will secure a minimum of 69.4% biodiversity net gain in habitat units, a minimum of 43.7% biodiversity net gain in hedgerow units and a minimum of 26.6% biodiversity net gain in river units for all of the authorised development during the operation of the authorised development, and the metric that has been used to calculate that those percentages will be reached.</p> <p>The units quoted differ from those set out in e.g. the Planning Statement, in order to act as a ‘buffer’ in the event that circumstances change over time. Please can the Applicant provide a comment on the BNG Units secured within the dDCO and rationale as to the specific level of buffer selected. Please can IPs comment on the same.</p>	<p>In so far as there is a shortfall from the % relied upon in the planning statement, less weight should be afforded even on the Applicant’s case.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
		<p><i>Note Question 2.5.12 addresses the BNG Requirement 9 dDCO approach to wording.</i></p>	
<p>2.3.7</p>	<p>Applicant and Local Authorities</p>	<p>Waste Table 3.13 of the oOEMP (Rev C) [REP4-054] has been updated to refer to the waste management strategy which <i>“will be provided as a standalone document requiring approval from the Waste Management Authority as set out under Requirement 14 of the DCO [EX4/WB3.1_E] to ensure operational waste is managed suitably, and that waste arisings are sent for handling at facilities within the waste local authorities that have capacity to do so without adversely impacting upon their capacity to handle waste arisings for all other waste streams in the authority area”</i> Further amendments set out topics to be included. LCC has previously requested additional assurances relating to future waste arising from the project. Please can the Applicant and LCC comment on progress, and set out LCC as waste authority concerns regarding impact of waste both from WBSP and also cumulatively.</p>	<p>As with other NSIPs, the applicant has committed (in the oOEMP) to producing a Waste Management Strategy using the format which the Council suggested. In terms of Requirement 14 of the draft DCO the Council would request the use of the term ‘Waste Planning Authority’ rather than Waste Management Authority’ The Council notes that this doesn’t explicitly mention an assessment of the cumulative impacts of all known/proposed projects, so the Council would like to see this added. In terms of concerns on the future waste handling capacity the potential impacts from this scheme and others is unknown at this stage but could be significant and this is why the Council is seeking this information now so that when the Council updates its Waste Needs Assessment as part of the on-going review of the Minerals and Waste Local Plan this can be taken into account and planned for in the need for additional waste processing facilities.</p>
<p>4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</p>			

ExQ2	Question to:	Question:
5. Draft Development Consent Order (DCO)		
2.5.3	Applicant and LCC	<p>Article 11/15 (Temporary prohibition or restriction of use of streets and public rights of way/ Traffic regulation measures)</p> <p>With reference to Articles 11/15 [REP4-24], noting the comments made at ISH2 and the ongoing discussion between the Applicant and LCC in relation to the mechanisms for obtaining approval, and update is requested on the discussions seeking to gain agreement which ensures consistency between the DCO and the Outline Construction Management Plan (OCMP). If agreement has not been reached then the parties are asked to please clearly set out their respective positions. If necessary, LCC is asked to please provide alternative wording.</p>
2.5.10	Applicant and Lincolnshire County Council (LCC)	<p>Schedule 2 (Requirements)</p> <p>With reference to Schedule 2, Requirement 12 (Archaeology) [REP4-24] LCC have provided suggested alternative wording for this requirement [REP4-079].</p> <ol style="list-style-type: none"> a. LCC are asked to please clarify the rationale for this in terms of how it would address their concerns; and, b. the Applicant is asked to please provide comment on this alternative wording in terms of whether it required for the Proposed Development to comply with relevant policy and guidance.

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>Geophysical surveying will identify some assets but not all below ground archaeology will be reflected in the survey reports. LCC has numerous examples of where a non-intrusive survey has failed to identify significant archaeological sites. At present, the Applicant cannot accurately determine the presence or absence of archaeological remains within 80% of the application site. Without understanding the likely presence or absence of archaeology across the majority of the site, it is entirely premature to approve a WSI which deals with mitigation. Sensibly, one can only decide how to appropriately mitigate something when that something has been adequately described and identified. Without surveying and without adequate mitigation there is a risk of real harm caused to assets below the ground.</p> <p>The proposed revision to requirement 12 provides for a 'Plan B' whereby LCC's primary concerns that survey work should be undertaken prior to consent would not be addressed but instead provides for a 'Plan B' approach for additional surveying to be undertaken post consent. This does not fully remove LCC's concerns but provides at least that survey works would be undertaken before development takes place."</p>
6. Health and Wellbeing		

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
7. Historic Environment			
2.7.1	Applicant and Lincolnshire County Council (LCC)/ Nottinghamshire County Council (NCC)	<p>Conclusions against Archaeological Policy and Guidance</p> <p>The Applicant and LCC/NCC are asked to set clearly set out, ideally in tabular form, their positions on the Applicant’s approach to archaeological management and mitigation in terms of how this either complies with, or does not comply with, the provisions of relevant legislation, policy and guidance. This should include consideration of the implications of the Applicants ‘without prejudice’ Written Scheme of Investigation [REP4-075]. Where references are made to current professional guidance, clear references and links to these provisions should be given.</p> <p>In addition, where it is suggested that the Applicants approach does not comply with relevant provisions, LCC/NCC are asked to clearly identify what further field evaluation and mitigation work would be required in order to address any suggested inadequacies.</p>	See Table Below at end of Questions
2.7.2	Applicant and LCC/ NCC	<p>Archaeological management and mitigation</p> <p>Paragraph 2.10.110 of the National Policy Statement (NPS) EN-3 sets out that archaeological deposits may be protected by a solar PV farm if the site is removed from regular ploughing and shoes or low-level piling is stipulated. The Design Parameters [REP3-020] states that the maximum depth of the Mounting Structure piles will be 3.5m below ground. Table 3-3 of the outline Construction Environmental Management Plan [REP3-</p>	<p>The question of ploughing is not relevant as we understand fields here are generally harrowed annually rather than ploughed (2.2.3 of ExQ2).</p> <p>Piling will affect archaeology as soon as it penetrates deeper than the topsoil, and by 3.5m it will have punctured all but the very deepest features such as wells or quarry pits. Effective mitigation requires sufficient site-specific evaluation</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>018] states that areas where concrete feet are required will be laid out by a surveyor in line with the requirements of the Written Scheme of Investigation (WSI). Further detail of this is set out in paragraphs 3.14 to 3.18 of the outline WSI [APP-122]. Noting the concerns expressed by LCC/NCC about the use of this means of mitigation (for example in LCC Local Impact Report, para 12.18 [REP1A-022]), comments are invited on the implications of Para 2.10.110 of EN-3 for the scheme as proposed.</p> <p>to know where the archaeology is and its extent, character, significance and depth. Avoidance and limited impact solutions are certainly elements which can be used in a fit for purpose archaeological mitigation strategy but it needs to be based on enough baseline information to understand where the mitigation areas need to be and what type of mitigation response is reasonable.</p> <p>Regarding shoes or low-level piling as mitigation techniques require a full understanding of the depth, extent, importance and nature of the surviving archaeology. Any proposal in archaeologically sensitive areas will require a firm evidence base proving that any work including refitting and decommissioning will have no impact upon the archaeology. This must include not only direct destructive impacts through groundworks, compaction or reduction in the depth of soil necessary for protecting the archaeology but also through environmental changes such as changes to hydrology or soil composition which would be detrimental to the surviving archaeology.</p>
2.7.3	LCC/NCC	<p>Archaeological field evaluation</p> <p>In their response to WQ 1.7.2 [REP3-042], LCC have suggested that other NSIPs in Lincolnshire have undertaken full coverage of the redline boundary and as a result have identified significant archaeological sites during the trenching phase which are then dealt with as part of an informed effective mitigation strategy. Similarly, NCC have suggested that the Applicant has</p> <p>This report is useful in demonstrating the widely variable nature of responses to solar schemes. From our own joint LCC/NCC experience we believe that in part at least this is because the full impacts of these schemes are only gradually being appreciated.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>not adequately or systematically identified the nature of the archaeological deposits [REP3-043] .</p> <p>The Applicant's further report '<i>Comparison of Archaeological Evaluation Investigations on Solar Schemes</i>' [[REP4-001] concludes that there is a lack of a standard approach to archaeological evaluation works. LCC/NCC are asked to comment on the implications of this report for the field evaluation undertaken by the Applicant for the Proposed Development.</p>
2.7.4	LCC/NCC	<p>Field Evaluation</p> <p>Noting that the comments made jointly by LCC/NCC [REP4-080] refer to the offer to facilitate 'an appropriate scheme of trenching evaluation before the determination to allow the results to inform a reasonable and robust site specific mitigation strategy'. LCC/NCC are asked to please clarify exactly what is envisaged in terms of the additional percentage required and where this would be targeted, and also when this would need to take place.</p>

The Council's understanding of the impact of solar farms has evolved as we have dealt with increasing numbers of them in Lincolnshire and as more details of the specific impacts have come to light. These impacts are both in terms of specific ground impacts such the use of piles rather than simply spikes for fixing arrays and the amount and depth of cable trenching, and the cumulative aspects of impacts through the lifetime of the scheme, ie decommissioning and successive refits which will multiply the site-specific ground impacts.

With enhanced understanding of the damage the schemes can inflict on buried archaeological remains, plus the cumulative impacts of adjacent schemes covering thousands of hectares of an archaeological sensitive landscape, the realisation of the potential scale of loss of the archaeological resource without proper record and no public benefit is a cause of immense professional concern, and should be to all archaeologists.

As the Council has consistently stated the full impact zone needs to be adequately evaluated, as stated in the hearing we are content to move forward with the agreed 2% trenching so that needs to be across the remaining 79% of the impact zone.

The trenching strategy will need to target potential archaeology identified from the DBA, AP and LiDAR assessment, and geophysical survey results. The trenching strategy will also need to target those areas where the above have not been

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:
		<p>successful in locating archaeology. Targeting blank areas is an essential part of determining the archaeological potential across a proposed development as different types of archaeology and geology may limit or mask the effectiveness of non-intrusive evaluation techniques.</p> <p>Sufficient trenching will be required across the full impact zone to determine the presence, absence, significance, the depth and extent of any archaeological remains which could be impacted by the development.</p> <p>As stated above the timely provision of trenching results are needed to inform the baseline evidence and subsequent informed fit for purpose mitigation strategy. Ideally this should be in advance of the determination and certainly the results are needed in advance of the work programme commencing in any of the areas not currently adequately evaluated.</p>
<p>8. Landscape and Visual</p>		
<p>9. Need, the electricity generated and climate change</p>		
<p>2.9.3</p>	<p>All parties</p>	<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>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
		<p>a. The Applicant is invited to set out further details of the assumptions on which this figure is based;</p> <p>b. Set evidence to justify the application of the 0.4% replacement rate as a linear rate over 60 years;</p> <p>c. Other parties are invited to provide alternative evidence to suggest that this approach is not credible.</p>	
<p>10. Noise, Vibration and Air Quality</p> <p>11. Other Planning Matters</p>			
2.11.1	Applicant	<p>Waste (Cross Reference Question 2.1.4)</p> <p>LCC’s response to First Written Questions states that it is reasonable to ask the applicant to clarify how much waste they anticipate at what points in the scheme and how they propose to manage it. It suggests that <i>“provision needs to be made sooner rather than later to ensure we do not end up with a situation of a ‘solar panel mountain’ as was the case with the ‘fridge mountain’ some 15 years ago”</i>.</p> <p>Noting that Question 2.1.4 relates to the extension of time from 40 to 60 years and the cumulative impacts from this, Please can the Applicant and other IPs respond, and update on, progress specifically on waste management matters and the management of this.</p>	<p>The extension to 60 years makes it even more difficult to forecast waste arisings and capacity that far ahead, it makes it all the more important that the Applicant produces, and keeps updated, a Waste Management Strategy showing predicted arisings and proposed management.</p> <p>Also, the Applicant should clarify how this timescale ties in with the lifetime of the on-site equipment.</p>
<p>12. Safety and Major Incidents</p>			

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
2.12.3	LCC and, optionally Applicant	<p>Accidents, Disasters and Health Impacts of BESS</p> <p>LCC refers in its LIR [REP1A-002] to the impacts associated with matters relating to accidents and disasters, and health to be neutral. LCC confirmed that this is on the assumption that a financial contribution will be secured through an appropriate mechanism (PP) to enable the necessary inspection of the BESS to confirm the required safety measures and means for dealing with a thermal outbreak are in place and in working order which would minimise the risk of a thermal outbreak within the BESS to an acceptable level. Please provide an update on the assumption and whether or not measures to secure the necessary mitigation appear to be satisfactory.</p>	<p>At this stage with the information currently available it is confirmed that the mitigation is satisfactory. This is caveated on the basis that if consent is granted a detailed battery safety plan will need to be prepared and approved by LCC based on the available BESS technology at that time and that the applicant commits to a full inspection regime in the first year of operation and subsequent annual inspection of the BESS and necessary mitigation for the lifetime of the development.</p>
13. Socio-Economic Matters			
2.13.4	All Parties	<p>Community Benefits</p> <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>Whilst noting that community benefits is not a material consideration in the determination of the DCO it is a matter that both Councillors and local communities remain interested in.</p> <p>Whilst it was encouraging that the Council had early dialogue with the applicant at the start of the examination this has now paused and the Council has not be able to take these discussions further. What has been seen on other solar DCO schemes that despite commitment from applicants to continue the discussion following the closure of the examination this has not taken place and the Council fear that this will be the case with this project as well. So would welcome assurances</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

ExQ2	Question to:	Question:	
			from the applicant that the dialogue will continue post examination.
14. Transport and access, highways and public rights of way (PRoW)			
2.14.2	LCC, Applicant	Collision Data In response to WQ1.14.9 (Collision Data), LCC states that <i>“the dDCO still seems to give too much power to applicant”</i> [REP3-042]. Please can LCC provide more specific details, and the Applicant may also wish to comment.	See response to Question 2.5.3 above
15. Water Environment including Flooding			

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

2.7.1 Conclusions against Archaeological Policy and Guidance

The Applicant and LCC/NCC are asked to set clearly set out, ideally in tabular form, their positions on the Applicant’s approach to archaeological management and mitigation in terms of how this either complies with, or does not comply with, the provisions of relevant legislation, policy and guidance. This should include consideration of the implications of the Applicants ‘without prejudice’ Written Scheme of Investigation [\[REP4-075\]](#). Where references are made to current professional guidance, clear references and links to these provisions should be given.

In addition, where it is suggested that the Applicants approach does not comply with relevant provisions, LCC/NCC are asked to clearly identify what further field evaluation and mitigation work would be required in order to address any suggested inadequacies.

Legislation, policy and guidance	Relevant reference	How the Applicant’s approach to archaeological management and mitigation either complies or does not comply with the provisions
Overarching National Policy Statement for Energy (EN-1)	EN-1 outlines requirements for understanding the significance of heritage assets that will be affected, including 5.9.12: <i>‘The applicant should ensure that the extent of the impact of the proposed development on the significance of any heritage assets affected can be adequately understood from the application and supporting documents.’</i> (Section 5.9.9 – 5.9.15)	The significance of any heritage assets cannot be assessed until there has been sufficient evaluation to identify the currently unknown archaeology across the proposed development area. Trial trenching is essential in finding and characterising the archaeology. The applicant has not undertaken sufficient trenching evaluation to identify the presence of archaeology across the impact zone and therefore <i>‘the significance of any heritage assets’</i> cannot be adequately understood.
National Policy Statement for Renewable Energy Infrastructure (EN-3)	References EN-1 (discussed above) but also includes: <i>‘The results of pre-determination archaeological evaluation inform the design of the scheme and related archaeological planning conditions.’</i> (footnote 94)	As only 21% of the site has been subject to trial trenching there cannot be a proportionate and fit for purpose scheme design or archaeological mitigation strategy. As such, EN-3 clearly envisages sufficient <u>pre-determination</u> investigation to properly inform the design of the scheme. This is not possible with the small amount of investigation undertaken by the applicant to date. Paragraph 2.10.113 also refers to “appropriate schemes of investigation” and paragraph 2.10.114 and 115 refer to the need for

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

		investigative work to be proportionate to the sensitivity of the area.
National Policy Statement for Electricity Networks Infrastructure (EN-5)	EN-5 states that <i>‘Applicants must take into account Schedule 9 to the Electricity Act 1989, which places a duty on all transmission and distribution licence holders, in formulating proposals for new electricity networks infrastructure, to “have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and ...do what [they] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.’ (2.2.10)</i>	It is not reasonable to only evaluate 21% of the site as mitigation is not possible without enough evaluation to understand the site-specific archaeological potential and the developmental impact upon it. Concerning the cabling, section 2.9.25 of this policy states that the Secretary of State should consider <i>‘the potentially very disruptive effects of undergrounding on local communities, habitats, archaeological and heritage sites, soil, geology, and, for a substantial time after construction, landscape and visual amenity.’</i> The temporary nature of the cable trenching works will cause permanent damage and destruction to archaeology which is a non-renewable resource.
Infrastructure Planning (Environmental Impact Assessment) Regulations 2017	EIA Regulations state that <i>‘The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors...(d)material assets, cultural heritage and the landscape.’ (Regulation 5 (2d))</i>	The direct and indirect significant effects of the development on cultural heritage cannot be understood until sufficient trial trenching has been undertaken across the full impact zone.
The National Planning Policy Framework	NPPF states that <i>‘In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes,</i>	We haven’t got a proportionate level of detail on the significance of any heritage assets affected on almost 4/5ths of the site and there is insufficient information to understand the impact.

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

	<p><i>or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.'</i> (para 200)</p>	
<p>Central Lincolnshire Local Plan</p>	<p>Policy S57 The Historic Environment <i>'Development proposals should protect, conserve and seek opportunities to enhance the historic environment of Central Lincolnshire. In instances where a development proposal would affect the significance of a heritage asset (whether designated or non-designated), including any contribution made by its setting, the applicant will be required to undertake and provide the following, in a manner proportionate to the asset's significance: a) describe and assess the significance of the asset, including its setting, to determine its architectural, historical or archaeological interest; and b) identify the impact of the proposed works on the significance and special character of the asset, including its setting; and c) provide a clear justification for the works, especially if these would harm the significance of the asset, including its setting, so that the harm can be weighed against public benefits.'</i>(p125)</p>	<p>Sufficient trenching is required to describe and assess the significance of areas of archaeological interest which have yet to be identified and to understand the impact of the proposed works upon them. Harm to the archaeological resource cannot currently be understood and balanced against public benefit.</p>
	<p>Archaeology <i>'Development affecting archaeological remains, whether known or potential, designated or undesignated, should take every practical and reasonable step to protect and, where possible, enhance their significance. Planning applications for such development should be accompanied by an appropriate and proportionate assessment to understand the potential for and significance of remains, and the impact of development upon them. If initial assessment does not provide</i></p>	<p>Again, there has not been sufficient evaluation to understand the potential for and significance of remains, or the impact of development upon them. As such, provision cannot be made for appropriate mitigation.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

	<p><i>sufficient information, developers will be required to undertake field evaluation in advance of determination of the application. This may include a range of techniques for both intrusive and non-intrusive evaluation, as appropriate to the site. Wherever possible and appropriate, mitigation strategies should ensure the preservation of archaeological remains in-situ. Where this is either not possible or not desirable, provision must be made for preservation by record according to an agreed written scheme of investigation submitted by the developer and approved by the planning authority. Any work undertaken as part of the planning process must be appropriately archived in a way agreed with the local planning authority.</i>’(p126)</p>	
<p>Historic England, Piling and Archaeology guidance and good practice (revised 2019)</p>	<p>Please be advised that in accordance with Historic England’s revised Piling and Archaeology guidance <i>‘The applicant will need to provide sufficient information demonstrating an adequate understanding of the significance of the archaeological site and assessment of potential harm to that significance arising from the development.’</i> (p2) HE revised Piling and Archaeology</p>	<p>This requirement has not been achieved. The archaeological potential for the proposed piling areas has not been adequately investigated and there is insufficient baseline evidence to understand archaeological significance or assess harm.</p>
<p>NSIPs - Advice Note Nine</p>	<p><i>‘Implementation of the Rochdale Envelope assessment approach should only be used where it is necessary and should not be treated as a blanket opportunity to allow for insufficient detail in the assessment. Applicants should make every effort to finalise details applicable to the Proposed Development prior to submission of their DCO application. Indeed, as explained earlier in this Advice Note, it will be in all parties’ interests for the Applicant to provide as much information as possible to inform the Pre-application consultation process.’</i> (5.2)</p>	<p>Where the developer proposes the Rochdale Envelope in dealing with their application, it is essential that an understanding of the archaeological resource is achieved to allow for informed and appropriate mitigation. This can only be achieved through adequate trenching evaluation of the full impact zone and the timely provision of the results to inform the baseline evidence and subsequent informed fit for purpose mitigation strategy. Ideally this should be in advance of the determination and certainly the results are needed in advance of the work programme commencing in any of the areas not currently adequately evaluated.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

		<p>The current position of inadequate trenching with the proposed provision of some additional but still insufficient trenching outlined in the Applicant's without prejudice WSI means that we will be left with one of two inadequate options: either that the lack of adequate trenching evaluation will cause a very high level of risk to the post-consent work programme and its associated budget; or that archaeology across the scheme will be destroyed without record meaning that understanding of the archaeology will be lost with a corresponding loss of public benefit.</p>
<p>Historic England Advice Note 17: Planning and Archaeology</p>	<p><i>'Appropriate evaluation can support the smooth and speedy progression of the development and help to manage the developer's risk early in the planning process'</i> (section 131). It also states that <i>'Data gathered can also help to inform a costed mitigation strategy, the benefits of which include a reduction in the chances of unexpected risks and associated costs, and potentially the scope to allocate the cost of archaeology appropriately into financial forecasts'</i> (section 132).</p>	<p>Please see our comments on Advice Note Nine.</p> <p>As only 21% of the site has been sufficiently evaluated the level of risk of 79% of the site remains unknown and unforecastable.</p>
<p>Historic England, Managing Significance in Decision-Taking in the Historic Environment (2015)</p>	<p><i>'Archaeological interest, as defined in the NPPF, differs from historic interest because it is the prospects for a future expert archaeological investigation to reveal more about our past that need protecting.'</i> (section 16)</p> <p><i>Many heritage assets have a significance that is a combination of historic, architectural, artistic and archaeological interest. However, some will currently hold only an archaeological interest, in that nothing substantial may be known about the site and yet there is a credible expectation that investigation may yield</i></p>	<p>The provision of solar arrays and associated infrastructure means that archaeology cannot be searched for or investigated following development and this unrecorded archaeology will continue to be damaged and destroyed, for example through refitting and decommissioning, throughout the lifetime of the development.</p> <p>Meaningful evaluation therefore can only occur before development commences.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

	<p>something of strong enough interest to justify some level of protection. (section 30)</p> <p>For sites with archaeological interest, whether designated or not, the benefits of conserving them are a material consideration when considering planning applications for development. (section 31)</p>	
<p>Chartered Institute for Archaeologists (CIfA) Standard for archaeological evaluation</p>	<p>‘An archaeological field evaluation will seek to determine, record and report on the nature, extent, preservation and significance of archaeological remains within a defined area. The scope of the work will be described in a project design that is fit for purpose and will be carried out by suitably competent persons in accordance with that design and the CIfA Code of conduct and give due regard to the guidance for archaeological field evaluation.’</p>	<p>The ‘defined area’ of the field evaluation should be the full extent of the development impact zone.</p>
<p>CIfA Standard and guidance for commissioning work or providing consultancy advice on archaeology and the historic environment</p>	<p>‘Advice should be clear, compliant, impartial, informed and robust, and should be proportionate to a thoroughly researched and clearly reasoned assessment of the known or potential significance of the heritage assets concerned.’</p> <p>Advisors must ‘give advice based on a sound understanding of the heritage issues and, through the provision of advice, seek to manage change within the historic environment, reconciling wherever possible the need to conserve and enhance significance with the needs of their clients.’(section 3.1.1)</p> <p>“Advisors should ensure that their advice regarding the scope of any assessment of archaeological or cultural heritage significance complies with the relevant CIfA Standard and guidance, and is sufficient to ensure as full an understanding as is reasonably possible of the potential impact of change on the asset’s significance. This should include consideration of all aspects of the</p>	<p>Sufficient baseline evidence is required to achieve this.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024

	<p><i>historic environment, be proportionate to both the significance of the asset(s) and the potential impact of the proposal on them, and be clearly explained and reasoned.</i> (section 3.1.2a)</p>	
<p>ClfA Standard and guidance for archaeological advice by historic environment services</p>	<p><i>‘Advisors should only make a recommendation in response to a development proposal where the significance of assets affected by the development proposal and the scale of any loss of significance is adequately understood. Where there is insufficient evidence, advisors should recommend that further information be gathered prior to determination of the proposal. Requirements for the gathering of further information should always be focused on informing decision making.’</i> (section 7.3.4)</p>	<p>Both LCC and NCC archaeological advisors agree that there is insufficient evidence, both currently and as proposed in the Applicant’s WSIs. For us to meet the requirements of this standard we need to see adequate trenching results across the full impact zone to inform fit for purpose appropriate levels of mitigation and to manage the level of post-consent risk for the Applicant.</p>
<p>High Court Appeal decision In R.(Low Carbon Solar Park 6 Ltd) v SoS, 5th April 2024. https://www.bailii.org/ew/cases/EWHC/Admin/2024/770.html</p>	<p><i>Paragraph 49 ‘As the Inspector noted at paragraph (43) an understanding of the significance of heritage assets is the starting point for determining any mitigation, and it is not appropriate to assess mitigation without that understanding. To approach the matter from the direction which the claimant does, by saying that the requirement to understand such significance is inapplicable because mitigation means that there is no harm, is, in my judgment, to approach the matter the wrong way round. There needs to be an understanding of significance in order to assess whether any mitigation appropriately addresses any harm. It is clear that the claimant did not undertake any evaluations to identify the significance of the historical assets revealed in the March 2022 geophysical survey, seemingly because it took the view that such a requirement was inapplicable where mitigation could avoid harm. In my judgment, the view was in error.’</i></p>	<p>There is insufficient trenching across the redline boundary and the lack of trenching results means there is insufficient baseline evidence to inform a reasonable fit for purpose site-specific mitigation strategy to deal with the developmental impact which is proportionate to the significance of the currently surviving archaeology.</p>

ExQ2: 19 March 2024

Responses due by Deadline 5: Thursday 11 April 2024