

# West Burton Solar Project

## The Applicant's Closing Statements

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## Issue Sheet

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

### The Applicant's Closing Statements

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## **1 Introduction**

### **1.1 Purpose of this document**

1.1.1 These Closing Statements have been prepared by West Burton Solar Project Limited (the Applicant) to summarise the Applicant's position on matters that remain outstanding at the conclusion of the Examination of the application for a Development Consent Order (DCO) to construct, operate, maintain and decommission the West Burton Solar Project (the Scheme).

### **1.2 The Scheme and the Application**

1.2.1 The Scheme comprises a number of land parcels (the 'Site' or 'Sites') described as West Burton 1, 2, and 3 for the solar arrays, grid connection infrastructure and Energy Storage; and the Cable Route Corridors. The Sites are located between 8km and 17km north-east of Lincoln. See the **Location Plan [REP4-004]** for the site locations.

1.2.2 The Scheme constitutes a Nationally Significant Infrastructure Project (NSIP). An application for a DCO for the Scheme was submitted by the Applicant on 21 March 2023. The application was accepted for examination on 18 April 2023.

1.2.3 The Applicant submitted a Change Application to modify the Order Limits on 19 January 2024. The Examining Authority (ExA) accepted the Change Application on 2 February 2024.

1.2.4 The likely environmental effects of the Scheme are assessed in the Environmental Statement [**APP-039 to APP-044, APP-046 to APP-060, REP1-012, and REP3-010**] that accompanies the DCO application.

### **1.3 The Examination**

1.3.1 The Examination of the Scheme opened on 8 November 2023 and closes on 8 May 2024. Prior to and during the Examination, the Applicant has worked positively to address and resolve issues that have been raised by statutory consultees, interested parties and members of the public. The Applicant has agreed Statements of Common Ground with the key stakeholders, with positions summarised in the Statement of Commonality [**REP6-035**]. At Deadline 7 the Applicant is submitting the final and signed versions of Lincolnshire County Council Statement of Common Ground Revision B [**EX7/WB8.3.1\_B**], West Lindsey District Council Statement of Common Ground Revision C [**EX7/WB8.3.2\_C**] and Network Rail Statement of Common Ground Revision A [**EX7/WB8.3.6\_A**]. At each Examination Deadline, the Applicant has provided comprehensive commentary on the submissions of others.

1.3.2 There remain a number of points of disagreement that it has not been possible to resolve during the Examination. In the following sections, the Applicant sets out its position on these matters, summarising and cross-referring to previous submissions made during the course of the Examination where appropriate.

## 2 Policy Context, Need and Benefits

- 2.1.1 On 17 January 2024, the Secretary of State formally designated the suite of Energy National Policy Statements which were published in November 2023 (EN-1 to EN-5). The November 2023 NPSs replace the previous suit of NPSs, which were first designated in 2011, subject transitional provisions.
- 2.1.2 These transitional provisions, set out in paragraph 1.6.2 of the Overarching National Policy Statement for energy (EN-1) (November 2023), explain that *“any application accepted for examination before designation of the 2023 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPS”*.
- 2.1.3 Solar was not included within the scope of the 2011 NPSs. This is because, at that time the 2011 NPSs were designated, solar technology had not yet been proven at scale.
- 2.1.4 Paragraph 1.6.3 of NPS EN-1 (November 2023) states (underlined for emphasis):  
*“The 2023 amendments will therefore have effect only in relation to those applications for development consent accepted for examination, after the designation of those amendments. However, any emerging draft NPSs (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application”*.
- 2.1.5 As such, it is the Applicant's position that, whilst the 2011 and November 2023 NPSs do not have effect in relation to the DCO application for the Scheme (and section 104 of the Planning Act 2008 does not therefore apply), both are "important and relevant" considerations in the Secretary of State's decision-making process, in accordance with the provisions of section 105(2)(c) of the Planning Act 2008 (decisions in cases where no national policy statement has effect).
- 2.1.6 The Applicant has submitted that both the 2011 and 2023 NPSs are important and relevant considerations, and significant weight should be given to them, when determining the DCO Application. Since the November 2023 NPSs were designated, the Applicant has updated the **Planning Statement [EN010132/EX7/WB7.5\_D]**, so that it now includes information explaining how the Scheme is compliant with NPS EN-1, NPS EN-3 (the National Policy Statement for Renewable Energy) and NPS EN-5 (National Policy Statement for Electricity Networks Infrastructure). For further information on the Applicant's case, please refer to section 1.3 of the **Planning Statement [EN010132/EX7/WB7.5\_D]**. A more detailed explanation of the legislative and policy context of the Scheme is also set out in Section 5 of the **Planning Statement [EN010132/EX7/WB7.5\_D]**, which includes further reasoning as to why the Energy NPSs are important and relevant matters in the Secretary of State's decision.
- 2.1.7 The November 2023 NPSs represent the Government's latest energy-related policy, and reflect the urgent need, and unambiguous policy support, for low carbon

infrastructure. NPS EN-3 also includes technology specific policies relevant to solar PV and the role of energy storage as associated development. For these reasons, it is the Applicant's position that greater weight should be given to them, as compared to the 2011 NPSs (see paragraph 7.1.3 of the **Planning Statement [EN010132/EX7/WB7.5\_D]**).

- 2.1.8 In paragraphs 2.1.9 to 2.1.14 below, the Applicant highlights key sections of the November 2023 NPSs, which demonstrate the critical role of ground mounted solar PV and BESS in supporting the delivery of the UK's international climate change commitments, helping the UK transition to an affordable and secure carbon-free electricity system by 2035, and supporting achieving net zero in the UK by 2050. Please refer to section 4 of the **Statement of Need [APP-320]** for further information on how the Scheme will assist in the UK government in achieving its legal commitment to decarbonise.
- 2.1.9 Paragraph 3.1.1 of NPS EN-1 (November 2023) states that: *"Government sees a need for significant amounts of new large-scale energy infrastructure to meet its energy objectives and ... considers that the need for such infrastructure is urgent."*
- 2.1.10 Paragraph 3.3.20 of NPS EN-1 (November 2023) reiterates the Government's view that *"a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar."* Paragraph 3.3.60 confirms that solar schemes are *"included within the scope of this NPS"* and would be classed as NSIPs if, like the Scheme, they are above the applicable capacity threshold of 50MW.
- 2.1.11 Paragraphs 3.3.57 to 3.3.64 of NPS EN-1 (November 2023) establish the urgent need for electricity generating capacity. Paragraph 3.3.61 states that *"The need for all these types of infrastructure is established by this NPS and a combination of many or all of them is urgently required for both energy security and Net Zero"* and paragraph 3.3.62 states the Government's conclusion that *"there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure"* including all onshore and offshore renewable generation (paragraph 4.2.5). Therefore, all large-scale, ground-mount solar projects, including the Scheme, constitute CNP infrastructure.
- 2.1.12 Paragraph 3.3.63 of NPS-EN-1 (November 2023) states that *"the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy"*. This section of NPS EN-1 concludes that *"Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible"* (see paragraph 3.3.64).
- 2.1.13 Paragraph 4.1.7 of NPS EN-1 (November 2023) states that, for projects which qualify as CNP infrastructure, *"it is likely that the need case will outweigh the residual effects in all but the most exceptional cases"*.
- 2.1.14 It is the Applicant's position that, having applied the mitigation hierarchy, none of the residual adverse effects of the Scheme set out in **Chapter 23: Summary of**

**Significant Effects of the Environmental Statement [REP3-010]** can reasonably be considered to be “*exceptional*”. Therefore, the need case for the Scheme outweighs the residual effects that have been identified.

2.1.15 NPS EN-1 (November 2023) also establishes the urgent need for “new electricity network infrastructure to be brought forward at pace to meet our energy objectives” (paragraph 3.3.65), recognising that the current network and available connection points are not of sufficient scale to connect the capacity required. New electricity networks and connections to them also constitute CNP infrastructure (paragraph 4.2.5).

2.1.16 In November 2023, the Department of Energy Security and Net Zero and Ofgem (the independent energy regulator) published the Connections Action Plan. This Plan sets out six key areas of action to speed up connections to the electricity network across Great Britain, in recognition of how critical this progress is to the decarbonisation of the national grid. Action Area three is to “Better utilise existing network capacity” to reduce connection timelines. Action Area four is to “Better allocate available network capacity” to connect projects that are readier to progress and are able to quickly make use of that capacity.

2.1.17 The Scheme proposes to connect to an existing and available connection point on the National Electricity Transmission System (NETS), the benefits of which are described in Section 9 of the **Statement of Need [APP-320]**. The Scheme therefore presents an opportunity to reduce the need for new infrastructure, by utilising existing infrastructure. It is the Applicant’s position that consenting the Scheme would deliver significant energy security, decarbonisation and affordability benefits to UK consumers as the Scheme can be delivered quickly and make use of an existing connection to the NETS. The Scheme is therefore in compliance with Action Areas three and four in the Connections Action Plan.

2.1.18 Section 12 of the **Statement of Need [APP-320]** summarises the Applicant’s case on the urgent need for the Scheme. In oral and written submissions throughout the Examination of this application, the Applicant has reiterated this case, which it considers has been strengthened by the designation of the November 2023 Energy NPSs which clearly demonstrate the government’s commitment to the delivery of ground mounted solar PV and the role of energy storage. In summary:

*“12.1.6 ...the meaningful and timely contributions offered by The Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without The Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.*

*12.1.7 This Scheme is a leading GB large -scale solar scheme, and is an essential stepping stone towards the future of efficient decarbonisation through the deployment of large -scale, technologically and geographically diverse low-carbon generation schemes. This Scheme addresses all important aspects of existing and emerging government policy.”*

- 2.1.19 Taking into account the context of the definition of CNP infrastructure in NPS EN-1, and the test that “it is likely the need case will outweigh the residual effects in all but the most exceptional cases” (paragraph 4.1.7), the **Planning Statement [EN010132/EX7/WB7.5\_D]** concludes that the residual adverse effects are outweighed by the Scheme’s benefits. Section 4.1.2 of the **Planning Statement [EN010132/EX7/WB7.5\_D]** sets out that the principal need for the Scheme is centred on the significant contribution it will make to the three important national energy policy aims of:
- “Decarbonisation – achieving Net Zero carbon emissions by 2050, requiring deployment of zero-carbon electricity generation at scale. The Scheme will generate large-scale low carbon electricity which could be operational by 2029.*
- Security of supply – geographically and technologically diverse supplies. The Scheme will contribute to security of supply due to its large scale; predictable output; ability to complement other renewables; and the efficient opportunity to integrate Energy Storage.*
- Affordability - The Scheme will provide large-scale generation at low cost which will provide value for money for end-use consumers.”*
- 2.1.20 In addition to these benefits, the other benefits of the Scheme are described in detail at section 4.6 of the **Planning Statement [EN010132/EX7/WB7.5\_D]** and include:
- 2.1.21 A significant net gain for biodiversity (BNG), with approximately 86.80% gains provided in habitat, 54.71% gains in hedgerow and 33.25% gains in river units, in line with local and national planning policies. Provision of a minimum amount of BNG is secured through requirement 9 of Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H]** and the approval and implementation of the measures in a Landscape and Ecological Management Plan, provision of which is secured through requirement 7 of Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H]**. This must be substantially in accordance with the **Outline Landscape and Ecological Management Plan [REP6-025]**.
- 2.1.22 A new permissive footpath, to run from the track off Sykes Lane along the Codder Lane Belt and then south and west to rejoin Sykes Lane opposite Hardwick Scrub, will be in place during the operational phase of the Scheme, and that will contribute to the wider network of footpaths in the area and facilitate greater public access to the countryside. This is also secured through requirement 17 of Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H]**.
- 2.1.23 The temporary employment generated by the Scheme’s construction is assessed to be approximately 615 FTE jobs per annum as set out within Section 18.7 of **ES Chapter 18: Socio Economics, Tourism and Recreation [APP-056]**. During its operational lifetime, the Scheme is also anticipated to generate a modest quantum of labour.
- 2.1.24 A Skills, Supply Chain and Employment Plan will be prepared prior to the commencement of construction. This will set out measures that the Applicant will implement to advertise and promote employment and training opportunities



associated with the Scheme in construction and operation locally. Provision of this Plan is secured through requirement 20 of Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H ]**. The final Skills, Supply Chain and Employment Plan must be substantially in accordance with the **Outline Skills, Supply Chain and Employment Plan [REP6-027]**, which has been updated during the Examination to take account of feedback received from West Lindsey District Council.

### 3 Landscape and Visual Impact

- 3.1.1 There has been a continued and positive consultation and engagement undertaken with Lincolnshire County Council (LCC) and their representatives throughout the entirety of the DCO application process.
- 3.1.2 The final agreed position with regard to ES Chapter 8 Landscape and Visual **[APP-046]** between the Applicant and LCC is set out within Appendix B of the Statement of Common Ground (SoCG) **[EN010132/EX7/WB8.3.1\_B]**. This confirms to the Examining Authority (ExA) where agreement has or has not been reached between both parties.
- 3.1.3 The SoCG sets out that both parties are in agreement, that through the iterative design process undertaken, the Scheme would lead to minimal vegetation removal to accommodate the proposals and acknowledges that establishing planting will add a positive element to this landscape. Hedgerow Removal Plans, (which form Appendix C of **Outline Landscape and Ecological Management Plan - Revision E [REP6-025]**), provide the indicative details of the hedgerows that are currently proposed to be removed temporarily to facilitate the construction of the Scheme and those that are proposed to be removed during the occupational life of the Scheme.
- 3.1.4 Both parties are in agreement that the Scheme would deliver landscape and ecological improvements through mitigation areas and through new planting which would add a positive element to this landscape. Both parties also agree that the necessary provisions are in place to secure these mitigation proposals associated with the Scheme as set out by Requirement 7 of Schedule 2 to the Draft Development Consent Order **[EN010132/EX7/WB3.1\_H]** and that no further mitigation is considered necessary from that already identified.
- 3.1.5 Across the West Burton Scheme, there would be approximately 7.1km of new native hedgerow planted, 13.7ha of woodland and over 900ha of various grassland types securing a minimum of 69.4% biodiversity net gain (BNG) in habitat units, a minimum of 43.7% biodiversity net gain in hedgerow units and a minimum of 26.6% biodiversity net gain in river units (although it is anticipated that the BNG delivered will be greater as set out in paragraph 2.1.21 above). This new landscaping has been designed to build upon and positively respond to the aims and management guidelines of the Regional and Local Landscape Character Assessments. Mitigation measures are set out in The Outline Landscape and Ecological Management Plan **[REP6-025]** (the 'OLEMP') and will be secured through Requirement 7 in Schedule 2 of 3.1 Draft Development Consent Order **[EN010132/EX7/WB3.1\_H]**.
- 3.1.6 Following further development of the design of the Scheme post consent, more detailed planting plans including details of areas of landscape mitigation, location and types of planting (species), as well as number, density and specification would be submitted for approval prior to any works commencing.

- 3.1.7 The Applicant's position is that the delivery of the Scheme would not result in any Significant Adverse Residual Effects to Landscape Character, and that the Scheme would lead to adverse and neutral landscape effects during Construction and Year 1, but that by Year 15, following establishment of the proposed mitigation and landscape enhancement planting, effects on certain receptors are considered beneficial, but only ever at most, minor (Regional Scale LCT- 4a: Unwooded Vales and Local Scale Landscape Character Area 3: The Till Vale). These beneficial Landscape Character effects are derived from the significant amount of landscaping and positive BNG provided by the environmental masterplan. LCC have advocated there to be additional Significant Adverse Effects to Landscape Character beyond those identified within the LVIA during the Construction Phase and Year 1 of the Scheme, but agree that following successful establishment of the landscape proposals, that there would be no Residual Significant Effects to Landscape Character associated with the Scheme. Differences in technical findings are set out within Appendix B of the Statement of Common Ground (SoCG) **[EN010132/EX7/WB8.3.1\_B]**.
- 3.1.8 The LVIA includes a suite of 57 initial viewpoints, some of which cover long range views and there are also an additional 15 viewpoints that were included in the assessment at the request of LCC covering long-range views as agreed at the LVIA Workshops held prior to submission.
- 3.1.9 The LVIA identifies 6 viewpoints, 2 PROW, and 2 transport receptors, that would experience Significant Adverse Residual Effects. Despite LCC's assertion that adverse effects are likely to be exacerbated due to sequential visibility, to date, LCC have not provided any specific examples where they are able to demonstrate there to be any additional Significant Adverse Residual Visual effects in addition to those identified within the LVIA. LCC have not identified there to be any additional Significant Adverse Residual Visual Effects for Residential Receptors, users of Public Rights of Way or Transport Receptors and state that they are generally in agreement with the assessment that underpins the LVIA.
- 3.1.10 It is agreed by both parties that the Scheme would not be conspicuous in long distance views, including from the Lincoln Ridge and the wider Till Vale due to vegetation and distance, and subsequently would not result in Significant Adverse Effects to receptors in these locations.
- 3.1.11 The LVIA finds that there are no Significant Adverse Effects to any receptor (Landscape or Visual) associated with the Cable Route Corridor at any point in time. These findings are agreed by LCC.
- 3.1.12 The Applicant's position is that there are no Significant Adverse Residual Landscape and Visual Effects associated with the Scheme cumulatively with the Cottam Solar Project, Tillbridge Solar and Gate Burton Energy Park. LCC maintain a position that there would be additional Significant Adverse Residual Landscape and Visual Residual Effects beyond those identified within the LVIA, but that these would be limited to the Site itself and the Scheme's host landscape character areas.



## 4 Cultural Heritage

- 4.1.1 The assessment of designated heritage assets as detailed in the **Heritage Statement (ES Chapter Appendix 13.5 [APP-117 to APP-119])**, which was used to inform **ES Chapter 13: Cultural Heritage [APP-051]** is considered by Historic England to be proportionate. Setting issues are considered by Historic England to be appropriately mitigated for all designated heritage assets, excluding Medieval Bishop's Palace and Deer Park, Stow Park (NHLE 1019229).
- 4.1.2 The Applicant understands that the discord with Historic England relates to the extent that the setting of the former deer park contributes to the significance of the Medieval Bishop's Palace and Deer Park, Stow Park (NHLE 1019229), and the level of harm caused by impact to significance of the asset derived by its setting (Table 3.1 of the **Statement of Common Ground with Historic England [REP6-042]**).
- 4.1.3 The only surviving earthworks of the former medieval deer park are designated and form three separate elements of a single Scheduled Monument. All three parts of the Scheduled Monument are located outside of the Order Limits for the Scheme.
- 4.1.4 The Applicant understands that the significance of the Scheduled Monument is primarily derived from its historical and archaeological interest, vested in the Scheduled earthwork features and potential below ground remains, together with that appreciated through desk-based research, particularly aerial imagery and historical documentation. This is confirmed by the Reasons for Designation set out in Official List Entry for the Scheduled Monument (see Section 2 of **Stow Park Cultural Heritage Position Statement [REP5-027]**). While setting contributes to the understanding of these heritage interests, it is denuded by the current composition of the landscape in which the Scheduled Monument is located. The post-medieval and modern agrarian land uses does preclude the ability to experience or appreciate the former medieval landscape of the Scheduled Monument. Furthermore, this same post-medieval and modern activity has resulted in an adverse effect on elements within its setting as evidenced in the Official List Entry for the Scheduled Monument, which deliberately excludes post-medieval and modern features and highlights the adverse direct impacts that agricultural activity has had on the Scheduled Monument.
- 4.1.5 The Applicant's assessment has found that the Scheme would cause less than substantial harm (at the upper end) to the Scheduled Monument. The introduction of solar panels would not cause direct physical harm to the three isolated elements of Scheduled Monument as there is no proposed intervention to the fabric of any of the sections of the Scheduled Monument that would result in its permanent loss either wholly or in part. Any harm would be only that caused to the significance of the monument that is derived from its setting (i.e. would be indirect). This would occur through the placement of panels within land that was formerly occupied by the medieval deer park. The layout of the Scheme means that the legibility of the landscape would be unaltered. This is an important factor in the consideration of the temporary nature of the Scheme and any harm to the significance as a result of

changes in the setting of the Scheduled Monument which would be reversed entirely following decommissioning of the Scheme. As such any harm caused to the significance of the Scheduled Monument that is derived from its setting would be reversed following decommissioning of the Scheme.

- 4.1.6 The Applicant has calculated that the removal of the solar panels within the Stow Park Deer Park, as recommended by HE, would result in the loss of approximately 104.145 MWp of installed capacity resulting in West Burton 3 capacity being reduced to 186.615 MWp, based upon the indicative technology and design used for the Environmental Statement. The Applicant notes that this may be subject to change based upon technological advances prior to the commencement of construction. Based on the **WB2.3\_E Works Plan Revision E [REP5-035]** the overall area of Work No.1 (i.e. the land where solar PV panels can be located) for the Scheme as a whole is 5,074,441 square meters. The deer park land contains 1,032,418 square meters of land forming part of Work No. 1. The deer park land contains approximately 20% of the 522MWp installed capacity of the Scheme and therefore will be responsible for around 20% of its total electricity generation.. At this stage in the process (i.e. prior to detailed design), it is not possible to determine precisely the impact in terms of generating capacity of the deer park land being removed upon the total exported generation profile of the Scheme and its ability to generate the 480MW grid connection offered by National Grid. This is due to factors such as the overplanting ratio and panel type not yet being determined. However, given that the deer park land is anticipated to contain approximately 20% of the installed capacity, it can definitively be concluded that the removal if this land would result in a significant reduction in the generating capacity of the Scheme. Further explanation of overplanting can be found in **8.1.5 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP1-052]**.
- 4.1.7 Full details of the Applicant's position, including the justification for their conclusion that the level of harm is less than substantial harm, as well as the policy tests that are relevant to the DCO application and the proposed development, are provided in the **Stow Park Cultural Heritage Position Statement [REP5-027]**, and the **Statement of Common Ground with Historic England [REP6-042]**.
- 4.1.8 The Applicant has undertaken an extensive assessment of non-designated heritage assets to support the DCO application for the Scheme. With consideration to potential impacts on buried archaeological remains extant within the Order Limits, the Applicant completed detailed desk-based assessment and archaeological evaluation (including geophysical survey, air photo and LiDAR analysis and targeted evaluation trial trenching). The results of these assessments have been used to inform **ES Chapter 13: Cultural Heritage [APP-051]**, and a robust mitigation strategy (Written Scheme of Investigation (WSI) provided in **ES Appendix 13.7 [REP5-016]**), which is secured by Requirement 12 of Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H ]**. As detailed in the Cultural Heritage Position Statement appended to the **Statement of Common Ground with Lincolnshire County Council (LCC) [EN010132/EX7/WB8.3.1\_B]**, which was produced in conjunction with

Nottinghamshire County Council (NCC), the main areas of disagreement between the Applicant and LCC and NCC are:

- the extent and timing of trenching;
- the use of concrete feet as a mitigation option; and
- the approach to decommissioning.

4.1.9 While LCC and NCC agreed in principle to several proposed mitigation options, their position is that they are unable to agree site specific mitigation until further trenching is completed.

4.1.10 The Applicant believes that the baseline information collated to support **ES Chapter 13: Cultural Heritage [APP-051]** is sufficient and has demonstrated that the general conditions (i.e. geology, soil morphology, topography, and land usage) and broad archaeological chronology, type and depth of features identified within the Scheme does not warrant alternative or bespoke evaluation and mitigation techniques to those which are generally adopted for solar schemes (as evidenced in the **Comparison of Archaeological Evaluation Investigations on Solar Schemes [REP4-001]**).

4.1.11 The Applicant does not believe that there is any archaeological justification for the approach to evaluation trenching, mitigation and decommissioning requested by LCC and NCC. Sufficient information has been provided to inform the DCO application and is in line with local and national guidance (Paragraphs 5.9.10 NPS EN1, 3.10.105 of NPS EN3, 200 of NPPF, Policy S57 of the Central Lincolnshire Local Plan, The Chartered Institute for Archaeologists Standard and Universal Guidance for Archaeological Field Evaluation and the Lincolnshire County Council Archaeology Handbook). Furthermore, the proposed mitigation is considered by the Applicant to be in line with the standard approach that is adopted on other comparable solar schemes – Please see the response to Question 2.7.1 in the **Applicant's Responses to ExA Second Written Questions [REP5-039]**.

4.1.12 In the event that the Secretary of State is minded to agree with LCC and NCC that there is a requirement for further trenching to inform the mitigation measures or detailed design of the Scheme, the Applicant believes that such trenching can be undertaken post-determination of the DCO application, and in advance of the construction of the Scheme.

4.1.13 A **Without Prejudice Archaeological Mitigation WSI [REP5-033]** has therefore been prepared that includes a programme of further archaeological trenching post-determination of the DCO application, matching the percentage area sample of trenching undertaken for the nearby Gate Burton Scheme, which was considered by LCC to be sufficient to inform the Gate Burton DCO application and mitigation strategy. Full details of the Applicant's position are provided in the Cultural Heritage Position Statement appended to the **Statement of Common Ground with Lincolnshire County Council [EN010132/EX7/WB8.3.1\_B]**.

4.1.14 In any event, the Applicant's position is that the need for the Scheme outweighs any residual cultural heritage effects.



## 5 Cumulative Effects

5.1.1 At Deadline 5, the Applicant submitted **Environmental Statement Addendum 23.1: Cumulative Effects [REP5-015]** which provided a compilation of the cumulative effects of schemes that were assessed within the scope of the ES at the time the DCO application was submitted together with any updates to the conclusions of the cumulative effects assessment based on further information becoming available in respect of such schemes throughout the Examination of the Scheme (and set out in more detail in the **Joint Report on Interrelationships between NSIPs [REP6-015]**). The Addendum also summarised the conclusions of the **Technical Note on Cumulative Effects of Additional Schemes [EN010132/EX7/WB8.2.5\_B]** which considered relevant new schemes where sufficient information has become available since the submission of the DCO application.

5.1.2 The **Environmental Statement Addendum 23.1: Cumulative Effects [REP5-015]** found that the initial assessment of cumulative effects has not changed and remain as follows:

- Climate Change: major beneficial cumulative effect in terms of climate change resilience;
- Landscape and Visual: no significant cumulative effects;
- Ecology and Biodiversity: some moderate beneficial cumulative effects at District Level; some moderate adverse cumulative effects;
- Hydrology, Flood Risk and Drainage: no significant cumulative effects;
- Ground Conditions and Contamination: no significant cumulative effects;
- Minerals: no significant cumulative effects;
- Cultural Heritage; potential for up to moderate adverse cumulative effects on the Roman villa west of Scampton Cliff Farm;
- Transport and Access: no significant cumulative effects;
- Noise and Vibration: no significant cumulative effects;
- Glint and Glare: no significant cumulative effects;
- Air Quality: no significant cumulative effects;
- Socio-Economics, Tourism and Recreation: a number of moderate adverse cumulative effects, and moderate and major-moderate beneficial cumulative effects;
- Soils and Agriculture: no significant cumulative effects;
- Waste: moderate or large adverse effect on landfill waste handling in Nottinghamshire during the decommissioning phase;

- Other Environmental Matters (Matters Scoped Out): no significant cumulative effects;
- Other Environmental Matters (Human Health): cumulative moderate adverse effect on long distance recreation routes during construction, and moderate and major-moderate beneficial cumulative effects in respect of deprivation;
- Other Environmental Matters (Major Accidents and Disasters): no significant cumulative effects.

5.1.3 The Applicant's position is that the need for the Scheme outweighs any cumulative effects.

## 6 Project Lifespan up to 60 Years

- 6.1.1 In order to address concerns raised about the Scheme potentially being in situ in perpetuity, a new sub-paragraph (1) was added to Requirement 21 of the draft DCO submitted at Deadline 1 **[EN010132/EX7/WB3.1\_H]** to require decommissioning to take place no later than 60 years following the final commissioning date. A decommissioning plan must be submitted and approved prior to the date of decommissioning and include a timetable for its implementation.
- 6.1.2 The Applicant notes that whilst an upper limit of 40 years is typical, paragraph 2.10.149 of NPS EN-3 (November 2023) recognises that applicants may seek consent without a time period or for differing time-periods for operation. A 60-year period has been chosen to provide flexibility for the Scheme to continue operating where the solar PV panels continue to generate electricity after the average lifespan of 40 years has passed.
- 6.1.3 The Applicant considers that the environmental impacts of an operational period of up to 60 years for the Scheme has been adequately assessed and that appropriate mitigation is secured through the **draft DCO [EN010132/EX7/WB3.1\_H]**.
- 6.1.4 The Applicant's position is set out in **Review of Likely Significant Effects at 60 Years [REP1-060]**. The Applicant confirms that the assessment methodology underpinning this review is as set out in **Chapter 2: EIA Process and Methodology [APP-040]** and, where applicable, the relevant chapter of the Environmental Statement.
- 6.1.5 The Applicant has reached agreement with the Environment Agency regarding the assessment of the flood risk effects of operating for up to 60 years, as set out at reference HFD-014 within the **Statement of Common Ground with the Environment Agency [REP6-040]**. An updated flood risk assessment will be submitted for approval prior to commencement of the authorised development to ensure that appropriate mitigation is in place. Requirement 22 in Schedule 2 to the **draft DCO [EN010132/EX7/WB3.1\_H]** secures this commitment. The Applicant is confident that appropriate mitigation after 40 years is already known and deliverable as in the worst case scenario the mitigation would be the decommissioning of the relevant parts of the Scheme at year 40.
- 6.1.6 At Deadline 7 an amendment has been made to paragraph 6.2.24 of the Planning Statement Revision D **[EN010132/EX7/WB7.5\_D]** to update the figure of CO2 reduction to reflect an operational lifespan of up to 60 years rather than 40 years. The Applicant noted that this was not amended at Deadline 1 when the change to the lifespan of the Scheme was made.

## 7 Update on Protective Provisions

### 7.1

- 7.1.1 Since Deadline 6, the Applicant has continued discussions with the statutory undertakers identified in the **Schedule of Progress regarding Protective Provisions and Statutory Undertakers [REP6-034]** where agreement has not yet been reached.
- 7.1.2 Further discussions have taken place with National Grid Electricity Transmission plc (NGET) since Deadline 6. The protective provisions contained in Part 3 of Schedule 16 of the draft DCO submitted at Deadline 7 are now in an agreed form. The Applicant and NGET are in the process of finalising an associated side agreement. On completion of the side agreement, NGET will formally withdraw its objection to the Scheme.
- 7.1.3 In respect of National Grid Electricity Distribution (East Midlands) plc (NGED), the protective provisions contained in Part 4 of Schedule 16 to the draft DCO submitted at Deadline 7 are in an agreed form. The Applicant has signed the associated side agreement and is waiting for NGED to confirm that it has signed its part.
- 7.1.4 In respect of Northern Powergrid, agreed protective provisions have been included in Part 5 of Schedule 16 of the draft DCO submitted at Deadline 7. An associated side agreement is in an agreed form and engrossments are in the process of being signed.
- 7.1.5 In respect of Network Rail, the protective provisions contained in Part 10 of Schedule 16 to the draft DCO submitted at Deadline 7 are agreed. The parties are currently negotiating an associated Framework Agreement. On completion of the Framework Agreement, Network Rail will formally withdraw its objection to the Scheme. Please see the **Statement of Common Ground with Network Rail** submitted at Deadline 7 [**EN010132/EX7/WB8.3.6\_A**].
- 7.1.6 The protective provisions contained in Part 18 of Schedule 16 of the draft DCO submitted at Deadline 7 are agreed save in respect of paragraph 239 (paragraph 6 in EDF's version of the protective provision). EDF has requested provisions that place a restriction on the use of the compulsory acquisition powers in the draft DCO without EDF's prior consent. Whilst discussions are ongoing, the Applicant and EDF have not yet agreed the terms of a voluntary property agreement for the necessary rights to construct, use and maintain the grid connection across EDF's land. In the absence of voluntary agreement, any restriction on the use of the compulsory acquisition powers would result in a material impediment to the delivery of the Scheme. As the protective provisions require the technical details to be approved by EDF prior to carrying out any works that may affect EDF's apparatus, the Applicant's position is that the use of compulsory acquisition powers will not result in any serious detriment to EDF's undertaking.
- 7.1.7 In respect of Uniper, the protective provisions contained in Part 14 of Schedule 16 to the draft DCO submitted at Deadline 7 address a number of Uniper's concerns

but as at the close of the Examination have not been agreed by Uniper. The Applicant's position is that the protective provisions are sufficient to ensure that the Scheme will not result in any serious detriment to Uniper's undertaking.

- 7.1.8 In respect of the UK Atomic Energy Authority, the protective provisions contained in Part 17 of Schedule 16 to the draft DCO submitted at Deadline 7 are in an agreed form.
- 7.1.9 For the reasons set out in the **Schedule of Progress regarding Protective Provisions and Statutory Undertakers [REP6-034]** and **Section 10.3 of the Statement of Reasons [REP6-044]**, the Applicant considers that the protective provisions in Schedule 16 are sufficient to ensure that the tests set out in s127 and s138 of the Planning Act 2008 are satisfied and therefore the Scheme will not result in any serious detriment to the carrying on of the statutory undertakers' undertakings.
- 7.1.10 The Secretary of State has previously determined that the use of compulsory acquisition powers in respect of statutory undertakers' land and rights can be acceptable to ensure the deliverability of a NSIP where it has not been possible to reach agreement on the terms of a voluntary property agreement provided that the technical details of any works are approved by the statutory undertaker. This principle was established in the Secretary of State's decision letter for the National Grid (Hinkley Point C Connection Project) Order 2016 (see paragraph 95 of the decision letter) and reiterated in Secretary of State's decision letter for the Immingham Open Cycle Gas Turbine Order 2020 (see paragraphs 6.6 to 6.23 of the decision letter). The Applicant's position is that the protective provisions contained within Schedule 16 of the draft DCO submitted at Deadline 7 are sufficient and will ensure there will be no serious detriment to the carrying out of the statutory undertaker's undertaking.

## 8 Conclusion

- 8.1.1 The proposed Scheme will contribute to meeting the critical need for renewable energy identified in national and local policy, including in the National Policy Statements for Energy, published in November 2023 and designated in January 2024.
- 8.1.2 As agreed with Lincolnshire County Council, the Scheme will not result in significant adverse effects on landscape character, and that all potential landscape and visual adverse effects have been identified by the Applicant.
- 8.1.3 The points of disagreement with the local authorities on archaeological mitigation relate principally to the extent and timing of evaluation trenching, construction details and the approach to decommissioning. The Applicant's position is that sufficient and proportionate information has been provided to adequately assess the potential impacts of the Scheme and inform the mitigation measures contained in the WSI.
- 8.1.4 Agreement has been reached on all matters with Historic England except for the approach to the Medieval Bishop's Palace and Deer Park, Stow Park (NHLE 1019229) and the level of harm caused by impact to the significance of the asset derived by its setting. The Applicant's assessment has found that the Scheme would cause less than substantial harm (at the upper end) to the Scheduled Monument and any harm caused to the significance of the Scheduled Monument that is derived from its setting would be reversed following decommissioning of the Scheme.
- 8.1.5 There are likely to be a limited number of adverse cumulative effects of the Scheme. The beneficial climate change effects of the Scheme will be major.
- 8.1.6 In response to concerns raised during the Examination, the Applicant proposed limiting the operational lifespan of the Scheme to up to 60 years. The environmental assessment provided by the Applicant found that this would not create any new or different significant environmental impacts.
- 8.1.7 The Applicant considers that suitable protective provisions have been included in Schedule 16 to the draft DCO submitted at Deadline 7 **[EN010132/EX7/WB3.1\_H]** to address the outstanding concerns raised by statutory undertakers and ensure there will be no serious detriment to their respective undertakings.
- 8.1.8 In conclusion, the benefits provided by the Scheme are significant, clear and compelling, outweighing the identified and limited residual adverse effects.
- 8.1.9 The Applicant would like to thank the Examining Authority and the Planning Inspectorate case team, as well as those individuals and organisations who have contributed to the examination process.