

WEST BURTON SOLAR PROJECT – EN-010132

WEST LINDSEY DISTRICT COUNCIL – 20038501

APPLICANT RESPONSES TO ExA’s SECOND WRITTEN QUESTIONS

WLDC Comments

Question Number	Question Summary	Applicant Response	WLDC comments
2. General and cross topic matters			
2.1.1	<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>Footnote 62 of the NPPF states 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”.</p> <p>Footnote 62 of the NPPF should be read in the context of NPS EN-3 (November 2023) which recognises that solar farms may be located on agricultural land where necessary (Paragraph 2.10.29).</p> <p>As set out in WB6.3.5.1 ES Appendix 5.1 Site Selection Assessment [APP-071], selection of the Site accounted for agricultural land classification. Paragraph 3.3.30 states that the Scheme maximises the utilisation of low grade, non best and most versatile (BMV) agricultural land with 73.76% of the land being classified as non BMV land. The</p>	<p>WLDC notes the applicant’s response, however compliance with what the policy requirement of ‘availability’ of agricultural land has not been explained or justified.</p> <p>Whilst the land upon which the proposed development is able to be used for food production (livestock), this does not satisfy the policy test of ‘availability’. The fact that can ‘could; be used for such purpose does not demonstrate that it is will be ‘available’. Demonstrating availability would require a commitment from the applicant to show that the current landowner retains the rights to carry out agriculture activity and/or that such land would be available unfettered to a person(s) who wish to use the land for that purpose.</p>

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		<p>land required for the Scheme has been demonstrated within WB6.3.5.1 ES Appendix 5.1 Site Selection Assessment [APP-071] to perform better than 3 of the assessed Potential Development Areas (PDAs) and equal to the remaining one following the site selection process. Consequently, it has been concluded that there are no obviously more suitable locations for the Scheme within the Search Area.</p> <p>The Applicant has no further additional comments to add regarding the National Planning Policy Framework (NPPF) December 2023 beyond what has already been stated in section 5.5 of the WB7.5_B Planning Statement [REP4-048]. The Applicant considers that the</p>	<p>Should the applicant retain sole control of the land upon which the project is located and not provide any intention or mechanism to enable shared agricultural use, it cannot be deemed to be 'available' for that purpose.</p>
2.1.4	<p>Implications of the increase in the life of the Proposed Development from 40 to 60 years</p> <p>WLDC sets out that, with reference to the implications of the increase from 40 to 60 year life, 'the impacts of this change have not been re-assessed so that all parties can understand how this significant increase in the lifetime (to become effectively a permanent development) has been considered.' [REP4-083].</p> <p>More specifically, WLDC suggest that the replacement of BESS/panels associated with the increase in lifespan is likely to give</p>	<p>A. and b. The Applicant is confident that the implications of the Scheme lifetime being up to a maximum of 60 years is suitably set out in WB6.2.23_B Summary of Significant Effects Revision B [REP3-010] and 8.2.3 Review of Likely Significant Effects at 60 Years [REP1-060]. The methodology for how each topic has comparatively assessed the likely significant effects of a 40-year Scheme versus a 60-year Scheme are explained in [REP1-060].</p> <p>c. The Applicant does not agree that the Scheme can be defined as permanent. Whilst the Applicant is cognisant that the lifetime of the Scheme is long-term, whether that be for 40 years or up to a maximum of 60 years, the DCO contains provisions for the requirements of the</p>	<p>WLDC maintains its position that the implications of increasing the lifespan of the project by 50% to 60 years has not been subjected to proper assessment for each relevant topic in the ES.</p> <p>The applicant states that they are 'confident' have been assessed solely on the basis that a summary document has been produced. This document does not constitute an assessment and acts solely as a statement of a conclusion without any explanation of how the assessor has treated the additional 20 years in reaching that judgement.</p> <p>For the applicant to simply state that there are 'no changes' to the significance of effects is</p>

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	<p>rise to significant environmental effects (especially as the frequency and extent of the replacement is unknown), particularly in relation to traffic, noise, air quality and waste, noting also there could be cumulative effects associated with the other solar projects currently in the system. Furthermore, in the event that significant additional environmental effects were to occur, there is no formal mechanism in place to address this.</p> <p>The Applicant is invited to comment on these concerns, particularly in terms of:</p> <p>how additional impacts have been accounted for,</p> <p>the accessibility of this information,</p> <p>c. the suggestion that the development would, in effect, be permanent.</p> <p>d. The suggestion that, should the 24% replacement figure be exceeded, there is no mechanism for requiring the Applicant to demonstrate that no significant environmental impacts would occur.</p>	<p>Scheme to be fully decommissioned and the land be restored to agricultural use. As this requirement is secured by Requirement 21 in Schedule 2 of the draft DCO [EN010132/EX5/WB3.1_F] it is not reasonable to suggest that the Scheme be considered even “effectively” permanent, as the duty for the Scheme operator to decommission the Scheme will not be removed.</p> <p>d. The Applicant understand that the “24% replacement figure” referred to by WLDC is derived from the anticipated panel failure (and therefore replacement rate) of 0.4% per annum over a 60 year operational lifetime of the Scheme. With regard to mechanism for monitoring if the ES assessment conditions are exceeded, the Applicant defers to their answer to Question 2.9.3 below. The Applicant furthermore refers to Part 2, paragraph 5(3) of the draft DCO [EN010132/EX5/WB3.1_F] which sets out that in regard to maintaining the proposed development, the draft DCO “does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.” Failure to comply would therefore constitute a breach of the DCO which is automatically a criminal offence and thus the Applicant is confident that this will be complied with.</p>	<p>inadequate. It leaves all Interested Parties, the ExA and the SoS with no assessment detail as to how the additional 20 years have been applied to respective methodologies and what weight has been given to the extended time period. The absence of a full assessment leaves other parties blind as to why there have been changes, despite the extension of time period along being considered ‘long term’ in most methodologies (e.g. the GLVIA).</p> <p>The applicant has still not provided clarity on the likely failure rate of panels. WLDCs observation is that the 0.4% per annum is not a ‘true’ representation of what will happen in practice. It is a pro-rata of an estimated total failure rate figure.</p> <p>What WLDC has sought clarification on, is at what stage in the lifespan of the project is panel failure ‘likely’ and to what extent would this occur between 40 and 60 years in particular. This is important to understand the likely impacts, which could be over a long period of ten years for example, of piecemeal replacement of panel that may not in themselves give rise to ‘significant environmental effects’, but could cumulatively do so.</p> <p>The lack of an accurate failure rate profile for the extension of time leaves a gap on the environmental information available.</p>

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2.2 Agriculture and Soils			
2.2.1	<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 beneficial' effect despite the scope and availability of land for the</p>	<p>At present, no farmer with land within the Scheme is under any obligation to manage that agricultural land to a minimum intensity or to manage for food production. Agricultural land within the Scheme will remain available for grazing by small livestock. Management of this grazing will take into account the quantity and quality of forage available, and the needs and welfare of the grazed livestock, as is the case on pasture that is not within a solar farm. Attempting to place a commitment to grazing on the land, in terms of numbers of livestock or duration of grazing, would interfere with the objective management of the grazing for no identifiable benefit.</p> <p>The significant benefit identified in the Soils and Agriculture Chapter of the Environmental Statement [APP-057] is for the land owning farm businesses that obtain a new diversified enterprise (renewable energy generation) that does not make a demand upon farm labourers, machinery time or capital. This benefit is obtained by each individual land owning farm business with land within one of the cumulatively assessed projects. Increases in the extent of land and/or number of farm businesses involved does not dilute or negate this benefit. The Applicant is confident that the conclusion of a significant beneficial effect in Chapter 19 is robust. It is further noted that the Environmental Statement has been prepared on the basis that land would be available for sheep grazing – the Outline Landscape and Ecological Management Plan</p>	<p>WLDC maintain its view that the applicant has not gone far enough to make land 'available' for the production of food alongside the operation of the solar farm.</p> <p>There remains no commitments through the DCO that requires the applicant to make any attempts to deliver continued agricultural activity as part of the project.</p>

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	<p>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>	<p>[REP4-044] makes allowance for this, at paragraph 4.8.8. The assessment presented in Chapter 19 of the ES [APP-057] is however not reliant on the ongoing use of the land for grazing to reach its conclusions on likely significant effects, rather it is a management tool during operation (to manage the growth of grass).</p>	
2.2.8	<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 <i>“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”</i>.</p> <p>IPs are invited to comment on the temporary nature and provide</p>	<p>The Applicant respectfully disagrees with LCC’s position that the “removal of agricultural land for a period of 60 years” cannot be classed as a temporary effect.</p> <p>LCC do not provide a period of time that they would consider the threshold between temporary and permanent, nor any rationale as to why they consider 60 years to not be temporary.</p> <p>At the end of the operational life of the Scheme, the Scheme will be decommissioned. The agricultural land will not have been lost at any point during the lifetime of the Scheme, and will be restored to its current use once decommissioning activities have completed. It differs from the restoration of agricultural land at minerals and landfill sites in that the agricultural land remains available for productive use throughout the operational period. It is therefore not correct to describe the land as having been permanently lost. The requirement</p>	<p>WLDC maintain its view, which aligns with LCC, in that the applicant’s approach in given weight to the temporal nature of the project as a factor that makes significant impacts acceptable, is flawed.</p> <p>60 years in tantamount to permanent project and the application should be determined on this basis.</p>

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	any evidence as to how they consider the relative degree of permanence V temporary loss.	to decommission the Scheme is secured via requirement 21 in Schedule 2 to the DCO [EX5/WB3.1_F]. For further details, please see the Applicant's previous response reference SOI-05 in the Applicant's Response to Deadline 2 and 3 Submissions [REP4-066].	
2.7 Historic Environment			
2.7.8	Stow Park Medieval Bishops Place and Deer Park The Applicant is asked to please clarify how the presence of the Scheduled Monument has influenced scheme layout and design.	Please refer to the Stow Park Cultural Heritage Position Statement [EX5/WB8.2.10].	The 'Position Statement' document produced by the applicant does not represent any new information or clarifications as to how conclusions have been reached with regard to the impact upon the Scheduled Monument. WLDC maintains its view that the placement of modern utilitarian solar panels upon agricultural fields that define the setting and historical importance of the Bishop's Palace and Deer Park, will clearly cause 'substantial harm' to their setting.
2.7.9	Stow Park Medieval Bishops Place and Deer Park 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.	Please refer to the Stow Park Cultural Heritage Position Statement [EX5/WB8.2.10].	WLDC disagrees with the applicant's judgement that the introduction of panels would not alter the legibility of the landscape to be wholly erroneous. Even with the rural landscape being altered since medieval times (although not so much from the date the monuments were scheduled) the introduction of 4.5m high industrial panel will have a far more degrading impacts on the character and the interpretation of the setting of the scheduled monuments than the current baseline character.
2.7.10	Stow Park Medieval Bishops Place and Deer Park	Please refer to the Stow Park Cultural Heritage Position Statement [EX5/WB8.2.10].	

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	<p>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>WLDC also notes that the applicant is relying upon the reversibility of the project as mitigation to justify the 'acceptability' of the impacts. WLDC strongly contends that the imposition of such impacts for a period of 60 years does not allow for significant weight to be given to any temporal or reversibility justifications relating to such significant impacts upon Scheduled Monuments.</p>