

# West Burton Solar Project

## Without Prejudice – Stow Park Alterations to DCO Documents: Response to Rule 17 Letter

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## Issue Sheet

**Report Prepared for: West Burton Solar Project Ltd.  
Examination Deadline 7**

### **Without Prejudice – Stow Park Alterations to DCO Documents: Response to Rule 17 Letter**

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## 1 Introduction

- 1.1.1 This document responds to the request made by the Examining Authority (ExA) for further information pertaining to the Examination, issued by way of a Rule 17 letter on 2 May 2024 [PD-018].
- 1.1.2 The Applicant's position is set out in the **WB8.2.10 Stow Park Cultural Heritage Position Statement [REP5-027]** and **WB8.1.42 The Applicant's Closing Statements [EN010132/EX7/WB8.1.42]**.
- 1.1.3 Without prejudice to the Applicant's position, and as requested by the ExA, this document sets out the Applicant's considerations of the implications of the removal of solar panels from within the Stow Park Deer Park (as shown coloured in green hatching on the plan annexed to this document) to the DCO Application documents should the Secretary of State be minded to conclude that the harm caused to the Scheduled Monument outweighed the benefits of the Scheme.
- 1.1.4 This document also sets out the implications of the removal of solar panels from this area of the Order limits with regard to the nature, functionality and viability of the Scheme and any changes to the planning balance associated with the Scheme's benefits versus its potential harms.

## 2 Implications of Stow Park Alterations

### 2.1 Nature of the Scheme

- 2.1.1 The Applicant considers that, even with an amendment to exclude panels from the Stow Park Deer Park, the Scheme would continue to represent the same Nationally Significant Infrastructure Project (NSIP) as originally applied for.
- 2.1.2 The Scheme consists of three NSIP-scale solar generating stations, known as West Burton 1 (Work No. 1A), West Burton 2 (Work No. 1B), and West Burton 3 (Work No. 1C). The removal of panels from the area of the Stow Park Deer Park would only affect West Burton 3, but West Burton 3 would still be a generating station with a capacity of more than 50MW and therefore still a NSIP. The Applicant's position is that the Scheme would therefore represent the same NSIP as originally applied for.
- 2.1.3 For the reasons set out in paragraphs 1.4.4 and 1.4.5 of the **Explanatory Memorandum [REP6-014]**, an upper limit on generation capacity has not been included in the draft DCO. Instead, the Applicant has the flexibility to achieve the most efficient electrical output within the parameters assessed in the Environmental Statement and secured in the draft DCO.

As set out in paragraph 3.2.3 of NPS EN-1, "*it is not the role of the planning system to deliver specific amounts*" of any form of infrastructure covered by the NPS. Paragraph 3.2.8 of NPS EN-1 states that the "*Secretary of State is not required to consider separately the specific contribution of any individual project to satisfying the need established in this NPS*".

- 2.1.4 The Scheme would continue to generate a significant quantity of renewable electricity for export to the National Grid and therefore the need for the Scheme, as set out in the in the Statement of Need **[APP-320]**, and specifically the policy support for the Scheme set out in NPS EN-1 and EN-3, will still apply.
- 2.1.5 In the event of any significant shortfall in the anticipated generation of the Scheme, the Connection Use of System Code, which the Applicant is a party of, provides multiple mechanisms whereby any surplus grid capacity could be released allowing the Network Operator (National Grid) to reallocate this capacity in an efficient manner.

### 2.2 Functionality of the Scheme

- 2.2.1 Whilst the number of panels within West Burton 3 would be reduced, the functionality of the Scheme would remain materially the same. Underground cabling would connect the panels located in the areas outside of the Stow Park Deer Park and adjacent to Till Bridge Lane to Work No. 3C.
- 2.2.2 Following completion of the construction of the underground elements of the Scheme within the Stow Park Deer Park, the land would be reinstated and the existing agricultural use could resume.

## **2.3 Viability of the Scheme**

2.3.1 The Applicant’s position is that the Scheme would remain viable even with the removal of panels from the area of the Stow Park Deer Park.

### 3 Technical Considerations

#### 3.1 Planning Balance

3.1.1 The planning balance of the Scheme is set out within **WB7.5\_D Planning Statement Revision D [EN010132/EX7/WB7.5\_D]** in Section 7 and also specifically in relation to development within the Stow Park Deer Park in **WB8.2.10 Stow Park Cultural Heritage Position Statement [REP5-027]**. The planning balance considers the benefits and the harms of the Scheme and whether the benefits outweigh the harms caused when considered against the relevant policy and specific policy tests.

3.1.2 In the event that panels are removed from the area of the Stow Park Deer Park, the benefits of the Scheme as set out in **WB7.5\_D Planning Statement Revision D [EN010132/EX7/WB7.5\_D]** will still be delivered in the form of economic, social and environmental benefits which are:

- Delivery of a large amount of renewable energy generation which will contribute towards the Government's energy objectives;
- Biodiversity Net Gain;
- Employment creation; and
- Permissive path creation.

3.1.3 The harms identified in the Environmental Statement following mitigation are identified in paragraph 7.1.10 in **WB7.5\_D Planning Statement Revision D [EN010132/EX7/WB7.5\_D]** with there being no significant adverse effects in relation to hydrology, flood risk and drainage, ground conditions and contamination, minerals, transport and access, noise and vibration, glint and glare, air quality and major accidents. The significant residual effects (other than cultural heritage) are set out in paragraphs 7.1.12 and 7.1.13 in **WB7.5\_D Planning Statement Revision D [EN010132/EX7/WB7.5\_D]** which relate to landscape and visual impacts and BMV land. The Applicant does not anticipate that these residual effects would materially change if panels within the Stow Park Deer Park were removed and there would be no greater significance of these effects.

3.1.4 It is acknowledged that in comparison to the current anticipated generating capacity of the Scheme the delivery of renewable energy generation is likely to be lower if panels are removed from the Stow Park Deer Park. However, the benefits of the Scheme remain significant and the Applicant considers that the overwhelming national need, as demonstrated in the Statement of Need **[APP-320]**, outweighs any potential significant adverse impacts which, as the Environmental Statement **[APP-039 to APP-061; REP1-012; REP3-010]** sets out, are limited. This will be considered by the Secretary of State in making a decision on the application.

#### 3.2 Cultural Heritage Considerations

3.2.1 The Applicant understands that the removal of panels from within the Stow Park Deer Park will address the concerns raised by Historic England.

- 3.2.2 As currently envisaged, the construction of underground apparatus and other activities associated with the Scheme will still need to be take place within the Stow Park Deer Park including but not limited to underground cabling, access, construction compounds and landscape mitigation and enhancement works.
- 3.2.3 These works are considered by the Applicant to cause less than substantial harm (at the lower end) to the Scheduled Monument during the construction phase only.



## 4 Alterations to Documentation

### 4.1 Overview

- 4.1.1 The Applicant has considered the changes that would be required to the DCO Application documents to effect the removal of solar panels from the Stow Park Deer Park, or would be required as a result of this change. In light of the short timescale to consider what changes would be required, the Applicant has not had time to prepare without prejudice versions of the identified DCO Application documents. Instead, the Applicant has sought to focus on the changes that would be necessary, and anticipates that the Secretary of State, should they be minded to remove solar panels from within the Stow Park Deer Park, would invite the Applicant to submit the identified documents, and Interested Parties would be invited to comment on them, prior to the Secretary of State determining the DCO Application.
- 4.1.2 The Rule 17 letter provided a list of parts of the Scheme that may require amendment. These are addressed in the following paragraphs, and the changes that the Applicant considers are necessary are set out in section 4.2.
- 4.1.3 **Order Limits:** The Order Limits are defined in Article 2 of the draft DCO as ‘the limits shown on the works plan within which the authorised development may be carried out and land acquired or used’. The Applicant does not consider that any change to the Order Limits is required. The reason for this is that the development consent granted by article 3 of the draft DCO requires that each numbered work is situated within the corresponding numbered area shown on the Works Plan. The removal of the numbered work authorising the placement of panels from the area of the Stow Park Deer Park on the Works Plan would be effective in removing panels from that area. In addition, the requirement for other works associated with the Scheme to take place in the Stow Park Deer Park, including the underground grid connection cable (Work No. 5A), underground cabling and access associated with the placement of solar panels on two areas north of the Stow Park Deer Park and south of Till Bridge Lane, and any landscaping mitigation and enhancement measures, means no reduction in the extent of the Order limits is required. In the Applicant’s view, the extent of the authorised development can be adequately controlled by updating the Works Plan.
- 4.1.4 **Development Consent Order:** As stated above, the Applicant considers that the removal of panels from the Stow Park Deer Park can be achieved primarily through amendments to the Works Plan. However, a number of consequential amendments would be required to the draft DCO. These are set out in more detail in section 4.2, but consist primarily of:
- Identification of the Stow Park Deer Park land through new definitions and a new certified plan;
  - Amendments to various Requirements to ensure that, whilst the approved documents must be substantially in accordance with the relevant outline

document, this does not extend to any measures that are tied to the placement of solar panels within the Stow Park Deer Park;

- Amendments to Schedule 10 to reflect the changes made to the Land Plan; and
- Amendments to Schedule 14 to refer to the revised Works Plan, Land Plan and Book of Reference.

4.1.5 **Works Plan:** The Applicant would seek to update the Works Plan to reflect the removal of the numbered work relating to solar panels (Work No 1C(i), (ii) and (iii)) from the Stow Park Deer Park. As stated in paragraph 4.1.3 above, there remains a need for other numbered works to take place within the Stow Park Deer Park to facilitate the Scheme.

4.1.6 **Land Plan:** Whilst article 22(1) of the draft DCO enables the Applicant to acquire new rights and impose restrictions over any of the land shown coloured pink on the Land Plan instead of acquiring the freehold, the Applicant considers that it would be appropriate to update the Land Plan as a consequence of the removal of panels from the Stow Park Deer Park as the power to acquire the freehold of land within the Stow Park Deer Park would no longer be necessary or justified. Instead the acquisition of new rights and imposition under article 22(2) and Schedule 10 would be required and the area coloured blue instead.

4.1.7 **Book of Reference:** The Book of Reference would be updated to reflect the changes made to the Land Plan referred to above.

## **4.2 Required Changes to Documents and Additional Documents Required**

4.2.1 The primary mechanism to remove solar panels from the area of the Deer Park is through the Works Plan, supported by new documents or changes to documents, as follows. The proposed amendments to the draft DCO are set out in a Schedule of Changes in Table 4.1.

4.2.2 **Stow Park Deer Park Plan:** A new plan, based on the plan annexed to this document, to be certified by the Secretary of State, showing the area of the Stow Park Deer Park.

4.2.3 **Works Plan:** A new version of the Works Plan to remove Work Nos. 1C (i), (ii) and (iii) from the area of the Stow Park Deer Park. Work No. 1C (iv) is to be retained as this is the electrical and communications cable that is required to connect the two areas of solar panels to the north of the Stow Park Deer Park and south of Till Bridge Lane with Work No. 3C.

4.2.4 **Land Plan:** A new version of the Land Plan to change any pink (acquisition of freehold) plots or parts of plots within the Stow Park Deer Park to blue (acquisition of new rights and imposition of restrictions).

4.2.5 **Book of Reference:** A new version of the Book of Reference to reflect the changes to the **Land Plan** and any consequential plot splits.

**Table 4.1: Schedule of Changes Required to the Development Consent Order**

Location	Rationale	Summary of Change
Article 2(1) – Interpretation	New definition of “excluded solar array works”. This is included so that relevant Requirements may be amended	<u>“excluded solar array works” means Work No. 1C(i), (ii), or (iii) within the Stow Park Deer Park land;</u>
Article 2(1) – Interpretation	New definition of “Stow Park Deer Park land” to be added so that the area may be easily referred to.	<u>“Stow Park Deer Park land” means the land shown [coloured [ ]] on the Stow Park Deer Park plan;</u>
Article 2(1) – Interpretation	New definition of “Stow Park Deer Park plan” to be added. This would be a new certified plan showing the area of the Deer Park, for clarity about the area in which solar panels are not to be located.	<u>“Stow Park Deer Park plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the Stow Park Deer Park plan for the purposes of this Order;</u>
Schedule 2, Requirement 7 – Landscape and ecological management plan	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be ‘substantially in accordance’ with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	(2) The landscape and ecological management plan must be substantially in accordance with the outline landscape and ecological management plan, <u>save for—</u> (a) <u>any part of the outline landscape and ecological management plan that relates to the excluded solar array works; and</u> (b) <u>any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the landscape and ecological management plan submitted under sub-paragraph (1) demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u>
Schedule 2 – Requirement 8 – Ecological protection and mitigation strategy	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be ‘substantially in accordance’ with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the	(2) The ecological protection and mitigation strategy must be substantially in accordance with the outline ecological protection and mitigation strategy, <u>save for—</u> (a) <u>any part of the ecological protection and mitigation strategy that relates to the excluded solar array works; and</u> (b) <u>any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the ecological protection and mitigation strategy submitted under sub-paragraph (1)</u>

	removal of solar panels from the Stow Park Deer Park land.	<u>demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u>
Schedule 2 – Requirement 11 – Surface and foul water drainage	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must ‘accord’ with the outline plan.	(2) The written details under sub-paragraph (1) must be substantially in accordance with the outline drainage strategy, <u>save for any part of the outline drainage strategy that relates to the excluded solar array works.</u>
Schedule 2 – Requirement 13 – Construction environmental management plan	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be ‘substantially in accordance’ with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	(2) The construction environmental management plan must be substantially in accordance with the outline construction environmental management plan, <u>save for—</u> (a) <u>any part of the construction environmental management plan that relates to the excluded solar array works; and</u> (b) <u>any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the construction environmental management plan submitted under sub-paragraph (1) demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u>
Schedule 2 – Requirement 14 – Operational environmental management plan	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be ‘substantially in accordance’ with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	(2) The operational environmental management plan must be substantially in accordance with the outline operational environmental management plan and must include a waste management strategy that has been submitted to and approved by the relevant waste planning authority, <u>save for—</u> (a) <u>any part of the operational environmental management plan that relates to the excluded solar array works; and</u> (b) <u>any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the operational environmental management plan submitted under sub-paragraph (1) demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u>
Schedule 2 – Requirement 15 –	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded	(2) The construction traffic management plan must be substantially in accordance with the outline construction traffic management plan, <u>save for—</u>

Construction traffic management plan	from the requirement that the approved plan must be 'substantially in accordance' with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	<p><u>(a) any part of the construction traffic management plan that relates to the excluded solar array works; and</u></p> <p><u>(b) any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the construction traffic management plan submitted under sub-paragraph (1) demonstrates that the changes are unlikely to give rise to any materially new or materially different from those assessed in the environmental statement.</u></p>
Schedule 2 – Requirement 16 – Operational noise	Amendments to Requirement to ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must incorporate the operational mitigation measures in section 15.6 of Chapter 15 of the environmental statement.	16.—(1) No part of Work Nos. 1, 2, or 3 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated the operational mitigation measures set out in Section 15.6 of Chapter 15 of the environmental statement for that part, <u>save for any operational mitigation measures that relate to the excluded solar array works</u> , has been submitted to and approved by the relevant planning authority.
Schedule 2 – Requirement 19 – Soils management	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be 'substantially in accordance' with the outline plan. New paragraph (b) allows for the extent of the monitoring and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	<p>(2) The soil management plan must be substantially in accordance with the outline soil management plan, <u>save for—</u></p> <p><u>(a) any part of the soil management plan that relates to the excluded solar array works; and</u></p> <p><u>(b) any other changes, where these relate to the removal of the excluded solar array works from the authorised development, provided that the soil management plan submitted under sub-paragraph (1) demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u></p>
Schedule 2 – Requirement 21 – Decommissioning and restoration	Amendments to Requirements ensure that any measures that relate specifically to the provision of panels in the Stow Park Deer Park land are excluded from the requirement that the approved plan must be 'substantially in accordance' with the outline plan. New paragraph (b) allows for the extent of the monitoring	<p>(5) The decommissioning plan must include a timetable for its implementation and must be substantially in accordance with the outline decommissioning statement, <u>save for—</u></p> <p><u>(a) any part of the decommissioning plan that relates to the excluded solar array works; and</u></p> <p><u>(b) any other difference, where these relate to the removal of the excluded solar array works from the authorised development, provided that the</u></p>

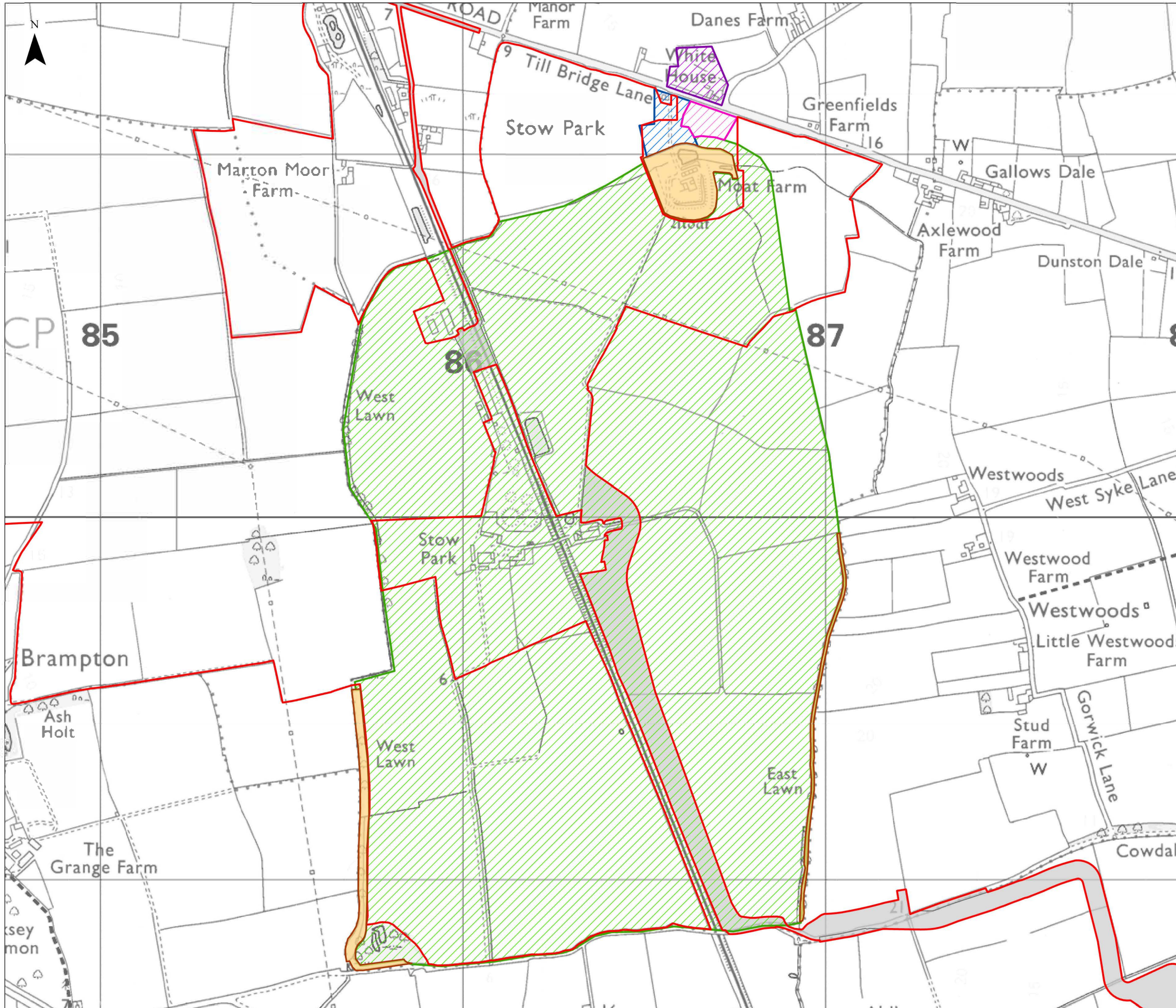
	and mitigation requirements in the outline plan to be revised so they are proportionate, following the removal of solar panels from the Stow Park Deer Park land.	<a href="#"><u>decommissioning plan submitted under sub-paragraph (3) demonstrates that the changes are unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.</u></a>
Schedule 10 – land in which only new rights etc. may be acquired	Updated to reflect changes to the Land Plan and Book of Reference	[Not reproduced as additional plot numbers are not currently known]
Schedule 14 – Documents and Plans to be Certified	Addition of the Stow Park Deer Park plan and amendment to refer to the revised Works Plan, Land Plan and Book of Reference.	[Not reproduced as updated document references are not currently known]








## **5 Conclusions**

- 5.1.1 Without prejudice to the Applicant's position that the benefits of the Scheme outweigh the less than substantial harm caused to the Scheduled Monument, this document sets out the changes that would be required to the identified DCO Application documents in the event that the Secretary of State is minded to grant development consent for the Scheme subject to the removal of solar panels from within the Stow Park Deer Park.
- 5.1.2 The Applicant's position is that in such an event, the case and need for the Scheme remains the same.

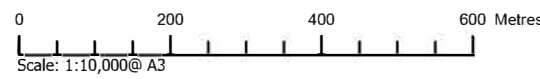
## Figure 1: Agreed Boundary of Stow Park Deer Park





- Key**
-  Order Limits
  -  Medieval Bishop's Palace and Deer Park Stow Park Scheduled Monument (NHLE 1019229)
  -  Cable Route Corridor and Access Routes
  -  Stow Park Deer Park
  -  Area of Medieval / Post Medieval Cropmarks
  -  Stow Deserted Medieval Village
  -  Possible Early Medieval Settlement

Layers: Lanpro, 2024  
 Base map: Reproduced from Ordnance Survey digital map data © Crown copyright 2024. All rights reserved. License number 0100031673



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Drawn by: AZ	Checked by: AJ

Location of heritage assets associated with Stow Park Deer Park, Stow Medieval Village and a possible early medieval settlement in the east of West Burton 3

**WEST BURTON SOLAR PROJECT**