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# West Burton Solar Project

## Summary Statement

EN-010132

West Lindsey District Council (20038501)

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# 1. Introduction

- 1.1. This document is submitted at Deadline 7 as West Lindsey District Council's (WLDC) 'Summary Statement' regarding matters previously raised during the examination into the West Burton Solar Project Nationally Significant Infrastructure Project (NSIP).
- 1.2. The matters set out in this document represent those that, in the view of WLDC, have not been resolved.
- 1.3. Table 1 below provides a schedule of the key submissions made by WLDC to the examination.

**Table 1-1 - Schedule of submissions made by WLDC**

<b>Submission</b>	<b>Deadline</b>
Local Impact Report	1A
Written Representation	1A
Examining Authority's First Written Questions - WLDC Responses	D3
Issue Specific Hearing 2: dDCO - Post-Hearing Summary	D4
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Examining Authority's Second Written Questions	D5
WLDC – response to Applicant's ExQ2	D6
Statement of Common Ground (submitted by the Applicant)	D7

## 2. Outstanding Matters

	Matter	WLDC position
1	Procedural	<p>WLDC have noted the formal request made by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) by letter dated 2<sup>nd</sup> May 2024.</p> <p>The request relates to impacts of the project upon the Stow Park Deer Park scheduled monument. In response to question 7 of the ExAs Rule 17 letter dated 23<sup>rd</sup> April 2024 seeking clarification on how the installed capacity within this area would relate to the overall electricity generating capacity (the Applicant’s previous response indicated it would be approximately 20% of the total generating capacity. Notwithstanding this response, the ExA has now asked that, should the Secretary of State conclude that the harm to the Scheduled Monument outweighed the need for the Proposed Development, the applicant is asked to consider whether an amendment to exclude panels from the area shown (in Figure 1 previously submitted by the applicant) would represent the same Nationally Significant Infrastructure Project as originally applied for.</p> <p>If it would, the ExA then asks the Applicant to consider, on a without prejudice basis, the alterations that would be required to the Order Limits, the Development Consent Order, the Land Plan, the Works Plan, and any other necessary alterations, to accommodate the changes that would be required to the application. The applicant has also been asked to comment on the implications of these alterations for the functionality and viability of the Proposed Development overall.</p> <p>WLDC's position is that the impact of the proposed development upon the Scheduled Monument constitutes ‘substantial harm’ and is a reason for which development consent should be refused. WLDC have expressed this view throughout the examination. This view and judgement aligns with that of Historic England (HE) who have made their objections and reasoning very clear in the submissions throughout the examination. HE have also made their specific concerns known to the applicant for a number of years, including during and following site visits held during the pre-application phase.</p> <p>These views and impacts are therefore not ‘new’ to the applicant. They have been aware of the clear and robust advice of HE for a significant amount of time, however have not acted upon or sought to address the clearly articulated concerns of the statutory body. The applicant has continued to pursue their own judgement which underplays the impacts to justify the design decision to construct solar panel and other associated infrastructure within the setting of the Scheduled Monument.</p> <p>Whilst WLDC welcome the ExA engaging with the impact in this way and making the requests that they have, to do so with only four working days before the close of the examination does not allow for the implication to be fully assessed and positions submitted to the examination. This matter was very clear at the start of the examination and, in WLDC's view, could readily have</p>

Matter	WLDC position
	<p>been engaged with at an early stage. As the applicant has been wholly aware of the advice and representations of HE and other parties (inc. WLDC) for a significant period of time, these amendments could have been made prior to submission or even as a request for a non-material change at an early stage in the examination phase.</p> <p>Should the applicant decide to submit such information at Deadline 7, there is no opportunity for WLDC or any other Interested Party to assess the information and submit representations. WLDCs view is that is it not simply a case of removing panels from the setting as other matters such as what happens to other development (cables and compounds etc) needs to be addressed and change in impacts understood. The removal of panels would also result in a different scheme with greater physical separation between arrays which are likely to give rise to landscape and visual impacts that need to be understood.</p> <p>In order for change of this materiality to be considered an ExA, in dealing with a request that is normally made by an applicant, would consider whether(Guidance: Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects April 2024)</p> <ul style="list-style-type: none"> <li>▪ the changes would mean the project is effectively a different one from that contained in the application;</li> <li>▪ the application (as changed) is still of a sufficient standard for examination;</li> <li>▪ sufficient consultation on the changed application can be undertaken to allow for the examination to be completed within the statutory timetable;</li> <li>▪ the changes would breach the principles of fairness and reasonableness for parties participating in the examination; and</li> <li>▪ any other procedural requirements can still be met.</li> </ul> <p>Should the changes requested by the ExA be made, WLDC considers that the above tests would not be met.</p> <p>Furthermore, WLDC considers that regard to the principles of 'Wheatcroft' (<i>Bernard Wheatcroft v Secretary of State for the Environment</i> (1982) 43 P. &amp; C.R. 233) must be had in deciding whether to accept changes and additional information of the magnitude sought. The two tests from Wheatcroft that require consideration are:</p> <p>1) Substantive – whether the proposed amendment(s) involve a 'substantial difference' or a 'fundamental change' to the application. If it is judged that the amendment(s) would result in a 'different application' then it is unlikely that the amendment could be considered as part of the application being determined; and</p>

	Matter	WLDC position
		<p>2) Procedural – whether, if accepted, the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the examination (i.e. as consultation is a statutory requirement, if the application is amended it may be unfair on Interested Parties whose views and comments were about the original proposals, not the amended proposals).</p> <p>WLDC considers that, based upon information available regarding the requested changes, the proposed amendments are highly likely to fail both of these tests. WLDC would strongly wish the opportunity to assess any new information (including updated environmental information and/or method statements) to fully consider the implications of the proposed changes. We would anticipate, along with other interested parties including Historic England, the opportunity to review and assess the changes and take a view as to whether they are sufficient in order to mitigate harm to the scheduled monument. Not being afforded the opportunity to do so would prejudice the role of WLDC as a relevant local authority and the status of its LIR as a document to which due regard must be had under section 105 of the Planning Act 2008.</p>
2	Decision making	<p>The limited methodological approach applied to the assessment of the West Burton Solar Project with other projects (the cumulative assessment) results in there only being environmental information relating to the impact of the project on its own, or with all other projects together as a ‘worst case’.</p> <p>WLDC has consistently requested that an assessment of the various combination of projects be carried out so that an understanding of the relative impacts can be obtained.</p> <p>Furthermore, such environmental information would not, in the event that the Secretary of State determines the three NSIP applications currently in their examination phase at the same time and concludes that the cumulative impacts of all three projects are unacceptable, enable the consideration of whether the impacts of a combination of two projects would be acceptable.</p> <p>Based upon the environmental information before the Secretary of State, in the event that the three NSIP projects are determined at the same time, the only decisions that can be made are as follows:</p> <ul style="list-style-type: none"> <li>• To grant consent for a single project only; or</li> <li>• To grant consent for all three projects; or</li> <li>• To refuse consent for all three projects.</li> </ul>

	Matter	WLDC position
		<p>Despite the frequent and consistent request for this information to be provided, it remains disappointing that this has not been addressed to allow such impacts to be assessed and to enable the decision maker to determine a combination of two projects if required.</p>
3	Policy Compliance	<p><b>National Policy Statements: EN-1 and EN-3</b></p> <p>The West Burton Project application is to be determined under section 105 of the Planning Act 2008. The National Policy Statements (NPSs) EN-1 ‘Overarching National Policy Statement for energy’ and EN-3 ‘National Policy Statement for Renewable Energy Infrastructure’ (published November 2023) are the relevant NPSs for decision making under section 105 as an ‘important and relevant’ matter.</p> <p>WLDC deems the scheme to fail to accord with the National Policy Statements EN-1 and EN-3</p> <p>The key matters of non-compliance are:</p> <ul style="list-style-type: none"> <li>• Project site selection, design and non-efficient use of land.</li> <li>• Landscape visual effects</li> <li>• Landscape character effects</li> <li>• Insufficient information to ensure the co-ordination of construction impacts where two or more of the nearby NSIP applications.</li> <li>• Insufficient assessment of the impact of the project (in solus and cumulatively with other projects) on the wider impact of the loss of agricultural activity on the wider agricultural sector and supply chain.</li> <li>• Lack of guaranteed ‘availability’ of land for the production of food.</li> <li>• Impact upon a Scheduled Monument (‘substantial harm’ in planning policy terms).</li> </ul>
4	Policy Compliance	<p>Central Lincolnshire Local Plan (2023) – the adopted statutory development plan</p> <p>WLDC maintains its judgement that the application fails to comply with the following Local Plan policies:</p>

	Matter	WLDC position
		<p>S14 – Renewable energy: WLDC disagrees that landscape and visual impacts will be wholly mitigated by landscape planting. People will experience harmful visual effects of the project, for a lifetime in view of the operational periods being proposed.</p> <p>S43 – Sustainable rural tourism: The impact during the construction phase (individually and cumulatively) on the availability of tourist accommodation in the district will cause significant harm and damage the strength of the tourism sector.</p> <p>S54 – Health and Wellbeing &amp; Health Impact Assessment for Planning Applications: Guidance Note (updated April 2023) : An HIA has not been provided in accordance with policy S54.</p>
5	Draft development consent order	<p>Article 7 – Statutory Nuisance</p> <p>The situation before the decision maker for this NSIP is very different to other projects that have benefited from the effective immunity from statutory nuisance claims. The potential cumulative impacts that may be experienced by local residents are unprecedented in that the construction and operation of several NSIP projects, located near to each other, could occur concurrently in this instance. Should harm arise, the practical remedy under the terms of DCO requirements for each project would be cumbersome and the identification of the source of the harm difficult to establish, making the ability to undertake effective enforcement difficult to navigate.</p> <p>Furthermore, the environmental assessment submitted in support of the West Burton Solar Project does not assess the various combinations of each project, and the likely contributions of each project to individual receptors is not known. Were such information available, the likely main contributor to noise levels experienced at properties would more readily be identified.</p> <p>The lack of ability to enforce promptly due to multiple noise sources from multiple projects leaves residents with the real potential to be exposed to noise nuisance. The ability for residents to seek alternative remedy through the statutory nuisance process would provide them with a reasonable additional option.</p> <p>WLDC sees no impediment to the applicant to provide local residents with the ability to seek remedy through the statutory nuisance process provided by the Environment Protection Act 1990.</p>



	Matter	WLDC position
6	Draft development consent order	<p><b>Schedule 17</b></p> <p>WLDC maintains a strong objection to Schedule 17 as currently drafted.</p> <p>Schedule 16 currently provides for a 10 week determination period for all requirements and a deemed consent provision.</p> <p>The 10 week approval period currently required by Article 46.2 does not adequately reflect the usual timescale for EIA development which is 16 weeks. It is submitted this time period should apply given some of the requirements include the need to assess complex material (especially in respect of requirement 5 which is akin to a reserved matters application), may require the need to procure external expertise to review material, and there may be the requirement for approvals to be determined by WLDC committee(s) therefore requiring the alignment with meeting calendars and processes. It is noted that the Longfield DCO allowed a period of 10 weeks; however, discharge applications under this DCO are likely to be made concurrently with Gate Burton, Cottam and Tillbridge applications if they are granted consent. It is also noted that there is no mechanism in the dDCO restricting the number of discharge applications that could be simultaneously submitted. In this context a 16 week determination period is entirely reasonable. WLDC would consider the proposal for some requirements to be subject to a shorter determination period than others, where they are less complex and are not subject to consultation requirements. Subject to the submissions made above in respect of consultation requirements, WLDC consider that a provision should be added allowing agreements for a reasonable extension of time, with such an agreement not being unreasonably withheld, particularly if the relevant determining authority is required to consult other bodies.</p> <p>WLDC object to the deemed approval provision. The justification relied on the by the applicant is one of efficiency and does not cite any unique or specific reason why such a provision should be included. This is especially relevant whether other DCOs, including those cited in the Explanatory Memorandum itself, do not provide for deemed approval or only do so in relation to certain requirements, rather than all of them. Indeed, the Applicant describes the Schedule 17 process as 'bespoke'. Given the importance and significance of the substantive areas governed by the requirements WLDC submits that it is unacceptable for any of the requirements to be subject to deemed approval.</p> <p>The position proposed by WLDC remains as follows:</p> <p><b>Deemed consent</b></p> <p><u>WLDC maintains an objection to the deemed consent provision.</u></p>

Matter	WLDC position
	<p>Reasoning:</p> <p>Due to the scale and potential complexity of the details and their importance to ensure that mitigation for a large scale infrastructure project is assessed and implemented, it is wholly unacceptable to impose a deemed consent provision. Additionally, with the potential cumulative impact of having to process subsequent approvals for several similar projects, it is essential that WLDC has sufficient time to make well informed decisions in the public interest.</p> <p>The deemed consent provision also has an impact on WLDC’s position with regard to the approval timescales discussed below.</p> <p><b>Approval timescales</b></p> <p><u>WLDC maintains an objection to the deemed consent provision.</u></p> <p>Should there be no deemed consent provision, WLDC request that the following timescales be specified:</p> <p>Requirement 5 = 13 weeks Other Requirements = 10 weeks</p> <p>Should there a deemed consent provision be retained, WLDC request that the following timescales be specified:</p> <p>Requirement 5 = 16 weeks Other Requirements = 13 weeks</p> <p>The timescales WLDC considers to be acceptable are influenced by whether a deemed consent provision is included in the DCO. If it is retained, a longer period of time is required to enable WLDC to fulfil its duties in the determination of subsequent applications that relate to EIA development. The reason WLDC is seeking a longer period is due to the ‘deemed consent’ provision currently drafted. As the approvals relate to the submission of matters relating to EIA development , the consequences of a deemed consent upon the environment and communities would be more significant than a shortening in the timescales solely for the developers benefit.</p>

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		<p>Consistent with the reasons that WLDC object to the deemed consent provision, it is essential that WLDC has reasonable time to interpret, assess, have regard to consultee representation, negotiate and formally determine complex and technical details that are required in order for the project to be acceptable.</p>
7	Lifespan of Development Consent Order	<p>It is not accepted that the assessed impacts will remain unchanged with a 50% increase in the assessed operational lifespan, by a further 20 years to a total of 60 years.</p> <p>The applicant has not carried out an adequate assessment of the likely impact of the extension of the project lifespan of 20 years. It is noted that the ES chapter 23 has been updated, but the table that forms that chapter neither carried out an assessment and its function is to summarise the topic specific ES chapters which has equally not been updated.</p> <p>The ES chapters, particularly chapter 8 LVIA, does not provide an explanation of how the judgements of have been reached. Such an approach fails to follow the GLVIA (Third Edition) methodology, particularly in terms how the assessor has treated the assessment of the duration of effects, and what weight is given to reversibility of effects over a period in excess of half a century.</p> <p>The applicant has stated that approximately 24% of the solar arrays will require replacement within the proposed 60 year project lifespan. WLDC suggests that this could reasonably equate to some 100ha of solar panel being replaced under the premise of 'maintenance'. Such replacement activity could be deemed significant in its own right and therefore requires proper environmental assessment. Furthermore, with 3 other NSIPs having been submitted or are about to be submitted nearby to the West Burton Solar Project, assuming these projects will also have the same solar panel replacement requirements, there could be approximately 400ha of solar panels being replaced in the locality at similar stages in the project lifespan. Such an area equates to the size of a further NSIP solar farm and has not been assessed as part of the EIA.</p> <p>The Secretary of State therefore does not have sufficient environmental information upon which to determine the application.</p>
8	Joint Report on Interrelationships (JRI) between NSIPs.	<p>The JRI is a helpful summary of the reported assessments, but it does not perform a function beyond that. It cannot be relied upon as a control document to deliver commitments or mitigation (or enforcement) as the commitments within it are not delivered through a DCO 'requirement'. The contents within it, such as the co-operation agreement, can be dissolved at any point as the applicants see fit, without recourse.</p> <p>Furthermore, the JRI is helpful in clearly demonstrating the variance in the conclusions reached in each Environmental Statement with regard to cumulative effects. This variance demonstrates that the three NSIP applications currently in examination phase, have cumulative assessments that for some impacts reach starkly different conclusions. This results in the Secretary of State being in a position where they have to themselves decide which assessment to prefer for the purposes of decision making. From</p>

	Matter	WLDC position
		<p>before the applications were submitted, WLDC have requested that the approach to the consideration of the cumulative effects of these three, in effect parallel applications, are considered to ensure consistency and clarity. The current situation is that the West Burton Solar Project application has reached the close of its examination with these inconsistencies untested and unresolved.</p> <p>Due to the absence of a cumulative assessment there remains inadequate environmental information upon which to make a sound decision on the likely cumulative impacts with other projects awaiting determination and/or due to be submitted shortly.</p>
9	Cumulative assessment	<p>WLDC has consistently requested that an assessment of various combinations of projects to be carried out beyond a reliance upon a 'worst case' assessment of all projects taken together.</p> <p>The reasoning is that, in the event that all three of the current projects in examination (West Burton Solar Project, Gate Burton and Cottam Solar Project) 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> <ul style="list-style-type: none"> <li>To grant consent for a single project only; or</li> <li>To grant consent for all three projects; or</li> <li>To refuse consent for all three projects.</li> </ul> <p>The implications of this are that, when considering the projects cumulatively, the Secretary of State can only make an 'all or nothing' decision; either all of the projects are granted development consent or they are refused. We maintain that there is not sufficient information before the decision-maker for them to make a balanced and complete judgment as to whether a combination of two schemes may be more favourable than three for instance. Based upon the current approach, such a decision is unable to be made due to the lack of environmental assessment to demonstrate the comparative impacts between each combination to allow a reasoned judgement to be made.</p>
10	Cumulative Assessment	<p>Mitigation controls:</p> <p>A key concern for WLDC will be, should the West Burton Solar Project be consented, the mechanisms that will mitigate and control the impacts of the scheme. These concerns will extend beyond mitigation for the application itself, to the cumulative impacts with other projects. Such impacts will be significant and experienced during the construction, operation and decommissioning stages.</p>

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		<p>WLDC will also seek to ensure that all impacts on the environment and communities are mitigated and controlled and not solely those deemed significant in terms of the Environmental Impact Assessment. WLDC expect the applicant to deliver measures that mitigate all impacts to ensure that the overarching impact of the project is mitigated as far as possible.</p> <p>The key issues of concern are:</p> <ul style="list-style-type: none"> <li>• The key concern for WLDC is how cumulative projects will be delivered in the event that two or more projects are being constructed at the same time.</li> <li>• There is no provision or mechanism in the DCO ‘control’ documents that sets out a conjoined approach to the implementation of construction activity, including the implementation of respective control docs (e.g. fCEMPs) across projects.</li> <li>• WLDC have requested that there should be mechanism in the framework documents that commit to the establishment of organisational principles such the appointment of a single co-ordinator that would serve as a single point of contact for third parties and would be responsible for ensuring work is implemented in a coherent manner.</li> <li>• Such measures are required to ensure that it is clear which party is responsible for certain works at certain times so that, on enquiry, these parties can be readily identified.</li> <li>• Examples include construction noise, traffic (esp. AIL movements), impacts on mitigation already delivered (e.g. ecological mitigation delivered, but which may be affected by subsequent construction works associated with another project).</li> <li>• This above will be essential in the event of complaints from third parties and/or enforcement investigation where responsibilities will need to be established in an efficient manner.</li> <li>• A single approach to multi-project implementation is required.</li> </ul>
11	Project site selection, alternatives and design	<p>WLDC considers the project layout to be contrary to policy and unacceptable.</p> <p>This is due to the project representing poor design, resulting in the highly inefficient use of land that delivers a project that has multiple ad-hoc areas of infrastructure (included associated development such as converter stations) and construction access points, cable lengths and internal access roads. The impacts is that the project exerts significant adverse impacts across a wide geographical area, affecting a wide range of communities and being experienced for a significant distance when travelling through the landscape.</p>

	Matter	WLDC position
		<p>WLDC furthermore deem the project unacceptable as it represents an inefficient use of land, resulting in the creating of wide ranging adverse impacts that extend beyond that of other solar project that provide similar public benefit.</p> <p>The failure of the project to demonstrate an inefficient use of land is contrary to NPS EN-3.</p>
12	Landscape and Visual	<p><b>Landscape Character</b></p> <p>The adverse impact on landscape character has been understated.</p> <p>The project results in an extensive change to land use over a larger geographical area (as a consequence of poor project design).</p> <p>The introduction of alien structures within the rural landscape character will result in an urbanising effect resulting in definite and adverse impacts/changes.</p> <p>It appears to WLDC that the assessment has been ‘sliced’ into separate sections for the purpose of the assessment, resulting in the cutting down of the project into smaller elements and Landscape Character Areas. This approach affects the assessed significance of the impact on Landscape Character as a result of the whole scheme when the disparate sections are put together.</p> <p>The impacts on a number of character areas (in solus and cumulatively with other projects) result will affect the Regional Landscape Areas as whole, not just local.</p> <p>It is unclear how the applicant justifies only ‘negligible’ or ‘minor adverse’ in early years construction when impacts will be experienced over a wider area and it will take many years for mitigation to be established.</p> <p>It is disagreed that to have large, multiple dispersed sites across a very wide geographical area minimises impacts and results in a beneficial impact. The effect will be significant adverse landscape character impacts (changes to the existing baseline) across a very wide area that would be minimised through the adoption of good project design principles that avoid such disaggregation.</p> <p>The screening of the project through vegetation will not ameliorate the significant impact upon the character of the landscape and its defining fabric (large scale rural agricultural fields).</p> <p>The LVIA assessment has not been updated to provide an assessment of the increase of the project lifespan by 20 years (50%) and does not follow the GLVIA methodology as a consequence.</p> <p>WLDC disagrees with the applicant’s reliance upon the screening of the development to conclude that there are ‘beneficial’ impacts. The project will not be whole screened across its entirety and communities will experience adverse visual impacts sequentially across a wide geographical area.</p> <p>WLDC disagrees with the conclusions reached in the assessment.</p>

	Matter	WLDC position
13	Landscape and Visual	<p><b>Visual effects</b></p> <p>We do not agree with the applicant that to have large, multiple dispersed sites across a very wide geographical area minimises impacts and results in a beneficial impact. The effect will be significant adverse landscape character impacts (changes to the existing baseline) across a very wide area that would be minimised through the adoption of good project design principles that avoid such disaggregation.</p> <p>The dispersal of several large solar sites across the landscape will have a significant visual effect for receptors experiencing the wider landscape (i.e. travelling through it). It increases the number of receptors affected and significantly increases the ZTV, capturing a wider scope of harmful impacts.</p>
14	Landscape and Visual	<p><b>LVIA cumulative effects</b></p> <p>The cumulative impacts of West Burton Project with Gate Burton Energy Park, Cottam Solar Project and Tillbridge Solar Project are a key concern for WLDC. The scale of the projects, in isolation as well as cumulatively, will give rise to significant environmental impacts that will require scrutiny and assessment by WLDC and should be a key focus of the examination phase.</p> <p>The cumulative impacts of West Burton Solar Project with Gate Burton Energy Park and Cottam Solar Project are of particular importance as these projects are likely to be examined under the PA2008 concurrently. It is therefore essential that consistent information and evidence is presented at all three examinations to enable a fair and consistent recommendation (and decision) to be made.</p> <p>Tillbridge Solar Project is expected to be submitted in Q2 2024, with more detailed project information becoming public prior to the West Burton Solar Park being determined, including its 'acceptance' for examination. WLDCs view is that all current environmental information must be before a decision maker at the point a decision is made and the emergence of the Tillbridge Solar Project should be accounted for in cumulative assessments.</p> <p>Cumulative impacts of concern will relate to construction, operational and decommissioning impacts across a range of matters including, <i>inter alia</i>, landscape and visual effects, land use (loss of agricultural land), public access and recreation, noise, traffic and transport, cultural heritage and ecology.</p> <p>WLDC maintain significant concerns regarding the approach to cumulative assessment. The concern relates not to outcomes of the applied methodology of assessing the scenarios of cumulative projects together being constructed either all at the same time or in sequence, but that there is no assessment of the potential combinations between the projects.</p>

Matter	WLDC position
	<p>WLDC considers it essential that the combinations of each cumulative project are understood and assessed so that that ExA and the Secretary of State can reach sound conclusion on NSIPs that are all being examined at the same time and situated in the same locality.</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)</p> <p>WLDC 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>WLDC's strong view is 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"> <li>▪ West Burton + Gate Burton</li> <li>▪ West Burton + Cottam</li> <li>▪ West Burton + Tillbridge</li> <li>▪ West Burton + Gate Burton + Cottam</li> <li>▪ West Burton + Gate Burton + Tillbridge</li> <li>▪ West Burton + Cottam + Tillbridge</li> <li>▪ West Burton + Gate Burton + Cottam + Tillbridge</li> </ul> <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.</p> <p>Should the cumulative impacts of all projects be concluded to be unacceptable, WLDC is unclear about how the decision maker determines which project(s) influence that unacceptable conclusion the greatest. WLDC 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>



Matter	WLDC position
	<p>The reasoning behind WLDC'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 application are consented, and may be determined at the same time by the Secretary of State</p> <p>WLDC reiterated its request for an assessment of various combinations of projects to be carried out and not just a reliance upon a 'worst case' assessment of all projects taken together.</p> <p>WLDCs position is that, in the event that all three of the current projects in examination (West Burton, Gate Burton and Cottam) 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> <ul style="list-style-type: none"> <li>▪ To grant consent for a single project only; or</li> <li>▪ To grant consent for all three projects; or</li> <li>▪ To refuse consent for all three projects.</li> </ul> <p>During Issue Specific Hearing 4 'Cumulative Effects' (06/12/2023) this position was fairly described as an 'all or nothing' scenario by the ExA, a definition to that WLDC considers appropriate.</p> <p>WLDC have consistently requested that the cumulative assessments for all projects assess the various combinations between them. Such an assessment would allow the decision maker, in the event that they find all three projects unacceptable, to consider whether two projects could be granted.</p> <p>Based upon the current approach, such a decision is unable to be made due to the lack of environmental assessment to demonstrate the comparative impacts between each combination to allow a reasoned judgement to be made.</p> <p>WLDC maintain objections to the cumulative assessment.</p>

	Matter	WLDC position
15	Cultural Heritage	<p>WLDC wholly concurs with the view expressed by HE which reflects fundamental objection to the application set out in the Local Impact Report and Written Representation, in that unacceptable harm will be caused to the medieval bishop’s palace and deer park Scheduled Monument.</p> <p>The applicant continues to disagree with the view of WLDC and HE and consequently continues to underplay the impacts upon the scheduled monument, which constitute ‘substantial harm’ to the heritage asset.</p> <p>The starting position for the decision maker is to have regard to the statutory duty the decision maker has with regard to impacts of development upon listed buildings, conservation areas and scheduled monument. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 requires decision makers, when deciding applications for development consent which affects or is likely to affect a scheduled monument or its setting, to have regard to the desirability of preserving the scheduled monument or its setting. It is therefore clear that this statutory duty relates to the setting of scheduled monuments and not solely any direct physical harm.</p> <p>The schedule description for the bishop’s palace and deer park scheduled monument is clear in 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 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 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>

Matter	WLDC position
	<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>WLDC wholly disagrees with the applicant’s attempt 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 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 considers that the setting of the Scheduled Monuments would be materially harmed through the construction of solar panels and 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>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>The likely impacts and their acceptability expressed by HE does not come as a surprise to the applicant. HE made the applicant aware during the EIA scoping and statutory pre-application phases of the project that the siting of the solar panels within the setting of the scheduled monument would be unacceptable, providing well evidenced advice in doing so. The applicant has chosen to go against this advice from the statutory body, and have sought to justify the impacts on the basis 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>

	Matter	WLDC position
		<p>WLDC notes and agrees with HE's position that the removal of panels within the setting of the scheduled monument is required in order for the impacts to be acceptable. If the panels and infrastructure are not removed, WLDCs view is that the DCO application should be refused on the basis of unacceptable substantial harm that would be caused to the bishop's palace and deer park Scheduled Monument.</p> <p>WLDC notes the ExAs Rule 17 request made on 2<sup>nd</sup> May 2024 relating to weather information could be submitted showing the removal of infrastructure that affects the setting of the Scheduled Monument. Whilst such an amendment would represent a move towards reducing the impacts of the project on the Scheduled Monument, WLDCs position is that it would need to assess the updated environmental information and supporting documents before expressing a view on whether the alterations proposed remove the fundamental objections to the application in this regards. A full and proper consultation period for all Interested Parties would be required, alongside providing an opportunity to make written submissions and potentially hold a further Issue Specific Hearing if required, should be facilitated.</p>
16	Socio-Economics and Land-Use	<p>WLDC questions the impacts on long-term indirect agricultural job losses. It is considered that the likelihood of jobs returning following a 40-60 year gap has not been adequately accounted for.</p> <p>The impact on the wider agricultural sector supply chain do not seem to have been accurately considered. This applies to the assessment of the West Burton Solar Project solely and cumulatively with other projects over the 40-60 year operational period. There is no level of certainty that jobs will simply return when the land use is restored when WLDC consider that the sector will have been materially harmed.</p> <p>The applicant has also not demonstrated that land within the Order Limits will be genuinely and reasonably be made available for use for the purpose of food production (as required by NPS EN-3 footnote 62). The applicant has stated that it 'could' be available for the grazing of livestock, but there are no measures proposed to actively enable or secure the availability of the land t. WLDCs view is that this requirement is necessary to meet the policy test and goes beyond merely a theoretical position that land 'could' be available.</p> <p>WLDC consider that the cumulative impacts of projects will have an unacceptable significant negative impact on tourism and socio-economics (agricultural sector). Lack of clarity in the assessment as to what the impacts with other projects will be.</p>
17	Temporal nature of impacts	<b>Temporary impacts / reversable impacts</b>

	Matter	WLDC position
		<p>WLDC maintains that there is significant uncertainty on whether the land is able to be returned to agricultural use after the 60 year lifetime and this will result in loss of agricultural knowledge in the area.</p> <p>There cannot therefore be a reliance rely upon an assumption that the land will be restored to a comparable condition on over 60 years' time. The position of WLDC also goes beyond the physical soil conditions. The loss of commercial agricultural activity means the sector will be diminished and no guarantee that businesses would re-establish after such a long period.</p>
18	Transport and Access	<p>WLDC consider the design and layout of the project results in multiple access points and the use of more highways to construct and operate the project. The access points are a consequent of the scheme's design and layout, which WLDC considers unacceptable. The benefits of the project could be delivered with fewer such impacts had a better designed project been promoted.</p> <p>The current oCTMP does not provide sufficient detail to demonstrate how construction traffic will be co-ordinated and managed in the event two or more projects are being constructed concurrently.</p> <p>Until an approach to co-ordination is proposed the design and layout of the project results in multiple access points and the use of more highways to construct and operate the project. The access points are a consequent of the scheme's design and layout, which WLDC considers unacceptable. The benefits of the project could be delivered with fewer such impacts had a better designed project been promoted.</p> <p>WLDC consider the current oCTMP does not provide sufficient detail to demonstrate how construction traffic will be co-ordinated and managed in the event two or more projects are being constructed concurrently. Until an approach to co-ordination is proposed which also enables consideration of how to minimise cumulative traffic impacts further, the negative impact of traffic upon the amenity of communities remain unacceptable. The negative impact of traffic upon the amenity of communities remain unacceptable.</p>
19	Human Health and Wellbeing	<p>In order to comply with development plan policies, a Health Impact Report should have been submitted with the application.</p> <p>The report is separate to the EIA, as its purpose goes beyond the scope of simply identifying 'likely significant' impacts, to the identification of all potential impact.</p> <p>A HIA would allow the assessor to be more qualitative in its assessment and seek to identify impacts that, although may not be 'significant' in EIA terms, will still be adverse impacts that every effort should be made to mitigate and taken into the overall planning balance.</p>
20	Noise and Vibration	<p><b>Cumulative impacts</b></p>

	Matter	WLDC position
		<p>Whilst it is noted that there is an intention to work collaboratively with West Burton, Tillbridge and Cottam on the cable corridor, there is no guarantee that the schemes will be constructed at the same time, this would mean that the water courses could be impacted several times.</p> <p>The approach to joint construction with other projects are not adequately explained. The oCEMP recognises the issue but does not provide details of how developers will work together in practice.</p> <p>WLDC’s position remains that, notwithstanding mitigation measures, there is a risk of impacts caused by cumulative activity that is currently uncoordinated or managed in a collaborative way.</p>
21	Soils and agriculture	<p>The matter of the genuine availability of land within the Order Limits for continued use for the production of food alongside the solar farm remains unresolved.</p> <p>footnote 62 of the NPPF published in December 2023 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 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, let alone secure, 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</p>

	Matter	WLDC position
		<p>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 applicant's 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 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>
22	Soils and Agriculture	The assessment inadequately considers the baseline and subsequent assessment with regards to the impacts on the agri-food sector and the wider agricultural supply chain.

Matter	WLDC position
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