

West Burton Solar Project

Applicant's Responses to Deadline 6 Submissions

Prepared by: Lanpro Services
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Issue Sheet

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

Applicant's Responses to Deadline 6 Submissions

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1 Introduction

1.1 Purpose of this Document

1.1.1 This report provides the Applicant's responses to matters raised in submissions made at Deadline 6 on 30 April 2024.

1.1.2 Section 2 of this report provides the Applicant's comments on responses to the Examining Authority's (ExA) Rule 17 Request for Information **[PD-017]**, issued on 24 April 2024.

1.1.3 Section 3 provides comments from the Applicant on any other submissions made at Deadline 6 from Interested Parties and from Statutory Undertakers that the Applicant seeks to comment upon.

1.1.4 The Applicant has not provided comments on submissions where no new information has been included. The examination library reference for submissions read by the Applicant, but not considered to contain new information are set out below:

- Catrin (and Peter) Fieldson **[AS-077]**;
- Ronald Gore **[REP6-060]**;
- 7000 Acres: 7000 Acres comments on the potential use of compulsory acquisition for the purpose of large-scale ground mounted solar **[REP6-054]**;

1.1.5 In respect of these submissions, the Applicant refers to its previous written submissions on these topics throughout the Examination at the following referenced documents:

- WB8.1.2 The Applicants Responses to Relevant Representations **[REP1-050]**;
- WB8.1.5 Written Summary of the Applicant's Oral Submissions at the Open Floor Hearing (OFH1) **[REP1-051]**;
- WB8.1.6 Written Summary of the Applicant's Oral Submissions & Responses to Actions at Issue Specific Hearing 1 (ISH1) **[REP1-052]**;
- WB8.1.10 The Applicant's Responses to Additional Submissions **[REP1-044]**;
- WB8.1.17 Response to Written Representations at Deadline 1 Part 1 **[REP3-034]**;
- WB8.1.18 Response to Written Representations at Deadline 1 Part 2 **[REP3-035]**;
- WB8.1.19 Response to Written Representations at Deadline 1 Part 3 **[REP3-036]**;
- WB8.1.20 Response to Local Impact Reports **[REP3-037]**;
- WB8.1.21 Applicant Response to ExA First Written Questions **[REP3-038]**;

- WB8.1.23 The Applicant's Response to Deadline 2 and 3 Submissions **[REP4-066]**;
- WB8.1.24 Written Summary of the Applicant's Oral Submissions & Responses at Issue Specific Hearing 2 and Responses to Action Points **[REP4-067]**;
- WB8.1.25 Summary of oral submissions made by Interested Parties at the Open Floor Hearing 2 and the Applicant's Response **[REP4-068]**;
- WB8.1.26 Written Summary of the Applicant's Oral Submissions & Responses at Compulsory Acquisition Hearing 1 and Responses to Action Points **[REP4-069]**;
- WB8.1.27 Written Summary of the Applicant's Oral Submissions & Responses at Issue Specific Hearing 3 and Responses to Action Points Document Index **[REP4-070]**;
- WB8.1.28 Written Summary of the Applicant's Oral Submissions and Responses at Issue Specific Hearing 4 and Responses to Action Points **[REP4-071]**;
- WB8.1.31 The Applicant's Response to Deadline 4 and Deadline 4A Submissions **[REP5-038]**;
- WB8.1.32 Written Summary of the Applicant's Oral Submissions at the Issue Specific Hearing (ISH5) **[REP5-037]**;
- WB8.1.34 The Applicant's Response to ExA's Second Written Questions **[REP5-039]**;
- The Applicant's Response to Deadline 5 Submissions **[REP6-047]**; and
- Written Summary of the Applicant's Oral Submissions at the Additional Hearings (ISH6/CAH2/OFH3) **[REP6-051]**.

2 Applicant's Comments on Responses to the ExA's Rule 17 Request for Further Information

2.1 Submissions by Host Planning Authorities

Lincolnshire County Council [REP6-053]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
LCC-01	Transport and Access Draft DCO	Streetworks Permit	<p>It is understood that for the purposes of the DCO unless the land involved is private land then in all other circumstances the County Council is the Streetworks Authority. In terms of the outline Construction Traffic Management Plan the Council is grateful that this has been updated to include additional detail requested by the Council . Whilst the Council would still prefer to have these commitments in the DCO, it is accepted that in relation to proposals for works in the highway, the approach of the applicant to secure this via the oCTMP is agreed.</p> <p>However, whilst the amended text in oCEMP now addresses the Council concerns regarding technical approval of proposals in the highway, but it does not cover the Permitting scheme – which relates to when the applicant do the works and agreeing the Traffic management measures / diversion routes etc.</p> <p>The Council therefore requests that either the DCO or the oCEMP be amended to incorporate the following wording:-</p> <p>“Prior to works being implemented on the Highway pursuant to Article 11, the Applicant will obtain a</p>	<p>The Applicant at Deadline 7 has amended paragraph 3.7 of the Outline Construction Traffic Management Plan Revision E [EX7/WB6.3.14.2_E] to make it clear that costs relating to the technical approval process prior to any street works being carried out will be paid by the Applicant to LCC. As paragraph 3.8 of the Outline CTMP sets out, exact costs will be agreed with LCC through the Final CTMP and will reflect the standard costs at the time approval is sought.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			Streetworks Permit from the relevant Highway Authority The Lincolnshire Permit Scheme – Lincolnshire County Council”	
LCC-02	Draft DCO	Proposed Changes to Requirement 12	<p>The Council strongly requests the wording it has proposed is retained. The proposed wording suggested by the ExA has some but not all of the wording proposed by the Council. For example the ExA suggested wording leaves out that the work needs to be done by someone competent in sections 3 and 4 and does not require the mitigation scheme to be submitted and approved by the relevant planning authority which for requirement 12 is the County Council.</p> <p>The Council suggested its preferred wording in response to the second round of ExA's questions: The Council as previously stated seeks a more robust requirement as follows:</p> <p>“(1) No development may commence until an overarching Archaeological Mitigation Scheme has been submitted and approved by the relevant Planning Authorities, such approval to be in consultation with Historic England;</p> <p>(2) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase may start, until a supporting Written Scheme of Investigation for that phase has been submitted to and approved in writing by the</p>	<p>The Applicant notes this submission and previous submissions by LCC on Requirement 12. The Applicant refers the ExA and LCC to its response to DCO-04 in The Applicant's Responses to Deadline 5 Submissions [REP6-047] and The Applicant's Responses to ExA's Proposed Changes to the Draft Development Consent Order REP6-048].</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>relevant Planning Authorities, such approval to be in consultation with Historic England.</p> <p>(3) The approved scheme must—</p> <p>(a) identify areas where archaeological work is required; and</p> <p>(b) the measures to be taken to protect, record or preserve any significant archaeological remains that may be found (i.e. preservation in situ, preservation by record or mix of these elements).</p>	

2.2 Submissions by Parish Councils and Statutory Bodies

EDF Energy (Thermal Generation) Limited [REP6-056]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
EDF-01	Principle of Development	Outstanding Objection	On behalf of EDF Energy (Thermal Generation) Limited ("EDF"), we confirm that EDF's objection is maintained for the reasons set out in its relevant representations (RR-077) and responses to the Examining Authority's First (REP3-052) and Second (REP5-055) Written Questions.	<p>The Applicant notes this comment and confirms it has responded to the representation made by EDF Energy in:</p> <ul style="list-style-type: none"> • Table 2.3.6 of 8.1.2 The Applicants Responses to Relevant Representations [REP1-050]; • CA-02 in WB8.1.23 The Applicant's Response to Deadline 2 and 3 Submissions [REP4-066]; and • CA-03 and DCO-10 in WB8.1.36 The Applicant's Response to Deadline 5 Submissions [REP6-047] <p>Please furthermore refer to the Schedule of Progress regarding Protective Provisions and Statutory Undertakers [REP6-033] for further details of engagement between EDF and the Applicant.</p>
EDF-02	Draft DCO	Protective Provisions	As set out in those submissions, while EDF is, in principle, supportive of the Project, it remains EDF's position that compulsory acquisition of its land would have an adverse impact on and serious detriment to EDF's existing (and future) operations and will interfere with EDF's ability to ensure that its assets can be safely demolished.	<p>The Applicant refers to The Applicant's Closing Statement [EX7/WB8.1.41] submitted at Deadline 7.</p> <p>The Applicant remains hopeful that a voluntary property agreement with EDF can be reached.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
EDF-03	Draft DCO	Protective Provisions	Should agreement with the Promoter not be reached, EDF will be making a submission at Deadline 7 ("summary statements from parties regarding matters that they have previously raised during the Examination that have not been resolved to their satisfaction") relating to the serious material detriment to its apparatus should its preferred protective provisions not be included in the DCO.	<p>The Applicant refers to The Applicant's Closing Statement [EX7/WB8.1.41] submitted at Deadline 7.</p> <p>The Applicant remains hopeful that a voluntary property agreement with EDF can be reached.</p>

National Grid Electricity Transmission plc [REP6-057]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
NGET-01	Draft DCO	Protective Provisions	We write on behalf of our client National Grid Electricity Transmission plc ("NGET"). We are continuing to make progress towards reaching agreement with the Applicant in relation to the Protective Provisions that NGET requires to be included within the DCO to ensure that its interests are adequately protected. We are hopeful that the required Protective Provisions will be agreed shortly and we will provide a further update to the Examining Authority once progress has been made.	The Applicant notes this comment and notes that the form of protective provisions has now been agreed with NGET. The Applicant refers to The Applicant's Closing Statement [EX7/WB8.1.41] submitted at Deadline 7.
NGET-02	Draft DCO	Protective Provisions	For completeness, please find attached the version of the Protective Provisions that NGET requires including in the DCO. EN010132-001872-National Grid Electricity Transmission Plc.pdf (planninginspectorate.gov.uk)	The Applicant refers to The Applicant's Closing Statement [EX7/WB8.1.41] submitted at Deadline 7.

2.3 Submissions by Affected Persons, Interested Parties, and other Members of the Public

Neil Andrew Elliott [REP6-058]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
NEI-01	Principle of Development	Outstanding Objection	<p>I am writing with reference to the online meeting that took place on 23 April 2024.</p> <p>I am writing to inform you that I still have objections to the proposed solar farm.</p> <p>I have still not heard anything from Island Green Power. Therefore, I still have all the problems/objections as set out in the email sent to yourselves on 15 February 2024.</p>	<p>The Applicant notes this outstanding objection to the Scheme.</p> <p>The Applicant directs the ExA and Mr. Elliott to NE-01 to NE-06 (pg. 322-326) of WB8.1.23 The Applicant's Response to Deadline 2 and 3 Submissions [REP4-066], wherein the Applicant has addressed the concerns raised by Mr. Elliott in his email/examination submission of 15 Feb 2024 [AS-063].</p>

Nicholas Hill [REP6-059]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
NHi-01	Principle of Development	Cumulative Impacts Routing of Grid Connection Cable	<p>We do object</p> <p>We are first generation farmers that have gained planning permission for our new farm yard the accumulative amount of cables routed through our land Gate Burton solar ,west Burton,cotton and Tillbridge will have a devastating impact on our agricultural business and new farm yard Hill Agriculture will simply not be able to develop our new business and farm yard and ultimately this could put us out business Hill agriculture cannot stress enough</p>	<p>The Applicant notes this outstanding objection to the Scheme.</p> <p>The Applicant directs the ExA and Mr. Hill to NH-01 (pg. 299-300) of WB8.1.23 The Applicant's Response to Deadline 2 and 3 Submissions [REP4-066], wherein the Applicant has addressed the concerns raised by Mr. Hill in his representation at Deadline 3 [REP3-058].</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>how this will affect us surly it is a human right that our business continues to support our family .</p>	<p>The Applicant also refers to its response to question 6 in The Applicant's Responses to Request for Further Information by the ExA [REP6-049].</p> <p>As set out in Section 9 of the Statement of Reasons [REP6-044], interference with human rights can be justified in the public interest. The Applicant considers that any proposed interference with human rights is for a legitimate purpose, as it is required to develop the Scheme or is required to facilitate or is incidental to the Scheme, in accordance with section 122 Planning Act 2008.</p> <p>Section 5.4 of the Statement of Reasons [REP6-044] sets out why the acquisition of rights and imposition of restrictions, including the need for powers over the entire Cable Route Corridor, is necessary and proportionate.</p> <p>The Applicant has assessed the environmental effects arising as a result of the Scheme including economic activity and performance, as well as other socio-economic factors, in ES Chapter 18: Socio-Economics and Tourism and Recreation [APP-056].</p>

3 Applicant's Responses to Deadline 6 Submissions

3.1 Submissions by Host Planning Authorities

West Lindsey District Council [REP6-052]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
WLDC-01	Planning Policy	Applicant's response to ExA Q2.1.1	<p>WLDC notes the applicant's response, however compliance with what the policy requirement of 'availability' of agricultural land has not been explained or justified.</p> <p>Whilst the land upon which the proposed development is able to be used for food production (livestock), this does not satisfy the policy test of 'availability'. The fact that can 'could; be used for such purpose does not demonstrate that it is will be 'available'. Demonstrating availability would require a commitment from the applicant to show that the current landowner retains the rights to carry out agriculture activity and/or that such land would be available unfettered to a person(s) who wish to use the land for that purpose.</p> <p>Should the applicant retain sole control of the land upon which the project is located and not provide any intention or mechanism to enable shared agricultural use, it cannot be deemed to be 'available' for that purpose.</p>	<p>The Applicant refers back to its response to ExA Q2.1.1 in WB8.1.34 Applicant's Responses to ExA Second Written Questions [REP5-039].</p> <p>The Applicant notes WLDC's position, and as set out at PD-05 and SOI-05 in WB8.3.2_C Statement of Common Ground with West Lindsey District Council [EX7/WB8.3.2_C], this matter is not agreed between WLDC and the Applicant.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
WLDC-02	Principle of Development	Applicant's response to ExA Q2.1.4	<p>WLDC maintains its position that the implications of increasing the lifespan of the project by 50% to 60 years has not been subjected to proper assessment for each relevant topic in the ES.</p> <p>The applicant states that they are 'confident' have been assessed solely on the basis that a summary document has been produced. This document does not constitute an assessment and acts solely as a statement of a conclusion without any explanation of how the assessor has treated the additional 20 years in reaching that judgement.</p> <p>For the applicant to simply state that there are 'no changes' to the significance of effects is inadequate. It leaves all Interested Parties, the ExA and the SoS with no assessment detail as to how the additional 20 years have been applied to respective methodologies and what weight has been given to the extended time period. The absence of a full assessment leaves other parties blind as to why there have been changes, despite the extension of time period along being considered 'long term' in most methodologies (e.g. the GLVIA).</p> <p>The applicant has still not provided clarity on the likely failure rate of panels. WLDCs observation is that the 0.4% per annum is not a 'true' representation of what will happen in practice. It is a pro-rata of an estimated total failure rate figure.</p>	<p>The Applicant refers back to its response to ExA Q2.1.4 in WB8.1.34 Applicant's Responses to ExA Second Written Questions [REP5-039].</p> <p>The Applicant notes WLDC's position, and as set out at LAN-08 and PD-09 in WB8.3.2_C Statement of Common Ground with West Lindsey District Council [EX7/WB8.3.2_C], this matter is not agreed between WLDC and the Applicant.</p> <p>The Applicant also refers to item 4A in WB8.1.27 Written Summary of the Applicant's Oral Submissions and Response at Issue Specific Hearing 3 and Responses to Action Points [REP4-070] which provides a response in relation to the failure rate of panels and the additional lifespan of the Scheme.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>What WLDC has sought clarification on, is at what stage in the lifespan of the project is panel failure 'likely' and to what extent would this occur between 40 and 60 years in particular. This is important to understand the likely impacts, which could be over a long period of ten years for example, of piecemeal replacement of panel that may not in themselves give rise to 'significant environmental effects', but could cumulatively do so.</p> <p>The lack of an accurate failure rate profile for the extension of time leaves a gap on the environmental information available.</p>	
WLDC-03	Soils and Agriculture	Applicant's response to ExA Q2.2.1	<p>WLDC maintain its view that the applicant has not gone far enough to make land 'available' for the production of food alongside the operation of the solar farm.</p> <p>There remains no commitments through the DCO that requires the applicant to make any attempts to deliver continued agricultural activity as part of the project.</p>	The Applicant refers to its response to reference WLDC-01 above in this document.
WLDC-04	Soils and Agriculture	Applicant's response to ExA Q2.2.8	<p>WLDC maintain its view, which aligns with LCC, in that the applicant's approach in given weight to the temporal nature of the project as a factor that makes significant impacts acceptable, is flawed.</p> <p>60 years in tantamount to permanent project and the application should be determined on this basis.</p>	<p>The Applicant refers back to its response to ExA Q2.2.8 in WB8.1.34 Applicant's Responses to ExA Second Written Questions [REP5-039].</p> <p>The Applicant notes WLDC's position, and as set out at PD-09 in WB8.3.2_C Statement of Common Ground with West Lindsey District</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
				Council [EX7/WB8.3.2_C] , this matter is not agreed between WLDC and the Applicant.
WLDC-05	Cultural Heritage	Applicant's response to ExA Q2.7.8, Q2.7.9, and Q2.7.10	<p>The 'Position Statement' document produced by the applicant does not represent any new information or clarifications as to how conclusions have been reached with regard to the impact upon the Scheduled Monument.</p> <p>WLDC maintains its view that the placement of modern utilitarian solar panels upon agricultural fields that define the setting and historical importance of the Bishop's Palace and Deer Park, will clearly cause 'substantial harm' to their setting.</p> <p>WLDC disagrees with the applicant's judgement that the introduction of panels would not alter the legibility of the landscape to be wholly erroneous. Even with the rural landscape being altered since medieval times (although not so much from the date the monuments were scheduled) the introduction of 4.5m high industrial panel will have a far more degrading impacts on the character and the interpretation of the setting of the scheduled monuments than the current baseline character.</p>	<p>The Applicant respectfully disagrees that the placement of panels within fields that formally comprised the Stow Park Deer Park would cause substantial harm to the Stow Park Scheduled Monument (NHLE 1019229). The Applicant refers to CUL-05 of the Statement of Common Ground with West Lindsey District Council [EX7/WB8.3.2_C].</p> <p>Please see Stow Park Cultural Heritage Position Statement [REP5-027] for details on the Applicant's position.</p>

3.2 Submissions by 7000 Acres

Comments on the Applicant's Responses to the ExA's Second Written Questions (REP5-039) (version 2) [REP6-055]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
7A-01	Health and Wellbeing	Applicant's response to ExA Q2.6.1	<p>We noted that the scoping document was sent to Lincolnshire CCG in 2022. They confirmed that they had no comments at that time and IGP recorded this as noted, no action required. Since then, the Lincolnshire CCG has been dissolved and replaced by the Lincolnshire Integrated Care Board. Please could you inform 7000 acres which other local statutory bodies were consulted? Was Lincolnshire CCG informed in the West Burton scoping document of the other schemes in close proximity which may have a combined cumulative effect on health. If not, we question the Governance around this. Please also show evidence as to whether or not public health were consulted either locally, regionally or nationally. We need to be assured that the local scoping exercise was directed at Public Health and not generic County Council, as per the IEMA Guidelines.</p> <p>We note ID 3.16.1 Ref 21.2.7 Human Health Environmental Statement Appendix 2.2: EIA Scoping Opinion Lanpro March 2023 EN010132 App/Wb6.3.2.2 (APP-068), that the Inspectorate was content with this approach, however they required the ES to clearly signpost in which other chapters impacts to human health are assessed. We found the section on human health and wellbeing was poorly signposted and not given its own separate Chapter. We noted the</p>	<p>The Applicant refers to its responses to HW-05 and 7A-48 in WB8.1.36 The Applicant's Responses to Deadline 5 Submissions [REP6-047] in respect of pre-application consultation with public health bodies and stakeholders.</p> <p>The West Burton Scoping Report [APP-063] in paragraph 2.2.15 includes Cottam and Gate Burton Solar Projects. Other schemes have been considered as information on them has become available in the public domain.</p> <p>The Applicant respectfully disagrees that Section 21.5 of 6.2.21 Environmental Statement - Chapter 21 Other Environmental Matters [APP-059] and the subsequent WB8.4.21.1 Environmental Statement - ES Addendum 21.1: Human Health and Wellbeing Effects [REP4-077] were not sufficiently signposted to ensure navigation of health and wellbeing impacts in the ES, in compliance requirements set out within the EIA Scoping Opinion [APP-068]. The Applicant is confident that these documents provide sufficient assessment of the impacts of the Scheme on human health.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>comments from the UK Health Security Agency who suggested a separate chapter within the ES on population and human health as the assessments develop. Sadly, as we have demonstrated, the documents on human health and wellbeing lack detail around population health and health outcomes. We have given expert opinion within all our submitted documents as to why we feel a Health Impact Assessment should be carried out.</p>	<p>The Applicant refers to the responses to questions 2.6.1 and 2.6.2 in WB8.1.34 The Applicant's Response to ExA's Second Written Questions [REP5-039] and its response to comment 7A-115 in WB8.1.18 Response to Written Representations at Deadline 1 Part 2 [REP3-035], relating to a standalone HIA.</p>
7A-02	Health and Wellbeing	Applicant's response to ExA Q2.6.2	<p>7000 acres disagrees with the applicant's assessment. The Health Impact Assessment is crucial as an understanding of population health and health outcomes. This is imperative to understand the impact this scheme may have on human health (physical, mental and social). This could be positive or negative, something the author has not clearly understood or demonstrated in his knowledge around this. There are clear gaps which we have highlighted in our submitted documents.</p> <p>The IEMA guidance states that a Health Impact Assessment should be conducted voluntarily as good practice. Given the applicants are aware of the other schemes, including their own (Cottam), and that cumulative impacts are huge around a relatively deprived Gainsborough, surely an HIA is the only way to proceed to assess the impact on health. Approximately 40,000 people live in this area, therefore it should be a standalone assessment, not a desktop review,</p>	<p>The Applicant refers to its response to 7A-01 above in this document.</p> <p>The Applicant is confident that the assessment of human health and wellbeing impacts from the Scheme has been undertaken in accordance with IEMA guidance.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			considering local knowledge as we have advised in previous documents submitted to the examiner. 7000 acres has appraised the guidance with comments related to the documents Lanpro have submitted on health.	
7A-03	Health and Wellbeing	Applicant's response to ExA Q2.6.3 and Q2.6.4	<p>(been responded to in 2.6.4) We suggest the author of this report check 2.5 of the IEMA document November 2022 "Effective Scoping of Human Health in Environmental Impact Assessment" which states clearly "The audience of this guide are EIA health practitioners (hereafter 'practitioners') responsible for drafting and conducting Scoping reports in England, Wales, Scotland Northern Ireland and Republic of Ireland". The applicant refers to 'EIA practitioners' and misses the point, health practitioner. We did check the chapter on the experience of the authors (APP-062) and presume as Human Health and Wellbeing is part of the Socio economic, Tourism and Recreation, neither of the 2 authors referenced themselves as EIA Health Practitioners, nor as experts on health. Our expert has 32 years' experience in health in Lincolnshire and has had roles in senior leadership at executive level and within the locality where these schemes are sited.</p> <p>We have used the WHIASU Quality Assurance Framework for HIA (Criteria Matrix) to appraise the Addendum on Health that was submitted, and highlighted the deficiencies in the Lanpro document on Human Health (see bullet points). This highlights the</p>	<p>The Applicant refers to the responses to questions 2.6.4 in WB8.1.34 The Applicant's Response to ExA's Second Written Questions [REP5-039] relating to professional competence of the authoring team for Human Health and Wellbeing.</p> <p>The Applicant furthermore refers to its response to 7000 Acres' comments on the ES Health Addendum [REP5-049] – see 7A-02 to 7A-30 of WB8.1.36 The Applicant's Responses to Deadline 5 Submissions [REP6-047].</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			very reason for why those in public health, environmental health practitioners, the wider local health community (NHS) should be involved, which a Health Impact Assessment would have required. We have touched on Governance in our submitted documents, which is central to the process.	
7A-04	Health and Wellbeing	Applicant's response to ExA Q2.6.5	We have in our submitted documents set out clearly why we believe a Health Impact Assessment should be carried out. We have highlighted the issues of the cumulative effect. We believe that the Secretary of State should be concerned, given that a Health Impact Assessment has not been requested for any of the schemes, nor for the cumulative effect. The same legal team represents all these applications. We have questioned the Governance around this.	The Applicant notes this comment, and refers to its response to 7000 Acres' comments on the ES Health Addendum [REP5-049] – see 7A-02 to 7A-30 of WB8.1.36 The Applicant's Responses to Deadline 5 Submissions [REP6-047] . The Applicant also refers to its response to 7A-01 above in this document.
7A-05	Health and Wellbeing	Applicant's response to ExA Q2.6.6	We have not yet had a response as to whether the applicant has directly engaged with the Traveller community at Odder. Can this be answered? We believe that failure to engage with them is at odds with the Equality Impact Assessment. Their views should be taken into consideration. The applicant has pointed out in 2.6.5 that an HIA, whether part of the EIA or standalone should involve community engagement. This has not been the case where human health and wellbeing has been concerned, something the IEMA guidelines has recommended. It was in the open hearings for all the	The Applicant can reaffirm that the Gypsy and Traveller Site at Odder was included in the area within which consultation leaflets were distributed for both Stage 1 Non-Statutory Consultation and Section 48 Statutory Consultation. Furthermore, Lincolnshire Traveller Initiative Health and Safety Executive were consulted as non-prescribed consultees at Section 42 statutory consultation (Table 5.10.4 of 5.10 Consultation Report - Appendix 5.10 - Section 42 Consultation Materials [APP-034]).

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>schemes where mental health issues were highlighted by the many speakers. This was not through community engagement, and we have highlighted our concerns around this in the documents we have submitted. Again, a good reason for an HIA.</p> <p>We are not confident that the applicant's assessments of health and wellbeing is satisfactory, and that is why we have called for a separate session on this topic with the relevant statutory bodies as part of the process to assist the examiners on this subject.</p> <p>Please refer to the recent documents:</p> <p>7000 acres Additional Comments – Appraised West Burton EIA and Health Addendum as per the Institute of Environmental Management and Assessment (IEMA) guidelines</p> <p>7000 acres Comments on the Response to the Environmental Statement ES Addendum 21.1: Human Health and Wellbeing effects</p>	<p>The Applicant refers to its responses to both sets 7000 Acres' comments [REP5-049] and [REP5-050] – see 7A-02 to 7A-53 of WB8.1.36 The Applicant's Responses to Deadline 5 Submissions [REP6-047].</p>

3.3 Submissions by Parish Councils and Statutory Bodies

Marine Management Organisation [REP5-098]

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
MMO-01	General	Context for Submission	<p>This document comprises the MMO's Deadline 6 response in respect to the above DCO Application. In particular, this is its response to the Examining Authority's (ExA) second written questions issued on 19th March 2024. Please accept our apologies for our late comments on these and as advised when we submitted our Deadline 5 response on April 11th, 2024, we have deferred to this submission date and request that the ExA accept them as a late submission.</p> <p>This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the Project. The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.</p>	<p>The Applicant notes this comment, and has addressed the MMO's responses to Examining Authority's (ExA) second written questions in MMO-02 to MMO-13 below. The Applicant has submitted an updated version of the draft DCO at Deadline 7 [EN010132/EX7/WB3.1_H] to address a number of the comments made by the MMO.</p>
MMO-02	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 1 (3): Details of licensed marine activities: The marine licence in its current format is contradictory. Part 1 (3)(1)(b) states that the licence permits the Applicant to carry out licensable marine activities providing that they are "are not exempt from requiring</p>	<p>As set out in Appendix A to the Applicant's Response to Deadline 2 and Deadline 3 submissions [REP4-066], a Deemed Marine Licence (DML) has been included within the draft DCO, notwithstanding the MMO's view that the 'bored</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>a marine licence by virtue of any provision made under section 74 of the 2009 Act". However, Part 1 (3)(2) notes that the authorised activities (Works 5A and 5B) are permitted under this deemed marine licence, all of which are exempt activities. The MMO understands that the purpose of this DML is in case of a hypothetical situation to cover the HDD works should they be removed from the MMO's list of exempted activities. However, if the SoS was to grant consent to the inclusion on the DML within the DCO then the DML would surely be invalid in its current format.</p>	<p>'tunnel' exemption applies due to the inconsistency in the MMO guidance over whether a grid connection cable from a renewable generating station and onshore substation is not exempt; the risk of issues occurring whilst carrying out horizontal directional drilling (HDD) of the cable, the correction of which would require a marine licence; and the risk of regulatory change that would remove the 'bored tunnel' exemption. The Applicant does not accept that the DML is invalid as it would be effective for any and all activities in laying the grid connection cable that are not exempt activities.</p>
MMO-03	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 1 (3)(2): Details of licensed marine activities. The activities listed here do not appear to fall below Mean High Water Springs (MHWS). The MMO is responsible for the regulation of marine activities falling below MHWS. activities listed under section (3)(2)(a) (e) appear to be located above MHWS and therefore not within the MMO's remit. As such, the MMO request that these activities are all removed from the Deemed Marine Licence.</p>	<p>The Applicant understands that the location where the grid connection cable crosses the River Trent is below Mean High Water Springs. The description of the activities in Part 1, paragraph 3(2) reflect the description of Work Nos. 5A and 5B in the draft DCO.</p>
MMO-04	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 1 (4): The applicant has stated that the coordinates listed in this section are defined in accordance with reference system WGS84 – World Geodetic System 1984. However, they appear to be in British National Grid (BNG) format. The MMO would like to remind the</p>	<p>The Applicant is grateful for this observation and has amended the DML at Part 1, paragraph 4(2) to clarify that the references are in British National Grid format.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			Applicant that it is their responsibility to ensure that the coordinates listed in this section are accurate.	
MMO-05	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 1 – Details of licensed activities. The MMO request that if a DML is included within the Development Consent Order (DCO), that the following provision is included:</p> <p>“This marine licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.”</p>	<p>The Applicant notes that the requirement to prepare decommissioning programmes in section 106 of the Energy Act 2004 only applies to an electric line related to a renewable energy installation (as defined in s104 of the Energy Act 2004 as an offshore installation connected with the production of energy from water or winds). The cable crossing of the River Trent is therefore not covered by the provisions of Chapter 3 of the Energy Act 2004.</p> <p>The DML provides at Condition 17 (now 19) for the MMO to approve a decommissioning plan, which the Applicant considers to provide appropriate oversight. The Applicant has included a new paragraph within Part 1 to confirm that the DML remains in force until the authorised development bounded by the coordinates in paragraph 4 has been decommissioned in accordance with the approved decommissioning plan and the MMO has been notified of this. A new paragraph has been added into Condition 17 (now 19) to require the Applicant to notify the MMO after the decommissioning activities have been completed.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
MMO-06	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	Part 1– Details of licensed activities. The MMO request that if a DML is included within the DCO, that the following provision is included: "Should the undertaker become aware that any of the information on which the granting of this marine licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information."	The Applicant is content with the principle of this provision and has included this within the DML as new paragraph 8, with minor amendments: <i>"8. If the undertaker becomes aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO of this fact in writing as soon as reasonably practicable and the notification must include an explanation setting out what information was materially false or misleading and provide the correct information."</i>
MMO-07	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	Part 1. The MMO maintains its position regarding the Applicant's proposed provision to deviate from section 72 of MCAA. As the MMO have stated in previous advice, the provision in Article 35(4) would not enable us to ensure compliance with the Marine and Coastal Access Act (2009) for the following reasons; 1. The Secretary of State does not have the power to vary a deemed marine licence, and as such any variation would be the MMO's responsibility. It is the MMO's opinion that the proposed mechanism for transfer of a marine licence does not actually work and in fact does little more than complicate the process and will require the duplication of effort. 2. The MMO do not consider that the proposed process would work. The transfer of the licence would happen first, and then the marine licence would need to be	The Applicant acknowledges these submissions and has reviewed the operation of article 35 of the draft Order and the provisions of the DML. In particular, the Applicant is mindful of PINS Advice Note 15: drafting Development Consent Orders, which states at Good practice point 11 that careful consideration should be given to the terms of the transfer article in the draft DCO to "avoid potential inconsistencies between how DCO and Deemed Marine Licence transfer arrangements would operate". Article 35(4) provides for the MMO to be consulted before any transfer of the benefits of the Order. Paragraph 5 of the DML provides that the provisions of section 72 of the 2009 Act apply, except to any transfer that is within article 35 of the

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>varied. After the transfer of the licence, the new license holder/undertaker would have a marine licence which would still be in the name of the license holder/undertaker who had transferred the licence. The new license holder/undertaker would have no authorisation to carry out any acts until the variation had taken place and until the variation had been affected the original licence holder/ original undertaker would remain liable for any actions undertaken. The procedure under section 72 MCAA avoids this issue entirely and will avoid unnecessary delays caused by duplication.</p> <p>3. Article 35(4) is simply a duty to consult, nothing more, the Secretary of State has no obligation to take into account or act upon the MMO's recommendation. The safeguards and consistency in decision making which the MMO has developed as the regulator in this area in accordance with the legislative framework cannot and will not apply in the system proposed by the applicant.</p> <p>4. Piecemeal changes to aspects of the marine licence regime by way of the DCO can undermine the ability to enforce the marine licence in question. Under the DCO, it remains the MMO who will be responsible for enforcing marine licences (both deemed or granted independently). It is therefore vital that all marine licences are clear and enforceable. Consistency is a key element in achieving this, and it is the MMOs view that</p>	<p>DCO. The effect of this is to enable the DML to be transferred pursuant to article 35.</p> <p>In light of the MMO's concern that this will make it more challenging to enforce the DML, whilst being mindful of the PINS Guidance that wherever possible the transfer of the DCO and the DML should be consistent, the Applicant has amended article 35(5) of the draft DCO to require the undertaker to notify the MMO of any transfer or grant of the benefit of the DML that does not require the consent of Secretary of State.</p> <p>In respect of transfers that require the approval of the Secretary of State, the MMO will be consulted pursuant to article 35(4). The Applicant considers that it is typical for DMLs to be transferrable with the consent of the Secretary of State, and this approach can be seen in the recent Hornsea Four Offshore Wind Farm Order 2023, at Schedule 11(7) and Schedule 12(7), with consultation of the MMO required by article 5(6); and in the Boston Alternative Energy Facility Order 2023, at Schedule 9, where the definition of 'undertaker' includes 'any transferee under article 9 (consent to transfer of benefit of Order)', and consultation with the MMO is required by article 9(5).</p> <p>In order to ensure that the MMO is informed of the details of any transfer or grant made with the</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>consistency is best achieved by ensuring that the MMO has full responsibility for the marine licence process.</p> <p>5. The MMO still considers that the mechanism the applicant is currently proposing for the transfer of a marine licence departs from this established process without clear justification as to why such a departure is necessary or appropriate in the circumstances. We defer to our Deadline 3 response (REP3-047) for our full response on our justification as to why we do not agree with Article 35(4).</p>	<p>consent of the Secretary of State, paragraph 5 of the DML has been expanded to require the undertaker to provide a notice, in the form required for transfers where no consent is required, to the MMO as soon as practicable after the Secretary of State gives consent to the transfer or grant.</p> <p>In this way, the Applicant is confident that the MMO will, at all times, have oversight over the beneficiary of the DML for the purpose of enforcement.</p>
MMO-08	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 2 – Conditions. The MMO note that there do not appear to be any design parameters included, which was requested in the MMO's Deadline 3 response (REP3 047). This reflects the lack of marine licensable activities. It is a necessity of DMLs to include maximum design parameters, in order to ensure that the project is carried out in strict accordance with the Environmental Statement. Without this information, the MMO is unable to effectively carry out its role as a regulator.</p>	<p>The Applicant has amended paragraph 6 of the DML to be clear that the plans approved under the DML must be in accordance with the principles and assessments in the environmental statement. This is in addition to the existing obligation in paragraph 7 of the DML that amendments by the MMO were required to accord with the environmental statement. The Applicant is confident that this addresses the MMO's concern.</p>
MMO-09	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 2 (8) – Notifications and Inspections. Notification should be sent to the MMO local office in writing and notification is also required at any part of the activity, should this take place across different times. Notification is also required within five days of the completion of the licensed activity.</p>	<p>The Applicant has reviewed the DML and notes that notifications are to be sent to the two addresses provided by the MMO pursuant to paragraph 2. Condition 17 requires a close out report to be submitted to the MMO as of the date of completion of construction, the report to confirm the date of completion of construction.</p>

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				<p>In respect of maintenance activities, the Applicant considers it appropriate that the agreed maintenance plan should include any requirements for notification of completion of works, to allow for flexibility for when this is required by the MMO.</p> <p>A notification requirement has been added into the Decommissioning requirement, as set out above at MMO-05.</p>
MMO-10	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	<p>Part 2 (13)(e)&(f) – Pollution Prevention. There is reference in this section to coatings, treatments and concrete. However, the MMO is not aware of the project involving any activities near to or below MHWS which require the use of coatings, treatments and concrete. The MMO request that the Applicant provide clarification on this.</p>	<p>Work Nos. 5A and 5B include temporary construction and decommissioning laydown areas which may include areas of hardstanding, which may include the use of concrete. The location of temporary construction laydown areas in relation to Work Nos. 5A and 5B have not yet been determined and will be identified during detailed design. Coatings and treatments may be used as part of the equipment used to lay and forming part of the electrical cables. In any event, the Applicant considers that it is preferable to include paragraphs (e) and (f) to ensure that adequate protection is provided for in the event concrete, coatings or treatments are used in the vicinity of the River Trent, as omitting these paragraphs would remove the obligation on the Applicant to take the appropriate pollution prevention steps.</p>

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
MMO-11	Draft DCO	Applicant's response to ExA Q2.4.10 Part a)	Part 2 (14) - Pre-construction plans and documentation. A timeframe for submission to the MMO of a construction programme has not been provided. The MMO recommend three months before the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.	The Applicant notes that the Conditions for Maintenance and Decommissioning each require the relevant plan to be submitted to the MMO at least 10 weeks prior to the commencement of the relevant activity. This timescale is consistent with that provided in Schedule 17 for the discharge of requirements and is considered appropriate. The Applicant has amended Condition 16 (previously 14) to include a new paragraph (2) providing for submission of the design plan and construction programme at least 10 weeks before activities commence.
MMO-12	Draft DCO	Applicant's response to ExA Q2.4.10 Part b)	The MMO welcome the information provided in the Technical Note on Horizontal Directional Drilling, and proposed mitigation measures. The addition of design parameters is useful and should be included within any consented DML. The MMO does not feel that the information contained in REP4-074 provides, as the Applicant suggests, a suitably comprehensive and proportionate assessment of the licensable activities associated with the scheme. The licensable activities which are not covered by an exemption remain unclear to the MMO.	The Applicant refers to its responses to MMO-08 and MMO-02, above.
MMO-13	Draft DCO	MMO position	Following a review of the updated DML, the MMO maintain its position that the DML should be removed from the DCO. Should the Secretary of State conclude that a DML should be granted, this will effectively	The Applicant maintains its position that a DML should be included within any made DCO. It also notes that the form of DML has precedent in the Cleve Hill Solar Park Order 2020, which was

Reference	Theme	Issue	Summary of Issue Raised	Applicant's Response
			<p>permit activities to be included which have not been assessed and this does not align with our usual process per the Marine and Coastal Access Act 2009 (the '2009 Act'). Without licensable activities for the MMO to regulate, the DML is effectively redundant. In addition, this may cause significant confusion and create an unwanted precedent amongst other proposed Development Consent Order projects, who are undertaking or seeking to carry out Horizontal Directional Drilling, and who have (as advised by the MMO) not included it within their Deemed Marine Licence.</p> <p>Furthermore, the MMO consider the Applicant's justification to include a non licensable activity as the sole inclusion and reason for a DML to be irrational. The MMO has a well-established mechanism for granting licences, should legislation change which removes HDD from the list of exempted activities. The majority of marine licence applications are determined within 13 weeks. In the instance a marine DCO with DML is granted, should details of the proposed HDD change a marine licence would be far easier to vary rather than a DML, as this would bypass the need to apply for a change to the DCO/DML via the Secretary of State.</p>	<p>included in the DCO at the request of the MMO, notwithstanding that the activities listed were capable of being carried out without a marine licence.</p> <p>The Applicant refers to Appendix A in its Response to Deadline 2 and Deadline 3 submissions [REP4-066].</p>